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SUMMARY OF 16th STREET HEIGHTS OVERLAY ZONE

The Sixteenth Street Heights Overlay Zone was adopted by the District of Columbia Zoning Commission by Order Number 757, on July 11, 1994. Following is a summary of key regulatory provisions of the Overlay Zone:

The Overlay applies only to the R-1 zone district within the 16th Street Heights geographic area delineated in the Overlay Zone by squares. Properties located in adjacent and nearby R-2, R-5-A, and C-2-A zones are not affected by the Overlay.

The Overlay Zone provides special provisions governing "non-residential uses." A non-residential use is defined as, "A permitted use in the R-1 District other than a single family dwelling."

The matter-of-right uses in the R-1 zone are listed in Section 201 of the Zoning Regulations (DCMR 11). The first listed "matter-of-right use" is a one-family detached dwelling. The remaining uses are defined as "non-residential" uses for purposes of this Overlay Zone.

Although "non-residential" is an awkward term to encompass the variety of uses permitted in Sec. 201 of the Zoning Regulations, this is a special definition for a specific purpose at a specific geographic area. Therefore, the uses other than single family dwelling are regulated as "non-residential."

(Note that accessory uses and accessory buildings subordinate to the principal use of single family dwellings are allowed as normal. Example of accessory use: the owner of a single family dwelling who lives in the home could operate child care in the home, with no more than five kids and that would be defined as a accessory to the principal use of the single family dwelling and not regulated by the Overlay Zone. Also, Section 203 of the Zoning Regulations published in Feb. 1994 describes home occupations that are allowed and are unaffected by the Overlay Zone. Sec. 204 (accessory bldgs., i.e. garage) are permitted because they are part of single family dwelling, but are subject to provisions of zoning regulations.)

An existing non-residential use as of July 1994 may expand by up to 10 percent of its gross floor area as a matter of right. Any larger expansion requires a special exception hearing and approval by the Board of Zoning Adjustment. The Applicant must apply for a building permit at the Dept. of Consumer and Regulatory Affairs, at which time the Zoning Office would send a memo notifying them that they must apply to BZA for special exception to the zoning regulations. (Note: the Association must

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get with the Zoning Administrator to determine what type of system, if any, is in place to flag applications within the Overlay Zone.)

Any proposed new non-residential use in the Overlay Zone requires a special exception by the Board of Zoning Adjustment, which will be considered based on the criteria relating to the compatibility of the use with neighboring and nearby properties. Specific criter are also provided as to the number of parking spaces required and screening requirements to protect neighboring properties.

Existing "special exception uses" that already have approved Board of Zoning Adjustment (BZA) Orders will continue to be governed by the R-1 special exception provisions. (SSHCA must determine if there is a system in place to flag those special exception orders that have been issued but for a limited number of years, after which they must seek reapproval. If there is no system, SSHCA must work to ensure one is instituted; also inquire regard to built-in penalties for not seeking reapproval when required under BZA order. The same would apply to expansion in the Overlay Zone of a use with a pre-existing BZA order.)

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1541 - 1550 [RESERVED]

1551 SIXTEENTH STREET HEIGHTS OVERLAY DISTRICT

1551.1 The Sixteenth Street Heights (SSH) Overlay District is established to help accomplish several goals and policies of the Comprehensive Plan for the National Capital, especially those land use objectives relating to housing supply, neighborhood quality and character, and policies relating to human services and private institutions, as applied to the 16th Street Heights neighborhood.

1551.2 The SSH Overlay District encompasses the geographic area in Northwest Washington generally bounded by 16th Street and Rock Creek Park on the west, Military Road and Missouri Avenue on the north, and 14th Street on the east and Colorado Avenue on the southeast. This overlay zone is applied to properties zoned R-1-B in the following squares and portions of squares: 2718, 2719, 2720, 2720W, 2721, 2721W, 2722, 2722W, 2723, 2723W, 2724, 2724W, 2725, 2741, 2742, 2796 and 2799.

1551.3 The purposes of the SSH Overlay District shall be as follows:

(a) Promote the conservation, enhancement and stability of this low-density, single-family neighborhood for housing and neighborhood-related uses;

(b) Control the further conversion of residential housing to nonresidential uses in order to maintain the housing supply and minimize the external negative impacts of new non-residential uses that are permitted in the SSH/R-1-B District in order to preserve neighborhood quality; and

(c) Allow the neighborhood to continue to provide a range of health and social service facilities as well as private institutions that provide cultural and religious enrichment and economic vitality, but within the framework of improved public review and control over the external effects of nonresidential uses. The objective is to make more compatible the Comprehensive Plan's goals and policies for maintaining the quality and stability of residential neighborhoods with other policies related to the reasonable provision of human services throughout the District of Columbia.

1551.4 The provisions of the SSH Overlay District shall be applied to the 16th Street Heights neighborhood based on the following key findings:

(a) Over a period of years, approximately one in every ten (10) houses in the neighborhood has been converted to a nonresidential use, a much higher ratio than has been identified for any other R-1-zoned neighborhood in the District of Columbia; the neighborhood accommodates a significant number and range of human service facilities and private institutions to an extent that new and significantly expanded nonresidential use facilities should be governed by improved public review to ameliorate adverse impacts on immediate and

nearby neighbors and preserve a predominantly single-family residential character;

(b) The neighborhood boundaries are well established and encompass a significant geographic area; and

(c) The executive branch and councilmembers have identified the number of nonresidential uses and the conversion of houses to these uses in this neighborhood as a serious planning and enforcement problem for more than ten (10) years, as reflected in the legislative history of adopted provisions in the Comprehensive Plan.

SOURCE: Final Rulemaking published at 41 DCR 5045 (July 29, 1994).

1552 GENERAL PROVISIONS

1552.1 The SSH Overlay District is mapped in combination with the underlying R-1 district and not instead of the underlying district.

1552.2 Where there is a conflict between this chapter and the underlying zoning, the more restrictive provision shall govern.

SOURCE: Final Rulemaking published at 41 DCR 5045, 5047 (July 29, 1994).

1553 MATTER OF RIGHT AND SPECIAL EXCEPTION USES

1553.1 An existing nonresidential use with a valid Certificate of Occupancy as of the effective date of this amendment shall be considered a conforming use and may expand by up to ten percent (10%) of its gross floor area as a matter of right under the provisions of the R-1-B district: Provided, that the following requirements are met:

(a) No additional land area or subdivision of lots is involved in the expansion; and

(b) The ten percent (10%) expansion limit shall be a total limit on expansion based on the gross floor area of the building as of the effective date of this amendment.

1553.2 A proposed new nonresidential use or an expansion of an existing nonresidential use in excess of ten percent (10%) of gross floor area shall be permitted as a special exception, if approved by the Board of Zoning Adjustment after public hearing, in accordance with the conditions and specified in §3108 of this title and subject to the following requirements:

(a) The nonresidential use is capable of being established and operated without adversely affecting the use and enjoyment of neighboring and nearby properties due to traffic, noise, design or other objectionable conditions; and

(b) There shall be adequate, appropriately located and screened off-street parking sufficient to provide for the needs of the maximum number of occupants, employees, congregants and visitors who can use the facility at one time; Provided, that the following requirements are met:

(1) The number of parking spaces provided shall be not less than the number required by chapter 21 of this title and shall be located and designed so that they have the least objectionable effects on contiguous or nearby property because of noise, traffic or other objectionable conditions;

(2) Parking spaces and driveways providing access to them shall not be located in a required side yard, or on the lot between the principal building and a street right-of-way, nor in public space abutting the lot;

(3) If five (5) or more open parking spaces are provided, the parking spaces shall be screened from all contiguous residential property by a wood fence or a wall made of brick or stone at least twelve inches (12 in.) thick and forty-two inches (42 in.) high, or by evergreen hedges or evergreen growing trees which are thickly planted and maintained and are at least forty-two inches (42 in.) in height when planted; and

(4) Any lighting used to illuminate open parking spaces shall be so arranged that all direct rays of lighting are confined to the surface of the paved area devoted to parking; any lighting provided shall be the minimum necessary for reasonable visibility by drivers and for security purposes.

1553.3 Any expansion, renewal of time limits or other changes to an existing use permitted by special exception in the R-1 district provisions shall continue to be governed by the R-1 provisions rather than those of this overlay district.

SOURCE: Final Rulemaking published at 41 DCR 6045, 6047 (July 29, 1994).

1554 - 1560 [RESERVED]

1561 FORT TOTTEN OVERLAY DISTRICT (FT)

1561.1 The Fort Totten Overlay District (FT) is established to allow existing industrial businesses to remain and expand and to propose land use control policies to further implement the Comprehensive Plan for the National Capital.

1561.2 The FT is applied to the area that is immediately north and south of Fort Circle Park (also known as Fort Drive Park), and shall be mapped in combination with the C-3-A, CR, C-M-1 and M Zone Districts.

(a) North of Fort Circle Park: