



Stanton Park Neighborhood Association

P.O. Box 75085, National Capitol Station, Washington, D.C. 20013-5085

November 15, 2006

Chairman Geoffrey Griffis
DC Board of Zoning Adjustments
441 4th Street, NE, Suite 200 South
Washington, DC 20001

Re: 601-645 H Street Ventures
BZA Case No. 17521

Dear Mr. Griffis:

Stanton Park Neighborhood Association (SPNA) attaches particular importance to this proceeding because it is the first time the H Street Design Guideline will be applied to a project, and the outcome from this proceeding will likely provide the template for future development on the H Street Corridor. SPNA remains hopeful that most of the issues in this proceeding can be resolved prior to the hearing scheduled for next Tuesday, November 21st. The applicant has addressed many of the community's concerns and has made significant progress in complying with the architectural standards of the H Street NE Design Guidelines. While that progress has been considerable, it has been incremental, and the community will meet with the applicant and the Office of Planning tomorrow to discuss the final design. The extent of SPNA's support of this project will depend in large measure on tomorrow's meeting.

There are remaining issues, and in an effort to simplify some of those issues, the Zoning Administrator has been asked to rule on issues concerning two aspect of FAR. Copies of those submissions by the community and the applicant are attached.

Sincerely,

Monte Edwards, Co-Chair
SPNA Land Use Committee

Cc: Esther Bushman, Esq., General Counsel to the Office of Zoning
Bill Sisolak, ANC 6C, Zoning Comm. Chair
Anthony Rivera, ANC 6C-06
Drew Ronnenberg, ANC 6A, Economic Dev. & Zoning Comm. Chair
Hilary Axam, 6th and H Street NE Neighborhood Assoc.
Gary Peterson, Capitol Hill Restoration Society, Zoning Comm. Chair
Norman Glasgow, Esq., 601-645 H Street Ventures

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BOARD OF ZONING ADJUSTMENT
District of Columbia
Board of Zoning Adjustment
District of Columbia
CASE NO. 17521
EXHIBIT NO. 71

October 24, 2006

Mr. William Crews, Zoning Administrator
Office of the Zoning Administrator
Department of Consumer and Regulatory Affairs
District of Columbia
941 North Capitol Street
Washington, DC 20002

Dear Mr. Crews:

ANC 6A, the Capitol Hill Restoration Society and Stanton Park Neighborhood Association (SPNA) are requesting an administrative ruling on whether, under DC Zoning Regulations, the transfer of use from a less restrictive zone to a more restrictive zone is permitted as a matter of right for split-zoned lots. This question stems from BZA case #15721, where the applicant is seeking to transfer non-residential (*i.e.* commercial) use from the C-2-A zoned portion of the lot to the C-2-C portion of the lot. The BZA hearing for this case is currently scheduled for November 21st 2006 and is the first case to apply the H Street NC Overlay and the H Street Design Guidelines. While neither the Overlay nor the Design Guidelines are directly at issue in this request for administrative ruling, the case is of considerable importance because the outcome of this case will influence the future development of the H Street Corridor.

Analysis

The applicant, 601-645 H Street Ventures, LLC, is seeking to build a structure on the south side of the 600 Block of H Street that concentrates all commercial use on the C-2-C portion of the lot and uses the C-2-A portion of the structure entirely for residential use. The applicant is seeking to transfer the "unused" floor area associated with commercial use in the C-2-A zone to the C-2-C zone and transfer an equal amount of floor area associated with residential use from the C-2-C zone to the C-2-A zone.

Section 2514.1 and Section 2514.2 only permit the transfer of use, height, and bulk of structures and use from a less restrictive zone 35 feet into a more restrictive zone. Section 2514.1 permits this transfer as a matter of right only when a zone district boundary line divides a lot that was in single ownership on May 12, 1958. On the other hand, Section 2514.2 permits this by special exception and reads,

If approved by the Board of Zoning Adjustment as a special exception under § 3104, the regulations applicable to that portion of a lot located in a lesser restrictive use zone district that control the use, height, and bulk of structures and the use of land may be extended to that portion of the lot in a more restrictive use zone district...

Neither section permits the transfer of use from the more restrictive zone to the less restrictive zone. If the transfer of FAR associated with a particular use could be transferred from a more restrictive zone to a less restrictive zone, it would constitute a de-facto upzoning that wouldn't require zoning relief from the BZA or a map change from the Zoning Commission.

In the proposed development for BZA case #17521, the applicant intends to keep two existing 5 story towers on the C-2-C portion of the lot. These towers are currently used for office and retail and have no residential use. Because the FAR for these towers is 2.48 for the C-2-C portion of the lot, they currently exceed the permitted 2.0 FAR for non-residential use in a C-2-C zone. The applicant proposes to "transfer" additional non-residential (*i.e.* commercial) use from the C-2-A zoned portion of the lot, in a manner which (1) isn't confined to 35 feet of the C-2-C zone abutting the C-2-A zone, (2) is from the more-restrictive zone to the less restrictive zone, and (3) further increases the non-residential use of the C-2-C zone beyond the 2.0 FAR limit permitted by §771.2 and the 0.5 FAR limit permitted by §1321.2 of the H Street NE Neighborhood-Commercial Zoning Overlay District.

Conclusion

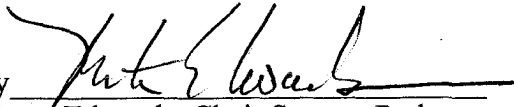
The FAR associated with a particular use can only be transferred between zones in a split-zoned lot from a less restrictive zone to a more restrictive zone in accordance with Section 2514.1 and Section 2514.2. These sections do not permit the transfer of use from a more restrictive zone to less restrictive zone nor do they permit the transfer of use more than 35 feet into less restrictive zone. ANC 6A, the Capitol Hill Restoration Society and SPNA request that you rule accordingly.

Respectfully submitted:

ANC 6A:

By 
Terres (Drew) Ronneberg, Chair
ANC 6A Economic Development
and Zoning Committee

Stanton Park Neighborhood Association:

By 
Monte Edwards, Chair Stanton Park
Neighborhood Association Land Use
Committee

Capitol Hill Restoration Society:

By 
Gary M. Peterson, Chair
Capitol Hill Restoration
Society Zoning Committee

Cc: Travis Parker, Office of Planning
Norman Glasgow, Esq., 601-645 H Street Ventures
Matthew LeGrant, Deputy Zoning Administrator

November 1, 2006

Mr. William Crews, Zoning Administrator
Office of the Zoning Administrator
D.C. Department of Consumer and Regulatory Affairs
941 North Capitol Street
Washington, DC 20002

Re: 601-645 H St., NE ("601-645 H St. Ventures Project")
Correction to letter dated Oct. 24, 2006

Dear Mr. Crews:

ANC 6A, the 6th and H NE Neighborhood Association, the Capitol Hill Restoration Society (CHRS) and Stanton Park Neighborhood Association (SPNA) are writing to correct a minor error in the October 24th letter from ANC 6A, CHRS and SPNA to the Zoning Administrator about the transfer of non-residential use between zones on a split-zone lot. In that letter, it was incorrectly stated that Section 2514.1 regulated the transfer of use and bulk from a less restrictive zone to a more restrictive zone, when in fact, Section 2514.1 regulates the transfer of use and bulk from a more restrictive zone to a less restrictive zone.

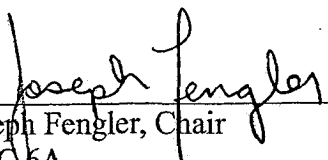
In BZA case #17521, the applicant is seeking to transfer use from a more restrictive zone to a less restrictive zone and thus Section 2514.1 is relevant to this case. However, Section 2514.1 only permits, as a matter of right, the limited transfer of use and bulk from a more restrictive zone to a less restrictive zone for split-zoned lots under a single ownership before May 12th, 1958. Because no building on the lot was constructed prior to 1958, Section 2514.1 does not apply in this case.

Conclusion

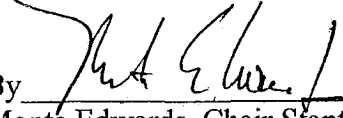
For the reasons outlined in this letter and our letter dated October 24th, the applicant cannot transfer use from a more restrictive zone to a less restrictive zone in a split-zoned lot. As a result, the applicant must seek a variance from the non-residential FAR limits in Section 771.2 and also seek a variance from Section 2002 to expand a non-conforming use. ANC 6A, the 6th and H NE Neighborhood Association the Capitol Hill Restoration Society and SPNA request that you rule accordingly.

Respectfully submitted:

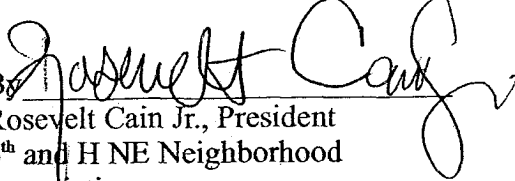
ANC 6A:

By 
Joseph Fengler, Chair
ANC 6A

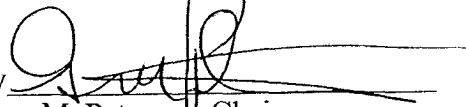
Stanton Park Neighborhood Association:

By 
Monte Edwards, Chair Stanton Park
Neighborhood Association Land Use
Committee

6th and H NE Neighborhood Association:

By 
Roosevelt Cain Jr., President
6th and H NE Neighborhood
Association

Capitol Hill Restoration Society:

By 
Gary M. Peterson, Chair
Capitol Hill Restoration
Society Zoning Committee

Cc: Travis Parker, Office of Planning
Norman Glasgow, Esq., 601-645 H Street Ventures
Matthew LeGrant, Deputy Zoning Administrator

Holland+Knight

Tel 202 955 3000
Fax 202 955 5564

Holland & Knight LLP
2099 Pennsylvania Avenue, N.W., Suite 100
Washington, D.C. 20006-6801
www.hklaw.com

BY E-MAIL

November 6, 2006

NORMAN M. GLASGOW, JR.
202-419-2460
norman.glasgowjr@hklaw.com

Mr. Bill Crews
Zoning Administrator
Suite 2000
941 North Capitol Street, N. E.
Washington, D.C. 20002

Re: BZA Application No. 17521
601-645 H Street, N.E.

Dear Mr. Crews:

We have been provided with copies of letters dated October 24, October 31 and November 1, 2006, to your office collectively from ANC 6A, the 6th and H NE Neighborhood Association, the Capitol Hill Restoration Society and the Stanton Park Neighborhood Association. The letters request administrative rulings on certain issues regarding FAR for the development proposed in the above-referenced application. On behalf of the Applicant in the case, we respond to points set forth in the letters.

The letters pose two questions:

1. Under the Zoning Regulations, on a split-zoned lot, may "use" be transferred from a less restrictive zone district to a more restrictive zone district? (from the October 24, 2006, letter) The November 1, 2006, letter purports to "correct" that question but in fact it appears to pose a different question. At the risk of restating what the November 1, 2006 letter says, the question now appears to be "Do the regulations in §2514.1 apply to a lot which is divided by a zone boundary line but which was not in single ownership on May 12, 1958?"
2. Can FAR associated with a nonconforming use be transferred from a demolished structure to a new structure? (from the October 31, 2006, letter)

Before addressing the questions, we set forth the background of the property and the proposed development. The subject property, 601-645 H Street, N.E., is located on the south side of H Street between 6th and 7th Streets, N.E., and is known as Lot 177 in Square 859. The subject property is split-zoned with about 66,570 square feet located in the C-2-C zone and approximately 42,781 square feet of land area located in the C-2-A zone. The entire property is also subject to the

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H Street Neighborhood Commercial Overlay (the HS District) and is part of the Housing (HS-H) Sub-District.

The site is presently devoted to all office use, with a five story office component at the corner of 6th and H Streets, a five story office component at the corner of 7th and H Streets and a one story wing occupying a portion of the space between the two office towers. At the time that the building was constructed, the C-2-C District allowed a maximum nonresidential FAR of 2.0, or 133,140 square feet of gross floor area. At that time, the C-2-A District allowed a maximum nonresidential FAR of 1.5, or 64,172 square feet of gross floor area. The total nonresidential gross floor area permitted was 197,312 square feet. As constructed and existing today, there are approximately 180,000 square feet of gross floor area located in the C-2-C zoned portion of the site, and approximately 10,000 square feet located in the C-2-A zoned portion of the site.

We have attached a copy of a zoning computation sheet for Phase 1 of the building, which encompassed the 601 office building and the grocery store in the center. This specified the total commercial allowed on the site as 197,312 square feet of gross floor area and indicated that the amount then proposed was 112,093 square feet. The additional commercial gross floor area was included in the 645 building, which is located entirely within the C-2-C District and for which we have not been able to find a zoning computation sheet.

The proposed development of the site includes the demolition of the one story wing, renovation of the two office towers to allow retail use on the ground floor and construction of an addition between and connecting the two existing office towers. The addition, which will extend to the southern portion of the site, will contain retail use on a portion of the ground floor, office use on a portion of the second floor and residential use on the remainder of those floors and all of floors three through nine. The non-residential development (retail and office) will total no more than 197,312 square feet of gross floor area (including existing space to remain and new construction). The residential development will total 290,937 square feet of gross floor area (all new).

We note that the letters make several incorrect statements about the project and the Zoning Regulations, as follows:

- Office use is permitted as a matter-of-right in both the C-2-C and C-2-A zones and the H Street Overlay does not prohibit office use. There are therefore no nonconforming uses located on the subject property. Accordingly, there is no transfer of FAR associated with any nonconforming use.
- The existing building is not a nonconforming structure. By definition (§199.1), a nonconforming structure is one "lawfully existing at the time this title or any amendment to this title became effective, that does not conform to all provisions of this title or such amendment, other than use, parking, loading, and roof structure requirements. Regulatory standards that create nonconformity of structures include, but are not limited to, height of

building, lot area, width of lot, floor area ratio, lot occupancy, yard, court, and residential recreation space requirements." The existing development complied with the C-2-A and C-2-C District requirements when it was built and we are not aware of any changes to those requirements with which the existing buildings do not comply. With respect to the H Street Overlay (§1320), there is no limitation on the amount of FAR (either residential or nonresidential) in an existing building. The only limitation on FAR applies to new construction (§§3121.2, 3121.3 and 1321.4) and the design requirements of §1324 clearly apply only to any lot for which a permit was applied for after October 25, 2004. Accordingly, the existing office buildings are not nonconforming structures.

- The proposed development does not seek to transfer FAR from either a nonconforming use or a nonconforming structure, since the existing development is neither. Rather, as discussed below, the FAR for the development is within the limitations set forth by the Regulations and no referral to or reliance upon any existing nonconformity is required.

With respect to the questions posed by the three letters:

1. The right to have 197,312 square feet of nonresidential development on the site is confirmed through the Regulations. As noted above, the maximum nonresidential FAR for C-2-A and C-2-C is 1.5 and 2.0, respectively. The H Street Overlay does not change those limits for existing buildings. Rather, the plain language of §1321.2, quoted in the October 31, 2006, letter correctly states that "The floor area ratio for *new construction* in the HS/H sub-district may not exceed 0.5 FAR for non-residential uses, except as provided in §1321.3." (emphasis added) Given the land area of the site, this would permit new nonresidential construction of approximately 54,675 square feet of gross floor area, whereas only 36,576 square feet of new nonresidential construction is proposed.
2. We do not think it is credible to argue that §1321.3 could be read to allow someone to use 0.5 FAR for new construction multiple times so as to achieve something on a piecemeal basis that could not be achieved on a unitary basis. We believe that it is clear under the HS Overlay that the total cumulative amount of nonresidential development constructed after March 10, 2006 (the effective date of the HS Overlay) is 0.5 FAR. In any event, in the pending proposed development, the applicant is not seeking any more than 0.5 FAR of new commercial development (in fact, the applicant is seeking only 0.33 FAR of new development.)
3. The Regulations must be read precisely to give full meaning to the literal language of the provisions. Sections 1321 and 1322 both deliberately and specifically apply to "new construction." If the Zoning Commission had intended those provisions to apply to all development, it need not and would not have used the word "new" to modify construction. See, for example, §§771.2 and 771.3 (FAR limits for C districts) deliberately applying different regulations to buildings before and after November 17, 1978, and §531.1 (FAR limits for SP Districts), making no distinctions and applying the same requirement to all buildings.

4. The reference in §2514.1 to May 12, 1958, is immaterial since the ability to shift around FAR on a single record lot is not dependent upon approval under that section. Section 2514.1 is a permissive provision: "When a zone district boundary line divides a lot that was in single ownership on May 12, 1958, the permitted use and bulk of a structure located on that lot *may* be determined as follows ..." (emphasis added) Note §199.2, "The word 'shall' is mandatory and not discretionary."
5. The determination of how much square footage is permitted on a lot is based upon two definitions (§199.1): "gross floor area" and "floor area ratio." Gross floor area is defined as "the sum of the gross horizontal areas of the several floors of *all* buildings on the lot ..." Floor area ratio is defined as "A figure that expresses the total gross floor area as a multiple of the area of the lot. This figure is determined by dividing the gross floor area of *all* buildings on a lot by the area of that lot." (emphasis added in each case) Accordingly, the determination of FAR is based on all the square footage on the lot divided by the area of the lot, to achieve one FAR number, not on a determination of FAR by part of a lot.
6. The Zoning Administrator has consistently applied the Zoning Regulations in the manner described in ¶5, including, as a prime example, the existing development on this particular site. The existing building on this lot in the C-2-C District contains approximately 180,000 square feet of nonresidential gross floor area, which is more than the 133,140.32 square feet permitted only under the C-2-C District but within the total non-residential FAR for the entire lot.
7. Purely on a theoretical basis, since no action to allocate FAR is requested pursuant to §2514, we note that the commercial use (office and retail space) is being moved from the more restrictive zone (C-2-A) to the less restrictive zone (C-2-C), meaning that the nonresidential use is being located closer to the H Street frontage of the lot and further away from the adjoining residential area.
8. We note that both §§2514.1 and 2514.2 use the term "bulk," along with "use" and "height," in describing what is controlled by those sections. Bulk is a more generic term which has been interpreted to mean the volume of space which may be constructed, resulting from the combination of lot occupancy and setbacks. FAR and gross floor area are precise terms defined in the regulations with specific criteria as to how they are to be determined. For the purpose of calculating the maximum permitted gross floor area, the Applicant is not seeking to extend the C-2-C provisions into the area now zoned C-2-A, which would allow more nonresidential and more total gross floor area than are now included in the project, but only to use the gross floor area already permitted. As a separate matter, only to be able to increase the height of a portion of the building, the Applicant is requesting the Board to approve an extension of the C-2-C provisions thirty-five feet into the C-2-A District.

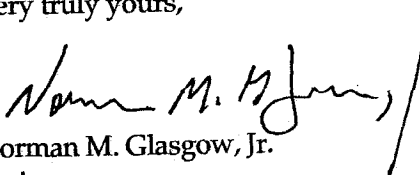
We believe that we have addressed the relevant portions of the arguments made in the letters regarding the ability to allocate gross floor area (both total gross floor area and nonresidential gross floor area) on a single lot that is divided by a zone boundary line. We believe

Mr. Bill Crews
Zoning Administrator
November 6, 2006
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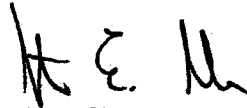
that the literal and correct reading of the Regulations, including the general provisions and the HS Overlay, as confirmed by consistent application by the Zoning Administrator, lead to the conclusion that the building as proposed complies with the Regulations and that no special exception or variance relief is required to construct the amount of development proposed or to distribute the gross floor area on the lot as proposed.

Should you have any questions concerning the foregoing, please do not hesitate to call.

Very truly yours,



Norman M. Glasgow, Jr.



Steven E. Sher

Director of Zoning and Land Use Services

Attachments

NMGJr/skp

cc: Joseph Fengler, ANC 6A
Monte Edwards, SPNA
Roosevelt Cain, Jr., 6th and H NE Neighborhood Association
Gary Peterson, CHRS
Travis Parker, OP
Matthew Le Grant, Deputy Zoning Administrator

FILE NO. 44-38861-100

1. Owner Parcel 18 Ltd. Partnership		2. Location 601 H St. N.E. Phase I		3. Square 859	
4. Lot 177		5. Zone C-2-C / ϕ C-2-A		6. Use of Building or Structure Retail Grocery - 1 st Floor Office - 1 st thru 5 th floors Accessory Parking & Storage Basement	
7. (New) Addition to Alter existing		8. Type of Structure Conforming $\checkmark$ Nonconforming		9. Use of Structure Conforming $\checkmark$ Nonconforming	
10. Width of Adjacent Streets, H St NE Row - 90' Roadway - 63.5' Sidewalk - N 15' & S 11.5' Parking - 0		11. Width of Adjacent Alleys 10', 12.3', 16' ϕ 20'			
12. Width of Restriction Lines None		13. Application of Act of June 1, 1910 Height of Bldg. - Excess Height -		14. Type of Lot Corner Through Triangular Alley Interior	
15. Number of Dwelling Units		16. Lot Area Required - N/P Provided 109,357.3 ϕ		17. Lot Occupancy C-2-C 66,570.2 C-2-A 42,781.1 Allowed - 100% C-2-A 104,482.24 Provided - 50.6% C-2-C 33,883	
18. Gross Floor Area Total 112,093.0 ϕ C-2-C 78,221 ϕ Office 33,872 ϕ Retail 17,424 ϕ C-2-A Ret - 10,448 ϕ		19. Cellar Area Total		20. Floor Area Ratio Allowed 133,128.32 C-2-C 2.0 C-2-A 1.5 C-2-A 171.71 ϕ Provided total 112,093 C-2-C 84,221.08 office C-2-C 17,424 Retail C-2-A 10,448 Retail	
21. Number of Retail Parking Spaces Required C-2-C 21 spaces C-2-A 31 spaces Provided 60 sp. 7' x 14' 8 sp. 8' x 13' + 3 HC sp Within Bldg. 571 spaces Total		22. Number of Commercial Parking Spaces Office Use Required C-2-C 46 spaces Provided 10 sp. 9' x 19' (Lot) 25 sp. 9' x 19' (Lot) 3 HC sp. (Lot) 19 8' x 16' Comp. (Lot) Within Bldg. 47 total		23. Number of Loading Berths Required Office C-2-C 2 berths @ 30' (12' w) 2 platforms 100' (8' w) 1 service sp 10' x 20' See Below (Provided)	
24. Height of Bldg. C-2-A 50' C-2-C Allowed 90' Curb, to first floor to high point of roof - Retail 24.92' Office C-2-C 59.17' Grade, to first floor to ceiling top story - to high point of roof -		25. Number of Stories Allowed - No limit Provided - 5 office Near retail Basement - 1 (office) Cellar - None		26. Loading Requirements Required Retail C-2-C 1 berth @ 30' 1 platform @ 100' (8' w) Retail C-2-A 1 berth @ 30' deep (12' w); 1 platform @ 100' (8' wide) Provided Same as required Located at the rear of office and	
27. Rear Yard Depth - 15' - 42.5' Side Yard Width - 8.0' ϕ - 14' ϕ 0' Open Court Width - Closed Court Width - Closed Court Area -		28. Remarks (1) Make revisions per telephone Rec'd 9/23/86 Conversation 9/18/86 11:05 am (2) Top approval PROJECTIONS NOT INCLUDED IN ZONING APPROVAL Complies with requirement of Zoning Regulations D. D. & J. J. 9/24/86 Per. G. L. & J. J.			
29. 6th St. NE Row - 85' Roadway - 32' Sidewalk - 12' Parking - 14.5'		30. 7th St. NE Row - 90' Roadway - 31' Sidewalk - 12' Parking - 17.5'			

October 31, 2006

Mr. William Crews, Zoning Administrator
Office of the Zoning Administrator
Department of Consumer and Regulatory Affairs
District of Columbia
941 North Capitol Street
Washington, DC 20002

Dear Mr. Crews:

ANC 6A, the 6th and H NE Neighborhood Association, the Capitol Hill Restoration Society and Stanton Park Neighborhood Association (SPNA) are requesting an administrative ruling on whether an applicant can transfer FAR associated with a non-conforming use from a demolished structure to a new structure. This question stems from BZA case #15721, where the applicant has chosen not seek a variance to Section 1321.2 of the H St NE Neighborhood Commercial Zoning Overlay District, even though they are planning to construct a structure with non-residential uses that exceed the 0.5 non-residential FAR limit of the lot. The applicant claims that they are not subject to Section 1321.2 because they are transferring non-conforming non-residential FAR from a demolished building to the new structure. They claim that they can demolish a non-conforming structure, "bank" the non-conforming FAR, and then reactivate that FAR "entitlement" in the replacement structure. The BZA hearing for this case is currently scheduled for November 21st 2006 and is the first case to apply the H Street NC Overlay and the H Street Design Guidelines. The precedents set in this case regarding the H Street Overlay will affect future development of large lots on the rest of the H Street Corridor.

Analysis

The applicant, 601-645 H Street Ventures, LLC, is seeking to build a mixed-use structure on a C-2-C/C-2A split-zoned lot on south side of the 600 Block of H Street NE. The applicant plans to keep two existing office towers on the C-2-C portion of the lot that have non-residential FAR of 2.64 and build a new building between the towers. The current intensity of non-residential use exceeds the limits set in Section 1321.2, which states:

The floor area ratio for new construction in the HS-H Sub-district may not exceed 0.5 FAR for non-residential uses, except as provided in §1321.3.

Section 1321.3 provides for an additional 0.5 FAR for non-residential uses for new construction which preserves pre-1958 façades. Because no building on the lot that was constructed prior to 1958, Section 1321.3 does not apply in this case.

The applicant plans to demolish the one-story building between the office towers and construct a 9 story building that will add an additional 0.56 FAR of non-conforming, non-residential use to the C-2-C portion of the lot. The construction of new non-residential uses or expansion of existing non-residential uses is prohibited by Section 2002 because this is an expansion of a non-conforming use. However, the applicant maintains that they are permitted to transfer FAR associated with non-conforming non-residential use of the

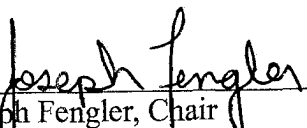
demolished structure to the new structure. We can find no provisions in the zoning code which allow this transfer and every indication is that the FAR associated with non-conforming non-residential use expires when a structure is demolished.

Conclusion

Because the applicant cannot transfer non-conforming non-residential use from a demolished building to new construction, the applicant must seek a variance to Section 1321.2 and Section 2002 of the DC Zoning Regulations. ANC 6A, the 6th and H NE Neighborhood Association the Capitol Hill Restoration Society and SPNA request that you rule accordingly.

Respectfully submitted:

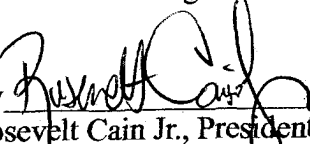
ANC 6A:

By 
Joseph Fengler, Chair
ANC 6A

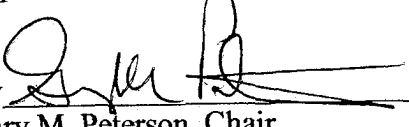
Stanton Park Neighborhood Association:

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Roosevelt Cain Jr., President
6th and H NE Neighborhood
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Cc: Travis Parker, Office of Planning
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