

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



MEMORANDUM

To: Office of Documents and Administrative Issuance

From: Sharon S. Schellin ⁵³
Secretary to the Zoning Commission

Date: September 21, 2006

Re: Publication for the Office of Zoning

Please publish the following in the *D.C. Register* on September 29, 2006:

1. Z.C. Order No. 684-D (Case No. 94-01A); and
2. Z.C. Notice of Final Rulemaking & Order No. 04-18 (Case No. 04-18).
This rulemaking is also included on the attached diskette in MS Word format.

Attachment

RECEIVED
SEP 21 10 23 AM '06
ZONING COMMISSION
District of Columbia

CASE NO. 04-18

EXHIBIT NO. 36

441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001

Telephone: (202) 727-6311

Facsimile: (202) 727-6072

E-Mail: dcoz@dc.gov

Web Site: www.dcoz.dc.gov

ZONING COMMISSION
District of Columbia
CASE NO. 04-18
EXHIBIT NO. 36

RULEMAKING TRANSMITTAL FORM

TYPE OF RULEMAKING ACTION: ☐ EMERGENCY RULES
☒ FINAL RULES ☐ PROPOSED RULES ☐ COMBINED

DATE AND TIME RECEIVED

Office of Documents use only

AGENCY: OFFICE OF ZONING

AGENCY REPRESENTATIVE: SHARON SCHELLIN

ADDRESS: 441 4th Street, N.W., Suite 210 South

TELEPHONE: (202) 727-0240

TITLE AND DESCRIPTION OF RULES: ZC CASE NO. 04-18 (Map and Text Amendment – Mount Vernon District within the DD Overlay)

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed:

FINAL RULES ONLY: Give the D.C. REGISTER citation and date of publication of the Notice of Proposed Rulemaking for these rules: 53 DCR 1204 DATE: February 17, 2006

COMPLETE CITATION to the statute, regulation, or other legal authority which specifically authorizes the issuance of the substance of these rules: Section 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799 D.C. Official Code § 6-641.01).

LEGAL CERTIFICATION: I certify that I have reviewed the attached rulemaking and, in my opinion, the substance of the text of the rules is legally sufficient.

DATE: SEPTEMBER 20, 2006

SIGNED:

Alan Byrte Jr

PHONE: (202) 442-9777

☒ FINAL

☐ CONDITIONAL

NAME: ROBERT J. SPAGNOLETTI TITLE: ATTORNEY GENERAL

PROMULGATOR: Name and title of the person legally authorized to adopt and promulgate these rules (or the name of the board or other body authorized to adopt rules by vote)
Zoning Commission For The District Of Columbia Title:

COMPLETE CITATION to the statute, regulation, order, or other legal authority that specifically authorizes this person or agency to adopt and promulgate these rules.

SIGNATURE OF THE PERSON AUTHORIZED TO ADOPT RULES OR ATTEST TO THE ADOPTION OF RULES

DATE OF APPROVAL OF VOTE:

4/20/06

APPROVAL OF ATTEST:

Sharon S. Schellin

TITLE:

Secretary to the Zoning Commission

PHONE: (202) 727-0240

Office of Documents use only:

THIS NOTICE PUBLISHED AT:

VOL:

DCR:

DATE:

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING**

and

ORDER NO. 04-18

Z.C. Case No. 04-18

(Map and Text Amendments – 11 DCMR)

(Mount Vernon Triangle District within the DD Overlay)

April 20, 2006

The Zoning Commission for the District of Columbia (the “Commission”), pursuant to its authority under §§ 1 and 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 and 6-641.07 (2001)), having held a public hearing as required by § 3 of the Act (D.C. Official Code § 6-641.03); and having referred the proposed amendment to the National Capital Planning Commission for a 30-day period of review pursuant to § 492 of the District Charter, hereby gives notice of its adoption of amendments to Chapter 17 of the Zoning Regulations (Title 11 DCMR) to establish a new sub-area within the Downtown Development (DD) Overlay, to be known as the Mount Vernon Triangle District. The District consists of Squares 451, 483, 484, 484W, 515, and 516 in the Northwest quadrant. Square 483 is also being rezoned from C-3-C to DD/C-3-C.

A notice of proposed rulemaking was published on February 17, 2006 at 53 DCR 1204. Comments were received and changes to the text made as is discussed later in this Order. The Commission took final action to adopt the amendments at a public meeting held on April 20, 2006.

This final rulemaking is effective upon publication in the *D.C. Register*.

Set Down Proceeding

The Commission initiated this rulemaking in response to a petition from the District of Columbia Office of Planning (“OP”), which recommended that a new sub-area of the Downtown Development District (“DD”) be created. The OP proposals were contained in a report dated July 2, 2004 and revised July 9, 2004.

The petition resulted from recent planning for the 19-Square area in Northwest Washington known as the Mount Vernon Triangle. The Triangle is bounded by Massachusetts, New York, and New Jersey Avenues, and 7th Street at Mount Vernon Square. The planning effort was known as The Mount Vernon Triangle Action Agenda and was an outgrowth of the District’s

1984 “Living Downtown” policy and the 2000 Downtown Action Agenda. The Mount Vernon Triangle Action Agenda had seven guiding principles:

1. A Distinctive Addition to the City’s Neighborhoods
2. Serving Three Communities
3. Build on a Solid Urban Framework
4. Rich in a Variety of Uses
5. Supported by an Active Ground Floor Program and Guidelines
6. Distinguished by a Welcoming and Cohesive Public Realm
7. Reinforced with Innovative Architectural Design.

Among the Action Agenda’s recommended actions was “Implementing Zoning for Active Streets.” This was intended to encourage street-level vitality and promote access to neighborhood retail and services by creating a special zoning area centered at 5th and K Streets that would extend along 5th Street from I Street to New York Avenue, and along K Street from 4th Street to 7th Street.

The Commission agreed to schedule a public meeting on the case at its regular meeting of July 12, 2004. It asked for OP’s pre-hearing report to include additional information on: the alley systems, the density that might be achieved by voluntary alley easement donations, the definitions of roof terrace and of performance art, the nature of LEED-certified material with which courtyards might be covered, and the tenancy plans of the U.S. Immigration and Naturalization Service.

Description of Map Amendment

The Office of Planning proposed a map amendment to include Square 483 within the Downtown Development District (DD) and retain its base zoning of C-3-C. The Zoning Commission advertised both that proposal, and an alternative zoning of DD/C-2-C.

Description of Text Amendment

Proposed § 1723 establishes a Mount Vernon Triangle (MVT) subarea of the Downtown Development District (DD). The subarea is further divided into three areas for the purpose of identifying the specific types of uses that may be allowed on the ground floors of buildings within each area, and also for identifying how buildings should relate to adjacent public spaces.

The text amendment would:

- Require new buildings to have ground floor heights of fourteen (14) feet clear from the floor to the finished ceiling, as clear height is defined in 11 DCMR §199;

- Establish retail use requirements along 5th and K Streets, with the requirements being most prescriptive at the corners of 5th and K Streets, least prescriptive in the eastern half of the 400 block of K Street, and moderately prescriptive in the other sections of 5th Street and K Street;
- Establish basic design standards regarding the relationship of the building to the property line and frequency of door openings, and emphasizing the use of clear glass on ground floors.

Relationship to the Comprehensive Plan

10 DCMR § 932 establishes a series of objectives and policies to develop the Mount Vernon Square area as “the primary residential neighborhood of Downtown” [10 DCMR § 932.1 (a)]. In addition to residences, the area is to include “a mix of other uses including offices, hotels, and neighborhood retail and public facilities, and a design character related to residential use” [§ 932.1(a)]. The Comprehensive Plan’s Generalized Land Use Map designates the area within the proposed sub-area as appropriate for High-Density Residential and High-Density Commercial uses.

Public Hearing

The Commission set down the Office of Planning’s proposal on July 12, 2004. Commission members present were Chairman Carol J. Mitten, Vice Chairman Anthony J. Hood, and Commissioners Kevin Hildebrand, Gregory Jeffries, and John Parsons. A notice of Public Hearing containing the proposed map and text amendments and setting the hearing date for June 30, 2005 was published on April 29, 2005 in the *D.C. Register*, at 52 DCR 4200.

The Office of Planning submitted additional material on June 20, 2005 in response to Commission comments and requests at its regular meeting.

During the June 30, 2005 public hearing, the Office of Planning (OP), in its testimony about the proposed map amendment, reviewed the different residential FAR minimums and commercial FAR maximums under C-3-C, DD/C-3-C, and DD/C-2-C. It noted that Squares immediately to the southwest of Square 483 were zoned DD/C-3-C. OP continued to recommend that Square 483 be re-zoned to DD/C-3-C.

With respect to the proposed sub-area, there were ten areas of concern raised at the public hearing by the Zoning Commission, Advisory Neighborhood Commission (ANC) 6C, and members of the public:

- The appropriateness of applying the proposed sub-area’s design and use requirements to the western portion of Square 515 (the Wax Museum/City Vista project);
- The definition of the sub-area’s boundaries;
- The appropriate depth of minimum ground floor height requirements;

- The appropriate percentage of clear glazing to be required within the Principal Intersection Area (PIA);
- The appropriateness of certain driveway restrictions, such as prohibiting any new driveways on the south side of K Street in Square 516, and requiring other driveways to receive special exception approval;
- A better explanation of current ownership patterns, proposed voluntary alley easements, and the way such easements would be tied to the relaxation of rear yard and side yard setback requirements;
- Revisions to PIA, Primary Area, and Secondary Area uses in order to better reflect the marketplace;
- The timing for beginning the proposed use requirements, also referred to as the “Trigger Mechanism”;
- The relationship of possible historic preservation designation of some properties to the proposed requirements; and
- A perceived complexity of the PIA module definitions and restrictions.

Proposed Rulemaking

In a report dated August 15, 2005, the Office of Planning, in consultation with the Office of the Attorney General, recommended a number of modifications to the proposed text, in response to concerns and issues raised by the Zoning Commission and members of the public at the Public Hearing. These included minor wording modifications for clarification, reordering of sections, and language to:

- Exempt Square 515 from the design requirements, but not from the use requirements;
- Eliminate the seventy-two (72) foot depth dimension from the Sub-Area definition, and define the sub-area as including all of the affected Squares;
- Reduce the clear glazing requirement from 75% to 65% within the Principal Intersection Area;
- Permit one new driveway on the eastern portion of K Street in Square 516;
- Expand permitted uses with the Principal Intersection Area but require a percentage of on-site food or beverage sales and, permit a limited percentage of general office uses on the ground floor of the Secondary Use area;
- Exempt historic properties from glazing and interior and exterior height restrictions

The Commission took proposed action pursuant to 11 DCMR § 3027.2 at a regular meeting on October 17, 2005, concurring with the recommended modifications.

The Commission also gave additional consideration to when the sub-area’s use requirements should become effective. Because of concerns that it might be initially difficult to attract several of these preferred uses, the Commission had advertised provisions that permitted other uses on an interim basis. However, after listening to testimony, the Commission decided that the trigger mechanism for terminating such interim uses would prove to be cumbersome. At proposed action, the Commission decided to defer, until final action, the questions of: whether interim uses

should be permitted; if so, should the uses be permitted by right or by special exception; if the latter, what standards should be used to decide whether to grant an application, and, finally; how long such uses should be permitted.

The proposed action was referred to the National Capital Planning Commission ("NCPC") in accordance with the provisions of § 492 of the District of Columbia Home Rule Act. NCPC reviewed this proposal at its meeting of November 3, 2005 and, by a report dated November 3, 2005, found that the map and text amendments would not negatively affect the federal interest, as long as there were no properties within the Central Area that may be owned by the District of Columbia and used for or intended to be used for District public buildings.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on February 17, 2006, at 53 DCR 1204 for a 30-day notice and comment period.

Comments

Three comments were filed.

Mount Vernon Place LLC strongly supported the proposed text amendment.

Holland & Knight, LLP suggested that the proposed rulemaking contained an error in §1732.4(e) and believed that substituting the word "Primary" for the words "Principal Intersection" would help to achieve the broader range of uses in the Principal Intersection Area that the Office of Planning and Zoning Commission had intended.

Pillsbury Winthrop Shaw Pittman LLP filed extensive comments on behalf of National Public Radio (NPR), which is headquartered within the proposed sub-area. NPR requested the complete exemption of Square 484W from the MVT sub-area because, it believed, the proposed sub-area regulations will have a "material adverse impact on NPR and possibly even endanger its ability to remain in the District of Columbia." NPR wrote that: 1) the glazing, door opening, and ground floor ceiling height requirements of §§ 1722.2 – 1722.5 would add unnecessary complications and expense to a possible eastward expansion of the NPR building; 2) the driveway restrictions of §§ 1730.2 and 1731.3 – 1731.5 would negatively impact NPR's ability to design an efficient building; 3) the up-to 75-day review period mandated by § 1721 would unnecessarily delay the building permit application process; and 4) the ground floor use restrictions of § 1732.2 would force NPR into retail leasing, which it does not want to do, and which could jeopardize its non-profit status. NPR suggested, at a minimum, amending § 1732.2 (nnn) to permit not just "television and radio broadcast studios," but also "ancillary uses, including office."

Final Rulemaking

The Commission took final action to adopt the rulemaking at its regularly scheduled public meeting on April 20, 2006.

The Commission resolved the outstanding question of whether to permit interim uses by deciding not to permit them, thereby requiring changes to §§ 1732.2, 1732.3, and 1732.4. The Commission also discussed removing Square 484W from the design and use requirements of the text, but declined to do so. No other substantive changes were made. The Office of the Attorney General has determined that this rulemaking meets its standards of legal sufficiency and that no re-advertisement or re-publication of the proposed rule is required by virtue of the changes made.

Based on the above, the Commission finds that the proposed map and text amendments to the Zoning Regulations are in the best interests of the District of Columbia, consistent with the purpose of the Zoning Regulations and Zoning Act, and not inconsistent with the Comprehensive Plan for the National Capital.

In consideration of the reasons set forth herein, the Zoning Commission hereby **APPROVES** the following map and text amendments:

A. The Zoning Map of the District of Columbia, as incorporated by reference in 11 DCMR § 106, is amended by rezoning Square 483 from C-3-C to DD/C-3-C.

B. Title 11 DCMR (Zoning) is proposed to be amended as follows:

1720 MOUNT VERNON TRIANGLE DISTRICT: OBJECTIVES AND BOUNDARIES (DD/MVT)

1720.1 The principal objectives for the Mount Vernon Triangle District (MVT District) are to:

- (a) Promote the development of ground floor level street frontages that will be active and pedestrian-friendly, particularly along the sections of K and 5th Streets, that are within the MVT District boundaries, as defined in §1720.2.
- (b) Promote a lively, mixed-use and high-density Mount Vernon Triangle neighborhood with neighborhood amenities and retail development that serves the MVT as well as nearby neighborhoods, the Convention Center, and the downtown.

1720.2 The provisions of the MVT District, as stated in §§ 1720 through 1734, apply to Squares 451, 483, 484, 484W, 515, and 516.

1720.3 Any reference in the provisions of the MVT District to the Mount Vernon Triangle Area shall mean the area comprising squares 451, 483, 484, 484W, 515, 515N, 516, 516S, 525, 526, 527, 528, 556, 558, 560, 561, 562, 563, and 563S.

1720.4 All street locations in the MVT District are in Northwest Washington and therefore all future reference to these streets will omit the identification of the Northwest quadrant.

1720.5 All provisions of this Chapter shall apply unless otherwise noted.

1720.6 Unless specifically exempted, the requirement of the MVT District shall apply to all new buildings and to all other buildings where any additions, alterations, or repairs within any twelve-month (12) period exceed one hundred percent (100%) of the assessed value of the building as set forth in the records of the Office of Tax and Revenue as of the date of the building permit application; provided:

- (a) The cost basis for alterations or additions to an existing building shall be the amount indicated by the applicant on the application for a building permit;
- (b) The assessed value of the building shall be the value set forth in records of the Office of Tax and Revenue as of the date of the building permit application; and
- (c) In the case of an addition, the requirements and incentives of this Chapter apply only to the addition.

1721 OFFICE OF PLANNING REVIEW (DD/MVT)

1721.1 The provisions of § 1700.6 shall apply only to building permits for new construction within the MVT District or for additions, alterations, or repairs that would first subject a building to the provisions of the MVT District pursuant to § 1720.6.

1721.2 The Zoning Administrator shall take no action on a building permit application to which § 1721.1 refers for seventy-five (75) days from the date of filing, or for fifteen (15) days after receipt of the Office of Planning report, whichever time period is less.

1722 STREETWALL DESIGN REQUIREMENTS (DD/MVT)

1722.1 Except for a building located in the Principal Intersection Area, as described in § 1723.1, or a building located on Lot 158 in Square 515 for which a building permit has been received within nine (9) months prior to or after [the effective date of this section], or any portions of a building that existed on the [effective date of this section] that is subsequently designated a historic landmark or is included within a historic district, this Section together with § 1701.3, shall apply to each building with frontage on:

- (a) K Street in Squares 451, 483, 484, 484W, 515, or 516;
- (b) 5th Street in Squares 483, 484, 515 or 516;
- (c) 6th Street in Squares 484 or 484W, if that frontage is within thirty-six feet (36 ft.) of the right-of way of K Street; and
- (d) 4th Street in Square 515 or 516, if that frontage is within thirty-six feet (36 ft.) of the right-of way of K Street.

1722.2 Each building shall devote not less than fifty percent (50%) of the surface area of the streetwall(s) at the ground level of each building to display windows with clear or clear and/or low-emissivity glass, except for decorative or architectural accent, and to entrances to commercial uses or to the building.

1722.3 Each building shall devote not less than fifty percent (50%) of the surface area of the streetwall between twelve (12) feet and fourteen (14) feet above grade to clear or clear and/or low-emissivity glass.

1722.4 Each building shall be designed so as not to preclude an entrance every forty (40) feet on average for the linear frontage of the building; excluding vehicular entrances, but including entrance to ground floor uses and any main lobby.

1722.5 The ground floor level of each new building or building addition shall have a minimum clear floor-to-ceiling height of fourteen (14) feet for a distance of at least thirty-six (36) feet perpendicular to the ground floor's front building line.

1723 PRINCIPAL INTERSECTION AREA (PIA): LOCATIONS INCLUDED (DD/MVT)

1723.1 With the exception of a building located on Lot 158 in Square 515 for which a building permit has been received within nine (9) months prior to or after [the effective date of this section], or any portion of a building that existed on the effective date of this section] that is subsequently designated a historic landmark or is included within a historic district, the provisions of §§ 1723 through 1727 shall apply to those portions of buildings in Squares 483, 484, 515, or 516 that:

- (a) Front on K Street or 5th Street and
- (b) Fall within any of four (4) seventy-two-foot-square (72 ft. by 72 ft.) areas as measured from the point of tangency of the rights of way lines of K Street and 5th Street in the relevant quadrant described by the intersection of these streets.

1723.2 The area described in § 1723.1 shall hereafter be referred to as the Principal Intersection Area (PIA).

1723.3 As illustrated in the following table, each of the four corners within the PIA has four (4) thirty-six-foot by thirty-six-foot (36 ft. by 36 ft.) modules.

Square 483	Square 483		5th Street	Square 515		Square 515
	<u>D</u>	<u>B</u>		<u>B</u>	<u>D</u>	
	<u>C</u>	<u>A</u> (NW)		<u>A</u> (NE)	<u>C</u>	
K Street			Intersection 5 th & K Streets	K Street		
Square 484	<u>C</u>	<u>A</u> (SW)	5th Street	<u>A</u> (SE)	<u>C</u>	Square 516
	<u>D</u>	<u>B</u>		<u>B</u>	<u>D</u>	
	Square 484			Square 516		

1723.4 In the table, “K Street” defines the east and west directions; “5th Street” defines the north and south directions. The northwest corner is Square 483; the northeast corner is Square 515; the southwest corner is Square 484; the southeast corner is Square 516.

1723.5 At each corner there are four modules labeled A, B, C and D. Each block in the chart labeled A, B, C, or D represents a thirty-six-foot by thirty-six-foot (36 ft. by 36 ft.) area within the respective seventy-two-foot by seventy-two-foot (72 ft. by 72 ft.) PIA corner.

1723.6 The “A” modules are the thirty-six-foot by thirty-six-foot (36 ft. by 36 ft.) modules nearest to the intersections. The “B” modules are the thirty-six-foot by thirty-six-foot (36 ft. by 36 ft.) modules fronting on 5th Street that are between thirty-six (36) feet and seventy-two (72) feet north and south of K Street. The “C” modules are the thirty-six-foot by thirty-six-foot (36 ft. by 36 ft.) modules fronting on K Street that are between thirty-six (36) feet and seventy-two (72) feet

east and west of 5th Street The “D” modules are the thirty-six-foot by thirty-six-foot (36 ft by 36 ft) interior modules that have frontage on neither K Street nor 5th Street

1724 PIA: MAXIMUM BUILDING HEIGHT (DD/MVT)

1724 1 Except for buildings in Square 515, the portion of a building within an “A” module shall be no higher than fifty (50) feet above grade

1724 2 No more than fifty percent (50%) of the portions of a building within each of the “B” and “C” modules shall be more than fifty (50) feet above grade

1725 PIA: MINIMUM GROUND FLOOR HEIGHT (DD/MVT)

1725 1 The following minimum ground floor height requirements apply to each building located within the PIA:

Module	Minimum clear floor-to-ceiling height
A	22 Feet
B & C	22 Feet for at least 50% of its ground floor
D	14 Feet

1726 PIA: STREETWALL DESIGN (DD/MVT)

1726 1 Each building shall devote not less than sixty-five percent (65%) of the surface area of the streetwall(s) at the ground level, to a height of at least twenty-two (22) feet, to display windows with clear and/or low-emissivity glass, except for decorative or architectural accent and entrances to commercial uses or to the building.

1726 2 Each building shall devote not less than sixty-five percent (65%) of the surface area of the streetwall between eighteen (18) feet and twenty-two (22) feet above grade to clear and/or low-emissivity glass

1727 PIA: MISCELLANEOUS PROVISIONS (DD/MVT)

1727 1 There shall be no direct entrances to lobbies serving residential or office uses

1727 2 Roof terraces, whether open to the sky or covered with awnings or canopies, that are atop the portions of a building within the “A,” “B,” or “C” modules, as defined in § 1723, shall not be included in the maximum floor area ratio calculations as set forth in § 771 2

**1728 REDUCTION OF REAR YARDS AND SIDE YARDS OF BUILDINGS
ABUTTING ALLEYS (DD/MVT)**

1728 1 In the event that the Council of the District of Columbia accepts a dedication of land for public alley purposes within DD/MVT that would have been required to be a rear yard pursuant to § 774.7, and the land dedicated is adjacent to a public alley and extends the entire length of the lot, the rear yard requirements for the portion of the structure above the horizontal plane described in § 774.7(a) shall be reduced by five (5) feet for every ten (10) foot depth of land dedicated

1728 2 For the purposes of § 1728 1, the depth of the land dedicated shall be measured perpendicular to the alignment of the adjacent public alley.

1728.3 In the event that the Council of the District of Columbia accepts a dedication of land for public alley purposes within DD/MVT that would have been required to be a side yard pursuant to §§ 775.4 and 775.5, and the land dedicated is at least eight (8) feet deep, is adjacent to a public alley, and extends the entire length of the lot, the side yard requirement shall be eliminated for that portion of the structure below a horizontal plane twenty (20) feet above the mean finished grade measured at the middle of the side of the structure

1729 GROUND FLOOR PARKING AND LOADING PROVISIONS (DD/MVT)

1729 1 Where a court is provided in accordance with § 776, and the bottom of the court begins at or between the first floor and second floor above the ground floor, the gross floor area beneath the bottom of the court shall not be included when calculating the floor area ratio of the building, provided:

(a) The area immediately beneath the court provides

(i) Vehicular access from a public or private alley for the purposes of providing loading berths, loading platforms, or service/delivery loading spaces required by § 2201.1,

(ii) Parking or access to parking required by § 2101.1, or

(iii) Parking permitted by § 1702.7(a) or (b), and

(b) At least sixty five percent (65%) of the court's surface is covered by vegetative material that reduces the rate of flow of stormwater run-off or contributes less to ambient heat build-up than a conventional roof

1730 DRIVEWAYS ON PREFERRED USE STREET FRONTAGES (DD/MVT)

1730.1 The provisions of this Section govern the construction of driveways that

- (a) Provide access from the adjacent public street to parking spaces or loading berths,
- (b) Serve delivery loading spaces on the same lot as the driveway; or
- (c) Serve parking spaces, loading berths, or service/delivery loading spaces not required by the Zoning Regulations

1730.2 No driveway may be constructed on the north or south side of K Street between 5th Street and 7th Street

1730 3 There shall be no more than one driveway constructed in the following areas

- (a) The north side of K Street between 4th Street and 5th Street,
- (b) The south side of K Street between 4th Street and an alley [existing on the effective date of this section] located approximately three hundred and seventy-five (375) feet west of 4th Street;
- (c) The east side of 5th Street between I Street and K Street, and
- (d) The east side of 5th Street between K Street and L Street.

1730 4 There shall be no more than two driveways constructed in the following areas

- (a) The west side of 5th Street between I Street and K Street and
- (b) The west side of 5th Street between K Street and L Street.

1730.5 Exceptions from the prohibitions and limitations of this Section shall be permitted if granted by the Board of Zoning Adjustment under § 3104, provided the applicant demonstrates that:

- (a) There is no practical alternative means of serving the parking, loading, or drop-off needs of the building to be served by the proposed driveway, such as signage approved by the District Department of Transportation (DDOT), that would direct vehicles to an alternative entrance point within the same Square,
- (b) The driveway will not impede the flow of pedestrian traffic on the street frontages listed in §§ 1730 2 through 1730 4, and

- (c) The proposed driveway is not inconsistent with the DDOT landscape plans for the public rights of way in the Mount Vernon Triangle Area, to the extent that such plans exist at the time of the special exception application

1731 DRIVEWAYS: OTHER STREET FRONTAGES (DD/MVT)

1731.1 The provisions of this Section apply to street frontages in DD/MVT not listed in §1730

1731.2 The provisions of this Section apply to driveways that provide access from the adjacent public street to parking spaces or loading berths within a Square, whether or not those spaces or berths are required by the Zoning Regulations

1731.3 No more than one driveway may be constructed within the length of an individual building, unless the building extends the entire length of the block, in which case § 1731.4 shall apply

1731.4 No more than two driveways may be constructed per side of a Square

1731.5 Each driveway shall be separated by no less than sixty (60) feet, unless lesser distances between curb cuts are required by the District Department of Transportation (DDOT).

1731.6 Exceptions from the requirements of this Section shall be permitted only if granted by the Board of Zoning Adjustment under § 3104, provided that the applicant demonstrates that.

- (a) There is no practical alternative means of serving the parking, loading, or drop-off needs of the building to be served by the proposed driveway, such as signage approved by the District Department of Transportation (DDOT), that would direct vehicles to an alternative entrance point within the same Square,
- (b) The driveway will not impede the flow of pedestrian traffic on the street frontages listed in §§ 1730.2 through 1730.4, and
- (c) The proposed driveway is not inconsistent with the DDOT landscape plans for the public rights of way in the Mount Vernon Triangle Area, to the extent that such plans exist at the time of the special exception application.

1732 PERMITTED GROUND FLOOR USES (DD/MVT)

1732.1 For the purposes of identifying the location of permitted ground floor uses, the Mount Vernon Triangle District is divided into the following three Areas

- (a) The Principal Intersection Area as defined in § 1723 1.
- (b) The Secondary Use Area, which comprises the areas with frontage along the portions of Squares 515 and 516 between the centerpoint of 4th Street and the centerpoint of the public alley in Square 515 existing on [the effective date of this section] that is approximately three hundred sixty (360) feet west of 4th Street
- (c) The Primary Use Area, which comprises all areas not defined in § 1732 1 (a) or (b) with frontages along K Street in Squares 451, 483, 484, 484W, 515, or Square 516, or with frontages on 5th Street in Squares 483, 484, 515, or 516

1732 2 The following uses may be established on the ground floor of any building located in the Primary or Secondary Use Area

- (a) Antique store,
- (b) Artist live-work space or artist studio, with sales,
- (c) Apparel and accessories store,
- (d) Art center,
- (e) Art gallery,
- (f) Art school, including school of dance, photography, filmmaking, music, writing, painting, sculpturing, or printmaking,
- (g) Arts services, including set design and restoration of artworks,
- (h) Assembly hall, auditorium, public hall or other performing arts space, including rehearsal/pre-production space or concert hall,
- (i) Auction house,
- (j) Bakery, limited to baking of food sold on premises,
- (k) Bicycle shop;
- (l) Barber or beauty shop,
- (m) Blueprinting, printing or copy service,
- (n) Book store,
- (o) Cabaret,
- (p) Candy store;
- (q) Clinic,
- (r) Computer store,
- (s) Concert hall or other performing arts space,
- (t) Cosmetic store,
- (u) Camera store,
- (v) Craftsman or artisan studio, with sales;
- (w) Dance hall, discotheque, or ballroom,
- (x) Department store;
- (y) Dinner theater,
- (z) Dressmaking or tailor shop,
- (aa) Drinking place, including bar, nightclub or cocktail lounge,

- (bb) Drug store,
- (cc) Dry cleaner;
- (dd) Fabric store,
- (ee) Fast food restaurant, excluding drive-through,
- (ff) Film exchange,
- (gg) Florist and plant store,
- (hh) Furniture store;
- (ii) Gift, novelty, and souvenir shop,
- (jj) Grocery store,
- (kk) Hardware store,
- (ll) Health or exercise studio,
- (mm) Hobby, toys and game shop,
- (nn) Home furnishing store,
- (oo) Home supply and decorating store,
- (pp) Jewelry store,
- (qq) Liquor store,
- (rr) Leather goods and luggage store,
- (ss) Legitimate theater;
- (tt) Library, public,
- (uu) Lobbies for apartment, condominium or other residential uses,
- (vv) Theater, including motion picture theater,
- (ww) Museum,
- (xx) Musical instruments and accessories sales,
- (yy) Newsstand,
- (zz) Office supplies and equipment sales,
- (aaa) Optical goods store,
- (bbb) Paint store,
- (ccc) Pet store,
- (ddd) Picture framing studio or shop,
- (eee) Printing, fast copy service,
- (fff) Radio, television, and consumer electronics store,
- (ggg) Restaurant,
- (hhh) Secondhand store or consignment shop,
- (iii) Shoe repair and shoeshine parlor;
- (jjj) Shoe store,
- (kkk) Specialty food store;
- (lll) Sporting goods store,
- (mmm) Telegraph office,
- (nnn) Television and radio broadcast studio,
- (ooo) Tobacco store,
- (ppp) Travel agency, ticket office,
- (qqq) Variety store;
- (rrr) Video tape rental, and
- (sss) Other similar personal/consumer service establishment or retail use including assemblage and repair clearly incidental to the principal use

1732.3 The following uses may be established on the ground floor of any building located in the Secondary Use Areas defined in §1732 1

- (a) Accountant,
- (b) Apartment or condominium entered directly from street,
- (c) Architect,
- (d) Attorney;
- (e) Bail bondsman,
- (f) Bank, loan office, or financial institution;
- (g) Counseling service,
- (h) Consultant - general,
- (i) Dentist, doctor, or medical office,
- (j) Employment agency,
- (k) Escrow agent,
- (l) Government;
- (m) General office uses
- (n) Health clinic,
- (o) Insurance broker,
- (p) Laboratory,
- (q) Landscape architect,
- (r) Mortgage broker,
- (s) Public agency office,
- (t) Real estate agent, appraiser, broker, developer;
- (u) Social service agency office,
- (v) Stockbroker,
- (w) Tax preparer;
- (x) Title company,
- (y) Trust company, and
- (z) Utility company, offices of

1732.4 The following uses may be established on the ground floor of any building located in any of the three Areas defined in §1732 1.

- (a) Book store including restaurant,
- (b) Cabaret,
- (c) Drinking place, including bar, nightclub or cocktail lounge,
- (d) Restaurant, and
- (e) Other uses permitted in the Primary Area, provided that within such uses there exists accessory restaurant or drinking place uses (including, but not limited to, bar, nightclub, or cocktail lounge uses), that occupy at least fifty percent (50%) of the gross floor area of the permitted principal use(s) and at least forty percent (40%) of the permitted principal use(s) linear frontage on the public right of way

**1733 GROUND FLOOR AREAS REQUIRED TO BE DEVOTED TO
PREFERRED USES (DD/MVT)**

1733.1 The provisions of this Section shall apply to each building with frontage on K Street in Squares 451, 483, 484, 484W, 515, or 516; and to each building with frontage on 5th Street in Squares 483, 484, 515, or 516.

1733.2 Each building that faces or abuts a street segment identified in § 1732.1 shall devote not less than fifty percent (50%) of the gross floor area of the ground floor ("dedicated space") to uses listed in §§ 1732.2, 1732.3, or 1732.4, if permitted by those subsections at its location, except that the cumulative gross floor area of bank, loan office, financial institution or general office uses, shall occupy no more than thirty percent (30%) of the gross floor area of the dedicated space

Vote of the Zoning Commission taken at its public meeting on October 15, 2005, to **APPROVE** the proposed rulemaking: **5-0-0** (Carol J Mitten, Anthony J Hood, Kevin Hildebrand, Gregory N Jeffries, and John G Parsons)

This Order was **ADOPTED** by the Zoning Commission at its public meeting on April 20, 2006, by a vote of **3-0-2** (Carol J Mitten, Anthony J. Hood, John G. Parsons to adopt; Gregory N Jeffries and Kevin Hildebrand not present, not voting)

In accordance with the provisions of 11 DCMR § 3028.9, this Order shall become effective upon publication in the *D C Register*, that is, on **SEP 29 2006**

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
and
ORDER NO. 04-18
Z.C. Case No. 04-18
(Map and Text Amendments – 11 DCMR)
(Mount Vernon Triangle District within the DD Overlay)
April 20, 2006**

The full text of this Zoning Commission order is published in the “Final Rulemaking” section of this edition of the *D C Register*.

