



District of Columbia Government
Advisory Neighborhood Commission 6A
Box 75115
Washington, DC 20013



March 31, 2005

Secretary of the Zoning Commission
Office of Zoning
441 4th St, NW, Suite 210
Washington, DC 20001

VIA FACSIMILE

Re: ZC Case No. 04-27 (H Street NE Neighborhood Commercial Overlay)

To Whom It May Concern:

This letter is to provide notice that Advisory Neighborhood Commission 6A wishes to testify in support of Text and Map Amendments to Establish and Map the H Street NE Neighborhood Commercial Overlay District on Thursday, April 7, 2005.

ANC 6A will be represented by Commissioner Joseph Fengler, Chair of the ANC. Attached please find a copy of his testimony for distribution to members of the Zoning Commission.

Respectfully yours,

Cody Rice
Chair, Economic Development & Zoning Committee
Advisory Neighborhood Commission 6A

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ZONING COMMISSION
District of Columbia

CASE NO. 04-27
12

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To <u>ZC</u>	From <u>Cody Rice</u>	
Co.	Co. <u>ANC 6A</u>	
Dept.	Phone # <u>564-8769</u>	
Fax # <u>727-6072</u>	Fax # <u>564-8893</u>	

ZONING COMMISSION
District of Columbia
CASE NO. 04-27
EXHIBIT NO.12

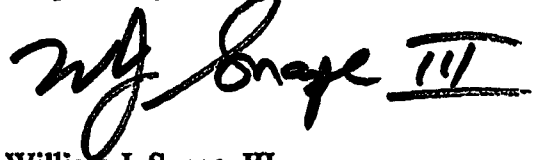
**BEFORE THE BOARD OF ZONING ADJUSTMENT OF D.C.
APPLICATION NUMBER 17276 (PHILLIPS PARK, LLC)**

FRIENDS OF WHITEHAVEN RESPONSE TO APPLICANT'S MOTION TO STRIKE

The Friends of Whitehaven oppose the applicant's motion to strike Friends' timely, relevant and appropriate March 28, 2005 submission to this body. The Friends reject applicant's characterization of "new evidence." Most notably, the Friends point out that its reasonable condition on preventing adverse impact on water supply, water pollution, and soil erosion, as well as requesting the consideration of all applicable District and federal agencies' views, is no different in style or substance (*i.e.*, based upon evidence clearly before the BZA on March 8) than the numerous conditions filed by the applicant. The parties copied on this Response have all been lawfully served.

Dated: March 31, 2005

Respectfully submitted,



William J. Snape, III
Counsel to Friends of Whitehaven
c/o 5268 Watson Street, NW
Washington, D.C. 20016
202-537-3458

cc: Richard Nettler, on behalf of the applicant
()
Alma Gates, on behalf of ANC 3D
()
Chandra Hardy, on behalf of herself
()
Maggie Brady, on behalf of Certain Residents of W Street
(MaggieB48@aol.com)
Joel Lawson, on behalf of the D.C. Office of Planning
()
Kent Slowinski, on behalf of Friends of Whitehaven
(wksla@aol.com)

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**ANC 6A Testimony to Zoning Commission
H Street NE Neighborhood Commercial Overlay District
April 7, 2005**

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Good evening. My name is Joseph Fengler. I am the chairman of Advisory Neighborhood Commission 6A and a close neighbor of H Street NE. This evening I will be delivering testimony in support of the H St NE Neighborhood Commercial Overlay District, as well as several recommendations for improving the proposed overlay. The specific recommendations in this testimony were approved unanimously at a regular monthly meeting of our ANC on March 10, 2005.

First, let me begin by commending the work of the Office of Planning to reach this stage. ANC 6A would like to thank the Office of Planning for having the vision and determination to spearhead this effort. Specifically, the long hours and hard work of Derrick Woody, Karina Ricks, and David McGettigan stand out as an example of how the city should work with the community to bring about sustainable change and community improvements. We feel that planning effort leading to this overlay proposal has been well served by the many efforts to reach out to the community and incorporate the input of residents who live near the corridor in the revitalization plan.

Second, before I get into substantive comments, I'd like to make you aware the efforts our ANC has undertaken to ensure that these recommendations have been fully vetted with the residents we represent. Almost two years ago, we began a series of joint public meetings with ANC 6C on recommendations for a zoning overlay district to remove obstacles and create incentives to achieve the goals of the H Street NE Revitalization Plan. This effort culminated in a joint report to the Office of Planning in July 2003. We are quite pleased that Office of Planning used our joint report as a framework for the proposed map and text amendments under consideration this evening. More recently, our Economic Development & Zoning Committee drafted a number of recommendations for this evening's testimony. As I mentioned earlier, these recommendations (and a few amendments) were adopted unanimously by our ANC. Most of these recommendations were also adopted by our neighbor to the west, ANC 6C.

Now, let me move into the specific points that ANC 6A would like for the Zoning Commission to consider in creating the Overlay District for H St NE:

1. ANC 6A supports the designation of thematic areas with incentives for preferred uses.

In a letter to DC Council supporting a Small Area Plan, the ANC said "Thematic areas that build upon the existing assets of the H Street NE corridor are a useful planning concept. We support an "urban housing" district, a neighborhood retail shopping district, and an arts and entertainment district as described in the plan." All of these uses should be understood to be "neighborhood-serving" for the residents living on and around H St and it would be helpful to incorporate this terminology into the "purposes" section of the overlay text.

2. ANC 6A supports the design requirements at section 1324, especially the requirements for zero setbacks from the street, parking in the rear, public entry from the sidewalk, and minimum height of buildings. We believe that these detailed design guidelines will be integral in the creation of a "pedestrian friendly" urban corridor in an area that does not currently have the added protection of design review through a designated historic district. The text of the overlay should make explicit reference to the goal and purpose of "safe and efficient pedestrian egress and access" along the length of the corridor. We also feel that it would be advisable to add language to clarify that design should be "consistent with the historic character and scale of the overlay district."

3. ANC 6A supports incentives to preserve pre-1958 buildings, and we also recommend adding language at 1321.3, 1322.3 and 1323.4 to include "restoration and adaptive reuse" as qualifying for FAR bonus. This terminology is consistent other sections of the zoning regulations. As currently written, the text may not fully capture the intent of creating incentives to retain and reuse the older buildings that give this corridor a feeling of being a unique and distinctive destination. To further clarify the intent, section 1320.2(e) could be replaced with the following language from another section of the

zoning regulations: "Encourage adaptive reuse of pre-1958 buildings along the corridor and an attractive combination of new and old buildings."

4. ANC 6A supports a special exception requirement for new construction or substantial enlargement on lots larger than 6,000 square feet. Based on a typical lot size on the corridor of 1,600-2,500 square feet, this requirement would be triggered by projects that consolidate about 3-4 lots. This would allow public review and input on large-scale projects that would have a significant impact on the corridor without requiring a review of every project.

5. ANC 6A supports restrictions and prohibitions on less pedestrian-friendly, less neighborhood-serving uses at 1320.4 and 1320.5. These are all uses that are, to varying degrees, difficult to reconcile with the goal of a corridor that operates as a neighborhood-serving, pedestrian and transit-oriented destination. Some of the uses, such as parking garages, could be designed with special exception review in ways that would not detract from the goals of the corridor. Other uses, such as gas stations and parking lots, would create large dead zones along the H St frontage that would discourage street life and pedestrian mobility along the length of the corridor. For the prohibited uses, it is difficult to imagine any potential for mitigating these effects, thus our support for prohibition.

Next, I would like to turn to a few items in the overlay that ANC 6A believes should be modified more substantially:

1. ANC 6A recommends deletion of section 1320.4(e) and deletion of the text "after the effective date of this section" in 1320.5(d) related to gasoline stations. These sections provide special treatment for the BP site next to the Children's Museum. ANC 6A recommends that the overlay list gasoline stations as a prohibited use without further qualifications. There is no compelling justification for special treatment here and this change would make discussions about conforming versus non-conforming uses more straightforward and consistent with the rest of the zoning regulations.

2. *ANC 6A recommends adding "automobile accessories sales" to prohibited uses in 1320.5. As an alternative, the ANC would at least recommend requiring a special exception under 1320.4.* This recommendation is based on experience with illegal repairs and material disposal on-site and in surrounding residential areas near the AutoZone. The use has not contributed in a positive way to the creation of a neighborhood-serving commercial area and has had a net negative impact on the quality of life of nearby residents. Although making this change would not require the AutoZone to close, it would become a non-conforming use. This would make expansion or replacement with another store more difficult, although not impossible.

3. *ANC 6A recommends that fast food restaurants and food delivery services should meet all the criteria in section 733 and 734 of the zoning regulations for the C-2-A zone, not just the criteria specified in 1320.4(c).* These are the existing criteria for a special exception to allow a fast food restaurant or food delivery service in a C-2-A zone, and ANC 6A was recently successful in an appeal of a Certificate of Occupancy that was issued to fast food restaurant on H St without applying these criteria. We also recommend that the provision allowing no more than 25 percent of retail area in fast food uses would also be as appropriate for H St as it is for other overlay districts.

4. *ANC 6A recommends the addition of incentives for affordable housing along the corridor.* In a letter to DC Council, the ANC earlier said, "We support residential development that draws on the benefits of proximity to transit and generates retail activity on the corridor. We hope the Council will identify and adopt additional mechanisms to create housing options that are affordable for teachers, firefighters, police, government workers, and others who support our community." In the past, the Zoning Commission has approved incentives for affordable housing in an overlay. For example, the Reed-Cooke Overlay District allows extra height for projects that provide for the on-site construction or substantial rehabilitation of low and moderate income household units equal to fifty percent (50%) of the additional gross floor created. ANC 6A recommends that the Zoning Commission consider the inclusion of incentives from the original 6A/6C joint report such as a bonus 1.0 FAR for residential uses as a matter of

right (provided height limits are not exceeded) and 80% lot coverage if affordable housing is provided. ANC 6A would support a standard that reserves half the affordable units for households at 50% or less of AMI and half at 80% or less of AMI. ANC 6A also recommends that affordable housing be identified as a preferred amenity for planned unit developments that seek additional density along H Street.

5. ANC 6A recommends that the zoning overlay adopt the recommendation of the design guidelines for the H Street Revitalization Plan on placement of parking in the rear half of lots with H Street frontage. Specifically, where parking is located on the ground level or surface, parking should only be located on the rear-one half of the lot beginning no less than 50 feet behind the front wall of the building facing H Street NE. This requirement would clarify that parking should not front H Street and should be in the rear of buildings. Again, this reinforces that H Street NE should be a neighborhood-serving, pedestrian-friendly corridor rather than a suburban strip mall that caters primarily to automobiles.

6. ANC 6A recommends that a section 1324.14 be added to require that permits for signage along the corridor be subject to review by the DC Historic Preservation Office for compliance with design guidelines. Throughout the city's commercial areas, signs play a major role in creating either a positive or negative visual image. Signs on storefronts are a key feature in defining the overall character of a building and in contributing to the coherence and distinctiveness of a commercial district. The city already has a number of specific sign guideline resources and the DC Historic Preservation Office would be a logical steward for administering these guidelines through the sign permit process.

This concludes the recommendations from ANC 6A. Thank you for the opportunity to provide this testimony.