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VIA HAND DELIVERY

D.C. Zoning Commission
Suite 210
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Washington D.C. 20001

ZONING COMMISSION
District of Columbia

CASE NO. 04-27
EXHIBIT NO. 2

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Re. Zoning Commission Case No. 04-27
H Street Overlay District

Dear Members of the Commission:

This office represents the H Street Community Development Corporation (HSCDC), which has a longstanding history of ownership and development of properties along the H Street corridor. The HSCDC currently owns the following properties in the area affected by the above-referenced case:

- 501 H Street, located at the southeast corner of 5th and H Streets (Square 833, lot 47), consisting of 9,813 square feet of land area zoned C-2-A;
- 601-645 H Street, located on the south side of H Street between 6th and 7th Streets (Square 859, lot 177), consisting of 109,351 square feet of land area, split between C-2-C on the H Street frontage and C-2-A on the area to the rear;
- 721-727 H Street, located on the southwest corner of 8th and H Streets (Square 890, lot 69), consisting of 8,584 square feet of land area zoned C-2-A; and
- 1207 H Street, located on the south side of H Street east of 12th Street (Square 1004, lot 342), consisting of 33,435 square feet of land area zoned C-2-A

The HSCDC has reviewed the proposed overlay and has significant concerns about the effect of the proposed changes on the properties it owns. The HSCDC requests that the Zoning Commission defer action on setting the case for hearing until the Office of Planning can address those concerns

Specifically, HSCDC notes the following issues with respect to its properties:

1. The property in Square 833 is in the housing subarea but is not proposed to be rezoned to C-2-B. Accordingly, the effect of the overlay is to reduce the maximum permitted nonresidential FAR from 1.5 to 0.5 (see proposed §1321.2), a reduction of sixty-seven percent, without any increase in residential density. This severely compromises the future ability to increase the density on the site and also renders the existing building nonconforming because it currently exceeds 0.5 FAR of nonresidential density.
2. The properties in Squares 859 and 890 are in the retail subarea. The HSCDC supports the concept of encouraging retail uses, and specifically supports the additional 0.5 FAR allowed for the preferred uses listed in §1322.2. However, the Square 859 site contains over 100,000 square feet of land area and future development of this site may be forced to go through review by the Board of Zoning Adjustment under §§1320.8 and 1325. This site was developed by HSCDC in the late 1980s under the requirements of the H Street Urban Renewal Plan but was not built out to the full limits of what the Plan permitted. The HSCDC believes that imposing the special exception review for all future development on this property is contrary to the goal of encouraging retail uses
3. The property in Square 1004 is in the arts subarea. This property would lose thirty-three percent of its currently permitted nonresidential density, a reduction from 1.5 FAR to 1.0 FAR. Redevelopment for arts and retail purposes would be severely constrained because of the limit in density.

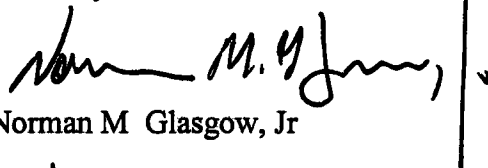
In considering this case, H Street urges the Zoning Commission to request that the OP restructure and revise its proposed overlay to take into account the following concerns:

- Any new zoning should be incentive based, allowing additional development over and above the levels now provided to achieve specified goals, rather than restrictive, imposing additional regulations as requirements or demands and taking away existing development rights. Reducing the commercial density in the C-2-A by 1.0 or 0.5 FAR does not establish a climate that encourages development to achieve the goals of the overlay
- In changing the zoning, the Commission should take care to avoid creating nonconforming structures and uses and to deal with the negative impacts that nonconformity creates. While some believe that there is no huge penalty in being made nonconforming, the potential loss to a retail building which could occur from fire or other calamity could be extremely detrimental to the ability to insure, maintain and refinance such buildings. Lenders will want to know that the existing buildings can be reconstructed in the event of a fifty or seventy-five percent loss, and changes in the zoning maps or regulations which preclude rebuilding will be very harmful to HSCDC and to other owners of retail buildings. The OP report makes no mention of which buildings would be made nonconforming and appears to be unconcerned with that impact.

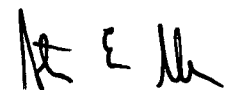
- The design requirements of §1324 appear to be unique in their applicability to a neighborhood commercial zone. There is no rationale given as to why these requirements should be applied to this C-2 strip and not to other commercially zoned areas in other parts of the city. There is also some confusion within this section as to whether these requirements apply only to new buildings or to all buildings (e.g , see §§1324 9 through 1324 11) and whether the requirements apply to only commercial buildings or to all buildings (e.g , see §1324.10).

For all of the above-stated reasons, the HSCDC believes that the Zoning Commission should not set Case No 04-27 for hearing until the Commission has requested the Office of Planning to address the concerns set forth herein. The HSCDC believes that these issues are also common to other properties along the H Street corridor and suggests that the Commission evaluate more carefully the effect of the proposed overlay before starting the case on the path to a hearing.

Sincerely,



Norman M Glasgow, Jr



Steven E. Sher
Director of Zoning and Land Use Services

cc: William J Barrow, Executive Director, HSCDC

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