

Government of the District of Columbia
OFFICE OF ZONING



MEMORANDUM

TO: Arnold R. Finlayson, Administrator
Office of Documents and Administrative Issuance

FROM: Sharon S. Schellin *SS*
Acting Secretary to the Zoning Commission

DATE: March 2, 2006

SUBJECT: Publication for the Office of Zoning

Please publish the following in the *D.C. Register* on March 10, 2006:

1. Z.C. Notice of Filing (Case No. 06-04);
2. Z.C. Notice of Filing (Case No. 06-08);
3. Z.C. Notice of Filing (Case No. 06-10);
4. Z.C. Notice of Filing (Case No. 06-12);
5. Z.C. Notice of Filing (Case No. 06-13);
6. Z.C. Notice of Public Hearing (Case No. 06-07);
7. Z.C. Notice of Public Hearing (Case No. 06-09);
8. Z.C. Notice of Public Hearing (Case No. 06-05);
9. Z.C. Notice of Emergency and Proposed Rulemaking (Case No. 06-05); and
10. Z.C. Notice of Proposed Rulemaking (Case No. 04-33); and
11. Z.C. Notice of Final Rulemaking (Case No. 04-27) – two copies provided and also on the attached diskette.

Attachments

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: JERRILY KRESS

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

TELEPHONE: (202) 727-6311

TITLE AND DESCRIPTION OF RULES: H Street Northeast Neighborhood Commercial Overlay District (HS) – a new neighborhood commercial overlay district applied over certain squares along H Street, N.E., from 2nd to 15th Streets, N.E. and map amendments to implement imposition of the Overlay.

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed: Title 11 (Zoning), Chapter 13, new §§ 1320 through 1326 are being added.

FINAL RULES ONLY: Give the D.C. REGISTER citation and date of publication of the Notice of Proposed Rulemaking for these rules: 50 DCR 10187 DATE: NOVEMBER 18, 2005

COMPLETE CITATION to the statute, regulation, or other legal authority which specifically authorizes the issuance of the substance of these rules: Sections 1 and 3 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797), 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: JANUARY 4, 2006

SIGNED:

Robert J. Spagnoletti

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. Sections 1 and 3 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797), D.C. Official Code § 6-641.01.

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

DATE OF
APPROVAL
OF VOTE:

1/9/06

APPROVAL Sharon Schellin

OF ATTEST:

Sharon J. Schellin

Acting Secretary to the Zoning

TITLE: Commission

PHONE: (202) 727-0340

Office of Documents
use only:

THIS NOTICE
PUBLISHED AT:

VOL:

DCR:

DATE:

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

and

Z.C. ORDER NO. 04-27

Z.C. Case No. 04-27

**(Text & Map Amendments – H Street NE Neighborhood
Commercial Overlay Zone District – 11 DCMR)**

January 9, 2006

The Zoning Commission for the District of Columbia (the “Commission”), pursuant to the authority set forth in § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (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 the adoption of an amendment to Chapter 13 of the Zoning Regulations (11 DCMR) to add new §§ 1320 through 1326, containing the provisions of a new neighborhood commercial overlay, the H Street Northeast Neighborhood Commercial Overlay District (HS). The HS Overlay is divided into three sub-districts (a Housing Sub-district, a Retail Sub-district, and an Arts Sub-district), and will be mapped over all lots fronting onto H Street, N.E. from 2nd Street, N.E. to 15th Street, N.E. and zoned C-2-A, C-2-B, C-2-C, C-3-A, or C-3-B. A Notice of Proposed Rulemaking was published in the *D.C. Register* on November 18, 2005. Non-substantive changes were made to the text for reasons explained below. The final rules shall be effective upon publication of this notice in the *D.C. Register*.

The Commission initiated this rulemaking in response to a petition from the Office of Planning to advance objectives identified in the “H Street N.E. Strategic Development Plan”. In 2002, the District of Columbia began working with H Street N.E. residents and business owners to identify issues and develop strategies for revitalizing the commercial corridor. The result was the H Street N.E. Strategic Development Plan, which established guidelines, goals, and standards that need to be achieved in the areas of historic preservation, land use, urban design, and transportation. The document also included an Implementation Summary that links selected strategies with the necessary implementation actions, including the formation of the HS Overlay.

Description of Text Amendment

In accordance with guidance from the H Street N.E. Strategic Development Plan, the proposed HS Overlay is divided into three sections. The first section (Housing Sub-district) of the Overlay corresponds to the Urban Living (Western Gateway) portion of the Strategic Development Plan

and provides a moderate-density and a medium-density mixed-use area focusing on residential development with ground floor retail or other commercial uses allowed, but not required. The second section (Retail Sub-district) corresponds to the Central Retail District (Retail Core) portion of the plan and provides a moderate-density retail, office, and residential use area with a focus on retail uses. The third section (Arts Sub-district) corresponds to the Arts and Entertainment District and provides for moderate-density retail and residential use, with a focus on arts and entertainment uses. The Overlay provides common design standards, like parking in the rear, zero setback from the street, and other pedestrian-friendly design criteria to encourage transit-oriented development.

The Overlay has further provisions that relate to historic preservation and urban fabric. Each sub-district provides for a bonus to the non-residential FAR allowed on-site for preservation of a pre-1958 building façade. In addition, buildings saving a pre-1958 façade are granted a 0.5 FAR bonus to overall density to be used for residential uses.

Finally, the HS Overlay sets guidelines for development review through PUD and special exception proceedings. Development on any lot containing more than 6,000 square feet is required to receive special exception approval. Any development lot in excess of 10,000 square feet may pursue a planned unit development.

Description of Map Amendment

This rulemaking establishes the H Street N.E. Neighborhood Commercial Overlay District that applies to all lots fronting onto H Street N.E. from 2nd Street to 15th Street and zoned C-2-A, C-2-B, C-2-C, C-3-A, or C-3-B.

In addition, within the Overlay, the following properties are rezoned from C-2-A to C-2-B:

- a. Lots fronting on the south side of H Street, N.E., in Square 752;
- b. Lots fronting on the north side of H Street, N.E., in Square 776;
- c. Lots fronting on the south side of H Street N.E., in Square 777; and
- d. Lots fronting on the north side of H Street N.E., in Square 858.

Relationship to Comprehensive Plan

The HS Overlay was designed in conformance with the Comprehensive Plan for the National Capital ("Plan"). The Generalized Land Use Map shows the entire affected corridor as a mixed-use combination of moderate-density commercial and moderate-density residential uses. The Overlay would maintain densities and uses appropriate for these categories.

H Street, N.E. is identified in the Plan as a development opportunity area on the Generalized Land Use Policies Map. It is identified specifically as an area offering "opportunities to accommodate new growth and development." The Overlay would further the goals of the Plan by promoting a retail hub and an arts and entertainment destination area within the corridor.

The Overlay would also further the goals of the Plan laid out in both the Urban Design Element and the Ward 6 Plan. The Urban Design Element specifically encourages improvement of

commercial activity corridors. The Ward 6 Plan discusses growth and residential development on H Street N.E. The Overlay responds to all of these aspects and is not inconsistent with the Plan.

Public Hearing

A Notice of Public Hearing containing the proposed text and map amendments and setting the hearing date for April 7, 2005, was published in the *D.C. Register*, at 50 DCR 915.

The Office of Planning ("OP") submitted reports concerning these amendments, dated October 15, 2004 and March 28, 2005. The October 15, 2004 report indicated OP's support for the proposed amendment and outlined the proposed text changes. Prior to the public hearing, several issues were raised by the Zoning Commission, the ANC, and community stakeholders. In addition, the Commission received a number of letters from the development community in support of the proposed amendment. The OP report dated March 28, 2005 addressed the additional issues raised, including the height impacts of the rezonings, potential planned unit developments, affordable housing, transfer of development rights, new FAR restrictions and incentives, and rezoning of Lot 860 in Square 858.

At the public hearing, further issues were raised by both the ANC and the Zoning Commission. OP was asked to submit a supplemental report that would clarify the roles of the Board of Zoning Adjustment and Historic Preservation Review Board, address ANC recommendations, provide sign guidelines, and increase the non-residential FAR bonus in the housing sub-area.

Proposed Rulemaking

Following the conclusion of the April 7, 2005 public hearing, OP submitted a supplemental report on May 24, 2005 based on the comments and concerns raised at the public hearing. OP recommended changes to §§ 1321.3, 1325.1(a), and 1325.1(e) to address these concerns. The Commission accepted these changes and also added §1325.1(f) to create sign guidelines and removed gas station expansion from the special exceptions listed in §1320.4.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on November 4, 2005, at 50 DCR 10002. The Notice of Proposed Rulemaking was subsequently corrected on November 18, 2005, at 50 DCR 10187, to include the proposed map amendments that were missing from the original publication.

The Office of Zoning received one comment on the Notice of Proposed Rulemaking. On December 19, 2005, the Office received a letter from the law firm of Holland & Knight requesting that the Commission "clarify that all of the lots in Square 776 currently zoned C-2-A, including lots 9, 25, 26, 27, 29, 51, 52, 53, 800, 814, 815, 816, 817, and 821, are to be rezoned to C-2-B." It is clear in the wording of the map amendment that the rezoning in Square 776 applies only to those lots "fronting on the north side of H Street, N.E." Insofar as any of the lots listed in the Holland & Knight letter do not front on the north side of H Street, N.E., the Overlay, and therefore, the rezoning, does not apply to them.

The Office of the Attorney General has determined that this rulemaking meets its standards of legal sufficiency.

Final Action

At its regularly scheduled public meeting held January 9, 2006, the Zoning Commission took final action to approve the proposed map and text amendments. No changes were made to the text as published in the *D.C. Register*. The Commission did, however, resolve one question brought to its attention by the Office of the Attorney General concerning the applicability, within the H Street Overlay, of 11 DCMR § 1304, which is a “general” special exception section applicable to all Neighborhood Commercial Overlays. The H Street Overlay has its own specific special exception section, at § 1325, which sets forth the criteria to be met to obtain a special exception within the H Street Overlay. The Commission made it clear at the January 9th public meeting that both §§ 1304 and 1325 were to apply within the H Street Overlay. Therefore, applicants for special exceptions within the H Street Overlay must meet all the criteria set forth in both § 1304 and § 1325.

Based upon the above, the Commission finds that the proposed amendments to the Zoning Regulations are in the best interests of the District of Columbia, consistent with the purposes of the Zoning Regulations, and not inconsistent with the Comprehensive Plan for the National Capitol.

In consideration of the reasons set forth herein, the Zoning Commission hereby **APPROVES** the following actions:

A. Amend the Zoning Map of the District of Columbia as follows:

1. Rezone from C-2-A to C-2-B:

- a. Lots fronting on the south side of H Street, N.E., in Square 752;
- b. Lots fronting on the north side of H Street, N.E., in Square 776;
- c. Lots fronting on the south side of H Street N.E., in Square 777; and
- d. Lots fronting on the north side of H Street N.E., in Square 858.

B. Title 11 DCMR (Zoning) is amended by adding new §§ 1320 through 1326 to Chapter 13, “Neighborhood Commercial Overlay District.”

1320 H STREET NORTHEAST NEIGHBORHOOD COMMERCIAL OVERLAY DISTRICT (HS)

1320.1 The H Street Northeast Neighborhood Commercial Overlay District (HS) applies to all lots fronting onto H Street, N.E. from 2nd Street to 15th Street, N.E. and zoned C-2-A, C-2-B, C-2-C, C-3-A, or C-3-B. The Overlay is divided into three sub-districts affecting the following squares:

- (a) H Street Northeast Overlay Housing Sub-district (HS-H) encompasses properties fronting on H Street, N.E. in Squares 751, 752, 776, 777, 808, 809, 832, 833, 858, and 859 from 2nd to 7th Streets, N.E.;
- (b) H Street Northeast Overlay Retail Sub-district (HS-R) encompasses properties fronting on H Street, N.E. in Squares 889, 890, 911, 912, 933, 958, 959, 981, and 982 from 7th to 12th Streets, N.E.;
- (c) H Street Northeast Overlay Arts Sub-district (HS-A) encompasses properties fronting on H Street, N.E. in Squares 1003, 1004, 1026, 1027, 1049N, and 1049 from 12th to 15th Streets, N.E.

1320.2 In addition to the purposes in § 1300, the purposes of the HS Overlay District are to:

- (a) Implement the policies and goals of the Comprehensive Plan and the *H Street NE Strategic Development Plan* as approved by the Council of the District of Columbia on February 17, 2004 (R15-460);
- (b) Encourage residential uses along the H Street, N.E. corridor, particularly provision of affordable units and reuse of upper floors;
- (c) Encourage the clustering of uses into unique destination districts along the corridor, specifically a housing district from 2nd Street to 7th Street, N.E.; a neighborhood-serving retail shopping district from 7th Street to 12th Street, N.E.; and an arts and entertainment district from 12th Street to 15th Street, N.E.;
- (d) Establish design guidelines for new and rehabilitated buildings that are consistent with the historic character and scale of the Overlay District; and
- (e) Encourage the reuse of existing buildings along the corridor.

1320.3 For purposes of § 1302, the designated use area shall include any lot within the HS Overlay District that fronts on H Street, N.E. In addition to the ground floor uses designated by §1302.2, the following uses are also designated in each Sub-district:

- (a) HS-H Sub-district: Residential Uses
- (b) HS-R Sub-district:

- (1) Candy store;
- (2) Computer store;
- (3) Delicatessen;
- (4) Fabric store;
- (5) Health or exercise studio;
- (6) Ice cream parlor;
- (7) Plant store or nursery;
- (8) Secondhand or consignment store;
- (9) Shoe store;
- (10) Video rental and sales; and
- (11) Other similar personal/consumer service establishment or retail use.

(c) HS-A Sub-district: Any use listed in §1323.2.

1320.4 The following buildings, structures, and uses are permitted only by special exception if approved by the Board of Zoning Adjustment, in accordance with the standards specified in §§ 3104 and 1325 of this Title.

- (a) Any use requiring a special exception in the underlying zone, except a new gasoline service station;
- (b) Accessory parking spaces located off-site from the principal use;
- (c) Fast food restaurant or food delivery service provided:
 - (1) No part of the lot on which the use is located shall be within twenty-five feet (25 ft.) of a Residence District, unless separated therefrom by a street or alley;
 - (2) If any lot line of the lot abuts an alley containing a zone district boundary line for a Residence District, a continuous brick wall at least six feet (6 ft.) high and twelve inches (12 in.) thick shall be constructed and maintained on the lot along the length of that lot line;
 - (3) Any refuse dumpsters shall be housed in a three (3) sided brick enclosure equal in height to the dumpster or six feet (6 ft.) high, whichever is greater.

The entrance to the enclosure shall include an opaque gate and shall not face a Residence District; and

(4) This use shall occupy no more than twenty-five percent (25%) of the linear street frontage within the HS Overlay District as measured along the lots that face the designated roadway;

- (d) Funeral, mortuary, or undertaking establishment;
- (e) Parking garage; and
- (f) Construction of a new building or enlargement of the gross floor area of an existing building by fifty percent (50%) or more, if located on a lot that has six thousand square feet (6,000 sq. ft.) or more of land area.

1320.5 The following uses are prohibited:

- (a) Automobile and truck sales;
- (b) Automobile laundry;
- (c) Boat or marine sales;
- (d) Gasoline service station;
- (e) Outdoor storage of any materials; and
- (f) Parking lot.

1320.6 The provisions of §1302.5 shall not apply to the HS Overlay District.

1320.7 For purposes of §1303.2, the designated roadway within the HS Overlay Districts shall be H Street, N.E.

1321 HS OVERLAY HOUSING SUB-DISTRICT (HS-H)

1321.1 The purpose of the housing sub-district is to encourage housing.

1321.2 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.

1321.3 New construction that preserves an existing façade constructed before 1958 is permitted to use an additional 1.0 FAR, for up to a maximum non-residential density of 1.5 FAR, for office uses or neighborhood-serving retail uses as permitted in §§701.1 and 701.4.

1321.4 In the event that a grocery store is constructed on Square 776, a maximum non-residential density of 1.5 FAR shall be permitted on that Square.

1322 HS OVERLAY RETAIL SUB-DISTRICT (HS-R)

1322.1 The HS Overlay Retail Sub-district is intended to encourage retail uses.

1322.2 For the purposes of §§ 1322.3 and 1326.1(a), preferred uses in the HS-R Sub-district are:

- (a) Antique store;
- (b) Apparel and accessories shop;
- (c) Appliance sales or repair;
- (d) Bakery;
- (e) Banking or financial institution (excluding check cashing services);
- (f) Bicycle shop;
- (g) Bookstore;
- (h) Café, delicatessen, or lunch counter (excluding fast food);
- (i) Candy store
- (j) Camera/photo sales;
- (k) Catering establishments;
- (l) Cobbler or shoe repair;
- (m) Collection center for dry cleaning;
- (n) Computer store;
- (o) Cosmetics or toiletries sale;
- (p) Department store;
- (q) Dressmaker or tailor;
- (r) Drug store;

- (s) Dry goods store;
- (t) Electronic sales;
- (u) Fabric store;
- (v) Film exchange or development;
- (w) Florist;
- (x) Gift or card shop;
- (y) Grocery store;
- (z) Gym or exercise studio;
- (aa) Hardware store;
- (bb) Hobby shop;
- (cc) Home furnishing sales;
- (dd) Ice cream parlor;
- (ee) Interior decorating shop;
- (ff) Jewelry shop;
- (gg) Office supplies or services store;
- (hh) Music or instrument sales;
- (ii) Pet shop;
- (jj) Pharmacy;
- (kk) Plant store or nursery;
- (ll) Professional services or office not on the ground floor;
- (mm) Restaurant (excluding fast food);
- (nn) Secondhand or consignment store;
- (oo) Shoe store;

(pp) Sporting goods; and

(qq) Video rental and sales.

1322.3 New construction that preserves an existing façade constructed before 1958 is permitted 0.5 FAR in addition to the non-residential density permitted in the underlying zone for non-residential preferred uses listed in §1322.2.

1323 HS OVERLAY ARTS SUB-DISTRICT (HS-A)

1323.1 The HS Overlay Arts Sub-district is intended to encourage arts and entertainment uses.

1323.2 For the purposes of §§ 1320.3(c), 1323.4 and 1326.1(a), preferred uses are:

- (a) Art center;
- (b) Art gallery;
- (c) Art or performing arts school;
- (d) Artist housing;
- (e) Artist studio;
- (f) Artists' supply store;
- (g) Arts services, including set design and restoration of artworks;
- (h) Bar, nightclub, or cocktail lounge;
- (i) Book store;
- (j) Cabaret;
- (k) Coffee shop, café, or delicatessen;
- (l) Concert hall or other performing arts space;
- (m) Library;
- (n) Movie theater;
- (o) Museum;
- (p) Musical instruments store;

- (q) Performing arts ticket office or booking agency;
 - (r) Photographic studio;
 - (s) Picture framing shop;
 - (t) Printing, lithographing, or photoengraving establishment, in each case not exceeding twenty-five hundred square feet (2,500 ft.²) of gross floor area;
 - (u) Record store;
 - (v) Recording studio;
 - (w) Restaurant; and
 - (x) Theater.
- 1323.3 The floor area ratio in the HS-A Sub-district for new construction may not exceed 1.0 FAR for non-residential uses except as provided in §1323.4.
- 1323.4 New construction that preserves an existing façade constructed before 1958 is permitted 0.5 FAR in addition to the non-residential FAR permitted in the underlying zone for non-residential preferred uses listed in §1323.2.
- 1324 DESIGN REQUIREMENTS (HS)**
- 1324.1 The design requirements of §§ 1324.2 through 1324.16 shall apply to any lot in the HS Overlay District for which a building permit was applied after October 25, 2004.
- 1324.2 Buildings shall be designed and built so that not less than seventy-five percent (75%) of the streetwall(s) to a height of not less than twenty-five feet (25 ft.) shall be constructed to the property line abutting the street right-of-way. Buildings on corner lots shall be constructed to both property lines abutting public streets.
- 1324.3 New construction that preserves an existing façade constructed before 1958 is permitted to use, for residential uses, an additional 0.5 FAR above the total density permitted in the underlying zone district for residential uses.
- 1324.4 In C-2 Districts within the HS Overlay District, a seventy percent (70%) residential lot occupancy shall be permitted.
- 1324.5 For the purposes of this Section, the percentage of lot occupancy may be calculated on a horizontal plane located at the lowest level where residential uses begin.

- 1324.6 For the purposes of § 1324.5, “residential uses” includes single-family dwellings, flats, multiple dwellings, rooming and boarding houses, and community-based residential facilities.
- 1324.7 Parking structures with frontage on H Street, N.E. shall provide not less than sixty-five percent (65%) of the ground level frontage as commercial space.
- 1324.8 Each new building on a lot that fronts on H Street, N.E. 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 having clear or clear/low-emissivity glass, except for decorative or architectural accent, and to entrances to commercial uses or to the building.
- 1324.9 Security grilles shall have no less than seventy percent (70%) transparency.
- 1324.10 Each commercial use with frontage on H Street, N.E. shall have an individual public entrance directly accessible from the public sidewalk. Multiple-dwellings shall have at least one primary entrance on H Street directly accessible from the sidewalk.
- 1324.11 Buildings shall be designed so as not to preclude an entrance every forty feet (40 ft.) on average, for the linear frontage of the building, excluding vehicular entrances, but including entrances to ground floor uses and the main lobby.
- 1324.12 The ground floor level of each building or building addition shall have a uniform minimum clear floor-to-ceiling height of fourteen feet (14 ft.).
- 1324.13 Buildings subject to § 1324.12 shall be permitted an additional 5 feet (5 ft.) of building height over that permitted in the underlying zone.
- 1324.14 Projection signs shall have a minimum clearance of eight feet (8 ft.) above a sidewalk and fourteen feet (14 ft.) above a driveway, project no more than three feet, six inches (3 ft., 6 in.) from the face of the building, and end a minimum of one foot (1 ft.) behind the curbline or extension of the curbline.
- 1324.15 Façade panel signs shall not be placed so as to interrupt windows or doors and shall project no more than twelve inches (12 in.) from the face of the building.
- 1324.16 Roof signs are prohibited.

1325 SPECIAL EXCEPTION REQUIREMENTS (HS)

- 1325.1 The buildings, structures, and uses listed in § 1320.4 and exceptions from the requirements of the H Street Overlay District shall be permitted as a special exception if approved by the Board of Zoning Adjustment after public hearing, based on § 3104, provided the following criteria and the requirements of § 1304 are met:

- (a) The project is consistent with the design intent of the design requirements of § 1324 and the design guidelines of the *H Street N.E. Strategic Development Plan*;
 - (b) The architectural design of the project shall enhance the urban design features of the immediate vicinity in which it is located; and, if a historic district or historic landmark is involved, the Office of Planning report to the Board shall include review by the State Historic Preservation Officer and a status of the project's review by the Historic Preservation Review Board;
 - (c) Vehicular access and egress shall be located and designed so as to encourage safe and efficient pedestrian movement, minimize conflict with principal pedestrian ways, function efficiently, and create no dangerous or otherwise objectionable traffic conditions;
 - (d) Parking and traffic conditions associated with the operation of a proposed use shall not adversely affect adjacent or nearby residences;
 - (e) Noise associated with the operation of a proposed use shall not adversely affect adjacent or nearby residences; and
 - (f) The size, type, scale, and location of signs shall be compatible with the surrounding corridor and consistent the design guidelines of the *H Street N.E. Strategic Development Plan*.
- 1325.2 An applicant may demonstrate compliance with § 1325.1(f) by demonstrating that the signage will be exclusively located on upper facades, awnings, and transom windows, constructed of durable materials, and sensitively designed; and will not affect more than twenty percent (20%) of display windows, consist of backlit box signs or neon product advertisements, block visibility into a store, or be overly obtrusive.
- 1325.3 The Board may impose requirements pertaining to design, appearance, signs, massing, landscaping, and other such requirements as it deems necessary to protect neighboring property and to achieve the purposes of the H Street Overlay District.
- 1325.4 Applicants shall demonstrate that projects requiring a special exception shall be consistent with the design intent of the design requirements, of § 1324 and the design guidelines of the *H Street N.E. Strategic Development Plan*.

1326 PLANNED UNIT DEVELOPMENT PROVISIONS (HS)

- 1326.1 A planned unit development (PUD) in the HS Overlay District shall be subject to the following provisions in addition to those of Chapter 24 of this Title:
- (a) The additional height and floor area above that permitted as a matter-of-right shall be used only for housing or the preferred uses listed in §§ 1322.2 and 1323.2 and

- (b) The PUD process shall not be used to reduce requirements in this Chapter for designated uses, specifically retail, service, entertainment, and arts uses.

1326.2 The minimum area included within the proposed PUD, including the area of public streets or alleys proposed to be closed, shall be ten thousand square feet (10,000 ft.²).

The Zoning Commission voted to approve the proposed rulemaking during its public meeting of July 11, 2005, by a vote of **4-0-1** (Carol J. Mitten, John G. Parsons, Anthony J. Hood, and Kevin L. Hildebrand to approve; Gregory N. Jeffries, having not participated, not voting).

The Zoning Commission, at its public meeting of January 9, 2006, adopted this Order by a vote of **4-0-1** (Carol J. Mitten, Anthony J. Hood, John G. Parsons, and Kevin L. Hildebrand [by absentee ballot] to adopt; Gregory N. Jeffries, not having participated, 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 _____.

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

and

Z.C. ORDER NO. 04-27

Z.C. Case No. 04-27

January 9, 2006

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