

Government of the District of Columbia
Office of Zoning



Z.C. CASE NO.: 04-27

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ATTESTED BY:

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ZONING COMMISSION
District of Columbia

CASE NO. 04-27
EXHIBIT NO. 5

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ZONING COMMISSION
District of Columbia
CASE NO.04-27
EXHIBIT NO.5

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PUBLIC HEARING**

TIME AND PLACE: **Thursday, April 7, 2005, 6:30 P.M.**
 Office of Zoning Hearing Room
 441 4th Street, N.W., Suite 220-South
 Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

**Case No. 04-27 (Text and Map Amendments to Establish and Map the H Street, NE
Neighborhood Commercial Overlay District)**

THIS CASE IS OF INTEREST TO ANCs 6A and 6C

The District of Columbia Office of Planning (“OP”) requested that the Zoning Commission establish and map a new Neighborhood Commercial Overlay over commercially zoned properties fronting H Street, NE from 2nd Street, NE to 15th Street, NE. The Office of Planning set down report was filed on October 15, 2004, and the Zoning Commission set down the case for public hearing at its meeting of October 25, 2004. The Office of Planning set down report serves as the pre-hearing statement for this case.

SUMMARY

This overlay is part of the implementation of the REVIVAL: The H Street NE Strategic Development Plan (Strategic Development Plan), which received final approval from the Council of the District of Columbia on February 17, 2004. The overlay seeks to incorporate the District policies for transit-oriented development and further many goals and policies of the Comprehensive Plan.

The proposed overlay is divided into three sections. The first section (Housing Sub-district) of the overlay would correspond to the Urban Living (Western Gateway) portion of the Strategic Development Plan to provide 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) would correspond to the Central Retail District (Retail Core) portion of the plan to provide a moderate density retail, office and residential use with focus on retail uses. The third section (Arts Sub-district) would correspond to the Arts and Entertainment portion to provide moderate density retail and residential use with focus on arts and entertainment uses. The proposed overlay will provide common design standards like parking in the rear, zero setback from the street, and other pedestrian-friendly design criteria that will encourage transit-oriented development.

(1) Housing Sub-district

The Housing sub-district will provide for moderate and medium density residential development with supporting ground floor retail and service uses. The district will be subdivided into two different densities, a low scale area consistent with the current fabric (C-2-A) and higher-scale building envelope with a large residential component (C-2-B). The purpose of the Housing sub-district is to increase the residential density along a portion of the commercial corridor that will help support the retail core of the corridor. In areas where little of the physical fabric that made the corridor a special place is left, new, higher density residential development will be encouraged. Where the essential fabric remains, rehabilitation or modification of the existing structures to accommodate additional residential units will be encouraged.

(2) Retail Sub-district

The Retail sub-district will provide for low- to medium-density mixed use development with required ground floor retail with residential or office uses on upper levels. The zone would maintain the low scale building envelope of the C-2-A zone and moderate-scale where C-2-B zoning exists. The zone will be mapped on an approximately 1500-foot length of the corridor the maximum practical length for a walkable retail shopping area. This is also the maximum amount of retail area that would be a viable in the H Street, NE market area.

(3) Arts Sub-district

The Arts sub-district will provide for low-density arts, entertainment and destination retail uses. The zone would maintain the low scale building envelope of the C-2-A zone, but provide bonus density for arts and entertainment related uses. In addition to providing cultural services to the community this sub-district will encourage a vibrant nightlife that will enhance the vitality of the corridor.

(4) Design Standards and Guidelines

REVIVAL recommends that design controls be put in place to regulate new development that meet the urban design goals of the plan and provide an urban fabric that will perform well in the market place. The controls proposed are divided into two main categories, standards, which control the form, massing and other elements of the building envelope and guidelines, which control the materials, appearance and aesthetics of the design. These types of controls have proven successful in the revitalization of other commercial corridors. The proposed overlay will be used to implement the design standards and guidelines of the plan.

(5) Special Exception and PUD Provisions

To permit flexibility from the design standards the proposed text establishes special exception relief as long as there are no adverse impacts and the relief is consistent with the intent and purposes of the H Street Overlay Planned Unit Development (PUD) in the Overlay District should further the goals and purposes of the H Street NE Strategic Development Plan.

Additional height and floor area granted by a PUD shall be used for housing or the preferred uses in the applicable sub-district

(6) Map Amendments

The lots on the south side of the 200 block, north and south sides of the 300 block and the north side of the 600 block are proposed to be rezoned from C-2-A to C-2-B. These areas have little remaining fabric to preserve and the rezoning will encourage the development of more housing along the corridor

PROPOSED TEXT AMENDMENT

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

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

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 adopted by the Council of the District of Columbia on February 17, 2004 (R15-460),
- (b) Encourage residential uses along the H Street NE 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 NE; a neighborhood retail shopping district from 7th Street to 12th Street NE, and an arts and entertainment district from 12th Street to 15th Street NE;
- (d) Establish design guidelines for new and rehabilitated buildings; 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 NE. 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;
 - (1) 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
 - (1) Any preferred use listed in §1323.2.

1320.4 Within the HS Overlay District, 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 gas 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, and
 - (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;
- (d) Funeral, mortuary, or undertaking establishment;

- (e) Expansion of a gasoline station existing on or before the effective date of this section, and
- (f) Parking Garage.

1320 5 The following uses are explicitly prohibited.

- (a) Automobile and Truck Sales,
- (b) Automobile laundry;
- (c) Boat or marine sales,
- (d) Gasoline Station after the effective date of this section,
- (e) Outdoor storage of any materials; and
- (f) Commercial parking lots

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 NE.

1320.8 Within the HS Overlay District, on a lot that has six thousand square feet (6,000 ft²) or more in land area, construction of a new building or enlargement of the gross floor area of an existing building by fifty percent (50%) or more, shall be permitted, subject to review and approval as a special exception by the Board of Zoning Adjustment, pursuant to the standards and criteria in §§1325 and 3104

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 nonresidential uses, except as provide in §1321.3

1321.3 New construction that preserves an existing façade constructed before 1958 is permitted to use an additional 0.5 FAR for up to a maximum non-residential FAR of 1 0 for office uses or neighborhood serving retail uses as permitted in §§701 1, 701.4

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

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

1322 2 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) Bicycle Shop;
- (f) Bookstore,

- (g) Café, delicatessen, or lunch counter (excluding fast food);
- (h) Candy Store
- (i) Camera/photo sales,
- (j) Catering establishments;
- (k) Cobbler or shoe repair;
- (l) Collection center for dry cleaning;
- (m) Computer store;
- (n) Cosmetics or toiletries sale,
- (o) Department store;
- (p) Dressmaker or tailor,
- (q) Drug store;
- (r) Dry goods store;
- (s) Electronic sales,
- (t) Fabric store,
- (u) Film exchange or development;
- (v) Florist,
- (w) Gift or card shop;
- (x) Grocery store;
- (y) Gym or exercise studio;
- (z) Hardware stores,
- (aa) Hobby shop;
- (bb) Home furnishing sales,
- (cc) Ice cream parlor;
- (dd) Interior decorating shop;
- (ee) Jewelry shop;
- (ff) Office supplies or services store;
- (gg) Music or instrument sales;
- (hh) Pet shop;
- (ii) Pharmacy,
- (jj) Plant store or nursery,
- (kk) Professional services or office not on the ground floor;
- (ll) Restaurant (excluding fast food);
- (mm) Secondhand or consignment store;
- (nn) Shoe store,
- (oo) Sporting goods; and
- (pp) Video Rental and Sales

1322 3 New construction that preserves an existing façade constructed before 1958 is permitted to use an additional 0.5 FAR over the non-residential FAR 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 Preferred arts and entertainment uses in the HS-A Sub-district are limited to:

- (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 ft²) 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 nonresidential uses except as provided in §1323.4.

1323 4 New construction that preserves an existing façade constructed before 1958 is permitted to use an additional 0.5 FAR over the non-residential FAR permitted in the underlying zone for non-residential preferred uses listed in §1323.2.

1324 H STREET NORTHEAST COMMERCIAL CORRIDOR DESIGN REQUIREMENTS

1324 1 The design requirements of §§ 1324.2 through 1324.13 shall apply to any lot in the HS Overlay District.

1324 2 New 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 FAR permitted in the underlying zone district for residential uses
- 1324.4 In C-2-A Districts within the HS Overlay District a 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 NE shall provide not less than 65% of the ground level frontage as commercial space.
- 1324.8 Each new building on a lot that fronts on H Street 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 and to entrances to commercial uses or to the building, provided the windows shall be clear glass, or clear/low-emissivity glass, except for decorative or architectural accent. The clear or low-emissivity glass shall have a visible light transmission rating of at least seventy percent (70%) and shall have an outdoor visible light reflectance rating of no greater than seventeen percent (17%)
- 1324.9 Security grilles shall have no less than 70% transparency
- 1324.10 Each commercial use with frontage on H Street shall have an individual public entry directly accessible from the public sidewalk. Multiple-unit buildings shall have at least one primary entrance on H Street NE 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 permitted ground floor uses and the main lobby.
- 1324.12 The ground floor level of each new building or building addition shall have a uniform minimum clear floor-to-ceiling height of fourteen feet (14 ft.).
- 1324.13 For new construction, buildings with a minimum clear floor-to-ceiling height of fourteen feet (14 ft.) on the ground floor level consistent with §1324.12 shall be permitted an additional 5 feet (5 ft.) of building height over that permitted in the underlying zone for new construction

**1325 H STREET NORTHEAST COMMERCIAL CORRIDOR OVERLAY DISTRICT
SPECIAL EXCEPTION REQUIREMENTS**

1325.1 Exceptions from the requirements of the H Street Overlay District shall only be permitted if granted by the Board of Zoning Adjustment after public hearing, based on §3104 and the following criteria

- (1) The architectural design of the project will 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 Board shall refer the application to the State Historic Preservation Officer for review and report;
- (2) Vehicular access and egress are located and designed so as to minimize conflict with principal pedestrian ways, to function efficiently, and to create no dangerous or otherwise objectionable traffic conditions;
- (3) Parking and traffic conditions associated with the operation of a proposed use will not adversely affect adjacent or nearby residences,
- (4) Noise associated with the operation of a proposed use will not adversely affect adjacent or nearby residences; and
- (5) The Board may impose requirements pertaining to design, appearance, signs, size, landscaping, and other such requirements, as it deems necessary to protect neighboring property and to achieve the purposes of the H Street Overlay District.

1325.2 Applicants must show 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

1326.1 A Planned Unit Development (PUD) in the 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 matter-of-right shall be used only for housing or preferred uses, 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).

PROPOSED MAP AMENDMENT

In addition to the overlay, the Office of Planning proposes a map amendment from C-2-A to C-2-B for the south side, 200 block of H Street, NE Square 752, the north and south sides of the 300 block of H Street, NE Square 776 and Square 777, and the north side of the 600 block of H Street, NE Square 858

In the alternative, the Zoning Commission is advertising a map amendment for lot 860 Square 858 from R-4 to C-2-B

Proposed amendments to the Zoning Regulations and Map of the District of Columbia are authorized pursuant to the Zoning Act of 1938, approved June 20, 1938 (52 Stat 797, D C Official Code § 6-641.01 *et seq*)

The public hearing on this case will be conducted as a rulemaking in accordance with the provisions of § 3021 of the District of Columbia Municipal Regulations, Title 11, Zoning. The Commission will impose time limits on testimony presented to it at the public hearing.

All individuals, organizations, or associations wishing to testify in this case should file their intention to testify in writing. Written statements, in lieu of personal appearances or oral presentations, may be submitted for inclusion in the record.

Information should be forwarded to the Secretary of the Zoning Commission, Office of Zoning, Suite 210, 441 4th Street, N W , Washington, D.C. 20001. Please include the number of the particular case and your daytime telephone number. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

CAROL J. MITTEN, ANTHONY J. HOOD, JOHN G. PARSONS, KEVIN L. HILDEBRAND, AND GREGORY N. JEFFRIES — ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY JERRILY R. KRESS, FAIA, DIRECTOR, AND BY CLIFFORD MOY, SECRETARY TO THE ZONING COMMISSION.