

ZONING COMMISSION
District of Columbia

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May 18, 2006

CASE NO. 05-10
EXHIBIT NO. 14

RECEIVED
DC OFFICE OF ZONING
2006 MAY 18 PM 4 01

Zoning Commission of the District of Columbia
One Judiciary Square, Suite 210-South
441 Fourth Street, N W
Washington, D.C. 20001

Re: Setback and Other Issues in ZC Case 05-10: Amendments to Capitol Gateway Text

Honorable Members of the Commission

Kindly consider the following comments when you discuss amendments to be adopted for the Capitol Gateway overlay after the close of the record May 19. I offer these comments solely from my professional review, not on behalf of any firm or client.

The proposed provisions include many instances where "setbacks" would be required, often at ground level, as well as higher up. As I understand the rationale, one purpose is to provide additional effective width to major view corridors. I offer the following observations and suggestions.

Ensure Linearity of Setbacks:

My understanding is that the present rights of way are not exactly linear. Thus, prior to adoption of any final setback standards, I would recommend that steps be taken to ensure that, *prospectively*,¹ setback lines would become segments of a continuous *regulatory* straight line from one end to the other of the intended "corridor," not protruding, receding, or bending along a slightly irregular route. Setback lines should also be on a true east-west or north-south axis, or the historical axis of the relevant diagonal right-of-way. Unless there is significant irregularity, the present setback standards should be revised accordingly and no longer be set as a uniform depth from the adjacent curb or even street centerline. Finally, and partly to ensure that no Notice problem ensues, I would suggest establishing the new "straight line" be no deeper than any setback line already established from the curbs or other current point of measurement. Thus, for example, along M Street, the depth of its overall fifteen foot setback would be no more than five feet at any point inside the *present* property lines where there is a nominal ten foot curb and sidewalk.

Complement Setbacks with Frontage:

While the value of the land will create a powerful incentive to build to the new limits, that cannot be guaranteed as now proposed. Is there not a role for a "frontage" requirement so that the linear urban form

¹ Such a change should not disrupt orderly review of cases filed for review and approval under CG while this issue is being evaluated, they should be allowed to proceed under the rules applicable to them at the time filed and heard.

that seems to be desired is achieved? Such provisions exist in the Arts overlay and "M Street" provisions of the DD overlay. As you think about this question, I suggest that within the CG area "frontage" should be of the building's footprint ("building area") such that arcades would be *allowed, but not required*, at the ground floor level, with the floors above that then extending to whatever setback/frontage line you choose to establish.

Allow at Least Some of the Projections Otherwise Allowed into Required Open Spaces:

It seems reasonable to clarify that at least the projections described in §§ 2502 2, 2502 3, and 2202 5 should be allowed to project into areas of *required* setbacks. In this context, I conclude (but you should affirm) that the area the CG overlay requires for "setbacks" falls within the existing definition of "yard."

Provide that Setback Area Never a Side Yard to which Minimum Width Requirements Apply:

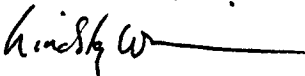
Steps should be taken in the pending rulemaking to ensure that no required "setback" at the ground level is interpreted as creating, as it would for a triangular or corner lot whose "front" for zoning purposes not along the axis of the setback, a "side yard." Obviously, when the "front" is not parallel to the setback, the setback would then run the full "depth" of the lot and that is the ordinary essence of a "side yard." Once a side yard is created, its minimum width requirements would be dictated by the provisions of the underlying zone, likely contravening the intent of both the setback your Notice contemplated and any "frontage" language you choose to add. This would create a need for a "difficult" variance, the basis of which would not be unique as it would apply to all corner/triangular properties in the entire CG area.

A solution – one I feel is within the scope of the present case record – might be to provide in your "final" CG overlay rules that no area of *required* setback (with or without frontage requirements per the above comment) is to be interpreted as a side yard to which underlying zone district's minimum width requirements would apply. Thus, the change would not amend the underlying zone's side yard regulations but simply clarify the rules as they are to apply in the CG overlay zone. (Such an interpretation might also be relevant to parallel provisions of other overlay zone districts such as that of the South East Federal Center, but that would require some form of rulemaking to effect as those regulations have already been issued in "final" form.)

Provide Special Exception Process to Overcome CG Overlay Generated Issues When Appropriate:

Finally, I endorse the idea already conveyed to you by Holland & Knight, LLP, that whatever standards are adopted under the CG regulations be such that an applicant could seek relief from them as a special exception instead of a variance. As some of my earlier comments demonstrate, the provisions proposed are somewhat untested. While amendments can eventually cure defects, development should be able to proceed with project review that would allow concurrent consideration of deviations without having to meet all three prongs of the variance standard. Other overlay zones, such as Arts, have such provisions.

Thank you



Lindsley Williams

Enclosure

cc. Joel Lawson, Office of Planning
Uwe Brandes, Anacostia Waterfront Corporation