

Zoning Commission Case No. 08-06A

Subtitle H

Testimony on Behalf of the Cleveland Park Historical
Society

Nov. 13, 2013

First, many thanks to the Zoning Rewrite Committee for the effort and thought they have given this long process. We appreciate their commitment to implementing the Comprehensive Plan's long-range vision of prosperity for the District of Columbia.

In preparing for today's hearing on Chapter H, I have limited my testimony to the Comprehensive Plan, N zones and the N-3. Cleveland Park.

As in any city, Washington's many neighborhoods have just as many personalities. The variety of cultures is what gives interest and vitality to the city.

The neighborhood I represent, Cleveland Park, is no exception. Part of our special character is the historic shopping strip on Connecticut Avenue. That is the reason it was included in the Cleveland Park Historic District. In 1988, another layer of protection was added: the Neighborhood Commercial Overlay District (NCOD)

The zoning rewrite proposal has additions and omissions, which the Board of the Cleveland Park

Historical Society believes, will weaken the protection for Cleveland Park's historic character that the NCOD has provided for the past 25 years. We ask that these changes and additions be corrected or clarified.

In the General Provisions:

- First, the draft should preserve the explicit use of the term “overlay.” The draft ZRR renames the NCO (ZRR 400.) as a “neighborhood mixed use zone”. By contrast, the Comprehensive Plan uses the term “overlay” (RCW Element, pg.23-1, pg. 23-16) and the current zoning refers to the Neighborhood Commercial Overlay. (Title 11, Chapter 13) The reference to “neighborhood mixed use zone” distances the ZRR from the Comprehensive Plan and the current zoning and sends a signal that its purpose has somehow changed.

Likewise, in the ZRR “General Provisions” there is no reference to the Comprehensive Plan in the N zone language. In the current zoning the Preamble [(Sec.1300.3 (c))] specifically refers to its purposes “as generally required by the Comprehensive Plan.” We are concerned that with the name change and the omitted reference, consistency with protections in the current zoning code and in the comprehensive plan is lost.

- Second, the ZRR has added new, vaguely worded purposes to the current zoning code's original purpose of the overlay. That is “preserving and

enhancing neighborhood shopping areas”. (Sec. 1300.1) The ZRR now recites the intent to foster “residential, employment,... and other related uses....”in its General Provisions. [ZRR 100.2 (a)] In contrast, the Comprehensive Plan makes no reference to employment. Element RCW-1.1.3: Conserving Neighborhood Commercial Center reads, “Support and sustain local retail uses and small businesses in the area’s neighborhood commercial centers.” The ZRR’s reference to employment again dilutes the link both to the Comprehensive Plan and the current zoning requirements. There is no “employment” aim for this neighborhood in the current zoning code. The intent of the overlay is to ensure neighborhood-serving retail and services at the street level, not to create an employment center.

- Third, in the General Provisions of the ZRR, we would ask that the first three words “in addition of” be replaced by “subject to”. (ZRR 100.2) That change will make it clear that the specific provisions in each neighborhood’s regulations will trump the more broadly worded general provisions.
- Fourth, in the provisions specific to Cleveland Park, a new provision appears expressing the “intent to permit mixed use development at a moderate density.” (ZRR 400.2). We are concerned that the addition of this provision could be interpreted as authority for changes in the existing uses and density of development in this

overlay district. We would like to have that section deleted. It may be a provision in M mixed use zone and we would suggest that it would be much less confusing to restrict the N zone to the overlay provisions.

These may seem like small changes from the current zoning code, but as a whole, they weaken the current neighborhood overlay zoning structure by suggesting opportunities for developers to seek exemptions that could damage the historic district. We created the overlay partly to complement the historic district and these changes seem to weaken our goal. The relationship of M to N to N-3 in the proposed revision is not easy to follow. I think some of these inconsistencies could be cleared by adhering to the structure in the current code's Chapter 13, which followed the provisions in the old Comprehensive Plan. Nothing in the 2006 Comprehensive Plan suggests to us that the overlay should be changed.

I have attached an addendum from the Committee of 100, which offers some rearrangement that would be more consistent with our desire to have easy to find and clearly stated overlay provisions. Clarity is important to us since Historic Districts generally do not have the resources to fight zoning battles against commercial interests.

When the Zoning Board voted for the Neighborhood Commercial Overlay for Cleveland Park, the pressure for

development, even in the 80ties, was intense. The overlay regulations essentially reinforced the restrictions imposed by the historic district designation to keep the character of the commercial strip one of small shops providing essential services: grocery stores, a bank, cleaners, shoe repair, vacuum cleaner repair, drug store, ethnic carry-outs and restaurants, a post office, movie theater, library, gift shops, etc. These are the services most useful to all the neighbors, both in the apartments and in the houses. They survive because the rents are low and they are accessible. New buildings would change the neighborhood character and come with a high price, which would put most of the local shops out of business.

The point of an historic district is to maintain a sense of what has always given a neighborhood distinction. We are not against change, but we would like to have a strong voice in what change would be appropriate and compatible with the neighborhood character, rather than having change thrust upon us in the future because the organization and language of the proposed revisions cloud the intent of the regulation. Clear references and words will help all of us. We do not want the overlay that we worked very hard to create changed.

Thank you.


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Cleveland Park Historical Society

Committee of 100
November 13, 2012

Nancy MacWood

Recommendation to Revise Proposed Subtitle H to Restore the Overlay Zones and Provide Clarity and Ease of Use

Neighborhood Commercial Overlays (“NCOD”) are an easy to understand, stand alone chapter in the current zoning regulations. They provide restrictions, allowances, and/or requirements not included in the underlying commercial zone. The Office of Planning committed to not changing the NCODs, but their reorganization scheme as resulted in great confusion, redundancy, dropped substantive phrases, and additions not currently authorized in NCODs. Perhaps the most offensive change is the elimination of the title overlay, which announces that there are modifications to an underlying. In an effort to respond to the Zoning Commission’s request for guidance to unravel the proposal, the following new organization is offered. It would remove large sections of the proposed Subtitle H that are simply repeated provisions from Subtitle G. Their inclusion in Subtitle H only serves to confuse and obscure the modifications in the overlay. Presumably the reorganization was to avoid referring back to Subtitle G, but that has caused Subtitle H to become unintelligible, potentially change the enforcement and interpretation of the overlay, and require a lot of flipping to try to make sense of it. A simple reference at the beginning of each overlay district to the underlying M zone will direct the user that the main development and use standards are in Subtitle G and the purpose of Subtitle H is only to list the provisions that modify some of the standards in Subtitle G. This will add clarity and simplicity and avoid redundancy.

Deleted sections are in italics and additions from current Chapter 13, Neighborhood Commercial Overlay Zones, or retention of proposed sections are underlined.

Subtitle H

Sec. 100.1 Restate with “Neighborhood Mixed Use Zones are designed with overlays that protect and enhance these zones as neighborhood shopping areas.” *Delete the proposed Sec. 100.1*

Sec. 100.2 Include in the purpose statement only (f), (b), and (d). but add “Limit maximum permitted height of new buildings so as to...” to beginning of (d). *Delete (a), (c), and (e) because they are included in Subtitle G and are confusing and repetitive here.*

Delete Development Standards, Sec. 101, because they are repetitive and are included in Subtitle G.

Delete Use Provisions, Sec. 102, because they are repetitive and are included in Subtitle G.

Delete Development Standards for Public Buildings, Sec. 900, because this is repetitive and is included in Subtitle G.

Transfer Sec. 901 to the N-1 section since this provision is not a general requirement but only a requirement in a specific overlay zone.

Transfer Sec. 1000.1 and 1000.2, General Development Standards, and insert after Sec. 100.2. *Delete Sec. 1000.3 since lodging is **not an authorized use** in neighborhood commercial overlay zones (“NCODs”), unless specifically included in an overlay district.*

Delete Sec. 1000.4 since it is repetitive and is included in Subtitle G.

Delete Sec. 1001, 1002, and 1004 since they are included in Subtitle G.

Delete Sec. 1100, General Use Permissions, as these provisions are included in Subtitle G.

Transfer Sec. 1101, Designated and Restricted Uses, and insert after General Development Standards.

Sec. 1101.2 The N Zone designated uses are (a) pet shop, (b) library, (c) eating and drinking establishments, (d) financial and general services, (e) retail. Delete (a) animal care group, which is overly broad and (b) arts design and creation group for same reason, and (d) entertainment group for same reason. The overlay has narrow retail and service uses plus a few more neighborhood oriented uses at ground level; the broader uses can be located on upper floors or in less than 50% of ground floor area.

Retain Sec. 1101.3

Delete Sec. 1101.4 since these are specific permissions for individual overlay districts and should be included in section where they apply. It is confusing and unnecessary to place them here.

Delete Sec. 1101.5 because it is included in Subtitle G.

Delete Sec. 1102, Use Zones, because they are included in Subtitle G.

Delete Sec. 1103, 1104, 1105, 1106, 1107, 1108, and 1109 since they are included in Subtitle G.

Transfer Sec. 1200, Special Exception Relief, and insert after Designated and Restricted Uses. Add to Sec. 1200.1(a) after “stated purposes of the N zones” the following: “and the particular overlay district.” Delete the second (a) that begins with “The architectural design..”, (d), and (e). Delete from (c) “to encourage safe and efficient pedestrian movement.” These deletions are not part of the current special exception standards for NCODs.

Retain Sec. 1200.2

Transfer Sec. 1201 and 1202 to the individual overlay district section where they apply.

Insert the individual overlay zones at the end of the general provisions for NCODs.