

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING



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MEMORANDUM

TO: District of Columbia Zoning Commission

FROM: Jennifer Steingasser, Deputy Director *JS*

DATE: April 20, 2009

SUBJECT: Public Hearing Report for ZC #08-29, a Text Amendment to 11 DCMR Chapter 19, Section 1902.3, to increase the flexibility of the use mix requirements in the Arts / CR zone.

I. RECOMMENDATION

The Office of Planning (OP), in order to encourage the provision of arts in the 14th Street and U Street corridors and thereby better meet the purposes of the Uptown Arts Overlay, recommends approval of the text amendment.

The proposal would add flexibility to the use mix requirements of the Arts / CR zone. With some limited exceptions, §1902.3 currently requires every lot zoned Arts / CR to provide 2.5 FAR of residential floor area, and requires every Combined Lot Development (CLD) in the Arts / CR to provide 2.5 FAR of residential floor area. The proposed text amendment would exempt from the residential requirement developments that meet the following three criteria: One, that there is an existing structure that is contributing to the historic district or is designated a landmark; two, that the building has at least 0.5 FAR occupied or reserved for an arts or arts-related use; and three, that at least 0.25 FAR of that space has a ceiling height of at least 20 feet.

II. BACKGROUND

In Order No. 632, dated November 13, 1989, the Commission created and mapped the Uptown Arts Overlay. The overlay supplements the regulations of four underlying zoning districts – C-2-A, C-2-B, C-3-A and CR – in the vicinity of 14th, U and 7th Streets and Florida and Georgia Avenues. The purposes of the overlay encourage a mix of uses, a high level of pedestrian activity, a safe environment for pedestrian and vehicular movement, and an increased presence of arts, cultural and related support uses (§1900.2). Much of the overlay is encompassed by the Greater 14th Street and Greater U Street Historic Districts.

At the time the overlay was created §1902.3 read as follows:

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District of Columbia

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08-29

EXHIBIT NO.

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District of Columbia
CASE NO. 08-29
EXHIBIT NO. 5

1902.3 Lots in the underlying CR District shall have a maximum floor area ratio of five (5.0), not more than two (2.0) of which may be used for other than residential purposes, except as provided in Section 1904 of this chapter.

This language lowered the CR's matter-of-right maximum density to 5.0 FAR from 6.0, and limited non-residential uses to 2.0 FAR, rather than 3.0.

In Order No. 632-A, dated October 19, 1992, the Commission made several edits to the overlay including revising §1902.3 to the text as currently written:

1902.3 In the CR District, development of a lot or lots in a combined lot development pursuant to section 1905 of this chapter shall provide not less than 2.5 FAR of residential development, or of hotel development subject to the spacing requirement of subsection 1901.2, concurrent with any commercial development on the lot or combined lots; Provided, that:

- (a) This requirement shall not apply to a lot or combined lots having less than 7,500 square feet of land area or to conversion of a building constructed before 1958 to nonresidential uses ; and
- (b) In developments in which residential development is required by this subsection, a certificate of occupancy for commercial or nonresidential uses shall not be issued prior to the issuance of a certificate of occupancy for a residential or hotel component.

This revised language was created to correct for problems seen at the time in other CR-zoned areas of the city. The CLD provisions of the CR zone had allowed the non-residential portion of a combined lot development, usually office, to be built first, and set no time limit for development of the residential portion.

The amendments were intended to avoid the problem of a neighborhood that was lifeless after 5:00 PM by requiring every CR lot or CLD to have 2.5 FAR of residential and requires that it be built concurrently with the non-residential space.

III. ANALYSIS

This provision, meant to encourage residential development and thereby a successful arts district, could also be hindering the development of larger arts uses. By requiring residential for every lot or CLD, the development options of property owners might be constrained, especially if their site design is also governed by the presence of an historic building. Development parameters might be especially constrained if the owner proposes to provide an arts use that occupies a large percentage of the volume of the development. OP therefore proposes to divide sub-paragraph (a) into two sections, retaining the original two exemptions in the first sub-section and creating the new exemption in the second sub-section. Section 1902.3 would be amended to read as follows (new text is shown in bold and underline, deleted text shown in strikethrough):

1902.3 In the underlying CR District, development of a lot or lots in a combined lot development pursuant to § 1905 shall provide not less than 2.5 floor area ratio (FAR) of residential or hotel development subject to the spacing requirement of § 1901.2, concurrent with any commercial development on the lot or combined lots; provided:

(a) This requirement shall not apply to:

(1) A a lot or a combined lot having less than seven thousand five hundred square feet (7,500 ft.2) of land area or to conversion of a building constructed before 1958 to nonresidential uses; or and

(2) A building that contributes to a historic district or is designated a landmark, and that has at least 0.5 FAR occupied by or reserved for one or more of the uses set forth in § 1908.1, other than 1908.1(m) and 1908.1(u), and at least 0.25 FAR of the space so occupied or reserved has minimum floor-to-ceiling clear height of twenty (20) feet;

(b) In developments in which residential development is required by this subsection, a certificate of occupancy for commercial or nonresidential uses shall not be issued prior to the issuance of a certificate of occupancy for a residential or hotel component.

In consultation with the Office of the Attorney General (OAG), the proposed text has been slightly revised since the time of the setdown meeting. The original text did not specify a minimum floor area that had to have tall ceilings, while this version states that 0.25 FAR must meet the 20 foot minimum. Also, the revised text references the list of potential uses in §1908.1 (arts and arts-related uses), but does not permit drinking places (1908.1(m)) or restaurants (1908.1(u)) to trigger the exemption.

The text amendment would further encourage the provision of arts and cultural uses in the vicinity of 14th, 13th and U Streets and the retention of major arts facilities. This amendment would not significantly detract from the goal of generating residential development. That goal has largely been achieved, especially in the specific neighborhood under consideration. Several large apartment buildings have been constructed in the area in recent years, and another residential project was approved by the Board of Zoning Adjustment (BZA) for the southwest corner of 14th and U Streets. Furthermore, few development sites remain in the area zoned Arts / CR, so the potential to see increased amounts of office development is limited.

Residential uses would still be permitted (but not required), and encouraged through other zoning mechanisms. For example, the base CR zone limits non-residential FAR to 3.0. So if a developer wants to maximize development on their property to 6.0 FAR, a residential component

would be necessary. Furthermore, §1904.3 promotes residential development by granting an extra 0.5 FAR if a project provides more than 3.0 FAR of residential.

Comprehensive Plan

The proposal is not inconsistent with Comprehensive Plan policies suggesting the reuse and restoration of historic arts facilities, or the reuse of other historic structures as arts venues. The Arts and Culture Element of the Plan seeks to enhance existing arts facilities for the benefit of nearby neighborhoods: “Preserve and enhance existing District-owned neighborhood arts and cultural spaces. Assist in the improvement of arts organizations’ facilities in order to enhance the quality and quantity of arts offerings” (Policy AC-1.1.1). Policy AC-4.3.3 is even more direct in its call to revitalize historic structures: “Encourage non-profit and private arts organizations to work closely with historic preservation organizations to reuse historical buildings, including historic theaters, as cultural centers.”

The Historic Preservation Element also seeks to create special incentives to help preserve buildings like theaters. Policy HP-3.1.2 states “Develop specialized incentives to support preservation of historic properties like schools, places of worship, theaters, and other prominent historic structures of exceptional communal value. Use a variety of tools to reduce development pressure on these resources and to help with unusually high costs of maintenance.” That element also specifically refers to cultural resources and the potential for improving business districts: “Utilize historic preservation programs and incentives to encourage historic preservation as a revitalization strategy for neighborhoods and neighborhood business districts” (Policy HP-3.2.3).

The DUKE Plan (Development Framework for a Cultural Destination District Within Washington, DC’s Greater Shaw / U Street), whose boundaries partially overlap the Arts / CR zone, also generally encourages the re-use of historic structures and the establishment of major arts venues to attract a critical mass of residents and visitors.

IV. CONCLUSION

With the goal of increasing the provision of arts and cultural uses, OP seeks to increase the flexibility of the use mix for certain properties in the Arts / CR zone, particularly ones with larger format arts uses in historic buildings. The proposed text amendment would provide that flexibility while still meeting the overall goals of the Uptown Arts Overlay – the promotion of the arts and the encouragement of residential uses to foster active streets. OP recommends that the Commission approve the proposed text amendment.

VI. ATTACHMENTS

Attachment 1 Vicinity Map

JS/mrj

Attachment 1
Vicinity Map

