

Commission Members

Presidential Appointees

L. Preston Bryant, Jr., Chairman
Herbert F. Ames
John M. Hart

Mayoral Appointees

Arrington Dixon
Stacie S. Turner

Ex Officio Members

Secretary of Defense
The Honorable Robert M. Gates

Secretary of the Interior
The Honorable Ken Salazar

Acting Administrator
General Services Administration
The Honorable Paul F. Prouty

Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
The Honorable Joseph I. Lieberman

Chairman
Committee on Oversight
and Government Reform
U.S. House of Representatives
The Honorable Edolphus Towns

Mayor
District of Columbia
The Honorable Adrian M. Fenty

Chairman
Council of the District of Columbia
The Honorable Vincent C. Gray

Executive Director
Marcel C. Acosta

IN REPLY REFER TO:
NCPC File No. Z.C. 09-11

DEC 09 2009

Zoning Commission of the
District of Columbia
2nd Floor, Suite 210
441 4th Street, NW
Washington, D.C. 20001

Members of the Commission:

Pursuant to delegations of authority adopted by the Commission on, August 6, 1999, I found that the proposed text amendment to permit retail and service uses by special exception in the SP—2 Districts would not be inconsistent with the Comprehensive Plan, nor would it adversely affect any other identified federal interests. A copy of the Delegated Action of the Executive Director is enclosed.

Sincerely,



Marcel C. Acosta
Executive Director

Enclosure

cc: Harriet Tregoning, Director, D.C. Office of Planning
Anthony Hood, Chairman, Zoning Commission

RECEIVED
D.C. OFFICE OF ZONING
2009 DEC 14 PM 2:05

ZONING COMMISSION
District of Columbia
CASE NO. 09-11
EXHIBIT NO. 13
ZONING COMMISSION
District of Columbia
CASE NO. 09-11
EXHIBIT NO. 13

**TEXT AMENDMENT TO PERMIT RETAIL AND SERVICE USES BY SPECIAL
EXCEPTION IN THE SP-2 DISTRICTS**

South of M Street, NW and NE
Washington, DC

Referred by the Zoning Commission of the District of Columbia

Delegated Action of the Executive Director

NOV 24 2009

Pursuant to delegations of authority adopted by the Commission on August 6, 1999, 40 U.S.C. §8724(a), and DC Code §2-1006(a), I find that the proposed text amendment to permit retail and service uses by special exception in the SP-2 Districts would not be inconsistent with the Comprehensive Plan for the National Capital, nor would it adversely affect any other identified federal interests.

* * *

The Zoning Commission of the District of Columbia has taken a proposed action to approve a text amendment to Chapter 5 (Special Purpose District) of the District of Columbia Zoning Regulation. The purpose of the text amendment is to allow certain retail and service uses within the SP-2 District by special exception. The location of these uses would be limited to the ground-floor or below, and further limited to only those SP-2 Districts, or portions thereof, located south of M Street, NW and NE. Furthermore, the proposed text amendment includes the necessary text changes to Chapter 21 (off-street parking) and Chapter 31 (Board of Zoning Adjustment Procedures) of the zoning regulations in order to include a minimum parking requirement for the new retail and service uses permitted in the SP-2, and to modify the Board of Zoning Adjustment's (BZA) table of special exception authorities.

Currently, in order to establish a retail and/or service use in the SP-2 District, a use variance must be attained. The proposed text amendment would allow these uses as a special exception by adding a new Section 518 to Chapter 5 of the Zoning Regulations. The new section will describe the retail and service uses allowed in the SP-2 District, and the conditions that must be met prior to the BZA granting the special exception. The uses that will be allowed by special exception will be those listed in Sections 701.1 through 701.5 of the Zoning Regulations (Attachment). The geographic area in which these uses will be allowed will be limited to only those properties

located in an SP-2 District, south of M Street, NW and NE. This limitation is meant to target properties that are essentially in core commercial and mixed-use areas, while protecting the lower density residential areas located north of M Street. Furthermore, the BZA special exception review process will allow for a thorough analysis of potential impacts to neighboring properties and the public, as well as provide an opportunity for the public to participate and comment.

The federal interest in this proposed text amendment is the potential aesthetic impacts that the new retail and service uses could have on nearby or adjacent federally owned buildings and open space. The most significant areas in which these impacts could occur include the SP-2 Districts that exist along the west side of 17th Street, NW, opposite the Ellipse and the Old Executive Office Building, and along 16th Street, NW, immediately north of Lafayette Park and the White House. According to the District of Columbia Office of Planning (DCOP) report, this specific issue was discussed at the Zoning Commission's public hearing on the proposed text amendment. Consequently, the Zoning Commission determined that the proposed text amendment, and other existing review processes, would be sufficient to address such appearance and design issues. Staff agrees with this determination. For example, as stated in DCOP's report "the BZA, which has a permanent sitting member from the National Capital Planning Commission, would review any retail and service use proposal for impacts on neighboring properties under the general special exception criteria. The proposed text also empowers the BZA to 'impose requirements pertaining to screening, signage, or other requirements it deems necessary to protect adjacent or nearby property; as a condition of zoning approval.'" Furthermore, nearly every property impacted by the proposed text amendment is also located within a designated historic district, and/or within the Shipstead-Luce Act purview of the U.S. Commission of Fine Arts (CFA); and therefore will likely require review by the District of Columbia Historic Preservation Review Board and/or CFA.

The proposed text amendment includes the following language:

CHAPTER 5: SPECIAL PURPOSE DISTRICTS, is amended by adding a new Section 518 to read as follows:

518 RETAIL AND SERVICE USES (SP-2)

- 518.1 The uses identified in Section 518.4 shall be permitted in certain properties in the SP-2 District if approved by the Board of Zoning Adjustment under Section 3104, subject to the provisions of this section.
- 518.2 The properties are those located south of M Street, NW and NE.
- 518.3 The uses shall be located on or below the ground-floor or the building.
- 518.4 The uses shall be those permitted in Sections 701.1 through 701.5 of this Title.
- 518.5 The uses shall not include a drive-through.
- 518.6 The uses shall be located and designed such that they are not likely to become objectionable to neighboring properties because of noise, traffic or other objectionable conditions.
- 518.7 The Board of Zoning Adjustment may impose requirements pertaining to screening, signage, or other requirements it deems necessary to protect adjacent or nearby property.

CHAPTER 21: OFF-STREET PARKING REQUIREMENTS, Section 2101.1 (table) is amended by adding the following minimum parking space requirement to those appearing under the use "retail and service establishment except gasoline service station and repair garage."

USE

NUMBER OF PARKING SPACES REQUIRED

Retail or service establishment except
gasoline service station and repair garage

**SP-2 (if property is located south of
M Street, NW and NE**

**In excess of 2000 ft.², 1 for each additional
1800 ft.² of gross floor area**

CHAPTER 31: BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND
PROCEDURE, is amended by adding the following to the chart appended to Section 3104.1.

TYPE OF SPECIAL
EXCEPTION

ZONE DISTRICT

SECTIONS IN WHICH
CONDITIONS ARE SPECIFIED

**Retail and Service Uses on
or below the ground-floor
of properties located south
of M Street, NW and NE**

SP-2 District

Sections 518.2 – 518.7

The proposed text amendment to the Reed-Cooke Overlay would not be inconsistent with the Comprehensive Plan for the National Capital, nor would it adversely affect any other identified federal interests.



Marcel C. Acosta
Executive Director

Attachment

701.1 The following service establishments shall be permitted in a C-1 District as a matter of right:

- (a) Bank or other financial institution;
- (b) Bar or cocktail lounge;
- (c) Barber or beauty shop;
- (d) Cobbler or shoe repair shop;
- (e) Collection station for dry-cleaning, dying, or laundry;
- (f) Dressmaking shop or establishment;
- (g) Frozen food locker for family or individual use only;
- (h) Gasoline service station existing on May 12, 1958;
- (i) Gasoline service station as an accessory use to a parking garage or public storage garage, subject to the provisions of chapter 23 of this title; provided:
 - (1) All portions of the gasoline service station shall be located entirely within the garage;
 - (2) No part of the accessory use shall be visible from a sidewalk; and
 - (3) Signs or displays indicating the existence of the accessory use shall not be visible from the outside of the garage;
- (j) Laundry, self-service, not exceeding twenty-five hundred square feet (2,500 ft.²) of gross floor area;
- (k) Laundry or dry cleaning establishment, not exceeding twenty-five hundred square feet (2,500 ft.²) of gross floor area;
- (l) Locksmith;
- (m) Newspaper distribution station;
- (n) Optician and optometrist;
- (o) Radio or television repairs;
- (p) Shoeshine parlor;
- (q) Tailor shop or valet shop not exceeding twenty-five hundred square feet (2,500 ft.²) of gross floor area; and
- (r) Watch repair shop.

701.2 Any use permitted in any R-5 District under §§ 350.4 and 350.5 or in the SP District under § 501, except a community-based residential facility for seven (7) or more persons not including resident supervisors or staff and their families, shall be permitted in a C-1 District as a matter of right.

701.3 A youth residential care home, community residence facility, or health care facility for seven (7) to eight (8) persons, not including resident supervisors or staff and their families, shall be permitted in a C-1 District as a matter of right; provided, that there shall be no property

701.5 Other service or retail use similar to that provided for in §§ 701.1 and 701.4, including assemblage and repair clearly incidental to the conduct of a permitted service or retail establishment on the premises, shall be permitted in a C-1 District as a matter of right.

containing an existing community-based residential facility for seven (7) or more persons either in the same square or within a radius of five hundred feet (500 ft.) from any portion of the subject property.

701.4 The following retail establishments shall be permitted in a C-1 District as a matter of right:

- (a) Art supplies store;
- (b) Automatic ice delivery station;
- (c) Automobile accessories sales, excluding installation;
- (d) Bakery; provided, that any manufacture of bakery goods shall be limited to goods retailed on the premises;
- (e) Bicycle sales and repair;
- (f) Book store;
- (g) Camera or photographic supplies store;
- (h) Cosmetics or toiletries store;
- (i) Drug store or pharmacy;
- (j) Electric appliance store, including television and radio sales;
- (k) Flower stand or florist shop;
- (l) Food or grocery store;
- (m) Gift shop;
- (n) Hardware store;
- (o) Hobby shop, including the sale of toys;
- (p) Jewelry store;
- (q) Restaurant, but not including a fast food establishment, or a food delivery service. A fast food establishment with no drive-through shall be permitted in Square 5912 as a matter of right.
- (r) Music store;
- (s) Newsstand;
- (t) Notions or novelty store;
- (u) Off-premises alcoholic beverages sales;
- (v) Paint store;
- (w) Sporting goods store;
- (x) Stationery store;
- (y) Tobacco products store; and
- (z) Variety store.
- (aa) Prepared food shop, with no more than 18 seats for patrons and no drive-through except that no limitation on seats shall apply to a prepared food shop in Square 5912.