



MEMORANDUM

TO: D. C. Zoning Commission
FROM: Jennifer Steingasser, Deputy Director, Development Review & Historical Preservation
DATE: January 21, 2011
SUBJECT: Zoning Commission Case Number 10-19 – Supplemental Report

I. BACKGROUND

Originally, this zone map amendment application for specific properties generally in the area of Maryland Avenue and 15th Street NE was submitted by the Office of Planning (OP) after discussions with Advisory Neighborhood Commission (ANC) 6A. Subsequent to the application being filed but before the public hearing, the ANC submitted a request to include a number of additional lots. The Commission agreed, and a new public hearing was rescheduled to January 3, 2011, during which:

- OP reiterated its recommendation that the Commission approve the rezoning of properties shown on the OP produced map (refer to Exhibit 1) as Areas 1 and 2 (generally located between H Street and Maryland Avenue) but that the additional zoning changes proposed by ANC 6A for properties located in Areas 3 through 7 were not supported by OP.
- ANC representatives clarified that its letter dated September 21, 2010 was not intended to request rezoning of properties fronting H Street at 14th Street NE, shown as Area 6 (Square 1026 Lots 1, 152, 160, 175, 176, 819, 824 and 829), from HS-A/C-3-A to HS-A/C-2-A. This clarification removed Area 6 properties from consideration.
- The ANC stated that the principal objective of the request was to extend design standards and review requirements of the H Street Northeast Overlay (Overlay) to additional commercially-zoned properties in alleys and along crossing streets.
- With regards to properties in Area 5, located at Florida Avenue and 14th Street NW, ANC representatives said that it would be acceptable to extend Overlay design guidelines without rezoning the area from the current C-3-A to C-2-A, if the Commission chose to do so.

The Commission requested additional OP analysis regarding the specific impacts of the proposed zoning and texts changes on the various properties; and areas in which particular standards or requirements of the Overlay would not be appropriate or relevant.

II. ANALYSIS OF ZONING CHANGE IMPACTS

OP reviewed the impacts of proposed zoning change options, including extension of the Overlay, on each of the remaining target areas, in accordance with direction received from the Zoning Commission. A table of impacts for each of the areas is provided in the attached Exhibits 2 through 6. For reference, a map of the proposed areas for rezoning is attached as Exhibit 1. Below are summaries of potential impacts of the proposed amendments for each area.

Area 1 (refer also to detailed analysis chart in Exhibit 2)

Description: The subject portion of Lot 157 on the northwest corner of Square 4509 is developed with multiple four-story apartment buildings with no ground floor retail and a maximum height of 60 feet.

Proposed Change: Rezone from C-2-B to R-5-C, as proposed by OP.

Comprehensive Plan Generalized Land Use Map designation: A designation of Mixed Use Moderate Density Residential and Low Density Commercial is pending. The proposed zoning change would not be considered inconsistent with this designation.

Impacts of Proposed Base Zone Change: This property would be brought more into conformance with the existing development on the site without rendering the existing apartment buildings non-conforming for use or height.

Impacts of the H Street Overlay: Extending the Overlay to this property is not proposed.

OP Recommendation: **Approval of this rezoning as proposed.**

Area 2 (refer also to detailed analysis chart in Exhibit 3)

Description: The multiple properties in Squares 1027, 1049 and 1050 are developed with mixture of commercial establishments and residences in two story buildings. None front H Street but most have frontage along 14th Street or Maryland Avenue NE. The commercial uses include stores, a fast food establishment with a drive-through, a mortuary and vacant property previously occupied by a gas station.

Proposed Change: Rezone from C-3-A to HS-A/C-2-A as proposed by OP or, in the alternative, HS-A/C-3-A.

Comprehensive Plan Generalized Land Use Map designation: A designation of mixed moderate density residential / low density commercial is pending. Either the existing or the proposed zone would be not inconsistent with this designation.

Impacts of Proposed Base Zone Changes: Rezoning from C-3-A to C-2-A would reduce the permitted height to 50 feet and the permitted FAR to 2.5 FAR. This would not appear to be inconsistent with the existing neighborhood character, and would also allow Area 2 to form a transition between the more intense redevelopment anticipated along H Street to the north, and the residential rowhouse neighborhoods in the large R-4 district to the south, south-east, and south-west. C-2-A would also restrict some uses such as a vehicle drive-through, a use of particular community concern. The proposed zone change, however, would not impact the status of the recent BZA approval of a new gas station in the area.

The alternative, to retain the C-3-A zoning but add the HS Overlay would have less of an impact on the overall development potential on each lot, but the Overlay would restrict the non-residential FAR to 1.0, well under what the 2.5 FAR the base zoning would otherwise allow.

Impacts of the H Street Overlay: Including the area in the HS Overlay would:

- reduce the allowable nonresidential FAR to 1.0 FAR.
- with the text amendments proposed by OP, make development proposals fronting Maryland Avenue or 14th Street eligible for a 0.5 FAR bonus, if a pre-1958 façade is retained.
- prohibit specific uses including gasoline service stations, parking lots, outdoor storage and other uses listed under § 1320.3.
- apply specific design related requirements under § 1324 and special exception provisions under § 1324.

Provisions regulating ground floor uses under § 1320.3 and preferred uses under §§ 1302 and 1323.2 3 would not apply because these provisions only apply to properties fronting H Street NE, the designated street in this overlay.

OP Recommendation: **Approve the zone changes to HS-A/C-2-A.** This meets several Comprehensive Plan goals and objectives detailed in previous OP reports, and is intended to make property zoning more consistent with the Comprehensive Plan designation and with existing development character. Associated text amendment to establish H Street design standards in this area to help guide anticipated redevelopment along this commercial corridor. However, OP is not opposed to HS-A/C-3-A or to not amending the zoning at all and retaining the existing C-3-A zoning.

Areas 3 (refer also to detailed analysis chart in Exhibit 4)

Description: These four undeveloped lots in Square 1026 front 13th Street NE and are owned by the District. None have H Street frontage. Surrounding properties to the north and west are zoned R-4 and are developed with two- and three-story dwellings. To the south and east are properties developed with the former R.L. Christian Branch Library and a church, respectively, both with H Street frontage.

Proposed Change Options: Rezone from C-2-A to HS-A/C-2-A, as proposed by ANC 6A and not supported by OP.

Comprehensive Plan Generalized Land Use and Policy Map designations: These properties fall within the area designated for mixed use moderate density residential and low density commercial and C-2-A is not inconsistent with that designation.

On the Generalized Policy Map, they appear to be within a Main Street Mixed Use Corridor, but the focus of this guidance is on H Street and properties that front onto H Street, not properties that front onto side streets. “Main Street Mixed Use Corridors” are generally described as pedestrian friendly environments with traditional storefronts. Future (re)development is intended to support transit in, and enhance the pedestrian environment along, the corridor street. Since no storefronts exist and the properties do not front H Street, there is no direct Plan guidance to support extending Overlay provisions to the referenced properties.

Impacts of Proposed Base Zone Changes: None – the ANC is not proposing to downzone these properties from the current C-2-A.

Impacts of the H Street Overlay: Placing these properties within the H Street Overlay would:

- reduce the allowable nonresidential FAR to 1.0 FAR, however the site would not benefit from the 0.5 FAR density-bonus for façade retention because there are no existing buildings.
- permit new development to take advantage of the additional height provision if ground floor arts or retail uses were provided, increasing possible height from 50 feet to 55 feet.
- apply land use prohibitions under §§ 1320.4 and 1320.5 – gas station and parking lot would not be permitted; and uses such as fast food establishments would require BZA approval.
- require any new development on the combined 4 lots to obtain BZA approval, as the total lot area would exceed 6,000 sq.ft., pursuant to §1320.4 (f), subject to the special exception requirements of § 1325.
- subject the site to a number of the design related requirements of § 1324; other design related requirements specifically targeted to buildings fronting H Street would require additional text amendment to be applied to these lots.

HS Overlay PUD provisions would not apply the site by itself is not large enough for a PUD. The properties would also not be subject to provisions regulating ground floor uses under § 1320.3, because they do not have H Street frontage.

In response to the specific questions raised by the Commission about these lots, establishing the Overlay:

- would not require preferred uses on the ground floor due the lack of H-Street frontage.
- would prohibit a parking lot on these properties.
- would not prevent inclusion of these properties into a site for an expanded library.

- would not prevent development of row dwellings or other allowable residential uses on these properties.

OP Recommendation: **After further review, OP now supports this amendment.** Elimination of the parking lot option would be a benefit. This change would also ensure that consistent design standards would be applied to any future non-residential or mixed-use projects developed on these District-owned properties.

Areas 5 (refer also to detailed analysis chart in Exhibit 5)

Description: These properties are located at the southwest corner of 14th Street and Florida Avenue NE. They are under separate ownership and are developed with two- to three-story multi- and single-family dwellings. Across Florida Avenue are a gasoline service station and high-rise apartment building in a C-3-A district. The sole lot on Square 1049N across 14th Street is also zoned C-3-A and developed with a two-story commercial building. None of the properties have H Street frontage.

Proposed Change Options: Rezone from C-3-A to HS-A/C-2-A as proposed by ANC 6A and not supported by OP or, in the alternative, to retain C-3-A but apply the H Street Overlay, resulting on zoning of HS-A/C-3-A.

Comprehensive Plan Generalized Land Use and Policy Map designations: Most of the properties are designated on the Generalized Future Land Use Map for mixed moderate density residential / low density commercial. The existing zone, and the rezoning proposed by the ANC, would not be inconsistent with this designation.

On the Generalized Policy Map, they are generally within a Main Street Mixed Use Corridor, but the focus of this guidance is on H Street and properties that front onto H Street, not properties that front onto side streets. Florida Avenue north-west of this site is not a designated Main Street Mixed Use Corridor. As noted for Area 3, future development and redevelopment is intended to support transit and enhance the pedestrian environment along the corridor (H street NE). As such, there is no direct Plan guidance to support extending Overlay provisions to the referenced properties since none of the properties front H Street.

Impacts of Proposed Base Zone Changes: Downzoning from C-3-A to C-2-A would reduce the allowable height to 50 feet, and reduce the potential development to 2.5 FAR on this corner, while the higher height and density allowed in C-3-A would continue to be available on surrounding properties to the south, to the north across Florida Avenue and to the east across 14th Street. Retaining the existing C-3-A zoning would be consistent with to the intent of the Strategic Development Plan and not alter the intended development pattern around this intersection.

Impacts of the H Street Overlay: Placing these properties within the H Street Overlay would:

- reduce the allowable nonresidential FAR to 1.0 FAR for either C-2-A or C-3-A, or 1.5 if an existing pre-1958 façade is retained.
- new development could utilize the additional height provision if ground floor arts or retail uses are provided to increase possible height by 5 feet, to 55 feet in C-2-A or to 70 feet in C-3-A.
- allow new development to take advantage of the .5 FAR bonus for new residential development.
- apply land use prohibitions under §§ 1320.4 and 1320.5 – gas station and parking lot would not be permitted; uses such as fast food would require BZA approval.
- require new development on combined lots to obtain BZA approval if the total lot area exceeds 6,000 sq.ft., pursuant to §1320.4 (f), subject to the special exception requirements of § 1325.
- subject the site to a number of the design related requirements of § 1324; other design related requirements specifically targeted to buildings fronting H Street would require additional text amendment to be applied to these lots.

The site by itself is not large enough for a PUD, so the HS Overlay PUD provisions would not apply without consolidation of most or all of the lots. The properties would also not be subject to provisions regulating ground floor uses under § 1320.3, because they lack H Street frontage.

OP Recommendation: **OP is opposed to a downzoning to HS-A/C-2-A.** OP also does not support a rezoning to HS-A/C-3-A as this is not consistent with either the intent of the H Street Plan or Comprehensive Plan guidance, but acknowledges that this alternative would have fewer detrimental impacts on the properties.

Areas 4 and 7 (refer also to detailed analysis chart in Exhibit 6)

Description: The large alley lot in Area 4 (mid-block north of H Street) is developed with a paved parking lot. It is located behind commercial buildings with H Street frontage. The only connection to H Street is via a narrow alley. The multiple alley lots on Square 1027 (mid-block south of H Street) are developed with one- and two-story industrial buildings with only alley access to H Street and G Street. Properties to the north and west are developed with two-story buildings predominately occupied by commercial uses in C-3-A, HS-A/C-2-A and HS-A/C-3-A districts. Properties south and west are developed with two-story residences zoned R-4.

Proposed Change Options: Rezone from C-2-A to HS-A/C-2-A as proposed by ANC 6A and not supported by OP.

Comprehensive Plan Generalized Land Use and Policy Map designations: The properties in Area 4 are generally designated mixed moderate density residential / low density commercial on the Generalized Land Use Plan. Although located within the Main Street Mixed Use Corridor in the Generalized Policy Map, the focus of this guidance is on the H Street environs, not alley lots with no H Street frontage.

The properties in Area 7 are generally designated moderate density residential on the Generalized Land Use Plan. They are predominantly located with a neighborhood conservation area on the Generalized Policy Map.

Since no “storefronts” exist on the subject industrial properties and none of the properties front H Street, there is no guidance in the Comp Plan or the H Street Plan to support applying the Overlay.

Impacts of Proposed Base Zone Changes: None, as the ANC is not proposing downzoning of the properties. Existing zoning regulation alley lot provisions of § 2507 would appear to prohibit any residential uses on these lots as an alley of 30 foot wide minimum is required.

Impacts of the H Street Overlay: The Overlay does not anticipate the inclusion of alley lots. Rather, the Overlay is intended to encourage an active and dynamic pedestrian experience along the H Street corridor. As such, the Overlay provides no specific guidance or direction for these alley lots, and much of the general guidance would be inappropriate for (re)development of these lots. Inclusion within the Overlay would:

- reduce the allowable nonresidential FAR to 1.0 FAR. The Overlay would technically encourage residential use, although other existing alley lot zoning provisions would restrict that use.
- in theory, allow new development to utilize the additional height provision if ground floor arts or retail uses are provided, although existing alley lot provisions would restrict or prevent the ability to utilize this additional height .
- apply land use prohibitions under § 1320.4 and 5– gas station and parking lot would not be permitted; uses such as fast food would require BZA approval; existing alley lot provisions would prevent these uses.
- require new development on existing or combined lots of greater than 6,000 sq.ft to obtain BZA approval, pursuant to §1320.4 (f), subject to the special exception requirements of § 1325..

As noted by OP at the public hearing, the District is in the process of comprehensively reviewing the zoning regulations through the Zoning Regulation Review (ZRR) process. The Zoning Commission has already seen some language and established direction related to many aspects of the regulations. OP continues to believe that it is more logical to address alley lots through that process.

OP Recommendation: **OP does not recommend approval of this amendment**, particularly pending completion of the Zoning Regulation Review process.

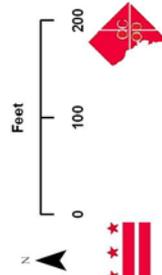
Attachments: Exhibit 1 – Map of proposed zone change areas
 Exhibit 2 - Area 1 Table of Potential Impacts of Proposed Changes
 Exhibit 3 - Area 2 Table of Potential Impacts of Proposed Changes
 Exhibit 4 - Area 3 Table of Potential Impacts of Proposed Changes
 Exhibit 5 - Area 5 Table of Potential Impacts of Proposed Changes
 Exhibit 6 - Area 4 & 7 - Table of Potential Impacts of Proposed Changes
 Exhibit 7 - Complete H Street Neighborhood Overlay Text Highlighting the OP Proposed Amendments

Arthur Jackson, Case Manager
JS/afj



**ZC 10-19 Zoning Consistency Case
Land Use Designations and Proposed Zoning Changes**

- LEGEND**
- DC Reservations
 - Zoning Districts
 - Street Centerlines
 - Property Squares
 - Buildings
 - Lots Proposed for RZ



Government of the District of Columbia
 This map was created for planning purposes from a variety of sources. It is neither a survey nor a legal document. Information provided by other agencies should be verified with them where appropriate.
 Office of Planning ~ January 14, 2011

Potential Impacts of Proposed Changes in Area 1 (corner of Benning and 15th)		
	Existing Baseline: C-2-B	Proposed Base Zone Change: Rezzone to R-5-C
Potential Development Intensity		
FAR	3.5	Reduced to 3.0
Residential FAR	3.5	Reduced to 3.0
Non-Residential FAR	1.5	None
Height	65 feet	Reduced to 60 feet
PUDs	Permitted	Permitted
Lot Occupancy	100.0% non-residential, 80% residential	75% residential
Land Uses		
Ground Floor Uses	Not regulated	Not regulated
By-right Uses	Residential uses and range of commercial and services uses	Residential. Few by-right commercial or service uses allowed by right
Special Exception Uses	A number of special exception uses, including gasoline service station, animal boarding and fast food establishments	Fewer uses allowed by special exception
Prohibited Uses	Does not list prohibited uses, any use not listed as permitted or permitted by special exception would not be allowed	Does not list prohibited uses, any use not listed as permitted or permitted by special exception would not be allowed
Design Related Requirements	Not applicable to by-right projects	Not applicable to by-right projects
Review Requirements	Not applicable to by-right projects	Not applicable to by-right projects

Potential Impacts of Proposed Changes in Area 2 (Maryland Ave. lots south of H Street)			
	Existing Baseline: C-3-A	Proposed Change: Rezone to HS/C-2-A	Alternative Change: Rezone to HS/C-3-A
Potential Development Intensity			
FAR	4.0	Reduce to 2.5, 3.0 for residential development if existing façade is preserved	4.0, 4.5 for residential development if existing façade is preserved
Residential FAR	4.0	Reduce to 2.5, 3.0 for residential development	4.0, 4.5 for residential development
Non-Residential FAR	2.5	Reduce to 1.0; 1.5 if a pre-1958 façade is retained	1.0, 1.5 if a pre-1958 façade is retained
Height	65 feet	Reduced to 50 feet, or 55 feet if ground floor retail is provided	Increased to 70 feet if ground floor retail is provided
PUDs	Permitted	PUD permitted but any additional density must be for residential	PUD permitted but any additional density must be for residential
Lot Occupancy	100% non-residential, 75% residential	100% non-residential; Reduced to 70% residential	Unchanged
Land Uses			
Ground Floor Uses	Not regulated	The ground floor uses requirement for H Street would not apply in this area	The ground floor uses requirement for H Street would not apply in this area
By-right Uses	Residential, office, hotel, and most forms of retail permitted	Number of allowable uses decreased	No change
Special Exception Uses	Few uses require special exception approval	Specified uses require special exception approval	No change
Prohibited Uses	Does not list prohibited uses, any use not listed as permitted or permitted by special exception would not be allowed	HS Overlay list of prohibited uses includes gas station, parking lot, and automobile sales	
Design Related Requirements	None	Would apply, including: <ul style="list-style-type: none"> • Streetwall - 75% of width constructed to street lot line • Glazing - 50% of streetwall devoted to display window along 14th and 15th Street and Maryland Ave NE • Security grills - 70% transparency • Ground Floor Height - 14' min. • Entrance required directly from 14th, 15th Street and Maryland Ave NE sidewalk • Signage - regulated 	
Review requirement	None, other than standard requirements for review of a non-by-right project	Relief from overlay requirements can be obtained by special exception, based on specific criteria of §§ 1304 and 1325	

Potential Impacts of Proposed Changes in Area 3 (4 lots fronting 13th Street)		
	Existing Baseline: C-2-A	Proposed Overlay Change: Add HS-A Overlay
Potential Development Intensity		
FAR	2.5	No change
Residential FAR	2.5	No change
Non-Residential FAR	1.5	Reduced to 1.0
Height	50 feet	Increased to 55 feet if ground floor retail is provided
PUDs	Site is not large enough for a PUD	Site is not large enough for a PUD
Lot Occupancy	100.0% non-residential, 60% residential	Unchanged for non-residential; increased to 70% for residential
Land Uses		
Ground Floor Uses	Not regulated	Not regulated, but development would gain height by providing 14' ground floor arts/retail space
By-right Uses	Residential uses and range of neighborhood-serving commercial and service uses	Fewer by-right uses
Special Exception Uses	A number of special exception uses, including gas station and fast food establishment	More uses allowed only by special exception
Prohibited Uses	Does not list prohibited uses, any use not listed as permitted or permitted by special exception would not be allowed	List of prohibited uses includes gas station, parking lot, and automobile sales
Design Related Requirements	Not applicable	Some would automatically apply, including: <ul style="list-style-type: none"> • Streetwall - 75% of width constructed to street lot line • Security grills - 70% transparency • Ground Floor Height - 14' min. • Signage – regulated Others would apply only if a text amendment required it, including: <ul style="list-style-type: none"> • Entrance required directly from the street • Glazing - 50% of streetwall devoted to display window
Review Requirement	Not applicable to by-right projects	Relief from overlay requirements obtained through special exception review based on specific criteria of §§ 1304 and 1325 Any new building on the combined 4 lots would require BZA approval under § 1320.4 (f)

Potential Impacts of Proposed Changes in Area 5 (Florida Avenue and 14th Street)			
	Existing Baseline: C-3-A	Proposed Change: Rezone to HS/C-2-A	Alternative Change: Rezone to HS/C-3-A
Potential Development Intensity			
FAR	4.0	Reduce to 2.5, 3.0 for new residential development if a pre-1958 façade is retained	4.0, 4.5 for new residential development if a pre-1958 façade is retained
Residential FAR	4.0	Reduce to 2.5, 3.0 for residential development if a pre-1958 façade is retained	4.0, 4.5 for residential development if a pre-1958 façade is retained
Non-Residential FAR	2.5	Reduce to 1.0; 1.5 if a pre-1958 façade is retained	Reduce to 1.0; 1.5 if a pre-1958 façade is retained
Height	65 feet	Reduce to 50 feet, 55 feet if ground floor retail is provided	Increased to 70 feet if ground floor retail is provided
PUDs	Permitted	PUD permitted but any additional density must be for residential. Would require consolidation of all lots.	PUD permitted but any additional density must be for residential. Would require consolidation of all lots.
Lot Occupancy	100% non-residential, 75% residential	100% non-residential; Reduced to 70% residential	Unchanged
Land Uses			
Ground Floor Uses	Not regulated	The ground floor uses requirement for H Street would not apply in this area	The ground floor uses requirement for H Street would not apply in this area
By-right Uses	Residential, office, hotel, and most forms of retail permitted	Number of allowable uses decreased	No change
Special Exception Uses	Few uses require special exception approval	Specified uses require special exception approval	No change
Prohibited Uses	Does not list prohibited uses, any use not listed as permitted or permitted by special exception would not be allowed	HS Overlay list of prohibited uses includes gas station, parking lot, and automobile sales	
Design Requirements	None	<p>Some would automatically apply, including:</p> <ul style="list-style-type: none"> • Streetwall - 75% of width constructed to street lot line • Security grills - 70% transparency • Ground Floor Height - 14' min. • Signage – regulated <p>Others would apply only if a text amendment required it, including:</p> <ul style="list-style-type: none"> • Entrance required directly from the street • Glazing - 50% of streetwall devoted to display window 	
Review requirement	None, other than standard requirements for review of a non-by-right project	Relief from overlay requirements can be obtained by special exception, based on specific criteria of §§ 1304 and 1325	

Potential Impacts of Proposed Changes in Area 4 and 7 (alley lots)		
	Existing Baseline: C-2-A	Proposed Overlay Change: Add HS-A Overlay
Potential Development Intensity		
FAR	2.5	Essentially reduce to 1.0; 1.5 if ground floor retail / arts uses are provided
Residential FAR	2.5 in theory, but not permitted on alley lots on alleys with width of less than 30 feet	Not permitted on alley lots when alley is less than 30 feet wide
Non-Residential FAR	1.5	1.0 for new construction; 1.5 if an existing façade is retained
Height	50 feet in theory but not achievable as existing alley lot provisions limit height to the width of the fronting alley	Limited by existing alley lot provisions which limit height to the width of the fronting alley
PUDs	Permitted in theory	PUD permitted in theory; most individual lots not large enough for a PUD
Lot Occupancy	100.0% non-residential	unchanged
Land Uses		
Ground Floor Uses	Not regulated	Not regulated
By-right Uses	Zoning permits residential uses and range of neighborhood-serving commercial and service uses; alley lot provisions restrict residential use	Fewer by-right uses
Special Exception Uses	A number of special exception uses, including fast station and fast food establishment	More uses allowed only by special exception
Prohibited Uses	Any use not listed as permitted or permitted by special exception would not be allowed	List of prohibited uses includes gas station, parking lot, and automobile sales
Design Requirements	Not applicable to by-right projects	Some would automatically apply, including: <ul style="list-style-type: none"> • Streetwall - 75% of width constructed to street lot line • Security grills - 70% transparency • Ground Floor Height - 14' min. • Signage – regulated Others would apply only if a text amendment required it, including: <ul style="list-style-type: none"> • Entrance required directly from the street • Glazing - 50% of streetwall devoted to display window Few of the requirements would be logical for alley lots
Review Requirement	Not applicable to by-right projects	Relief from overlay requirements obtained through special exception review based on specific criteria of §§ 1304 and 1325

Complete H Street Neighborhood Overlay Text Highlighting the Proposed Amendments

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, N.E. from 2nd Street to 15th Street, N.E. and zoned C-2-A, C-2-B, C-2-C, C-3-A, or C-3-B, **as well as lots within Squares 1027 and 1049 fronting onto Maryland Avenue NE or 14th Street NE; and all of Square 1050.** 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, N.E. in Squares 751, 752, 776, 777, 808, 809, 832, 833, 858, and 859 from 2nd to 7th Streets, N.E.;
- (b) H Street Northeast Overlay Retail Sub-district (HS-R) encompasses properties fronting on H Street, N.E. in Squares 889, 890, 911, 912, 933, 958, 959, 981, and 982 from 7th to 12th Streets, N.E.;
- (c) H Street Northeast Overlay Arts Sub-district (HS-A) encompasses properties fronting on H Street, N.E. in Squares 1003, 1004, 1026, 1027, 1049N, and 1049 from 12th to 15th Streets, N.E., **as well as lots within Squares 1027 and 1049 fronting onto Maryland Avenue NE or 14th Street NE; and all of Square 1050.**

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 approved by the Council of the District of Columbia on February 17, 2004 (R15-460);
- (b) Encourage residential uses along the H Street, N.E. 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, N.E.; a neighborhood-serving retail shopping district from 7th Street to 12th Street, N.E.; and an arts and entertainment district from 12th Street to 15th Street, N.E.;
- (d) Establish design guidelines for new and rehabilitated buildings that are consistent with the historic character and scale of the Overlay District; and
- (e) Encourage the reuse of existing buildings along the corridor; and
- (f) **Encourage residential uses, the reuse of existing buildings, and the redevelopment of those portions of Squares 1027, 1049, and 1050 within the Overlay but not fronting H Street.**

1320.3 For purposes of § 1302, the designated use area shall include any lot within the HS Overlay District that fronts on H Street, N.E. 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: 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: Any use listed in §1323.2.

1320.4 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 gasoline service station;

- (b) Accessory parking spaces located off-site from the principal use;
- (c) Fast food restaurant establishment 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;
 - (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; and
 - (4) This use shall occupy no more than twenty-five percent (25%) of the linear street frontage within the HS Overlay District as measured along the lots that face the designated roadway;
- (d) Funeral, mortuary, or undertaking establishment;
- (e) Parking garage; and
- (f) Construction of a new building or enlargement of the gross floor area of an existing building by fifty percent (50%) or more, if located on a lot that has six thousand square feet (6,000 sq. ft.) or more of land area.

1320.5 The following uses are prohibited:

- (a) Automobile and truck sales;
- (b) Automobile laundry;
- (c) Boat or marine sales;
- (d) Gasoline service station;
- (e) Outdoor storage of any materials; and
- (f) Parking lot.

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, N.E.

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 non-residential uses, except as provided in § 1321.3.

1321.3 New construction that preserves an existing façade constructed before 1958 is permitted to use an additional 1.0 FAR, for up to a maximum non-residential density of 1.5 FAR, for office uses or neighborhood-serving retail uses as permitted in §§ 701.1 and 701.4.

1321.4 In the event that a grocery store is constructed on Square 776, a maximum nonresidential density of 1.5 FAR shall be permitted on that Square.

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

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

1322.2 For the purposes of §§ 1322.3 and 1326.1(a), 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) Banking or financial institution (excluding check cashing services);
- (f) Bicycle shop;
- (g) Bookstore;

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

1322.3 New construction that preserves an existing façade constructed before 1958 is permitted 0.5 FAR in addition to the non-residential density 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 For the purposes of §§ 1320.3(c), 1323.4 and 1326.1(a), preferred uses are:
- (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 ft.²) 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 non-residential uses except as provided in §1323.4.
- 1323.4 New construction that preserves an existing façade constructed before 1958 is permitted 0.5 FAR in addition to the non-residential FAR permitted in the underlying zone for non-residential preferred uses listed in §1323.2.
- 1324 DESIGN REQUIREMENTS (HS)**
- 1324.1 The design requirements of §§ 1324.2 through 1324.16 shall apply to any lot in the HS Overlay District for which a building permit was applied after October 25, 2004.
- 1324.2 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 density permitted in the underlying zone district for residential uses.
- 1324.4 In C-2 Districts within the HS Overlay District, a seventy percent (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, N.E., **Maryland Avenue NE, 14th Street NE, or 15th Street NE** shall provide not less than sixty-five percent (65%) of the ground level frontage as commercial space.
- 1324.8 Each new building on a lot that fronts on H Street, N.E., **Maryland Avenue NE, 14th Street NE, or 15th Street NE** 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 having clear or clear/low-emissivity glass, except for decorative or architectural accent, and to entrances to commercial uses or to the building.
- 1324.9 Security grilles shall have no less than seventy percent (70%) transparency.
- 1324.10 Each commercial use with frontage on H Street, N.E., **Maryland Avenue NE, 14th Street NE, or 15th Street NE** have an individual public entrance directly accessible from the public sidewalk. Multiple-dwellings shall have at least one primary entrance on H Street 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 ground floor uses and the main lobby.
- 1324.12 The ground floor level of each building or building addition shall have a uniform minimum clear floor-to-ceiling height of fourteen feet (14 ft.).
- 1324.13 Buildings subject to § 1324.12 shall be permitted an additional 5 feet (5 ft.) of building height over that permitted in the underlying zone.
- 1324.14 Projection signs shall have a minimum clearance of eight feet (8 ft.) above a sidewalk and fourteen feet (14 ft.) above a driveway, project no more than three feet, six inches (3 ft., 6 in.) from the face of the building, and end a minimum of one foot (1 ft.) behind the curbline or extension of the curbline.
- 1324.15 Façade panel signs shall not be placed so as to interrupt windows or doors and shall project no more than twelve inches (12 in.) from the face of the building. 1342.16 Roof signs are prohibited. [ORDER No. 04-27; 03/10/06]
- 1325 SPECIAL EXCEPTION REQUIREMENTS (HS)**
- 1325.1 The buildings, structures, and uses listed in § 1320.4 and exceptions from the requirements of the H Street Overlay District shall be permitted as a special exception if approved by the Board of Zoning Adjustment after public hearing, based on § 3104, provided the following criteria and the requirements of § 1304 are met:
- (a) The project is consistent with the design intent of the design requirements of § 1324 and the design guidelines of the H Street N.E. Strategic Development Plan;
 - (b) The architectural design of the project shall 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 Office of Planning report to the Board shall include review by the State Historic Preservation Officer and a status of the project's review by the Historic Preservation Review Board;
 - (c) Vehicular access and egress shall be located and designed so as to encourage safe and efficient pedestrian movement, minimize conflict with principal pedestrian ways, function efficiently, and create no dangerous or otherwise objectionable traffic conditions;
 - (d) Parking and traffic conditions associated with the operation of a proposed use shall not adversely affect adjacent or nearby residences;
 - (e) Noise associated with the operation of a proposed use shall not adversely affect adjacent or nearby residences; and
 - (f) The size, type, scale, and location of signs shall be compatible with the surrounding corridor and consistent the design guidelines of the H Street N.E. Strategic Development Plan.
- 1325.2 An applicant may demonstrate compliance with § 1325.1(f) by demonstrating that the signage will be exclusively located on upper facades, awnings, and transom windows, constructed of durable materials, and sensitively designed; and will not affect more than twenty percent (20%) of display windows, consist of backlit box signs or neon product advertisements, block visibility into a store, or be overly obtrusive.
- 1325.3 The Board may impose requirements pertaining to design, appearance, signs, massing, landscaping, and other such requirements as it deems necessary to protect neighboring property and to achieve the purposes of the H Street Overlay District.
- 1325.4 Applicants shall demonstrate 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 (HS)**
- 1326.1 A planned unit development (PUD) in the HS 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 that permitted as a matter-of-right shall be used only for housing or the preferred uses listed in §§ 1322.2 and 1323.2 and
- (b) The PUD process shall not be used to reduce requirements in this Chapter for designated uses, typically retail, service, entertainment, and arts uses.