

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 334
CASE NO. 80-3 and 80-4
MARCH 12, 1981

Pursuant to notice, public hearings were held by the District of Columbia Zoning Commission on September 22 and 25, 1980, October 6, 16 and 20, 1980 and November 3, 1980, to consider amendments to the Zoning Regulations and Map of the District of Columbia. The proposed amendments would create a hotel-residential incentive overlay district.

The map and text cases considered by the Zoning Commission at the public hearings were initiated as a follow-up to the decision made by the Commission on May 8, 1980 in Case No. 79-1, which considered the treatment of hotels in all districts in the Zoning Regulations. In its Statement of Reasons, also issued on May 8, 1980, the Commission stated:

"The Commission further wishes to note that it believes the Zoning Regulations should be amended further to provide greater incentive for hotel development in the downtown area, particularly in the area surrounding the new Convention Center. Such a proposal was not included in the notice for the hearing held in January, 1980, and the Commission must give appropriate notice as required by law. The Commission has therefore requested the Office of Planning and Development to prepare a proposal for a new hotel incentive district. The Commission intends to go forward to advertise and consider such a proposal in the near future".

Much of the testimony elicited in the prior proceeding suggested that hotels be encouraged to locate in commercial areas and downtown near the Convention Center.

The zoning text and map proposals both originated as a result of the perceived need to accelerate hotel development in Downtown in support of the Convention Center, and as a complement to the previous decision to prevent the development of new hotels in residential districts. The proposal incorporates residential development incentives as well, in order to encourage housing development in furtherance of Downtown planning goals and housing needs in the District.

The proposed text and mapping will help carry out planning policies of the city, including the Goals and Policies Element of the Comprehensive Plan, the Downtown Urban Renewal Plan, and a variety of other established plans and programs. The most important general goal is the creation of a mixed use transition area including housing, hotels, office, and retail uses between high-density commercial areas in the heart of Downtown and predominantly residential areas north of Massachusetts Avenue, N.W. The Commission believes that unless incentives are given to hotel and residential uses, development pressures will gradually cause the area to be redeveloped entirely as an office and retail area.

The proposed zone district is to be an overlay district. It will be mapped in combination with the underlying zone, and will add additional development rights to those already permitted by the underlying zone. The Commission believes it is not appropriate at this time to remove those development rights now existing in the area, to lessen the permitted level of office and retail development. The area to be mapped is in the central employment area, and will remain appropriate for high density development of all kinds. It is the Commission's intention to add extra incentives for hotel and residential development, and to allow the natural forces of the marketplace to sort out the proper levels of the different mix of uses.

The study area boundaries considered by the Commission for mapping of the new district comprise a broad corridor extending along and south of Massachusetts Avenue, N.W., from just east of Thomas Circle on the west to North Capitol Street on the east. The majority of the area lies south of Massachusetts Avenue and is within the Downtown area. The area includes a number of squares east of Franklin Park, south of Mount Vernon Square and adjacent to the Convention Center, north of Judiciary Square, and east of the Center Leg Freeway. The area at present includes large areas of underutilized vacant land and surface parking, vacant and obsolete buildings, parking garages, and clusters of small, older buildings surrounded by undeveloped land. Because of this pattern, numerous large sites are present which would be suitable for major development. These offer the opportunity for a major restructuring of the total environment in the area over a period of years.

The HR overlay district, as mapped in conjunction with the underlying C-3-C, SP-2, C-2-C and R-5-D Districts, will provide a total Floor Area Ratio of 8.5 for hotels and apartment house uses. The Commission believes that such a density will allow for ample architectural flexibility within the proposed building height incentives up to the limits permitted by the Height Act of 1910. The Act regulates heights of buildings according to business and residential

streets and the width of those streets, establishing sound urban design principles.

The additional FAR would help overcome serious development constraints for housing and hotels in the area, including long-term decline, poor image, little reinforcing development, and large vacant and surface parking areas. The earliest developments must complete with development in more attractive and economically stronger locations elsewhere. The incentive is to encourage "leapfrogging" of housing, hotel and mixed use development in the area before office development occurs on most sites and drives up land values making hotel and housing development less feasible.

The Commission believes that a setback at the street line above the 110 foot height will establish continuity and design scale with, and serve as a transition to, existing and new buildings built at a height of ninety feet. Such a setback would also soften the height profile of the new buildings, and tend to reduce the visual impact of the buildings. The Commission also notes that various city agencies are currently involved in updating streetscape standards in all of Downtown and will have standards for Downtown streets in the near future. There is thus no need to promulgate such standards in these regulations.

The Commission notes that housing displacement potential should not be exaggerated. Legislation has been enacted by the city council and Mayor giving tenants the right of first refusal, to buy buildings before they are sold. Further, existing apartments like Judiciary House should not be adversely affected by the overlay zone. The Commission further notes that the new District provides an incentive for the development of new housing in the area, and may well result in a net increase in the available number of residential units.

Advisory Neighborhood Commission 2C, by statement received on October 16, 1980 marked as Exhibit No. 156 of the record, raised the following issues and concerns regarding the HR overlay zone:

1. Failure of OPD to contact the ANC while preparing its report and recommendations.
2. Displacement of residents and small businesses.

3. The effect of shadow on residential areas from 130 foot high buildings.
4. Loss in membership by Downtown churches.
5. Rising residential property taxes.
6. Whether construction firms will hire D.C. residents.
7. The effect on the UDC campus site.

Advisory Neighborhood Commission 2B, by letter dated October 6, 1980, raised the following issues and concerns:

1. There should be no demolition or conversion of existing housing units to hotels.
2. The city needs more housing on Massachusetts Avenue, but the HR district does not guarantee that housing will be built.
3. Many construction jobs will go to out-of-state firms and jobs to non-residents.
4. If bonuses are provided, they should be for housing only.

Advisory Neighborhood Commission 2A, by statement received on October 16, 1980 marked as Exhibit No. 153 of the record, raised the following issues and concerns:

1. Hotels should be built in Downtown, not in residential areas.
2. Incentives may not be needed.
3. Overlay zones open the door for special interests and may create dangerous precedents for other areas.
4. If mapped, the HR overlay should be placed in a limited land area and should not contain existing housing.
5. The preservation of existing housing and creation of new housing should take priority over hotels and commercial use.

Advisory Neighborhood Commission 3C, by letter dated October 5, 1980, raised the following issues and concerns:

1. The new district should not be mapped in uptown areas and should be limited to the Central Employment Area and its immediate periphery.
2. Allowing hotels as a matter-of-right in SP Districts may violate the uniformity clause of the Zoning Act.
3. The City Council and the National Capital Planning Commission are the appropriate bodies to make changes to urban renewal plans.
4. The 2.0 FAR bonus, when combined with office or retail uses, would not result in substantial additional hotel rooms and the Commission should therefore limit the amount of office space permitted in the area.
5. The District should not be mapped in combination with R-5-D Districts, because they are inappropriate for hotels, or with SP Districts, because of the uniformity problems.
6. The Commission should make additional refinements to the definition of hotels and the parking requirements.

Advisory Neighborhood Commission 1C raised the following issues and concerns:

1. The planning base for the proposal cannot be established until there are plans prepared for the area in question.
2. The definitions of apartment and hotel should be mutually exclusive.

The Commission is required by statute to give "great weight" to the issues and concerns of Advisory Neighborhood Commission's. In regard to the issues and concerns raised by all the ANC's, the Commission states the following:

1. The Commission notes the concern of ANC-2C that it was not contacted by the Office of Planning and Development while that Office was preparing its report. The Commission has constantly urged all proponents of map and text changes to meet with affected area residents.

However, the ultimate decision in zoning matters rests with the Zoning Commission. Persons who wish to make their views known on an issue must address the Commission. Proper and extensive notice of the hearing was given. Six days and more than twenty hours of hearing were held. All interested citizens were afforded a full opportunity to present their positions to the Commission.

2. The amount of housing displacement resulting from the HR District should be minimal. There are only 1,255 dwelling units in the entire area, with an estimated population of approximately 1,800 persons. Three-quarters of the units are located in a total of eight buildings, all of which are likely to be strongly resistant to change. The remaining units are scattered throughout the area, and may be replaced by new development in any event. The Commission notes further that the City Council has passed legislation which will prohibit existing occupied rental apartments from being converted or demolished in the future. The Commission also notes that all of the area under consideration is presently zoned for high density development. It is thus likely that eventually all of the low density buildings in the area will be replaced. The Commission is attempting to influence the choice developers make as to what the replacement will be.
3. The Commission is unable to determine precisely why churches may be losing members, and thus cannot respond completely to that issue. The Commission notes that if the HR District encourages new housing in the area, that will provide new residents in the area who may join churches.
4. The rise in residential property taxes is, for the most part, out of the control of the Zoning Commission. Assessments are determined by the Department of Finance and Revenue based on market value, and tax rates are set by the City Council.
5. The hiring of District residents by construction contractors is completely outside the jurisdiction of the Zoning Commission.
6. The proposed Mt. Vernon Campus for the University of District of Columbia is not proposed to be mapped with the HR District.

7. The regulations limit the mapping of the HR District to "selected geographical areas within and in the immediate periphery of the Central Employment Area."
8. The HR District is mapped in combination with other districts. The HR/SP-2 District is not the same district as an SP-2 District. There is thus no violation of the uniformity standards to permit hotels under different circumstances in the two districts.
9. The Zoning Commission cannot amend an urban renewal plan. However, the Zoning Regulations do apply in all urban renewal areas except Southwest, and the more restrictive set of regulations will control in each situation.
10. The Commission addressed the definition of hotels and parking standards for hotels in Case No. 79-1. Those items are not the subject of this case.
11. An adequate basis for adopting the HR District has been established, as set forth in this order.

The proposed Map and Text amendments were referred to the National Capital Planning Commission under the terms of the District of Columbia Self-Government and Governmental Reorganization Act, and the NCPC reported that the proposed amendments will not have an adverse impact on Federal interests or be inconsistent with the Comprehensive Plan for the National Capital, provided that the portions of Squares 370, 371, 372, 373, 403, 427, 450, 451, 452 and W484 immediately adjacent to and fronting on Mount Vernon Square, are excluded from the area to be mapped in the HR District to a distance of forty feet from the property lines. In considering the report of the Planning Commission, the Zoning Commission understood that the Planning Commission was basically interested in achieving a uniform cornice line at a height of ninety feet, with buildings setting back at a one-to-one ratio above that height. The Commission notes that in the two squares immediately south of Mt. Vernon Square, a maximum height of only 120 feet would be permitted. Private property in four of the other confronting squares is setback from Mt. Vernon Square by approximately eight-five feet of parkland owned by the Federal Government. One square is to be improved with the Convention Center. The Commission therefore believes that the concerns of the Planning Commission over the impact on Mt. Vernon Square can be satisfied by a thirty foot setback, rather than forty feet. This will allow the maximum incentive, while recognizing the concern for Mt. Vernon Square.

The Commission finds that the proposed amendments are in the best interests of the District of Columbia and are consistent with the intent and purpose of the Zoning Regulations and the Zoning Act. The Commission therefore orders adoption of the following amendments to the Zoning Map and Text:

1. Add a new Article 47 to read as follows:

ARTICLE 47
HOTEL RESIDENTIAL INCENTIVE DISTRICT

SECTION 4701 - PREAMBLE

4701.1 This Article establishes a Hotel - Residential Incentive (HR) District which is applied to selected geographic areas within and on the immediate periphery of the Central Employment Area.

The purpose of the District is to encourage construction of hotels and apartment houses in areas so mapped, in furtherance of elements of the city's development plans including goals in employment, population, transportation, housing, public facilities and environmental quality. More specifically, the incentive for hotel development is intended to encourage development of an adequate number of hotels within a convenient distance of the Washington Convention Center to enable the Center to function in an optimum fashion including an adequate quantity of visitor accommodations to serve the Center and a compatible mixture of uses within the general area. The incentive for apartment house development is intended to further the land use and other objectives of the Downtown Urban Renewal Plan and other public policy objectives in the area where the Hotel - Residential Incentive (HR) District is applied. Accordingly, Article 47 provides that hotels and apartment houses may be constructed at greater building heights and densities than other buildings and uses permitted in the underlying zone districts.

SECTION 4702 - USE, BULK AND HEIGHT REGULATIONS

4702.1 The Hotel - Residential Incentive (HR) District shall be mapped in combination with any District mapped at such location and shall not be in lieu of such District. All uses, buildings, and structures permitted in accordance with this section and the appropriate sections of the Zoning Regulations for the District with which the mapped HR District is combined shall be permitted in such combined Districts. All restrictions and prohibitions provided with respect to either of the Districts so combined shall also apply, except as specifically modified by this Article.

4702.2 In an HR District, a hotel is permitted as a matter-of-right where the underlying zone district with which the HR District is mapped permits a hotel either as a matter of right or as a Special Exception. Where the underlying zone district does not permit a hotel as a matter-of-right or as a special exception, the height and floor area ratio incentives provided in Sub-sections 4702.3 and 4702.4 shall apply only to an apartment house.

4702.3 In the Hotel - Residential Incentive (HR) District, a building containing a hotel or an apartment house may be erected to a height in excess of that permitted in the underlying zone, provided that:

4702.31 The maximum height shall be no more than that permitted by the Act to Regulate the Height of Buildings, June 1, 1910, as amended;

4702.32 The building shall contain a minimum floor area ratio of 2.0 devoted to hotel or apartment house use;

4702.33 No part of the building shall project above a plane drawn at a forty-five degree angle from a line located 110 feet directly above the right-of-way line of a street.

4702.4 In the Hotel - Residential Incentive (HR) District, the maximum permitted floor area ratio for hotels and apartment houses shall be 8.5.

2. Add a new Paragraph 2101.18, to read as follows:

2101.18 Hotel - Residential Incentive District.

HR HIGH DENSITY

3. Rezone the following properties to the HR District (to include HR/R-5-D, HR/SP-2, HR/C-2-C, and HR/C-3-C):

All of Squares:

283	453	528	569
316	484	529	W624
317	485	S562	625
342	486	563	626
343	516	564	627
344	S516	565	628
374	517	566	
404	518	567	
428	527	568	

Parts of Squares:

247 - Lots 56, 57, 63, 64, 71, 72, 82, 86-89, 800, 801, 803, 831, 836-840, 843, 842, 848-852, 854, E(857), K(858), L(859), M(860), N(861), and 833 and 834 (862).

284 - That portion thereof presently zoned SP-2 and C-3-C; including lots 804, 816, 824, 825, 827, and part of 807.

285 - That portion thereof presently zoned C-3-C; including lots 7, 20, 33-45, 812 and 813 (46), 801, 804-807, 809-811, 816, 817, 821-823, 825, 826, part of 29-31, and part of 808.

370 - That portion thereof lying outside an arc drawn a radius of 30 feet from the point located at the northwest corner of the intersection of the rights-of-way of 9th Street and Massachusetts Avenue, N.W.

371 - That portion thereof lying west of a line drawn 30 feet west of and parallel to the east lot line of lot 811.

372 - That portion thereof lying west of a line drawn 30 feet west of and parallel to the east lot line of lot 829.

373 - That portion thereof lying outside an arc drawn a radius of 30 feet from the point located at the southwest corner of the intersection of the rights-of-way of 9th Street and New York Avenue, N.W.

403 and 427 - Those portions thereof lying south of a line drawn 30 feet south of and parallel to the southern right-of-way line of "K" Street, N.W.

450 - That portion thereof lying outside an arc drawn a radius of 30 feet from the point located at the northeast corner of the intersection of the rights-of-way of 7th Street and New York Avenue, N.W.

451 - That portion thereof lying east of a line drawn 30 feet east of and parallel to the west lot line of lot 825.

452 - That portion thereof lying outside an arc drawn a radius of 30 feet from the point located at the southeast corner of the intersection of the rights-of-way of 7th Street and Massachusetts Avenue, N.W.

483 - That portion thereof presently zoned C-2-C; including lots 803,804, and part of 801 (part of 8).

W484 - That portion thereof lying east of a line drawn 30 feet east of and parallel to the west lot line of lot 818.

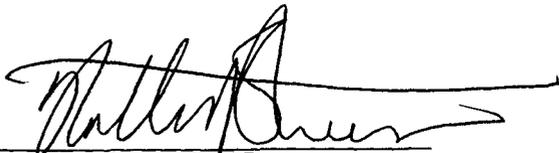
515 - That portion thereof presently zoned C-2-C; including lots 844,845, part of 849, part of 838, part of an alley (part of 858), part of 856, and 857 (part of 859), and part of 856 and 857 (part of 157).

526 - That portion thereof presently zoned C-2-C; including lots 1,20,21,804,805,824,825,829, and part of 828.

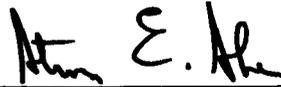
624 - Lots 28,34-38,41,42,72,73,77,87,818-821, A(832),B(833), C(834),D(835),E(836), and F(837).

The source of all lots and squares is the Baist Real Estate Atlas, Volume 1, on record in the Office of the Zoning Secretariat. The lot numbers in parentheses identify the current lot or portion of a lot designation, as per records of the D.C. Department of Finance and Revenue and are included for information only.

Vote of the Commission taken at its public meeting held on January 8, 1981: 4-1 (Commissioners Ruby B. McZier, Walter B. Lewis, and Theodore F. Mariani to approve, George M. White, to approve by absentee vote - Commissioner John G. Parsons opposed).



WALTER B. LEWIS
Chairman
Zoning Commission



STEVEN E. SHER
Executive Director
Zoning Secretariat

This order was adopted by the Zoning Commission at its public meeting held on March 12, 1981 by a vote of 4-1 (George M. White, Ruby B. McZier and Walter B. Lewis to adopt, Theodore F. Mariani to adopt by absentee vote, John G. Parsons opposed)

In accordance with Section 5.4 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, the amendments to the Zoning Regulations and Map are effective on 27 MAR 1981.