



District of Columbia Government
Advisory Neighborhood Commission 6A
P. O. Box 75115
Washington, DC 20013



October 26, 2013

Mr. Matthew Le Grant
Zoning Administrator, DCRA
1100 Fourth Street SW, Room 3102
Washington, DC 20024

Re: Notice to ZA of Potential Zoning Violation (1242 H Street NE)

Dear Mr. Le Grant,

At a properly noticed¹ special meeting on October 24, 2013, our Commission voted 5-2 (with five Commissioners required for a quorum) to advise you that the operators/owners of 1242 H, which just opened for the first time, may be in violation of DC zoning laws and of the H Street Overlay in particular.

You may remember that you advised the builder, IS Enterprises, that they would require variances. Specifically:

BZA #17968. (Area Variance) pursuant to 11 DCMR §3103.2, for a variance from the non-residential floor area ratio requirements under subsection 1321.2, and a variance from ground floor level ceiling height requirements under subsection 1324.12, to allow the construction of a new commercial (retail/office) building in the HS (H Street Housing Sub-District Overlay)/C-2-A District, at premises 1242 H Street, N.E. (Square 1003, Lot 22).

The matter was taken up by the BZA, and ANC 6A responded with a resolution of opposition to the proposal. The owner withdrew his application. You may remember construction at the site had several issues requiring attention by DCRA. Exterior construction has continued at the rear of the structure, and so total lot occupancy may have changed.

We were surprised to find the upper two levels may be available for use as a bar, since that had been explicitly prohibited by your office. The recent opening was the public's first

¹ ANC 6A meetings are advertised electronically on the anc6a-announce@googlegroups.com, ANC- 6A and NewHillEast yahoo groups, on the Commission's website, and through print advertisements in the *Hill Rag*.

chance to view the upper floors. It has taken years to put the space to use, so this is the first opportunity to see that there may be zoning problems and alert your office.

Attached are notes from our Zoning Committee discussion which formed the basis of the ANC's opposition.

Please tell us if the developer built the way he wanted without reference to the requirements of zoning and the Overlay, or if the zoning regulations have been adhered to.

Dan Golden and I are authorized to represent the ANC in this matter. I can be reached at David.Holmes@anc.dc.gov.

For the Commission,

A handwritten signature in black ink that reads "David Holmes". The signature is written in a cursive, flowing style.

David Holmes
Chair



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ANC 6A, Economic Development and Zoning Committee, 8-19-2009

Taken from the minutes:

1242 H St., IS Enterprises

The owner wishes to build a 4 story building at 1242 H Street NE and is looking for a variance due to the small size of the lot – 17' 6" x 72'.

1.
The requirement for 14' ceiling on the first floor requires that they also put a landing on each floor. The landing would use up to about 30% of the first floor. Owner would like to get as much usable space out of the first floor so is asking for a ceiling height of less than 14'. Requesting 10' 6" ceiling height on 1st floor.
2.
The owner wishes to configure the building for more than one tenant. A corridor would separate the stairs from the rest of the first floor.
3.
The ground level is likely to be professional services offices. 2nd through 4th floor would be professional offices for the owner's development company and his general counsel.
4.
No residential use.
5.
The plan for the building incorporates some environmentally friendly aspects such as solar panels, green roof, and use of local/recycled bricks, energy efficient windows. The plan calls for high quality construction to allow the building to last for a 100-year lifespan. The building would not be LEED certified.

Increase the usable floor space.

1.
Elevator would require stairs anyway
2.
Can't move stairs closer to the front of the building due to fire control room. The fire control room must be accessible from a common area.

Design Issues

1.
Front is brick to maintain the look of the neighborhood. Design breaks the monotony and massing with windows. There is a roof deck at the top floor of the building.
2.
Rear is hardie plank siding.
3.
Uniform casement windows.

In general, the committee commented that the design was not in keeping with the rest of H Street.

1.
All the other structures on the block are 2 stories
2.
The design of the front does not reflect any of the architectural elements found on H Street. No historical elements, windows are modern looking instead of having the shape/style of other windows seen along H Street.

Zoning Issues

1. Current zoning for the location calls for ground floor retail with residential above.

2.
H Street Overlay/arts district modifies underlying C-2-A zoning. Meant to create an incentive for better retail space.

3.
C-2-A zoning—base zoning
a. 1.5 FAR for non residential
b. maximum of 2.5 FAR
c. 50' height restriction
d. 60% lot occupancy for residential
e. 15' rear yard

4.
H Street Overlay modifications –supersedes base zoning
a. Residential – 70% lot occupancy
b. Non-residential FAR 1.0

5.
They are asking for
a. 3.0 FAR
b. Not provide 14' ceilings on ground floor for retail

6.
Procedural issues
a. Need zoning relief to base zoning in addition to variance to overlay
b. Application doesn't request the relief needed.
c. In addition, we have seen DCOZ allow zoning variances on FAR