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Manager, Policy Branch, Policy Planning and Sustainability Administration
DC Department of Transportation
55 M Street, SE, 5th floor
Washington, DC 20003

Subject: Comments on proposed regulations concerning signs in Designated Entertainment Areas

Dear Ms. Kelly:

The Capitol Hill Restoration Society (CHRS) offers comments on the proposed regulations on signs in Designated Entertainment Areas. Our comments, filed before the deadline of May 13, 2015, follow:

Comments

Signs are a land-use issue and should be regulated by the Zoning Commission

Sign regulation is a land use issue and should be considered in the upcoming revisions to the Comprehensive Plan. Moreover, in most cities, signs are treated as a zoning matter, where there are larger considerations of compatibility with other land uses, context, effect on residents, and public processes to ensure that affected communities have notice and opportunity to comment on changes that will affect their quality of life. In DC, sign control has largely been inappropriately relegated to a matter of permitting

by the DC Department of Consumer and Regulatory Affairs (DCRA), is not subject to public scrutiny, and permission to erect signs is granted as a matter of right. At the same time, numerous provisions in DCMR titles 11 (Zoning) and 10C (Historic Preservation) deal with signs, creating problems of overlap, redundancy and other anomalies. We strongly recommend, however, that DDOT and the other agencies concerned give serious consideration to correcting the more fundamental problem: the substantial divorce of sign control from the main body of land use regulation that falls under the authority of the Zoning Commission. Therefore, we urge that sign regulations be placed under the jurisdiction of the Zoning Commission, and that vehicular traffic safety and compliance with the Highway Beautification Act remain with DDOT. If, however, sign regulation remains under the jurisdiction of DDOT, major changes in process and substantive standards are needed in order to provide meaningful community notice and participation.

<u>DEAs must be approved by the Council after meaningful notice and input from affected communities</u>

A DEA is "a destination venue that provides a concentrated number of venues for events, performances, or activities designed to entertain others." 13 DCMR 9900.1. H Street, NE has a theater, a nightclub, multiple restaurants with live entertainment, and a street festival attracting thousands of people. Therefore, H Street, NE, which is not in a historic district, is a potential DEA. Variable message signs (signs with a changing message, including digital signs and full-motion video signs) are allowed in a DEA. 13 DCMR 9900.1, 906.2. Designating H Street as a DEA would open the door to digital signs which would harm the commercial area and nearby residential areas. CHRS opposes DEA designation for H Street, NE, because the signs allowed in a DEA would be detrimental to our neighborhood.

Reforms in the process to designate DEAs are needed. The procedure to designate a DEA is:

> Other areas the Mayor designates [as a DEA] as a result of a process determined by the Mayor which shall include consultation with the Office of Planning, the Department of Consumer and Regulatory Affairs (DCRA), the District Department of Transportation (DDOT), the appropriate Advisory Neighborhood Commissions (ANCs), and appropriate federal agencies if required based on the location of the proposed DEA.
> 13 DCMR 900.2(e)

Under the proposed regulations, the mayor totally controls the process, which would have some kind of "consultation" with the ANC. Because the impact of digital signs on a neighborhood would be significant and long-lasting, the Council (and not the Mayor) should approve any DEA.

The process to approve signs within a DEA must be changed to provide meaningful notice about sign permit applications and input from affected communities

The proposed regulations do not require notifying the ANC about a digital sign permit application unless the sign is a motion or moving image sign. 13 DCMR 905.7, 906.10, 9901.1 Thus, the ANC would not need to be notified of a digital sign "that is internally illuminated and displays static images or variable messages on an alternating basis." 13 DCMR 9900.1. This type of digital sign is intrusive. The ANC must be notified in advance regarding permit applications for all digital signs, not just signs with motion or moving images, and given the opportunity to comment on the size and placement of these signs.

The substantive requirements for sign permit applications fail to protect the interests of communities

No sign permit should be issued unless the applicant proves that the sign will have no adverse impact on the character or integrity of the DEA or adjacent neighborhood

Compelling applicants to prove no adverse impact is a critical protection missing from the requirements to obtain a sign permit in a DEA. Under 13 DCMR 905.8(b), an applicant must prove no adverse impact only if the Office of Planning (OP) reports an adverse impact. The ANC and the public, which will experience any adverse impact, must have the right to raise adverse impact from signs on the adjacent neighborhood (and not just the immediately adjacent neighborhood). In addition, the applicant must always be required to affirmatively prove that the sign will have no adverse impact.

Applicants must be required to prove that no signs or light reflected from signs will be visible from residential areas or office buildings.

The regulations must provide that no part of any electronic sign or the light it transmits will be visible from any area zoned for residential use. Applicants for permits should be required to include sight line studies in the permit application (not currently required in 13 DCMR 904.1). The provisions in 13 DCMR 906.5 and 906.8 are subjective and provide inadequate protection for homeowners or tenants living near H Street, NE.

No signs on roofs

The proposed regulations would allow signs on roofs up to the lesser of (1) the permitted height limit of the zoning district in which the sign is placed or (2) ninety feet (90 ft.). 13 DCMR 906.5. Most buildings on H Street, NE are two and three stories. The H Street Overlay Zone permits heights of four to eight stories in certain

areas of H Street.[1] Thus, signs on roofs would be permitted. CHRS opposes all roof signs, because they will blight our neighborhood.

All permits issued for signs must have a specified expiration date, and after expiration a new permit application must be required in order for any sign to remain.

Enforcement

DCRA would be responsible for enforcement of the sign regulations for signs on private property, and DDOT would be responsible for enforcement for signs in public space. 13 DCMR 901.1, 601, 701. CHRS suggests that residents affected by violations of the sign regulations be provided with a private right of action, to sue for enforcement in DC Superior Court.

Thank you for the opportunity to submit comments on the proposed regulations.

Sincerely,

Lisa Dale Jones
President

cc:
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[1]H Street NE Neighborhood Commercial Overlay Zone District, 11 DCMR 1320:
Most of H Street is zoned C-2-A that allows a maximum building height of 50 feet. Four specific large lots that could accommodate greater density were rezoned from C-2-A to C-2-B allowing a height of 65 feet. The Overlay requires that development of any lot containing more than 6,000 square feet be approved through a special exception process. That process requires that the project be consistent with the criteria specified in the H Street Design Guidelines (11 DCMR 1324) that establish height criteria for different types of development. The Design Guidelines specify three types of development:
Type I: 4 to 8 stories
Type II and Type III: 2 to 4 stories
The Overlay also provides height bonuses to encourage ground level retail. A bonus of five feet of building height is available for developments that provide a minimum clear floor–to-ceiling height of 14 feet for the ground floor level. 11 DCMR 1324.13.

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