



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of January 27, 2007

DATE: January 18, 2007

SUBJECTS: Request to Advertise public hearings at the Planning Commission meeting on February 12, 2007 and the County Board meeting on February 24, 2007, and to consider the following actions related to previously approved Site Plan #138 which had been applied for by Views of Clarendon Corporation and First Baptist Church of Clarendon:

- A. An Ordinance (Attachment A) to amend, reenact and recodify Section 27A. "C-R" Commercial Redevelopment Districts of the Arlington County Zoning Ordinance to:
 - 1) Confirm through clarifying language the County Board's discretion in rezoning property to "C-R";
 - 2) Confirm through clarifying language that the County Board, by site plan, may vary requirements of "Subsection F. Physical Requirements", pertaining to compatible exterior appearance of buildings adjacent to residential areas; and
 - 3) Confirm through clarifying language the County Board's authority to modify regulations, by site plan, regarding density and the by-right height and tapering requirements.
- B. A General Land Use Plan Amendment (Attachment B) from "Semi-Public" (Country clubs and semi-public recreational facilities, churches, private schools and private cemeteries) to "Medium Density Mixed-Use" (Up to 3.0 F.A.R. with special provisions for additional density within the "Clarendon Revitalization District" and the "Special Coordinated Mixed Use District" for the East End of Virginia Square) for the northern portion of the block bordered by North Highland Street, North Hartford Street, and 13th Street North in the Clarendon Metro station area.

County Manager: _____

County Attorney: _____

Staff: Colleen Connor, DCPHD, Planning Division
Freida Wray, DCPHD, Planning Division
David Cristeal, DCPHD, Housing Division

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- C. A rezoning for premises known as 1301 N. Hartford and 1210 N. Highland St. (RPC# 15070PEA, which includes #15070001 and #15070002) from “C-3” General Commercial Districts and “R-5” One-Family, Restricted Two-Family Dwelling Districts to “C-R” Commercial Redevelopment Districts (Attachment C).
- D. A site plan application for 116 dwelling units, including 70 affordable dwelling units, a parking garage, a church with a maximum capacity of 450 seats, and an educational building for premises known as 1301 N. Hartford Street and 1210 N. Highland St. (RPC# 15070PEA, including #15070001 and #15070002).

C.M. RECOMMENDATIONS:

Adopt the attached resolution authorizing advertisement of public hearings by the Planning Commission on February 12, 2007 and the County Board on February 24, 2007 to consider the following:

- 1) Adopting an ordinance to amend, reenact, and recodify the Zoning Ordinance Section 27A. “C-R” Commercial Redevelopment Districts to clarify the County Board’s discretion in rezoning property to “C-R”; to allow the County Board, under site plan, to vary requirements of Subsection F. Physical Requirements pertaining to compatible exterior appearance of buildings adjacent to residential areas; and to clarify the County Board’s authority to modify regulations, by site plan, regarding density and the by-right height and tapering requirements;
- 2) Amending the General Land Use Plan from “Semi-Public” to “Medium Density Mixed-Use” for the northern portion of the block bordered by North Highland Street, North Hartford Street, and 13th Street North in the Clarendon Metro station area;
- 3) Rezoning the property bounded by North Highland Street, North Hartford Street, and 13th Street North (RPC# 15070PEA, including #15070001 and #15070002) in the Clarendon Metro station area from “C-3” and “R-5” to “C-R”; and
- 4) Approving site plan application for 116 dwelling units, including 70 affordable dwelling units, a parking garage, a church with a maximum capacity of 450 seats, and an educational building for premises known as 1301 N. Hartford Street and 1210 N. Highland St. (RPC# 15070PEA, including #15070001 and #15070002).

ISSUES: The need to reaffirm the long-standing authority of the County Board in response to a Supreme Court interpretation of the County Board’s Zoning Ordinance.

SUMMARY: In recommending the above actions, two issues are at stake: 1) the County Board’s long standing interpretation and practice under its own Zoning Ordinance and 2) the approval of a major affordable housing project and preservation of a vital childcare facility at a

Metro location. The issues grew up from the 2004 County Board approval of a General Land Use Plan (GLUP) amendment, rezoning, and a site plan application for a mixed-use affordable housing development on the First Baptist Church site in Clarendon. The Virginia Supreme Court subsequently ruled that the County Board's action was in conflict with a technical provision of the County Board's own Zoning Ordinance relating to rezonings. The Supreme Court's interpretation of the Zoning Ordinance language was never the intent of the County Board and the proposed actions that are the subject of the recommended advertisement would remove any ambiguity regarding the County Board's intent in the Zoning Ordinance. Specifically, the amendments would make clear that the County Board can rezone property designated as "medium density mixed-use" to "C-R" without regard to the existing zoning. The Supreme Court interpreted the current language as requiring that the property be both designated as "medium density mixed-use" and already have a zoning of "C-3".

Staff analyzed other elements of the Zoning Ordinance that were not addressed by the Supreme Court but that could be misinterpreted. Clarification to these sections is also recommended for advertisement. These amendments would confirm that the County Board may modify, through its consideration and adoption of a site plan, zoning requirements related to the exterior appearance of buildings adjacent to residential areas, density, and height. The ability to make such modifications is at the core of the site plan process, which is designed and has always been used to enable the County Board to get a better project through the extensive public review of site plan and as part of a comprehensive set of site plan conditions that are designed to meet the needs of the community.

Finally, staff has also reassessed the previous rezoning and site plan for potential technical challenges in court that would further delay and jeopardize the affordable housing effort. We recommend that the County Board advertise the GLUP Amendment, rezoning and site plan application (to consider them under the revised Zoning Ordinance language outlined above) and recommend that the County Board advertise a modification to the rezoning that would make more explicit that the density previously approved is permitted.

None of the above advertisements would result in any changes from what the County Board has always considered its authority to be under the Zoning Ordinance. This is a confirmation of authority that the County Board has exercised in other projects.

With regard to the site plan project itself, none of the above advertisements physically changes any elements of the site plan previously approved by the County Board, including the provision of affordable housing and retention of an important community childcare center. The specifics of the project were thoroughly examined through a series of citizen and commission meetings. The previously approved project offered a rare opportunity to obtain 70 affordable dwelling units in immediate proximity to a Metro Station. The adjacent day care center serves 185 children and is considered a vital community asset. This site plan not only preserves the center but also retains its current building, which will continue to provide an appropriate transition from the new building to the single-family neighborhood.

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FINANCIAL IMPACT: When this project was approved in 2004, the County Board authorized an AHIF loan for up to \$4.5 million to support the 70 on-site affordable units. The AHIF funds would supplement the other sources of funding to build the project (total project costs of \$36.6 million). Primarily because of the two-year delay, the Views at Clarendon Corporation, the non-profit developer, is requesting an additional \$2.1 million in AHIF. This additional request is due to an increased overall project budget of \$48.7 million. The cost increases of the project are associated with increases in the cost of construction that have occurred over the past two years in addition to the need for a completion guaranty from a development partner. In addition to the request for an increase in AHIF, the developer will apply for additional Low-Income Housing Tax Credits (LIHTC), state funding and private grants to cover the remainder of the cost increases.

BACKGROUND: On October 23, 2004, the County Board approved the following for the First Baptist Church site in Clarendon: a GLUP amendment from “Semi-Public” to “Medium Density Mixed-Use” for the southern portion of the block bordered by North Highland Street, North Hartford Street, and 13th Street North; a rezoning from “C-3” and a portion of “R-5” to “C-R” for the area changed to “Medium Density Mixed-Use”; and a site plan application for a residential building containing 116 dwelling units, including 70 affordable dwelling units, a parking garage, a church with a maximum capacity of 450 seats, and an educational building to house a child development center.

Prior to the County Board’s approval, the specifics of the project were thoroughly examined through a series of citizen and commission meetings. The community process included:

- Site Plan Review Committee: Three meetings (May 13, 2004; May 25, 2004; and, June 8, 2004).
- Historic Affairs and Landmark Review Board: Three meetings.
- Planning Commission: Three meetings (June 28, 2004, September 20, 2004, and October 19, 2004).
- Transportation Commission: Two meetings (June 24, 2004, and October 20, 2004).
- Housing Commission: One meeting (October 12, 2004).
- Roundtable Process: Four meetings (August 17, 2004; August 24, 2004; August 31, 2004; and, September 11, 2004).
- County Board: The County Board initially heard the requests on July 14, 2004. The County Board deferred the requests to the October 2, 2004 meeting, and directed staff to conduct a roundtable process to receive further input from community stakeholders. The proposal was deferred again to the October 23, 2004 County Board meeting, when the requests were acted upon.

Subsequently, a lawsuit was filed regarding this project. As a result of the court case, the Virginia Supreme Court ruled that the Zoning Ordinance language for the purpose paragraph of Section 27A., “C-R” Commercial Redevelopment Districts, that refers to the type of properties that may be zoned “C-R” does not permit the rezoning to “C-R” of the “R-5” portion of the

property. An amendment to the County's Zoning Ordinance language is being proposed for the purpose paragraph of the "C-R" District " in order to clarify that the County Board never intended to limit its discretion in rezoning property to "C-R". The Virginia Supreme Court's decision in the case was based on a technicality that will be remedied by the proposed amendment to the Zoning Ordinance. Other proposed changes are adjustments to make the County Board's existing authority more explicit in the Zoning Ordinance.

In addition to ensuring that the Zoning Ordinance is consistent with the County Board's intentions regarding its discretion in re-zoning property to "C-R;," the proposed Zoning Ordinance amendment is intended to clarify that the County Board, under site plan, may vary the requirements of Subsection F. Physical Requirements pertaining to the compatibility of the exterior appearance of buildings adjacent to residential areas; and to clarify the County Board's authority to modify regulations under site plan regarding density, and the by-right height and tapering requirements. This has always been the County Board's intent and practice-

The impact of the proposed Zoning Ordinance changes would be limited to a single zoning district, "C-R". The changes reflect the flexibility needed to achieve important community benefits within walking distance of the Metro.

Because the court decision did not address the substance of the County Board's approval of the rezoning or the site plan but the validity of the site plan and rezoning approvals, staff also recommends that the County Board advertise public hearings on the previously approved site plan application and rezoning. The re-advertisement for the site plan is for exactly the same project as the one previously approved: a residential building containing 116 dwelling units, including 70 affordable dwelling units, a parking garage, a church with a maximum capacity of 450 seats, and an educational building.

The rezoning request for the site plan is from "C-3" and "R-5" to "C-R," so that the County Board may reconsider this rezoning under the amended ordinance. The one change that may be perceived as substantive is rezoning the entire block from "R-5" to "C-R". This was requested originally by the applicant and considered as part of the previous process and does not change the project. Modifications, however, eliminate any ambiguity on whether the proposed density is explicitly consistent with the underlying zoning. Both the previously approved site plan and the rezoning application would be considered under the newly revised Zoning Ordinance language clarifying the County Board's discretion in rezoning to "C-R," as discussed above.

The site plan project is an opportunity to achieve two critical policy goals of the County: adding to the stock of Metro-accessible affordable housing and preserving a quality day care center in the Metro corridor.

The previous General Land Use Plan change from "Semi-Public" to "Medium Density Mixed-Use" for a portion of the block was not affected by the Court's ruling. However, consistent with the original site plan proposal and the request by the applicant, and the proposed advertisement

to rezone the entire block to “C-R”, staff recommends that the County Board authorize advertising a proposed General Land Use Plan Amendment from “Semi-Public” to “Medium Density Mixed-Use” for the northern portion of the block that remained “Semi-Public.”

CONCLUSION: Therefore, it is recommended that the County Board authorize the advertisement of public hearings to consider the proposed Zoning Ordinance Amendments, General Land Use Plan amendment, the rezoning, and the site plan application for public hearings at the Planning Commission meeting on February 12, 2007, and the County Board meeting on February 24, 2007. A separate report will be included on the February County Board agenda with a recommendation to authorize additional AHIF for the affordable housing element of the proposed site plan.

RESOLUTION TO AUTHORIZE ADVERTISEMENT OF PUBLIC HEARINGS AT THE FEBRUARY 12, 2007 PLANNING COMMISSION MEETING AND THE FEBRUARY 24, 2007 COUNTY BOARD MEETING FOR THE FOLLOWING:

1) AN ORDINANCE TO AMEND, REENACT AND RECODIFY THE ZONING ORDINANCE SECTION 27A. “C-R” COMMERCIAL REDEVELOPMENT DISTRICTS TO: CLARIFY THE COUNTY BOARD’S DISCRETION IN REZONING PROPERTY TO “C-R”; TO CLARIFY THAT THE COUNTY BOARD MAY, THROUGH SITE PLAN, VARY REQUIREMENTS OF SUBSECTION F. PHYSICAL REQUIREMENTS PERTAINING TO COMPATIBLE EXTERIOR APPEARANCE OF BUILDINGS ADJACENT TO RESIDENTIAL AREAS; AND TO CLARIFY THE COUNTY BOARD’S AUTHORITY TO MODIFY REGULATIONS, THROUGH SITE PLAN APPROVAL, REGARDING DENSITY AND THE BY-RIGHT HEIGHT AND TAPERING REQUIREMENTS, (AS SHOWN IN ATTACHMENT A);

2) A GENERAL LAND USE PLAN AMENDMENT FROM “SEMI-PUBLIC” TO “MEDIUM DENSITY MIXED-USE” FOR THE NORTHERN PORTION OF THE BLOCK BORDERED BY NORTH HIGHLAND STREET, NORTH HARTFORD STREET, AND 13TH STREET NORTH IN THE CLARENDON METRO STATION AREA (AS SHOWN IN ATTACHMENT B);

3) A REZONING FROM “C-3” GENERAL COMMERCIAL DISTRICTS AND “R-5” ONE-FAMILY, RESTRICTED TWO-FAMILY DWELLING DISTRICTS , TO “C-R” COMMERCIAL REDEVELOPMENT DISTRICTS FOR PREMISES KNOWN AS 1301 N. HARTFORD AND 1210 N. HIGHLAND ST. (RPC# 15070PEA, INCLUDING #15070001 AND #15070002) (AS SHOWN IN ATTACHMENT C);

4) A SITE PLAN APPLICATION FOR 116 DWELLING UNITS INCLUDING 70 AFFORDABLE DWELLING UNITS, A PARKING GARAGE, A CHURCH WITH A MAXIMUM CAPACITY OF 450 SEATS, AND AN EDUCATIONAL BUILDING FOR PREMISES KNOWN AS 1301 N. HARTFORD STREET AND 1210 N. HIGHLAND ST. (RPC# 15070PEA, INCLUDING #15070001 AND #15070002).

The County Board of Arlington County hereby resolves that public hearings should be advertised for the February 12, 2007 Planning Commission meeting and the February 24, 2007 County Board meeting to consider the following:

1) An Ordinance to amend, reenact and recodify the Zoning Ordinance Section 27A. “C-R” Commercial Redevelopment Districts to clarify the County Board’s discretion in rezoning property to “C-R” including property zoned “R-5”, to clarify that the County Board, through site plan approval, may vary requirements of Subsection F. Physical Requirements pertaining to compatible exterior appearance of buildings adjacent to residential areas; and to clarify the County Board’s authority to modify regulations through site plan approval, regarding density

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and the by-right height and tapering requirements (as shown in Attachment A), which amendments will: facilitate the creation of a convenient, attractive, and harmonious community; protect against destruction of or encroachment upon historic areas; encourage the creation and retention of affordable housing; and for other reasons required by the public necessity, convenience, general welfare and good zoning practice;

2) A General Land Use Plan Amendment from “Semi-Public” to “Medium Density Mixed-Use” for the northern portion of the block bordered by North Highland Street, North Hartford Street, and 13th Street North in the Clarendon Metro station area (as shown in Attachment B).

3) A zoning change from “C-3” General Commercial Districts and “R-5” One-Family, Restricted Two-Family Dwelling Districts to “C-R” for premises known as 1301 N. Hartford and 1210 N. Highland St. (RPC# 15070PEA, including #15070001 and #15070002) (as shown in Attachment C);

4) A site plan application for 116 dwelling units including 70 affordable dwelling units, a parking garage, a church with a maximum capacity of 450 seats, and an educational building for premises known as 1301 N. Hartford Street and 1210 N. Highland St. (RPC# 15070PEA, including #15070001 and #15070002).

ATTACHMENT A

SECTION 27A. "C-R" COMMERCIAL REDEVELOPMENT DISTRICTS

The purpose of the "C-R" classification is to encourage medium density mixed-use development; to recognize existing commercial rights; and to provide tapering of heights between higher density office development and lower density residential uses. The district is designed for use in the vicinity of the metrorail stations ~~and, to be eligible for the classification, a site shall be located within an area on property~~ designated "medium density mixed-use" ~~and zoned "C-3" on the General Land Use Plan.~~

* * *

I. Site Plans.

The county board may approve site plans, as specified in subsection 36.H., and may vary the requirements of subsections D., E., ~~F.~~, G. and H. above. Under site plans, the following regulations shall apply **unless modified by the County Board:**

1. *Density:* **Except as modified by the County Board in accordance with Section 36.H. of the Zoning Ordinance** ~~T~~ the following sets forth the maximum densities which may be approved:

~~The ratio of floor area to land area shall not exceed the following, except as set forth in subsection 1.a. below:~~

Site Area	Maximum Total F.A.R.	Maximum Office F.A.R.
20,000--29,999 square feet	2.0	2.0
30,000--39,999 square feet	3.0	3.0
40,000 square feet and above or full block	4.0	3.0

- a. In addition, ~~T~~ to encourage appropriate consolidation of property for site plans (that ~~which~~ include an entire block), an additional 0.25 F.A.R. office may be approved and the residential density may be reduced to 0.75 F.A.R.

~~[b. — Reserved.]~~

2. *Height:*

- a. ~~When a site plan includes an entire block, the office height may be approved to exceed the standard height by no more than one (1) story or fifteen (15) feet. If a site plan is approved consisting of additional office height, the residential height shall be reduced by ten (10) feet.~~
- b. ~~When a site plan preserves a building which is designated as a contributing building eligible for preservation in an adopted revitalization district and in accordance with subsection D.2. above, the height taper requirements set forth in subsection D.1. above may be~~

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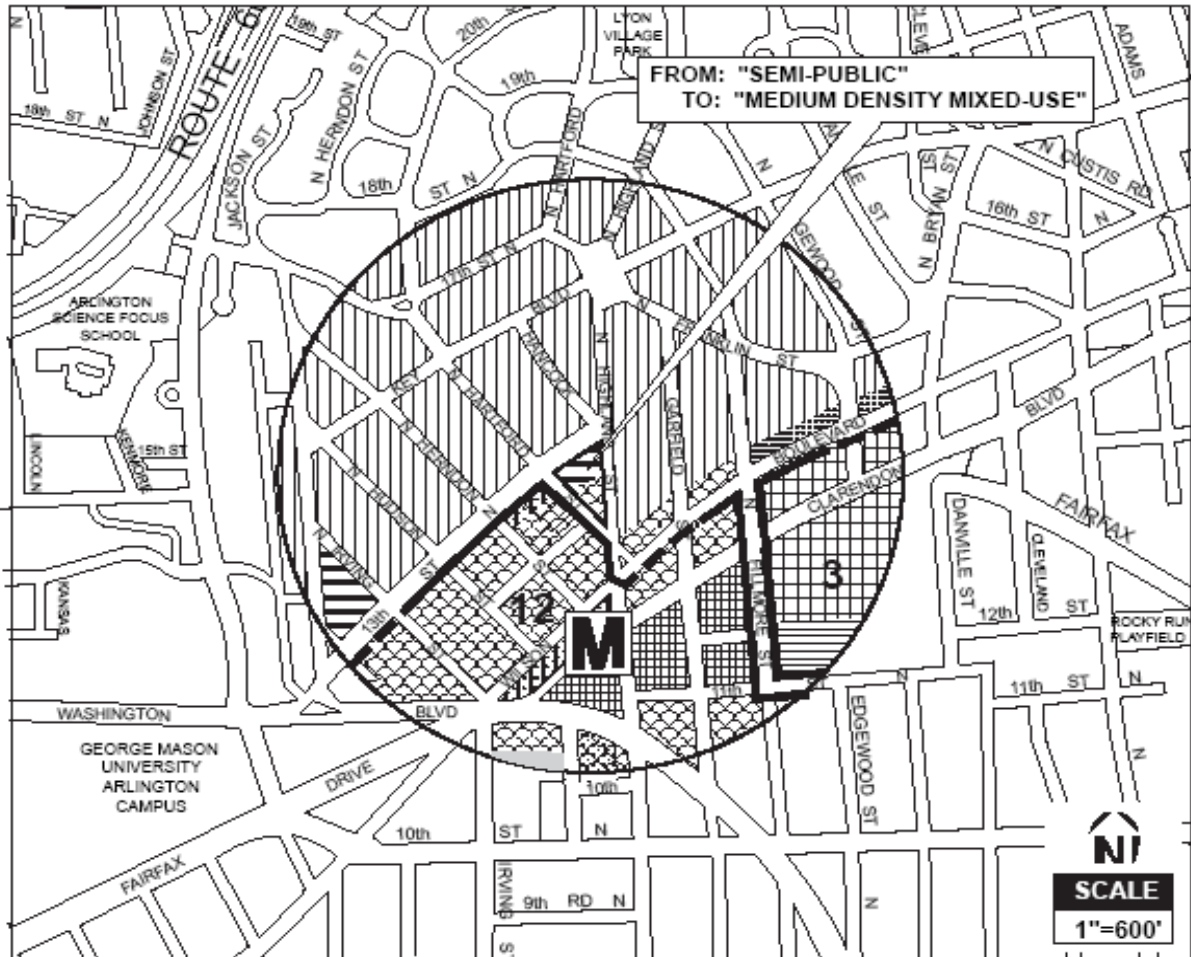
modified by the county board.

- c. ~~Under no circumstances shall the height of any building exceed one hundred twenty five (125) feet and under no circumstances shall a penthouse height extend more than fifteen (15) feet above the one hundred twenty five foot height limit.~~

The by-right height and tapering requirements may be modified by the County Board in accordance with Section 36. H. of the Zoning Ordinance. In addition, when a site plan preserves a building which is designated as a contributing building eligible for preservation in an adopted revitalization district and in accordance with subsection D.2. above, the height taper requirements set forth in subsection D.1. above may be modified by the County Board. Under no circumstances shall the height of any building exceed one hundred twenty-five (125) feet and under no circumstances shall a penthouse height extend more than fifteen (15) feet above the one hundred twenty-five-foot height limit.

* * *

Attachment B



Request to Advertise: General Land Use Plan Amendment

RESIDENTIAL



LOW _____ up to 1-10 Units per acre



LOW _____ up to 11-15 Units per acre



PUBLIC



SEMI-PUBLIC



SERVICE COMMERCIAL:
Personal and business services.
Generally one to four stories.
Maximum up to 1.5 F.A.R.



MEDIUM DENSITY
MIXED-USE

OFFICE-APARTMENT-HOTEL



Office Density _____ up to 1.5 F.A.R. allow _____ up to 72units/acre _____ up to 110 units/acre



Apartment Density _____ up to 1.5 F.A.R. allow _____ up to 72units/acre _____ up to 110 units/acre



Hotel Density _____ up to 1.5 F.A.R. allow _____ up to 72units/acre _____ up to 110 units/acre



GOVERNMENT AND
COMMUNITY FACILITIES



Stippled areas indicate
current public ownership

NOTES: 3. This area shall be part of a "Special Coordinated Mixed-Use District" (East Clarendon, 7/13/82)
12. This area was designated the "Clarendon Revitalization District" on 7/7/90 & 2/28/06.

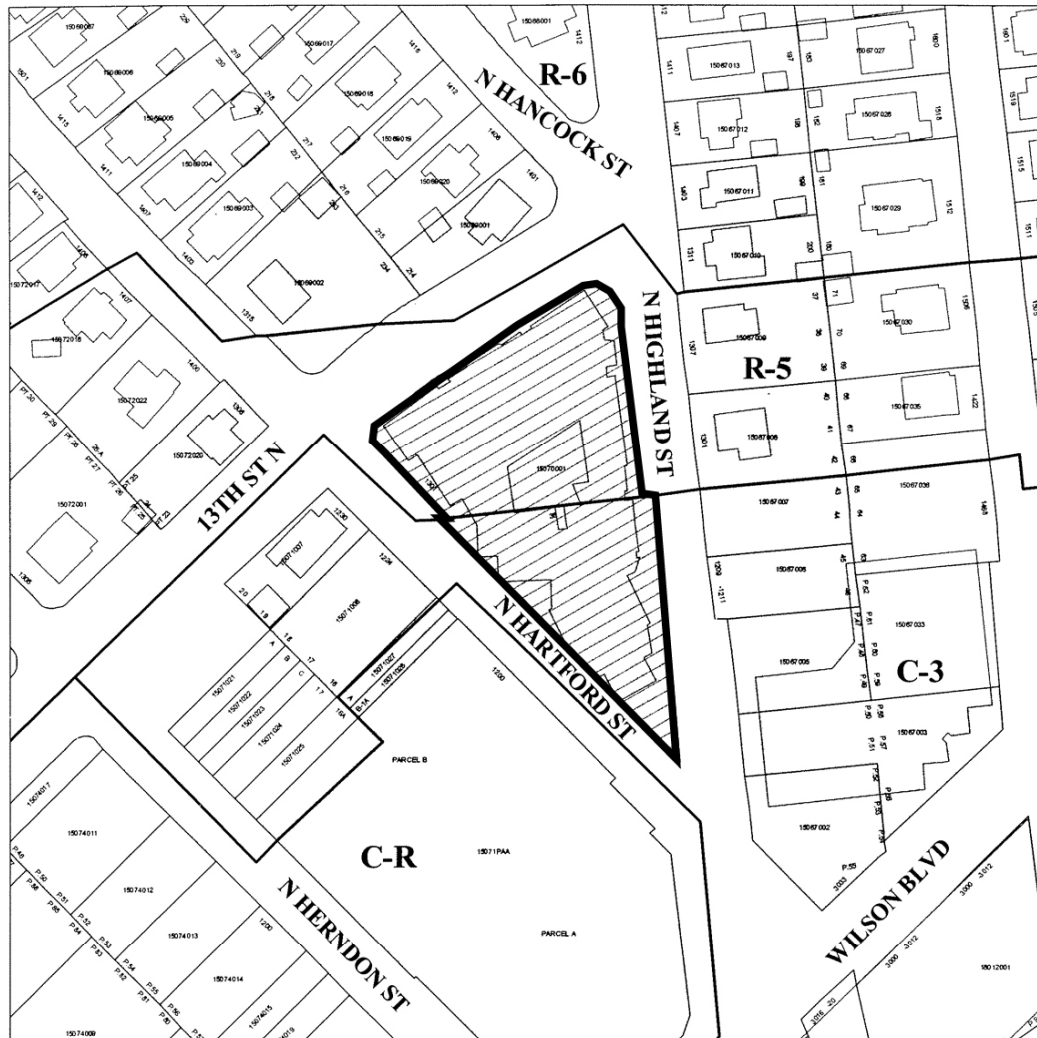
DCPHD • Planning Research Analysis and Graphics Section

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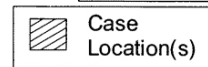
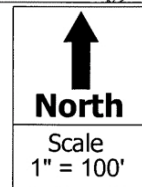
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ATTACHMENT C



Request to Advertise: Rezoning and Site Plan
1210 N. Highland Street and 1301 N. Hartford St.
(RPC #15-070-PEA - Including RPC #15-070-001 and -002)
Rezoning from "C-3" and "R-5" to "C-R"



NOTE: These maps are for property location assistance only. They may not represent the latest survey, and other information.

Department of Community Planning, Housing and Development • Planning Division

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