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**City of Rochester, NY  
Rochester City Council**

City Hall Room 301A • 30 Church Street • Rochester, New York 14614-1290

**Adam C. McFadden** Council Vice-President, South District  
Email: Adam.McFadden@cityofrochester.gov

NEIGHBORHOOD &  
BUSINESS DEVELOPMENT  
PRODUCTORY NO.

93, 94

RECEIVED  
CITY OF ROCHESTER  
CLERK/COUNCIL OFFICE

2018 MAR -6 PM 3: 00

March 6, 2018

TO THE COUNCIL

Ladies and Gentlemen:

Re: Amending Chapter 120 of the Zoning Code by  
Adding the Overlay Limited-Height District

Council Priority: Rebuilding and Strengthening  
Neighborhood Housing

Transmitted herewith for your approval is an ordinance amending the Zoning Code by adding the Overlay Limited-Height District (O-LH) that will limit the height of new construction to a maximum of three stories. The Overlay District is intended to be placed over or adjacent to certain C-1 Neighborhood Center District areas that are not suitable for buildings exceeding three stories.

Nearly all C-1 zoned properties in the City face neighborhood arterial streets in the front and R-1 Low Density or R-2 Medium Density zoned residential properties in the back. Proximate to lower density residential areas requires C-1 zoned establishments to be unobtrusive and conducted at a scale and density compatible with the surrounding residential neighborhood. The same goes for R-3 High-Density Residential zoned areas located on arterials, which are proximate and similarly situated adjacent to lower density residential areas.

Prior to 2003, the Zoning Code set a maximum height of 40 feet for buildings in the C-1 district. The present Zoning Code that went into effect in 2003 eliminated that height limitation but restricts commercial and other nonresidential uses to a maximum floor area of 3,000 square feet. In most instances, that 3,000 square foot limit, without a height restriction, would tend to suffice as a means to restrict C-1 District establishments to a lower intensity and scale that is compatible with the surrounding neighborhood.

However, the present Zoning Code also provides for some C-1 uses where there is no comparable limit for maintaining compatibility with the surrounding neighborhood. The Zoning Code permits the following uses in the C-1 District without any limit on building floor area: single-family dwellings, apartments or other multifamily dwelling units when sharing a building with a permitted commercial use, live-work space, bed-and-breakfast establishments, and convents and rectories (Zoning Code §120-34). The same goes for the following uses that may be authorized by special permit: homeless residential facilities, hospices and residential care facilities (Zoning Code §120-35). Building heights in the R-3 District are limited to two times the width of the lot frontage (Zoning Code §120-29), which could allow for building heights that would be unsuitably obtrusive in some locations.

In some areas within or adjacent to the C-1 District, buildings of four or more stories would dwarf and place in the shadow the single-family and two-family homes that adjoin them and would generate traffic, parking demands, noise and other effects at a scale that is incompatible with the surrounding residential neighborhood. Reestablishing a height limit in a vulnerable area is necessary to ensure that the C-1 District and adjacent areas continue to be developed in a way that complements rather than detracts from the lower density residential neighborhoods that the C-1 District is intended to serve.

This Overlay District is proposed for that purpose and is first proposed to be applied to the C-1 District parcels located along the east side of Mt. Hope Avenue between Highland Park to the north and the C-V Collegetown Village District beginning at Cook Street to the south. See the attached map. These C-1 District parcels are suitable for the Overlay because they are near the unique features that are especially vulnerable to the aesthetic, traffic, parking and other adverse impacts associated with taller buildings: a narrow R-1 zoned residential neighborhood challenged by a persistent shortage of on- and off-street parking spaces; location across the street from Mt. Hope Cemetery, a property listed on the National Register of Historic Places and zoned O-S Open Space; and Highland Park located nearby to the north and east.

The enactment of this Overlay would give the Council the flexibility to extend the 3-story height limitation to additional C-1 and R-3 District areas in the future by means of a Zoning Map amendment.

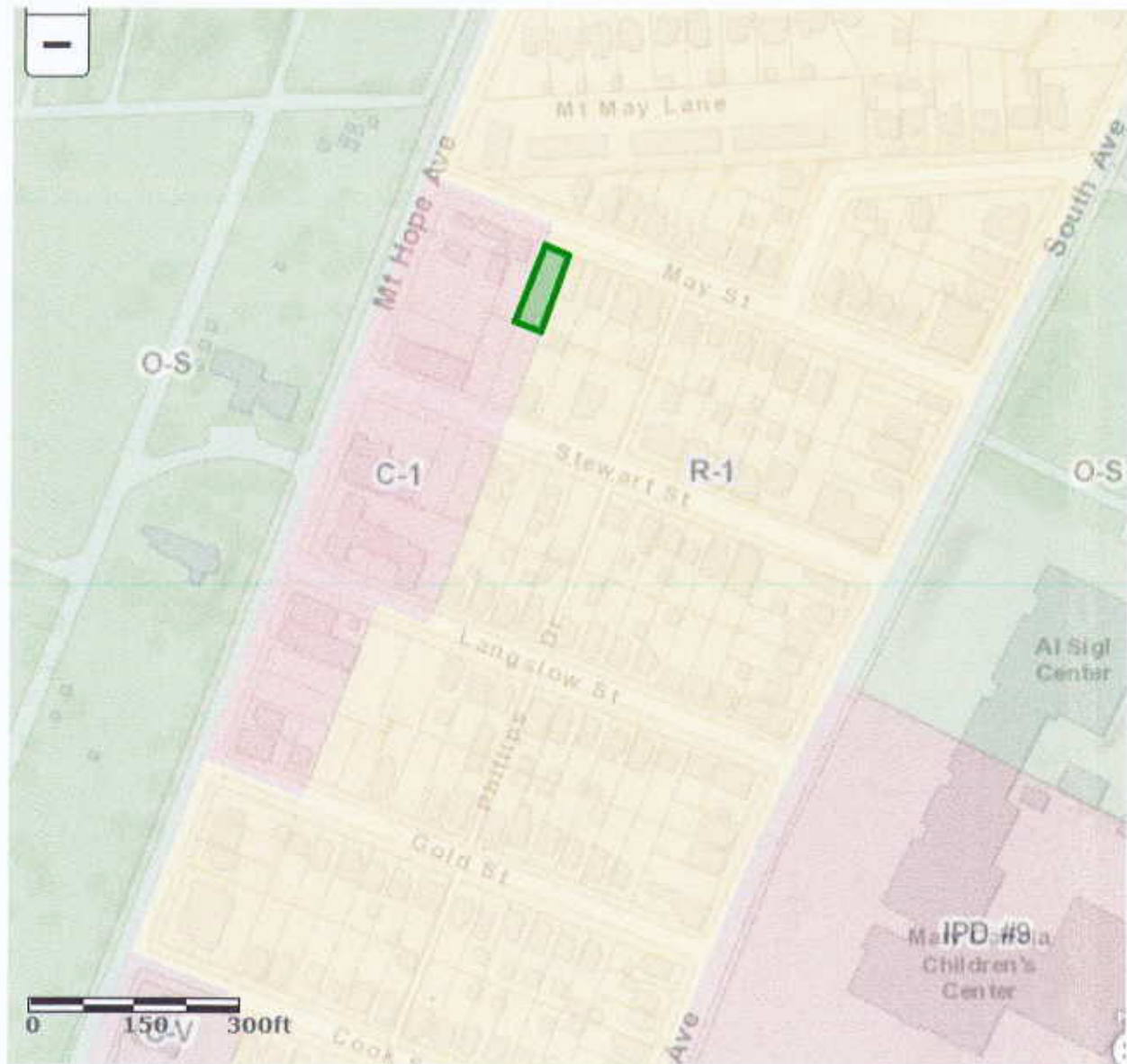
This proposal will be reviewed by the City Planning Commission on May 7, 2018, and a public hearing before the City Council will be required.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam C. McFadden', with a stylized, flowing script.

Adam C. McFadden  
Vice President

# Mount Hope Avenue C-1 Zoned Parcels proposed for Height Limit Overlay



## INTRODUCTORY NO.

93

Ordinance No.

### **Amending Chapter 120 of the Municipal Code, the Zoning Code, by adding the O-LH Overlay Limited-Height District**

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. Chapter 120 of the Municipal Code, Zoning Code, as amended, is hereby further amended by adding Article XV-A for the O-LH Overlay Limited-Height District, which shall read in its entirety as follows:

#### Article XV-A. O-LH Overlay Limited-Height District

##### § 120-118.1. Purpose.

The O-LH Overlay Limited-Height District protects City neighborhoods that are within or adjacent to the C-1 Neighborhood Center District that would be adversely impacted by taller buildings. It establishes a three-story limit on building heights for those C-1 District or adjoining areas where there is the presence or proximity of features that would be adversely affected by the aesthetic, traffic, parking demands, and other adverse impacts associated with taller buildings. Such features may include but are not limited to uses in the R-1 Low Density Residential and R-2 Medium Density Residential zoned districts, an O-S Open Space District, a Preservation District, a City-designated landmark, a property or structure listed on the State or National Register of Historic Places, a park, a critical environmental area as defined in §48-4 of the Municipal Code, or a residential area challenged by a persistent shortage of on- and off-street parking spaces. The O-LH District shall not be independently mapped on the City of Rochester Zoning Map but shall be overlaid upon an existing C-1 or R-3 District area that is found to be appropriate for such treatment.

##### § 120-118.2. Permitted uses and structures.

The uses and structures permitted in the O-LH District shall be the permitted uses allowed in the underlying district.

##### § 120-118.3. Special permit uses.

The uses and structures allowed as special permit uses in the O-LH District shall be the special permit uses allowed in the underlying district.

##### § 120-118.4. Lot, area and yard requirements.

The lot, area and yard requirements of the O-LH District shall conform to the underlying district.

##### § 120-118.5. Bulk requirements.

###### A. Building heights in the O-LH:

- (1) Minimum building height, principal use or structure: conforming to the underlying district.
- (2) Maximum building height, principal use or structure: three stories.
- (3) Maximum building height, detached accessory use or structure: conforming to the underlying district.

###### B. Square footage limitations on uses in the O-LH shall conform to the underlying district.



§ 120-118.6. Personal wireless telecommunication facilities (PWTF).

Personal wireless telecommunication facilities in the O-LH District shall be regulated as outlined in § 120-143, Personal wireless telecommunication facilities.

§ 120-118.7. Additional regulations.

The applicable City-Wide Design Guidelines and Standards (Article XIX) and Requirements Applying to All Districts (Article XX) in this chapter shall apply to all uses in the O-LH District.

Section 2. This ordinance shall take effect immediately.

## INTRODUCTORY NO.

94

Ordinance No.

**Amending Chapter 120 of the Municipal Code, the Zoning Code, by changing zoning classification of 1092, 1098, 1108, 1116, 1118-1120, 1132-1138, 1142, 1150, 1174, 1176, 1182, 1186-1188, 1190 and 1196-1200 Mt. Hope Avenue, 25 May Street, 20, 21, 24 and 25 Stewart Street and 10 Gold Street from C-1 Neighborhood Center District to C-1 Neighborhood Center/ O-LH Overlay Limited Height District**

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. Chapter 120 of the Municipal Code, Zoning Code and the Zoning Map incorporated therein, as amended, is hereby further amended by changing the zoning classification of the following parcels and area from C-1 Neighborhood Center District to C-1 Neighborhood Center/ O-LH Overlay Limited Height District:

<b>Address</b>	<b>SBL #</b>
1092 Mt. Hope Avenue	136.38-1-43
1098 Mt. Hope Avenue	136.38-1-76./HOME
1108 Mt. Hope Avenue	136.38-1-76./NHOM
1116 Mt. Hope Avenue	136.38-1-75
1118-1120 Mt. Hope Avenue	136.38-1-74
1132-1138 Mt. Hope Avenue	136.46-1-1
1142 Mt. Hope Avenue	136.46-1-61
1150 Mt. Hope Avenue	136.46-1-60
1174 Mt. Hope Avenue	136.46-1-59
1176 Mt. Hope Avenue	136.46-1-58
1182 Mt. Hope Avenue	136.46-1-57
1186-1188 Mt. Hope Avenue	136.46-1-56
1190 Mt. Hope Avenue	136.46-1-55
1196-1200 Mt. Hope Avenue	136.46-1-54
25 May Street	136.38-1-44
20 Stewart Street	136.38-1-73
21 Stewart Street	136.46-1-2
24 Stewart Street	136.38-1-72
25 Stewart Street	136.46-1-3
10 Gold Street	136.46-1-24

and the area extending from those parcels to the center line of any adjoining street, alley, and right-of-way.

Section 2. This ordinance shall take effect immediately.

**MINUTES****TEXT AMENDMENT / MAP AMENDMENT****T-06-17-18 / M-12-17-18****CITY PLANNING COMMISSION INFORMATIONAL MEETING (5/07/2018)****Page 1 of 4****APPLICANT:** City Council

**PURPOSE:** To amend Chapter 120 of the Rochester Zoning Code by adding Article XV-A, Overlay Limited-Height District (O-LH); an action requiring City Planning Commission recommendation to City Council.

**PURPOSE:** To amend the Zoning Map for the properties at 1092, 1098, 1108, 1116, 1118-1120, 1132-1138, 1142, 1150, 1174, 1176, 1182, 1186-1188, 1190, 1196-1200 Mt. Hope Avenue; 25 May Street; 20, 21, 24, 25 Stewart Street and 10 Gold Street by adding the Overlay Limited-Height District (O-LH) to the existing C-1 Neighborhood Center District; an action requiring City Planning Commission recommendation to City Council.

**APPLICANT AND/OR REPRESENTATIVE PRESENTATION:**

**Tom Warth, Law Department:** Good evening. My name is Tom Warth and I am from the Law Department. I am standing in for members of the City Council who have proposed this zoning and map amendment. The issue that has coming before us was an unintended consequence. In 2010, the code was amended to allow mixed uses in the C-1 District. The intent of this was to allow residential units on the upper floors and commercial on the lower. Commercial space is limited to 6,000 square feet. The unintended consequence is that there is no limit on height or the residential space that can be above. The particular C-1 District can have a volume and use of height that may be out of context with residential uses that are right next to it. These amendments are proposed to remedy that by creating a three store overlay limit for areas. The first part is to create the overlay district. This may also be used in R-3 Districts as well when appropriate. The first proposed area where this overlay could be applied is Mount Hope Avenue between the area zoned as Collegetown to May Street. This is across the street from the Cemetery. If there were reasons to believe it would be a good idea for other areas then it could be future request to add it to other areas.

**Questions from the Members:**

**Commissioner Mayer:** Could you tell us how this addresses the limitless number of residential units?

**Tom Warth, Law Department:** It limits it by how high you can build.

**Commissioner Mayer:** It doesn't address the size?

**MINUTES****TEXT AMENDMENT / MAP AMENDMENT****T-06-17-18 / M-12-17-18****CITY PLANNING COMMISSION INFORMATIONAL MEETING (5/07/2018)****Page 2 of 4**

**Tom Warth, Law Department:** It was thought that the height would be sufficient. A lot of these lots in the C-1 District are not really large lots.

**Commissioner Mayer:** I'm looking at rooming house versus anything else.

**Tom Kicior, Zoning Office:** There are minimum unit sizes in the building code.

**Commissioner Gaudio:** So the maximum building height is three stories. Is there a foot number involved with that?

**Tom Warth, Law Department:** The thought was that stories would work better than feet. There was talk about which to use but we came down to stories.

**Commissioner Gaudio:** Do we know if there is a definition in building code or zoning code?

**Jill Wiedrick, Zoning Office:** There is a definition of story in the zoning code. A story is that portion of a building, including a basement, between the surface of any floor and the surface of the floor next above; also, any portion of a building used for human occupancy between the topmost floor and the roof. A half story shall include that part of a building between a pitched roof and the uppermost full story, having a ceiling height of seven feet or more for not exceeding 1/2 the floor area of such full story. For purposes of side yard determination, a basement shall be counted as a half story.

**Commissioner Watson:** So can we say a story is between 7 feet and 11 feet?

**Jill Wiedrick, Zoning Office:** There is a way that we would calculate it for a third floor. I think generally that people think of a story as being 10 feet. I wasn't part of any of the discussions related to this amendment, but I think that because it's defined in the Zoning Code it's likely why we decided to stick to using stories versus feet.

**Tom Kicior, Zoning Office:** We would like to take testimony for both cases at this point.

**Speakers in Favor:**

**Judy Hay, 528 Benton Street:** Hi, my name is Judy Hay and I support the changes that are proposed. As a co-leader of NBN6, I am aware of the tension of preserving a quality of life for present homeowners and renters in our neighborhood. For 2 and one half years, residents, neighbors, et cetera have fought against the Gold Street Lofts. It was made clear to us that there was no height restriction. We do not want to see our neighborhood torn apart of dormitories or large buildings that don't fit in. There are already parking issues. That's why we support this change. The location, between the hospital and the university, is a prime spot for development. As a result there needs to be a look at what can be done. Kathy is here and right beside her will be a 5 story



## MINUTES

### TEXT AMENDMENT / MAP AMENDMENT

T-06-17-18 / M-12-17-18

### CITY PLANNING COMMISSION INFORMATIONAL MEETING (5/07/2018)

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building. Development is supposed to be compatible with the neighborhood. To place a height restriction will maintain a quality of life. It gives a reasonable quality of life so that people will stay. Now is the time to change the Zoning Code and approved the overlay district.

**Kathy Gallagher, 1190 Mt. Hope Avenue:** Hi, my name is Kathy Gallagher. I would like to read a letter from Richard Rowe. My name is Richard Rowe and I have lived and had a business in the South West (Mt. Hope) area of the City since 1969. I am giving my total support for a limit to no more than three stories in a C-1 Neighborhood Center District. The code states: "Proximity to residence requires that commercial operations in the C-1 District are low intensity, unobtrusive and conducted at a scale and density compatible with the surrounding neighborhood. There is a relatively low demand on public services, transportation and utilities." My question to you is; if there are no height restrictions that would conform to the existing neighborhood structures, how can you maintain low intensity, unobtrusive, and compatible density if the current code could allow for a twenty story building as long as the developer meets parking requirements?? This is a quality of life and a quality of City living issue. You wish a livable City? Than appropriate code requirements that make sense need to apply. As Dan Hurley said in his comments where he states that inappropriate building expansion could and would drive residences out of the city; I will state that it very well could drive business out as well that are looking for a pleasant environment, and neighborhood niceties, to do business in. Please support our neighborhood and its unique historic elements. Once gone, it's gone forever! Sincerely, Richard Rowe.

**Victoria Posner, 85 Furman Crescent:** My name is Victoria Posner. I would just like to agree with what my neighbors have said. To restress that this five story building is intrusive. I am concerned that if we don't create this overlay, there will be more buildings like this and the neighborhood will change. To be honest, I am already considering leaving the City because I'm fearful that more projects like this will occur. I don't think that you want me, a middle class resident who is part of the tax base, to move away.

### Speakers in Opposition: NONE

**Commissioner Mayer:** I wanted to ask the applicant as to why they thought this was the appropriate boundary.

**Tom Warth, Law Department:** On the southern part of the boundary is Collegetown and it extends to the area that is....

**Tom Kicior:** We followed the C-1 District.

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**MINUTES**

**TEXT AMENDMENT / MAP AMENDMENT**

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**CITY PLANNING COMMISSION INFORMATIONAL MEETING (5/07/2018)**

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**Written Testimony:**

Letter of Support from Victoria Posner, dated May 7, 2018

Email of Support from Carol Lehr, dated May 7, 2018

Email of Support from Mary Jo Meteyer, dated May 7, 2018

**HEARING ENDS**

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**CITY PLANNING COMMISSION**

**RECOMMENDATION**

**ZONING MAP AMENDMENT**

**Re:** To amend the Zoning Map for the properties at 1092, 1098, 1108, 1116, 1118-1120, 1132-1138, 1142, 1150, 1174, 1176, 1182, 1186-1188, 1190, 1196-1200 Mt. Hope Avenue; 25 May Street; 20, 21, 24, 25 Stewart Street and 10 Gold Street by adding the Overlay Limited-Height District (O-LH) to the existing C-1 Neighborhood Center District.

**Case No:** M-12-17-18

**Resolution:**

**RESOLVED**, the City Planning Commission **RECOMMENDS** that the Zoning Map be amended by rezoning the properties at 1092, 1098, 1108, 1116, 1118-1120, 1132-1138, 1142, 1150, 1174, 1176, 1182, 1186-1188, 1190, 1196-1200 Mt. Hope Avenue; 25 May Street; 20, 21, 24, 25 Stewart Street and 10 Gold Street by adding the Overlay Limited-Height District (O-LH) to the existing C-1 Neighborhood Center District.

**Vote:** Motion Passes

**Action:** Recommend Approval

**Filing date:** May 7, 2018

**Record of Vote:** 7-0-0

**Record of Vote:**

D. Watson	Recommend Approval
E. Marlin	Recommend Approval
H. Hogan	Recommend Approval
T. Bruce	Recommend Approval
S. Mayer	Recommend Approval
M. Gaudioso	Recommend Approval
M. Pichardo	Recommend Approval

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**Findings of Fact:**

This decision was based on the following findings of fact regarding the four zoning amendment criteria that the City Planning Commission (CPC) is required to evaluate for City Council (Zoning Code §120-190C(3)(c)[2]):

**A. Whether the proposal will be in harmony with goals, standards and objectives of the Comprehensive Plan.**

The Comprehensive Plan includes the Zoning Code's purpose statements for each of the City's zoning districts. The purpose of the C-1 District is to *provide for small-scale commercial uses offering primarily convenience shopping and services for adjacent residential areas. Proximity to residences requires that commercial operations in the C-1 District are low intensity, unobtrusive and conducted at a scale and density compatible with the surrounding neighborhood. There is a relatively low demand on public services, transportation and utilities.* The addition of the Overlay Limited-Height District to the C-1 District on Mount Hope Avenue, will ensure that development in this area will be similar in scale to the surrounding neighborhood and in harmony with the goals, standards and objectives of the Comprehensive Plan.

**B. Whether the proposed amendment is compatible with the present zoning and conforming uses of nearby property(ies) and with the character of the neighborhood:**

The amendment is compatible with the present zoning because it retains all of the underlying zoning district requirements and adds a height restriction. The purpose of the amendment is for future development to be compatible with the nearby R-1 Zoning District and surrounding properties in the C-1 Zone. This amendment will not negatively affect the character of the surrounding area and is instead intended to protect neighborhood character from the potential impacts that construction of taller buildings could have. Existing building heights range from 1 and 2 story commercial structures to 2 ½ and 3 ½ story residential structures.

**C. Whether the property affected by the amendment is suitable for uses under the proposed zoning:**

The amendment does not propose any changes to the list of allowable uses or specially permitted use in the underlying C-1 district. All the existing permitted and specially permitted uses can still occur in the district, but construction would be limited to no more than three stories.

**D. Whether the available public facilities, services and infrastructure are suitable and adequate for the uses allowed under the proposed amendment.**

No development is proposed.



**CITY PLANNING COMMISSION**

**RECOMMENDATION**

**TEXT AMENDMENT T-06-17-18  
ZONING CODE – TEXT AMENDMENT**

**Re: To amend Chapter 120 of the Rochester Zoning Code by adding Article XV-A, Overlay Limited-Height District (O-LH).**

**Case No: T-06-17-18**

**Resolution:**

**RESOLVED**, that the City Planning Commission **RECOMMENDS** that the Zoning Code be amended by adding Article XV-A, Overlay Limited-Height District (O-LH).

**Vote: Motion Passes**

**Action: Recommend Approval**

**Filing date: May 7, 2018**

**Record of Vote: 7-0-0**

**Record of Vote:**

D. Watson	Recommend Approval
E. Marlin	Recommend Approval
H. Hogan	Recommend Approval
T. Bruce	Recommend Approval
S. Mayer	Recommend Approval
M. Gaudioso	Recommend Approval
M. Pichardo	Recommend Approval

**Findings of Fact:**

This decision was based on the following findings of fact regarding the four zoning amendment criteria that the City Planning Commission (CPC) is required to evaluate for City Council (Zoning Code §120-190C(3)(c)[2]):

**A. The proposal will be in harmony with goals, standards and objectives of the Comprehensive Plan.**

The purpose of the amendment is to create an overlay district that will limit the height of new buildings in certain C-1 and R-3 zones to no more than three stories. The district will be mapped in areas of C-1 and R-3 where a taller building could have a negative impact on the surrounding area. The proposal is in harmony with the goals, standards and objectives of the Comprehensive Plan in that it provides greater protection for health, safety and welfare of the City's residents in the areas to be designated O-LH.

**B. The proposed amendment is compatible with the present zoning and conforming uses of nearby property(ies) and with the character of the neighborhood:**

The text amendment is an overlay district which preserves all the underlying requirements of the C-1 and R-3 districts with the addition of the height limitation. The purpose of the amendment is to ensure development is compatible with the character and scale of other buildings in the neighborhood.

**C. The property affected by the amendment is suitable for uses under the proposed zoning:**

The amendment does not target specific properties. Subsequent Official Map Amendments will establish O-LH districts in certain areas of C-1 and R-3 where limiting development height to three stories is appropriate. The O-LH District does not change any of the permitted or specially permitted uses in the underlying districts.

**D. There are available public facilities, services and infrastructure suitable and adequate for the uses allowed under the proposed amendment.**

The proposed text amendment will not impact public facilities services or infrastructure.