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ZONING COMMISSION
District of Columbia

CASE NO. 08-06-11

EXHIBIT NO. 2

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PUBLIC HEARING**

TIME AND PLACE: **Thursday, January 7, 2010, @ 6:30 PM**
 Office of Zoning Hearing Room
 441 4th Street, N.W., Suite 220
 Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 08-06-11 (Comprehensive Zoning Regulations Rewrite: Waterfront)

THIS CASE IS OF INTEREST TO ALL ANCs

This Notice of Public Hearing announces the tenth of several proposed subject areas the Zoning Commission for the District of Columbia (the "Commission") will consider under this docket. All recommendations offered by the Office of Planning ("OP") under this docket have been reviewed by a working group and a subject matter task force as part of a process designed to ensure full public participation. Nevertheless, this process cannot replace or limit the public hearing process required in the Zoning Act or the Commission's responsibility to consider the merits of each proposal submitted.

This hearing will consider general recommendations for conceptual changes to the zoning regulations to update waterfront zoning. The recommendations seek to address the existing waterfront zones and related overlays. The recommendations focus on achieving Comprehensive Plan policies through zoning, including improved public access, connectivity, visual access, mixed use, open space, and sustainability. Specific recommendations include updated PUD standards for waterfront zones; a limitation on surface parking, and new standards for industrial uses, setbacks and visual access.

This hearing, like all others under this case number, is being scheduled without adherence to the set-down requirements stated at 11 DCMR § 3011 because the Commission waived the requirement at its public meeting held April 14, 2008. The Commission also waived the requirement that a pre-hearing statement be submitted before hearing notices can be published.

It is not expected that the Commission will take proposed action with respect to these recommendations, but that it will make determinations at a public meeting that will serve as guidance for drafting revisions to the zoning regulations pertaining to downtown zoning and other relevant subject matters. More detailed information on the recommendations can also be found in the OP report document at www.dczoningupdate.org/downtown.asp.

Title 11 DCMR (Zoning) is proposed to be amended as follows:

Recommendations

The rationales that follow each recommendation reflect the views of the Office of Planning. The Zoning Commission has not reviewed either these recommendations or their rationale and therefore has not reached a conclusion as to the merits of either.

1. Allow additional height [not density] in W-1, W-2, and W-3 through a PUD process.

The waterfront zones and overlays contain waterfront-specific regulations and review processes which forward the goals of the Comprehensive Plan. However, the lack of additional PUD incentives presents an obstacle to good waterfront development. In the past, to achieve appropriate development levels, applicants have requested PUD-related map amendments to other non-W zones which do not contain important waterfront-specific design review criteria. A PUD option in W zones could more effectively ensure the fulfillment of waterfront-specific Comprehensive Plan policies without diminishing land development rights by providing an alternative to rezoning property to non-Waterfront zoning.

Increasing the height of a building while keeping the floor area ratio ("FAR") fixed would typically result in lower lot occupancy and more open space on the site. The nature and location of this open space would be evaluated through the PUD process to ensure maximum benefit. This would provide a greater opportunity for visual access to or along the water, as well as direct environmental benefits through a reduction in impervious space and less runoff. Further, by allowing more possible height, the W-1, W-2, and W-3 zones would become more consistent with other zones which provide a height option through a PUD. Also, PUD-related design review can work to account for a range of Comprehensive Plan policies that are difficult to regulate directly, such as public access and connectivity considerations.

Staff is not recommending any PUD-related changes to any areas zoned W-0, as these areas are intended for very low development and generally not appropriate for PUD-scale development. In addition, the needs of the "emerging waterfront" - the Southwest and Southeast waterfronts, as well as any lands the city may control in the future - may be somewhat different from areas which have already undergone redevelopment and are now established. Therefore, approval of additional height through a PUD may be more appropriate in the emerging waterfront than in established areas such as Georgetown.

2. Establish waterfront-specific criteria for PUDs based on criteria in existing waterfront overlays.

Since the issues associated with every site on the waterfront are unique, a design review process for PUDs is recommended to provide flexible criteria. The current design review criteria contained in the two waterfront-area overlays provide direction toward the

fulfillment of Comprehensive Plan policies which are sometimes difficult to regulate directly.

With no waterfront-specific requirements, a PUD applicant in existing W-1 to W-3 zones would simply need to meet the minimum requirements laid out in Chapter 24. Better urban design can be achieved along the waterfront by establishing design review criteria for new PUDs, resulting in more predictable execution of waterfront-specific Comprehensive Plan policies and making the regulations easier to use. The establishment of consistent design review criteria for PUD's would work to ensure that waterfront-specific Comprehensive Plan policies could be applied along the entire District-held and privately-held waterfront area. Further, these changes would be consistent with the three prongs of the zoning update process in establishing clarity, ease of use, and relevance in the zoning regulations.

Examples of waterfront-specific design review criteria:

- **Public Access:** frequent public access points to waterfront
- **Connectivity:** connections to approved trails along waterfront
- **Mixed use:** context-sensitive provision of recreational, commercial, and residential uses adjacent to waterfront
- **Visual Access:** protection of view and vista to and from the river
- **Open Space:** suitably-designed public open space adjacent to waterfront

3. Allow surface parking only by special exception in W zones.

While small accessory parking areas may be appropriate in some circumstances, excessive amounts of surface parking and the infrastructure they often require (driveways, lighting, snow collection areas, etc.) present obstacles for the fulfillment of several Comprehensive Plan policies for the waterfront area. For example, surface parking lots hinder environmental goals relating to reducing runoff and outfall, particularly in sensitive environments such as along the waterfront. Large areas of surface parking also create a poor pedestrian environment in an area where Comprehensive Plan policies encourage more walkable and vibrant mixed use districts.

Allowing surface parking by special exception provides a flexible way of satisfying aesthetic, environmental, walkability, and open space priorities common to all waterfront areas. New surface parking lots would be subject to special exception conditions similar to those currently contained in the W-0 zone and SEFC Overlay, including ones relating to noise, traffic management, lighting, and screening.

Staff recognizes that small accessory parking areas may be appropriate in certain circumstances and will include exceptions for these instances.

4. Update performance standards for light industrial special exception review.

While light industrial uses are not in high demand at the moment in waterfront areas, the Comprehensive Plan directs the preservation of some amount of viable industrially-appropriate land. Further, these uses may become more common in the future, including emerging environmental industries that work to restore the environment, generate clean energy, or improve energy efficiency for the District and its residents.

Section 909 of the Zoning Regulations provides conditions by which light industrial uses may be approved in waterfront zones by Special Exception by the Board of Zoning Adjustment (“BZA”). Some of these existing standards may unnecessarily hinder the establishment of low-impact, green industrial uses, or conversely may not address some external effects specific to emerging environmental industries. For example, § 909.2 requires that, “the facility shall be designed to enhance the visual and recreational opportunities offered by the Waterfront.”¹ While the enhancement of recreational opportunities is a worthy condition along the waterfront, it would likely be difficult for potentially much-needed green businesses to fulfill this condition. Further, § 909.6 prohibits the outdoor storage of materials. However, is not made clear what constitutes “materials.” This is a particularly critical point, as some waterfront-based businesses such as boat repair facilities may require full utilization of the area between any primary structure and the waterfront.

The Comprehensive Plan encourages the development of emerging environmental industries, or “green businesses”, while simultaneously requiring the protection of existing neighborhoods from their impacts. Green businesses are defined in the Comprehensive Plan as those that “make an explicit commitment in [their] operation and conduct to reduce [their] impact on the environment and minimize [their] use of non-renewable resources.”²

The ability to provide space for light industrial uses should be preserved, as they may become more necessary in the future. Further, waterfront areas may serve an important, albeit limited industrial application for green jobs. Examples include businesses engaged in small-scale recycling, environmental restoration, and small-scale watercraft production facilities, among others.

5. Establish visual access to the water generally based on surrounding relevant street grid. Where existing street grid does not exist, limit building dimensions to a maximum of 500 feet.

¹ DCMR Title 11, Chp. 9, § 909.2

² Comprehensive Plan, 2006, p. G-18

The Comprehensive Plan indicates the preservation of visual access to the water as an important goal. It recognizes that the importance of preserving and extending existing lines of sight to the waterfront. However, current Zoning Regulations only protect visual access to the water to the degree that development occurs perpendicularly to the waterfront.

Further, while the CG and SEFC overlays provide visual access-related design review criteria, they only apply to a very limited section of waterfront area. A tool is needed which can provide the preservation or enhancement of visual access along extensions of existing rights of way in the waterfront neighborhoods.

Ensuring visual access is best accomplished by preserving and extending the lines of sight that public rights of way provide in our waterfront areas. This recommendation addresses several Comprehensive Plan goals:

- It works to visually integrate existing neighborhoods with the waterfront and new waterfront development, which in turn facilitates greater awareness of the waterfront.
- It provides a baseline by which public access considerations can be made. A regulation which requires the preservation of existing visual access beyond an existing public right of way can – through a discretionary process such as a PUD or other design review process - result in a strip of land which could also provide public access to the water via a public easement.
- It provides more specific and predictable language regarding the provision of visual access than the more general language contained in the waterfront-area overlays.
- It is both flexible and responsive to a given waterfront area's local street grid.

In preparation for these recommendations, staff researched the established block widths of various waterfront neighborhoods. Along the southeast waterfront, the average block width is approximately 450 feet. Only two of the blocks measured exceed 500 feet. Along the southwest waterfront, the average block width is approximately 487 feet. In areas where there is no street grid present, or areas cut off from the city by freeways, railways, or other obstacles, buildings should not be greater than 500 feet in width to ensure visual access to the waterfront consistent with the established form. Other jurisdictions have similar requirements. For instance, Richmond, Virginia has a provision which limits building dimensions and space between buildings to 300 feet in width, and New York City requires a 600 foot minimum distance between upland connections to shoreway, piers, and floating structures.

6. Establish a minimum setback from waterfront of 75 feet, of which a minimum of 25 feet be reserved for approved trail connections.

It is very difficult to establish zoning regulations that require property owners to provide public access across their property along the waterfront. Although connectivity design

review criteria exist in the CG and SEFC Overlays, and setback requirements exist in the W-0 zone and CG Overlay, there is no coordinated, comprehensive regulation to provide open space setback along the rivers.

The establishment of a minimum setback would provide for the preservation or creation of open space which could be used for trail connections, and in some cases, the creation of open space. A waterfront setback would also further other Comprehensive Plan goals and objectives, such as providing an environmental buffer between new development and the water's edge, additional active and/or passive recreation areas, and allowing greater visual access along the water.

Based on the standards for the Anacostia Riverparks Target Area Plan and Riverwalk Design Guidelines and discussions with DDOT, a minimally sufficient setback area would need to accommodate areas for the trail itself, its maintenance, and any necessary demarcations (such as retaining walls) which serve to offer clear distinctions for trail users so as not to cause safety issues between trail users and those who may be crossing the trail, or entering and exiting adjacent buildings. According to DDOT, this minimally sufficient setback would be 25 feet: 12 feet for the actual trail, 10 feet between the trail and any building frontage (oriented toward the water), and a few feet on either side of the trail for demarcation and maintenance considerations. This setback may be most appropriate in active, mixed use areas, to ensure opportunities for interactions with the waterfront.

The remainder of the setback area (50 feet or greater) could be reserved for planned active or passive open space. It is important to note that a minimum 75 foot setback would likely be appropriate in areas which feature passive open spaces or natural interactions with the waterfront. In active, mixed use nodes a lesser setback may be appropriate to ensure opportunities for interactions with the waterfront. Based on design review, there may be instances a minimum setback consisting of only the 25 feet trail connection could be more appropriate.

OP will research this setback recommendation in combination with the additional height available in Recommendation 1.

PROCEDURES

The public hearing on this part of Case No. 08-06 will be conducted as a rulemaking in accordance with the provisions of § 3021 of the District of Columbia Municipal Regulations, Title 11, Zoning. The Commission will impose time limits on testimony presented to it at the public hearing.

Z.C. NOTICE OF PUBLIC HEARING

Z.C. CASE NO. 08-06-11

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All individuals, organizations, or associations wishing to testify in this case should file their intention to testify in writing. Written statements, in lieu of personal appearances or oral presentations, may be submitted for inclusion in the record.

Information should be forwarded to the Secretary of the Zoning Commission, Office of Zoning, Suite 210, 441 4th Street, N.W., Washington, D.C. 20001. Please include the number of the particular case and your daytime telephone number. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

ANTHONY J. HOOD, WILLIAM W. KEATING, III, KONRAD W. SCHLATER, PETER G. MAY, AND MICHAEL G. TURNBULL ——— ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY JAMISON L. WEINBAUM, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION.