NCPC
NATIONAL CAPITAL PLANNING COMMISSION

401 9th Street, NW
North Lobby, Suite 500
Washington, DC 20576
Tel 202 482-7200
Fax 202 482-7272
www.ncpc.gov

Commission Members

Presidential Appointees
John V. Cogbill, III, Chairman
Richard L. Friedman
Jose L. Galvez, III

Mayoral Appointees
Arrington Dixon
Dr. Patricia Elwood

Ex Officio Members
Secretary of Defense
The Honorable Donald H. Rumsfeld

Secretary of the Interior
The Honorable Gale A. Norton

Administrator
General Services Administration
The Honorable Stephen A. Perry

Chairman
Committee on Governmental Affairs
United States Senate
The Honorable Susan M. Collins

Chairman
Committee on Government Reform
U.S. House of Representatives
The Honorable Tom Davis

Mayor
District of Columbia
The Honorable Anthony A. Williams

Chairman
Council of the District of Columbia
The Honorable Linda W. Cropp

Executive Director
Patricia E. Gallagher, AICP

IN REPLY REFER TO:
NCPC File No. Z.C. 03-06

JAN 12 2004

Zoning Commission for the
District of Columbia
2nd Floor, Suite 210 South
441 4th Street, NW
Washington, D.C. 20001

3:27

Members of the Commission:

The National Capital Planning Commission at its meeting on January 8, 2004 approved the enclosed action on the Text and Map Amendment to add the Southeast Federal Center Overlay District to the Zoning Regulations and Map of the District of Columbia for the Southeast Federal Center Redevelopment Project. Also enclosed, for your information, is a copy of the Commission action to the General Services Administration and the Staff Recommendation for the project.

Sincerely,

Patricia E. Gallagher, AICP
Executive Director

Enclosures

ZONING COMMISSION
District of Columbia
Case 03-06
Exhibit 61

ZONING COMMISSION
District of Columbia
CASE NO.03-06
EXHIBIT NO.61

COMMISSION ACTION

NCPC File No. Z.C. 03-06

NCPC
NATIONAL CAPITAL PLANNING COMMISSION

SOUTHEAST FEDERAL CENTER REDEVELOPMENT PROJECT

Text and Map Amendment to add the Southeast Federal Center Overlay District to the Zoning Regulations and Map of the District of Columbia affecting approximately 43 acres of land within Squares 743, 744, 802, 826, and portions of 771, 801 and 802

Submission by the Zoning Commission of the District of Columbia

January 8, 2004

Commission Action Requested by Applicant

Approval of comments pursuant to Section 8 of the National Capital Planning Act (40 USC § 8724(a) and D.C. Code § 2-1006(a)).

Commission Action

The Commission:

Concludes that the text and map amendments to add the Southeast Federal Center Overlay to the District of Columbia Zoning Regulations and Map would not adversely affect the federal interest.

Recommends that the Commission be included as a referral agency in the Southeast Federal Center Overlay special exception process.

Deborah B. Young
Secretary to the National Capital Planning Commission

COMMISSION ACTION

NCPC File No. 6420

NCPC
NATIONAL CAPITAL PLANNING COMMISSION

SOUTHEAST FEDERAL CENTER REDEVELOPMENT PROJECT

Consultation with the General Services Administration on the Southeast Federal Center Plan under the Southeast Federal Center Public-Private Development Act of 2000

Submission by the General Services Administration

January 8, 2004

Commission Action Requested by Applicant

Approval of comments pursuant to Section 3(f) of the Southeast Federal Center Public-Private Development Act of 2000 (Public Law 106-407).

Commission Action

The Commission:

Recommends that:

- The Southeast Federal Center's selected development plan reflects the reestablishment of the historic rights-of-way to the greatest extent practicable.
- The federal government retains ownership of the streets with jurisdiction transferred to the District of Columbia.
- Parcel P should accommodate a commemorative work as recommended in the Commission's 2001 Memorials and Museums Master Plan.
- The development plan ensures public accessibility to and along the Anacostia Waterfront and its adjacent open space.

Requests that the General Services Administration submit the selected development plan to the Commission for its consideration as an updated Southeast Federal Center Master Plan when it submits the development plan for consultation as required under the Southeast Federal Center Public-Private Development Act of 2000.

Deborah B. Young
Secretary to the National Capital Planning Commission

STAFF RECOMMENDATION

NCPC File No. Z.C. 03-06/6420

NCPC
NATIONAL CAPITAL PLANNING COMMISSION

SOUTHEAST FEDERAL CENTER REDEVELOPMENT PROJECT

Text and Map Amendment to add the Southeast Federal Center Overlay District to the Zoning Regulations and Map of the District of Columbia affecting approximately 43 acres of land within Squares 743, 744, 802, 826, and portions of 771, 801 and 802

Consultation with the General Services Administration on the Southeast Federal Center Plan under the Southeast Federal Center Public-Private Development Act of 2000

Submission by the Zoning Commission of the District of Columbia
and
the General Services Administration

December 30, 2003

Abstract

The General Services Administration is proceeding with the redevelopment of the Southeast Federal Center (SEFC) as mandated by the Southeast Federal Center Public-Private Development Act of 2000 (SEFC Act). GSA has prepared a Southeast Federal Center Plan (SEFC Plan) to guide the site's redevelopment and is using this general plan as the basis for soliciting development proposals from the private sector. In concert with the District of Columbia Office of Planning, GSA has drafted and submitted to the District of Columbia Zoning Commission a new Southeast Federal Center Zoning Overlay District, which is to provide height, intensity, and bulk regulations for the parcels identified within the SEFC Plan. Under the SEFC Act, GSA is required to consult with the Commission to determine if the SEFC redevelopment is consistent with NCPC's Extending the Legacy Plan. GSA has submitted the SEFC Plan for consultation under the SEFC Act. In addition, the Zoning Commission has requested that NCPC conduct a federal interest review of its proposed action to approve the Southeast Federal Center Overlay text and map amendments. This report addresses both submissions.

Federal Interests

The federal interests include the 44-acre Southeast Federal Center, which is the subject of the SEFC Plan and the zoning action. The SEFC is currently federally owned and is planned for predominantly private, mixed-use redevelopment. The proposed Department of Transportation Headquarters is part of the Southeast Federal Center, but is being reviewed under a separate zoning application.

Other federal interests include: M Street, SE, a L'Enfant street and a designated Special Street under the Federal Elements of the Comprehensive Plan; the planned extensions of the historic

right-of-way of 4th Street, SE, Tingey Avenue and New Jersey Avenue in the original L'Enfant city; the Anacostia Waterfront and the Navy Yard, which are Special Places under the Federal Elements of the Comprehensive Plan; and the proposed commemorative site recommended by NCPC's Memorials and Museums Master Plan.

Commission Action Requested by Applicant

Approval of comments pursuant to Section 8 of the National Capital Planning Act (40 USC § 8724(a) and D.C. Code § 2-1006(a)) and Section 3(f) of the Southeast Federal Center Public-Private Development Act of 2000 (Public Law 106-407).

Executive Director's Recommendation

To the Zoning Commission, the Commission:

Conclude that the text and map amendments to add the Southeast Federal Center Overlay to the District of Columbia Zoning Regulations and Map would not adversely affect the federal interest.

Recommend that the Commission be included as a referral agency in the Southeast Federal Center Overlay special exception process.

To the General Services Administration, the Commission:

Recommend that:

- The Southeast Federal Center's selected development plan reflects the reestablishment of the historic rights-of-way to the greatest extent practicable.
- The federal government retains ownership of the streets with jurisdiction transferred to the District of Columbia.
- Parcel P should accommodate a commemorative work as recommended in the Commission's 2001 Memorials and Museums Master Plan.
- The development plan ensures public accessibility to and along the Anacostia Waterfront and its adjacent open space.

Request that GSA submit the selected development plan to the Commission for its consideration as an updated Southeast Federal Center Master Plan when it submits the development plan for consultation as required under the Southeast Federal Center Public-Private Development Act of 2000.

* * *

BACKGROUND AND STAFF EVALUATION

In early 2002, The General Services Administration issued a Request for Qualifications (RFQ) for the redevelopment of the Southeast Federal Center (SEFC). The approximate 44 acre site is currently federally owned land located south of M Street, SE, east 1st Street, SE and west of Issac Hull Avenue. The Anacostia River bounds the site to the south, and the site abuts the Washington Navy Yard on its east and a Washington Area Sewer Authority (WASA) pumping station on its west. Attachment 1 is a general vicinity map of the site.

Under the Southeast Federal Center Public-Private Development Act of 2000, GSA has the authority to sell or lease land within the SEFC for redevelopment purposes. GSA issued the RFQ in 2002 and has issued a subsequent Request for Proposals in February of 2003. Since that time, GSA has announced a shortlist of development teams and is scheduled to select one by early 2004. The SEFC redevelopment effort consists of two projects. GSA has selected an 11-acre site within the SEFC to be the future location of the new United States Department of Transportation headquarters and that project is the subject of a separate zoning action. This report and recommendation applies to the remaining 44 acres and its related zoning and planning proposals.

To provide guidance to prospective developers, GSA has developed the SEFC Plan (Attachment 2). The SEFC Plan outlines a very general vision for the SEFC by designating preferred uses, heights and densities. The Commission received an information presentation on the SEFC Plan and overall redevelopment effort in the November 6, 2003 executive session.

GSA, in cooperation with the District of Columbia Office of Planning, has petitioned the District of Columbia Zoning Commission to add a new zoning district to the Zoning Regulations and to map it on the SEFC site. The Southeast Federal Center Overlay District would regulate private development within the SEFC and encourage a mix of commercial, residential and waterfront uses. A draft of the regulations was presented to NCPC staff for comments, and a response was sent to the Office of Planning in a letter dated May 7, 2003 (Attachment 3). The Zoning Commission took a proposed action to approve the map and text amendment on October 20, 2003 and has now forwarded that proposed order to NCPC for review and comment. This staff evaluation and recommendation addresses the zoning referral and SEFC Act's consultation requirement for the SEFC Plan.

Southeast Federal Center Public-Private Development Act of 2000

On November 1, 2000, Congress enacted the Southeast Federal Center Public-Private Development Act of 2000 (SEFC Act), which authorizes GSA to work with the private sector to redevelop the SEFC. The SEFC Act does not limit NCPC's authority under the National Capital Planning Act and requires that GSA consult with the Commission to ensure that the redevelopment of the SEFC is consistent with the *Extending the Legacy* Plan *(Legacy)*. This is enumerated in Section 3(f) of the SEFC Act:

> (f) National Capital Planning Commission.--
>
> (1) Statutory construction.-- Nothing in this section may be construed to limit or otherwise affect the authority of the National Capital Planning Commission with respect to the **Southeast Federal Center.**
>
> (2) Vision plan.-- An agreement entered into under this section shall ensure that redevelopment of the **Southeast Federal Center** is consistent, to the extent practicable (as determined by the Administrator, in consultation with the National Capital Planning Commission), with the objectives of the National Capital Planning Commission's vision plan entitled "Extending the Legacy: Planning America's Capital in the 21st Century," adopted by the Commission in November 1997.

Scope of Review

The Commission will review this project under two different authorities. First, the Zoning Commission has referred its proposed action to add the Southeast Federal Center Overlay to the zoning regulations and map for federal interest review. Secondly, GSA has requested formal consultation as required under the SEFC Act. The review and recommendation encompassed in this report covers both authorities, and will analyze the SEFC Plan and related zoning action for its impact to the federal interest and its consistency with the Extending the Legacy Plan, and relevant area planning efforts.

GSA will submit the preferred development plan to the Commission for further consultation at a future date. This detailed plan will be selected from among the current shortlist of development proposals. NCPC staff has been participating in the review and selection of the preferred development plan and will continue to work with GSA to bring this to the Commission for consultation.

PROJECT DESCRIPTION

The following is a description of the SEFC Plan and the proposed Southeast Federal Center Overlay District. A copy of the full zoning text is at Attachment 4.

The Southeast Federal Center Plan

The SEFC Plan addresses the general height, density and uses for 44 acres of the SEFC. The 11-acre Department of Transportation site is excluded. The SEFC Plan is at Attachment 2.

The SEFC Plan proposes a mixed-use urban neighborhood where density is concentrated along the M Street, SE corridor. The density and uses within the site become residential and recreational away from M Street towards the Anacostia River, culminating in an urban waterfront park along the riverbank. The SEFC Plan divides the land within the study area into 14 separate parcels. Each parcel has a recommended zone (use) category and a corresponding height and Floor-to-Area (FAR) ratio recommendation. The SEFC Plan also notes general locations for proposed roads, as well as a notation for the location of five existing historic structures within the SEFC. The SEFC Plan's parcel designations are depicted below.

Moving south from M Street, SE the SEFC Plan reflects lower intensity uses and lower heights and FAR. This area is a transitional zone between M Street, SE and the Anacostia River. Parcels L, M, N and O, which are located south of Tingey Street, are designated for R-5-E zoning, which is a high density, generally residential zoning category. Development of these parcels is permitted to an FAR of 6.0, with .5 FAR permitted for low-intensity commercial uses, and a height of 110 feet. South of Parcel O is Parcel Q, which is planned for an R-5-D classification, which is a lower intensity, generally residential, zoning category. Development on this site will be permitted to an FAR of 3.5 with .5 being permitted for retail, and a height of 90 feet.

Parcel P fronts the Anacostia River. According to the SEFC Plan, a portion of this site is to be an urban waterfront park, while the balance is planned for low intensity uses. This Parcel would be zoned W-0 waterfront zoning, which is a restrictive, low intensity open space zoning district. The site will be limited to an FAR of .5, with building heights restricted to 40 feet.

The SEFC Plan also provides guidance for the reestablishment of streets within the SEFC. Fourth Street will be the main north-south connection as it extends further into the SEFC site, connecting M Street to Parcel P. Further, the Plan extends N Street or Tingey Street as its main east-west connector, and establishes cross streets through the balance of the property.

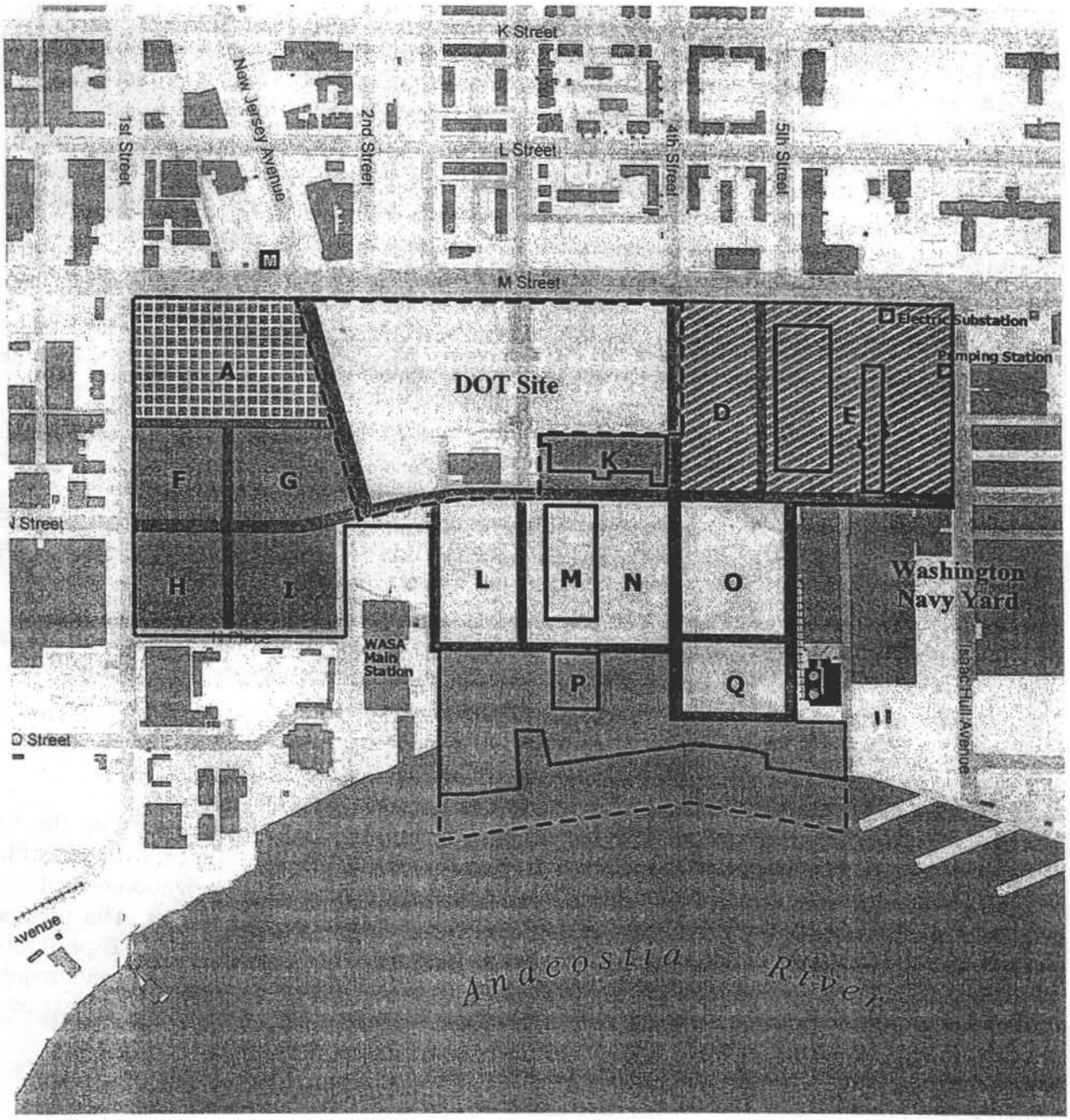
It is anticipated that the future submission of the selected development plan will provide greater detail regarding street locations and design, specific architectural concepts for buildings within the site and details of the urban waterfront park along the Anacostia.

Southeast Federal Center Overlay District – Zoning Text and Map Amendment

GSA in cooperation with the District of Columbia Office of Planning is proposing the new Southeast Federal Center Overlay District (SEFC Overlay), which is based on the SEFC Plan. The SEFC Overlay's intent is to develop a vibrant, mixed-use, waterfront neighborhood offering a combination of uses that will attract residents, office workers, and visitors. The proposed regulations seek to encourage high-density development and a pedestrian streetscape through flexible zoning. It also encourages a publicly accessible Anacostia waterfront and requires suitable ground-floor level retail and services along the M Street corridor. The full text of the proposed regulations is at Attachment 4.

Preferred Uses

For all districts within the Southeast Federal Center Overlay, the regulations identify a list of priority, preferred uses. The list is extensive and is fully detailed in proposed Section 1807. It contains general art and neighborhood service uses ranging from art galleries to restaurants and dry-cleaning types of establishments. These preferred uses are treated differently within each district of the SEFC Overlay, but in general they are intended to animate and enliven the streets of the new neighborhood.



The most intense uses are planned for Parcel A, which is situated on the southeastern corner of 1st Street and New Jersey Avenue, with the DOT site as its eastern boundary. This parcel is recommended for a CR designation, which is a mixed-use zoning district, and will permit structures up to 130 feet and a Floor-to-Area Ratio (FAR) of 6.5. The remaining land on M Street, SE lies on the eastern side of the DOT site and it is designated as Parcels D and E. These sites are also designated for a CR mixed-use zoning, but can be built to a height of 110 feet with special approval. The FAR permitted for these parcels is 6.0. Other mixed-use parcels within the Plan include Parcels F, G, H, I, which are directly south of Parcel A, and Parcel K, which is adjacent to the DOT site on its southeastern edge. These parcels are planned for CR mixed-use designations, 6.0 FAR and 110 feet in building height.

SEFC/CR District

As higher density areas, Parcels A, D-I and K are proposed to be zoned CR – Mixed Use within the SEFC Overlay. The resulting SEFC/CR designation permits residential and low intensity commercial uses within the CR district. However, the SEFC Overlay identifies a number of uses that are only permitted as special exceptions approved by the Zoning Commission, including all buildings and structures with frontage along M Street, SE. Other uses permitted by special exception with the SEFC/CR district include museums, libraries, art galleries, and various neighborhood service retail establishments.

The SEFC/CR district includes a list of preferred uses for the ground levels of all buildings along M Street, SE and New Jersey Avenue. The streetwall for buildings along M Street, SE must be set back not less than 15 feet for the building's entire height and frontage along M Street. In addition, driveways are not permitted along M Street, SE.

Building heights within the SEFC/CR district are generally capped at 110 feet along M Street and 130 feet, if the structure has frontage on New Jersey Avenue. Additionally, all buildings within this zoning district shall have a minimum floor-to-ceiling height of 15 feet.

SEFC/R-5-D and SEFC/R-5-E Districts

Under the SEFC Overlay, parcels within the transition zone located between M Street, SE and Parcel P along the Anacostia River will be zoned for primarily residential use. Specifically, Parcels L, M, N and O will be zoned R-5-E – Residential (SEFC/R-5-E) and Parcel Q will be zoned R-5-D – Residential (SEFC/R-5-D).

Both of these districts permit matter-of-right medium/high density development of general residential uses, including single-family dwellings, flats, and apartment buildings. These districts also permit minimal, low intensity commercial uses. Similar to the SEFC/CR classification, these districts permit a host of uses as special exceptions subject to Zoning Commission approval. These uses include educational and cultural uses.

Both of these districts require preferred uses on the ground floor of any buildings facing 4th Street, SE that shall not exceed 0.5 FAR. In addition, buildings are required to have a minimum ceiling height of 15 feet.

These residential districts have different height and density restrictions. Within the SEFC/R-5-E district, buildings may be as high as 110 feet with an FAR of 6.0. Conversely, the SEFC/R-5-D district permits building heights of 90 feet and an FAR of 3.5.

SEFC/W-0 District

According to the SEFC Plan, Parcel P, which is located along the Anacostia Waterfront, is planned as a limited development urban waterfront area. The proposed SEFC Overlay incorporates the W-0 Waterfront Open Space zone as a base zoning for this parcel (designated as SEFC/W-0). The W-0 zoning classification is a new, restrictive zoning category that was reviewed by the Commission reviewed in November of 2003. Recreational and open space areas are permitted as a matter of right with low-density water related and cultural uses permitted as

special exceptions. The W-0 classification also limits building height to 40 feet and limits FAR to 0.5 for permitted uses and 0.75 for marina, yacht club or boathouse uses.

In the SEFC/W-0, the basic restrictions of the W-0 will apply with additional provisions added by the SEFC Overlay. First, all developments within the SEFC/W-0 zone have to be approved as special exceptions by the Zoning Commission. Secondly, the SEFC/W-0 zone designates a Development Area and Open Space Area within Parcel P. The Development Area consists of the area around the existing structure on Parcel P, known as Building 170, and all land north of a line extending east of the southern elevation of that building. The remaining land on Parcel P, including the water's edge, is considered the Open Space Area. Within the Development Area, the provisions of the W-0 will apply, with all uses being subject to special exception approval. However, the Open Space Area is more restrictive with only the recreational and water-related uses permitted through special exception.

Special Exception Review

There are numerous uses listed in the SEFC Overlay that are only permitted as special exceptions. The special exception process as detailed in Sections 1808 and 1809 of the regulations requires a public hearing before the District of Columbia Zoning Commission and extensive review by the District of Columbia Office of Planning. In evaluating a special exception application, the Zoning Commission can consider the project's overall design and urban planning qualities. Specifically the applicant must demonstrate that the proposal achieves the objectives of the SEFC Overlay District and is designed with a height, bulk, and siting that provides for open views and vistas and that limits above-grade parking adjacent to or visible from the street.

Additionally, for projects within or adjacent to the SEFC/W-0 zone, the Zoning Commission may consider whether the project provides a wide variety of active and passive recreational uses, encourages uses that open to, overlook and benefit the waterfront park, and improves the natural ecology of the site.

RELATED PLANNING EFFORTS

The SEFC has been the subject of many federal planning initiatives. The following is a brief description of the relevant initiatives.

General Services Administration's Southeast Federal Center Master Plan

The SEFC has been subject to various master-planning efforts over the past several decades. The SEFC Master Plan was revised and approved by the Commission on May 30, 1985 and subsequently modified on July 22, 1992. This Master Plan envisioned the SEFC as an office complex for 30,000 federal employees that would integrate the SEFC into the fabric of the remainder of the city. The Master Plan called for 8.4 million square feet of office space, 200,000 square feet of retail space, an "industrial character" zone between M Street and Tingey Street west of 4th Street, an urban waterfront at the Anacostia River edge and an urban square at the intersection of New Jersey Avenue and Tingey Street. Attachment 5 is the Master Plan as approved by the Commission in 1985 and revised in 1992.

over to Poplar Point and Anacostia. Legacy is specifically referenced in the SEFC Act as a guiding document for the SEFC's redevelopment.

Anacostia Waterfront Initiative

On March 22, 2000, a Memorandum of Understanding was signed by numerous federal and District of Columbia agencies, including the National Capital Planning Commission, authorizing the Anacostia Waterfront Initiative (AWI) project. This is a cooperative effort to help revitalize and restore the Anacostia River and its waterfronts. The goals of AWI are to restore the Anacostia River and promote recreational, open space and waterfront development along its riverbanks. To achieve these goals the Office of Planning released the Anacostia Waterfront Plan in December 2003 that details the various development projects along the Anacostia, including the SEFC redevelopment.

Capitol Gateway Zoning

In October 2002 the Commission reviewed the Capitol Gateway zoning amendment approved by the Zoning Commission. This was a comprehensive zoning map and text amendment applied in the area known as Buzzard Point and the areas of the southeast waterfront stretching from Fort McNair to the western side of the Southeast Federal Center. The zoning action also applied to properties on M Street, SE from South Capitol Street to 4th Street, SE across from the Southeast Federal Center and the proposed Department of Transportation site. Specifically, this action zoned the properties adjacent to the SEFC and DOT for mixed-use development up to a height of 90 feet. Across from the SEFC on the northern side of M Street, SE the Capitol Gateway action zoned these properties for commercial development up to a height of 90 feet. However, developments fronting on M Street within this district are subject to specific Zoning Commission approval and must maintain a streetwall that is at least 15 feet from the curb and not less than 50% of the streetwall must be comprised of storefronts and commercial entrances so as to enliven the M Street corridor. The Commission concluded that this zoning would not adversely affect the federal interest and also requested that NCPC be a referral agency for projects within the Capitol Gateway special exception areas. The Zoning Commission granted the Commission's request and subsequently approved the zoning package.

EVALUATION

This evaluation is based on the Commission's authority to review the SEFC Plan under the SEFC Act as well the Commission's authority to review Zoning Commission actions for impacts to the federal interest. Additionally, GSA is in the process of completing the environmental and historic preservation processes mandated by the National Environmental Policy Act and Section 106 of the National Historic Preservation Act. At this stage, a Draft Environmental Impact Statement has been issued and NCPC issued a comment letter dated November 10, 2003. Staff has accepted GSA's invitation to be a Section 106 consulting party for this project and received a draft Programmatic Agreement on September 10, 2003.

Staff commends the General Services Administration for developing a process that will generate creative proposals for the redevelopment of the SEFC. The RFQ and RFP process, of which NCPC staff has been a part, has been reflective of GSA's efforts to stimulate competitive and

1994 SEFC Design Guidelines

In 1994, the General Services Administration commissioned several architecture firms to develop Design Guidelines for the Southeast Federal Center. These guidelines provided a more detailed interpretation of the concepts reflected in the Master Plan. These Guidelines were submitted to the Commission for review in December 1994 and the Commission endorsed the concepts while suggesting refinements to the guidelines. The Commission suggested that the streets within the SEFC remain in United States ownership with jurisdiction granted to the District of Columbia. The Commission also encouraged public access to the site from M Street.

1997 Southeast Federal Center Policy Framework

On April 23, 1997 GSA held a policy workshop to examine the master plan for the Southeast Federal Center and the design issues related to its redevelopment. Participating agencies included GSA, NCPC, the Commission of Fine Arts, the District of Columbia, the United States Navy, the State Department and the Federal Protective Service. The outcome was a document that identified key issues pertaining to the SEFC's development, including security, programming, parking, and development character, relationships to the adjacent area, and implementation and policy recommendations to address these issues. There is no record of a Commission action regarding this document.

M Street Streetscape Improvement Plan

In 1999, the M Street Streetscape Improvement Plan was submitted to the Commission. This effort was an outgrowth of the Commission's Legacy plan, which identified M Street as an area of opportunity for economic revitalization. The improvements recommended in this plan included the installation of Washington Globe light fixtures, site furnishings, street trees on both sides of M Street, SE, the repaving of all intersections and the resurfacing of the median, curb, and nearly all sidewalks and handicapped ramps along the street.

The Commission approved the improvements except for the location of light fixtures located within the M Street, SE median, the recommended street furniture pending further study and the recommendations for improvements to properties administered by GSA.

Extending the Legacy Plan

In 1997, the National Capital Planning Commission released its Extending the Legacy Plan. This document established a new vision for the monumental core of the nation's capital and recommended various initiatives and planning efforts to achieve that vision. Legacy contemplated the future of southeastern Washington and recognized the planning efforts to reactivate the Southeast Federal Center and the Washington Navy Yard. Specifically, the Legacy Plan envisioned a redeveloped SEFC with an active and easily accessible Anacostia Waterfront park that would anchor an economically viable and pedestrian friendly M Street corridor. Legacy tied this vision to the greater redevelopment of the South Capitol Street corridor with activity spilling

creative bids from private sector entities while incorporating some of the critical elements of Legacy and the Anacostia Waterfront Initiative.

Federal Interest Evaluation

The federal interest evaluation pertains to the Zoning Commission's proposal to approve the SEFC Overlay. The federal interests include the 44-acre federally owned SEFC site; M Street, SE, which is a Special Street under the Federal Elements of the Comprehensive Plan; the extensions of 4th Street, SE, Tingey Avenue, and New Jersey Avenue; the proposed commemorative site within the SEFC recommended by NCPC's Memorials and Museums Master Plan; and the Anacostia Waterfront and the Washington Navy Yard, which are designated as Special Places under the Federal Elements of the Comprehensive Plan.

Federal Land – Southeast Federal Center

The proposed regulations seek to encourage the private redevelopment of the SEFC into a mixed-use, waterfront neighborhood. While the site is under federal ownership, zoning regulations will not apply and will only become applicable once the site is conveyed to private ownership. However, the general massing, height and density permitted under the regulations will not negatively affect the SEFC property. The zoning is appropriate for encouraging a mix of uses that are concentrated along the M Street, SE corridor and that transition to open space and lower densities along the Anacostia River. Further, the proposed zoning is consistent in achieving Legacy's vision of a redeveloped SEFC with an active and easily accessible Anacostia Waterfront park that anchors an economically viable and pedestrian friendly M Street corridor.

Special Street – M Street

It is staff's position that the proposed SEFC Overlay would not negatively affect M Street, SE as a Special Street. The Commission has established a vision through Legacy that M Street, SE will be an active and vibrant commercial corridor. The SEFC Overlay's treatment of development and uses along this street and its preferred uses will implement this vision. The streetwall setback is appropriate because it is consistent with the Capitol Gateway Zoning to the west and to the character of the Navy Yard and its historic wall to the east. Further, the permitted heights are consistent with the proposed DOT Headquarters on M Street with an area of lower, transitional heights consistent with the adjacent Navy Yard.

L'Enfant and Historic Rights-of-Way

Fourth Street SE and Tingey Street are rights-of-way designated in the original L'Enfant plan. There is a federal planning interest in ensuring that these rights-of-way are protected and restored. The proposed zoning overlay does not establish a clear delineation of the final location of the restored streets and the width of the dedicated public rights-of-way. It is anticipated that additional detail will be provided in GSA's selected development plan when it is submitted to the Commission for consultation at a later date. The zoning overlay specifically applies to the development parcels identified in the SEFC Plan and not the streets. Therefore, staff recommends that the Commission conclude that the SEFC Overlay zoning action will not negatively affect the original L'Enfant rights-of-way within the Southeast Federal Center.

Special Places – The Anacostia Riverfront and the Washington Navy Yard

The SEFC is adjacent to the Anacostia Waterfront to the south and the Washington Navy Yard to the east. Both of these areas are designated as Special Places under the Federal Elements of the Comprehensive Plan for the National Capital. It is staff's determination that the proposed SEFC Overlay will not negatively affect these Special Places. The zoning regulations' establishment of a Development Area and an Open Space Area will effectively control Parcel P'S development along the Anacostia River such that it will develop as a vibrant urban waterfront with low intensity, commercial development along its north edge and open space and more restrictive uses along the waterfront. Further, the lower density and heights adjacent to the Navy Yard are not out of character and will provide a transition from the denser Capitol Gateway and redeveloped SEFC to the historic Navy Yard.

Memorials & Museums (2M) Master Plan

The Memorials and Museums (2M) Plan identifies site 37, located on the banks of the Anacostia River within the SEFC just east of the terminus of 4th Street, SE as a commemorative site. This site would be located on Parcel P, in the SEFC/W-0 zone. Since the 2M Plan did not propose a specific location, a commemorative work could be located within the Development Area or Open Space Area of Parcel P. Regardless, staff concludes that the proposed zoning for this parcel would not negatively affect the potential to locate and design a commemorative work within this zone. The Commission reviewed the original W-0 zoning and concluded that its use restrictions, height and FAR restrictions are compatible with commemorative works.

Related Recommendation

As referenced earlier, DCOP forwarded a draft version of the SEFC Overlay to NCPC staff in April of 2003 with request for initial comments. Staff responded by letter dated May 7, 2003, which addressed concerns about the proposed prohibition of chanceries within the SEFC. Since that time, the proposed prohibition of chanceries has been removed from the SEFC Overlay.

The May 7th letter also dealt with the special exception approval process outlined in the SEFC Overlay. Staff requested that NCPC be included as a referral agency in the special exception process detailed in Sections 1803, 1805 and 1807 of the proposed regulations. This is similar to a request made in the Capitol Gateway Overlay zoning where the Zoning Commission established NCPC as a special exception review agency because of the substantial federal interests in the area. The SEFC has a more substantial amount of federal interests. This includes the SEFC itself, which must be redeveloped consistent with the vision of Legacy. Also, significant federal facilities such as the proposed Department of Transportation headquarters and the Washington Navy Yard are located within and adjacent to the SEFC. As projects proceed through the special exception process, NCPC should be afforded the same opportunity to comment as it normally would if the project were developed as a Planned Unit Development. Given the greater federal interest inherent in the redevelopment of the SEFC, **staff recommends that the Commission make a related recommendation that NCPC be included as a referral agency for the special exception process established under the SEFC Overlay.** This would enable the Commission to provide comments to the Zoning Commission on these important federal interests.

Consultation Evaluation

Under the SEFC Act, the SEFC Plan should be consistent with Legacy as established through consultation between NCPC and GSA. The evaluation section below is based on this consultation aspect and it reflects much of the previous analysis.

As presented, the SEFC Plan proposes a mixed-use urban neighborhood with high-density development located on the M Street, SE corridor and a transition of density leading to a publicly accessible Anacostia River waterfront park. These general concepts are consistent with the Legacy Plan. The intensity of uses along M Street, SE established in the SEFC Plan and reflected in the zoning package will help implement Legacy's vision of a vibrant, active M Street, SE. Further, the Legacy Plan discusses the need for future government buildings to be located within mixed-use districts that support a range of public activities, including shopping, dining and entertainment. The SEFC Plan and related zoning is consistent with this vision as it will provide for the development of a mixed-use neighborhood around the new U.S. Department of Transportation, as well as other potential agencies which may locate within the SEFC site.

Staff recommends that, as GSA moves forward with a more detailed plan, it take into consideration three issues. **First, that the Plan clearly reflects the reestablishment of the historic rights-of-way to the greatest extent practicable.** It is critical that as the SEFC redevelops, attention is paid to its place within the fabric of the city and that it is properly reconnected to the Washington street grid as laid out by L'Enfant in the original plan and refined in subsequent plans. **Secondly, that special consideration be given for the area within Parcel P recommended for a commemorative work as detailed in NCPC's 2M Plan.** GSA should recognize the potential for a commemorative work on Parcel P and ensure that the final development plan for the SEFC does not preclude a commemorative work along the waterfront. **Third, that the plan ensures public accessibility to the Anacostia Waterfront and its adjacent open space.** A main component of the Legacy Plan and AWI is ensuring public access to the Anacostia Waterfront. Staff believes that GSA should make this a priority in selecting a final development plan and staff recommends that the Commission provide these comments as part of its consultation action.

Another critical concern is the ownership of the streets within the new SEFC. Consistent with past practices and with the Commission's 1994 action regarding the SEFC Design Guidelines, staff reiterates the need for streets within the National Capital to be dedicated public rights of way that are owned by the United States with jurisdiction granted to the District of Columbia. **Staff recommends that the Commission advise GSA to retain ownership of the streets within the SEFC and only transfer jurisdiction to the District of Columbia government.**

An additional concern relates to the 1992 SEFC Master Plan. Until recently, it was staff's understanding that GSA no longer viewed this Master Plan as a relevant planning document. However, GSA recently submitted the September 2002 U.S. Department of Transportation Conveyance Agreement to NCPC staff. The agreement stipulates that the DOT site is subject to the 1992 approved Master Plan and that the purchaser of the DOT property must comply with the requirements of this Master Plan. With the SEFC Master Plan included as a required planning document in the DOT project, it seems clear that GSA views this as a relevant planning tool for the SEFC. This planning document is clearly out of date and not reflective of GSA's current intentions for the SEFC's redevelopment. The SEFC redevelopment, which staff generally supports, will require additional approvals by the Commission, including a highway plan

amendment and possible transfers of jurisdiction. Also, the staff has recommended in this EDR that the Zoning Commission include NCPC as a reviewing agency within the SEFC Overlay development process. The Commission will benefit from a revised Master Plan for the SEFC in reviewing future SEFC submissions. Since GSA is required to submit its selected SEFC development plan for consultation, **staff recommends that the Commission request that GSA submit the selected development plan to the Commission for consideration as an updated Master Plan for the Southeast Federal Center.**

National Environmental Policy Act

The General Services Administration issued a Draft Environmental Impact Statement (DEIS) for the Southeast Federal Center Redevelopment project on October 3, 2003 and a public hearing on the DEIS was held on October 29, 2003. In response, NCPC staff issued a comment letter dated November 10, 2003 and will review GSA's forthcoming Record of Decision.

National Historic Preservation Act

GSA has initiated Section 106 consultation with the D.C. SHPO, the Advisory Council on Historic Preservation, and other parties, including NCPC, to develop a Programmatic Agreement (PA) for the SEFC redevelopment. The SEFC includes six historic structures—Buildings 74, 160, 167, 173, and 202 as well as the historic Navy Yard wall —and sites with the potential for archeology. In addition, the site includes street rights-of-way that can serve as public spaces providing access, long axial views, and the opportunity for vistas to the waterfront or the Capitol dome. Staff has commented to GSA on the draft PA, urging that GSA consult with the DC SHPO in the identification of street rights of way as historic properties and in developing design guidelines to protect those rights-of- way. Staff received a draft PA on September 10, 2003.

Gazette.Net

Council approves Johnson's development bill veto

by Sonsyrea Tate
Staff Writer

Jan. 8, 2004

Developers ran an end-run around the County Council and succeeded in getting the county executive to overturn a law that would have curtailed development until sufficient infrastructure was in place.

"After the bill was confirmed, the building community went straight to the county executive," said Councilman Tom Dernoga (D-Dist. 1) of Laurel. "I'm the chairman of the zoning commission. No one came to me and suggested this bill would be vetoed."

Dernoga's colleagues voted on Tuesday to uphold County Executive Jack B. Johnson's veto. "I'm just looking at how this process was handled, and I'm disappointed in the county executive and the county executive's staff," Dernoga said. "Developers who live in other counties are running behind our backs to get something done."

The subdivision measure, County Bill-73-03, passed 7-1 by the council, with one council member absent in November. The bill would have amended the existing criteria for building as outlined in the County Subdivision Ordinance. The Ordinance allows planned, but not constructed transportation facilities, to be used to support a finding of adequate public transportation facilities. Developers were allowed to build as long as plans to build sufficient roads in the future were in place in the County Capital Improvement Program. The new bill required the Planning Board to decline approval of subdivisions until adequate roads to handle traffic to those areas were funded.

However, in his Dec. 18 letter vetoing the bill, Johnson said the bill would stifle development in the county and would have an adverse impact on economic growth.

"This bill would prevent new commercial and industrial development along major corridors in the County, such as Pennsylvania Avenue, Oxon Hill Road, US 301, and Addison Road," Johnson (D) wrote. "In order for the County to increase and expand its tax base, we [the County Council and Johnson] agree that it must attract opportunities on these essential roadways that would bring high-end jobs and draw upscale retail and new commercial centers to the County."

Johnson's veto was upheld by a 5-4 vote. Six votes were required to overturn the veto.

This was the second opportunity in the past year for the council to override a Johnson veto. Last summer, the council overrode Johnson's veto of a department of Park and Planning tax.

Opposing the override of the subdivision bill were Council members Tony Knotts (D-Dist. 8) of Temple Hills, Marilynn Bland (D-Dist. 9) of Clinton, Thomas Hendershot (D-Dist. 3) of New Carrollton, and Peter Shapiro (D-Dist. 2) of Brentwood. Shapiro had been absent from

the Nov. 25 meeting where his colleagues passed the bill, with Hendershot being the lone opposition vote.

Council members who changed their position said they would work with the county executive to develop a bill that would allow developers to build while simultaneously addressing residents' concerns about road congestion and overcrowding.

Council members who voted to override Johnson's veto said their constituents call and e-mail them often, complaining of traffic along those major roadways. But they said Dernoga's bill was not the right solution.

"The way this bill is presented, it stops all growth. We have to have a way to promote commercial growth," said Bland, a close Johnson ally and running mate for 2006. "I think we need to look at the substance and what the end result will be. This bill would stop all growth. We can't afford that."

E-mail Sonsyrea Tate at state@gazette.net.

Attachment 1



ATTACHMENT 2

GSA's Plan and Proposed Zoning

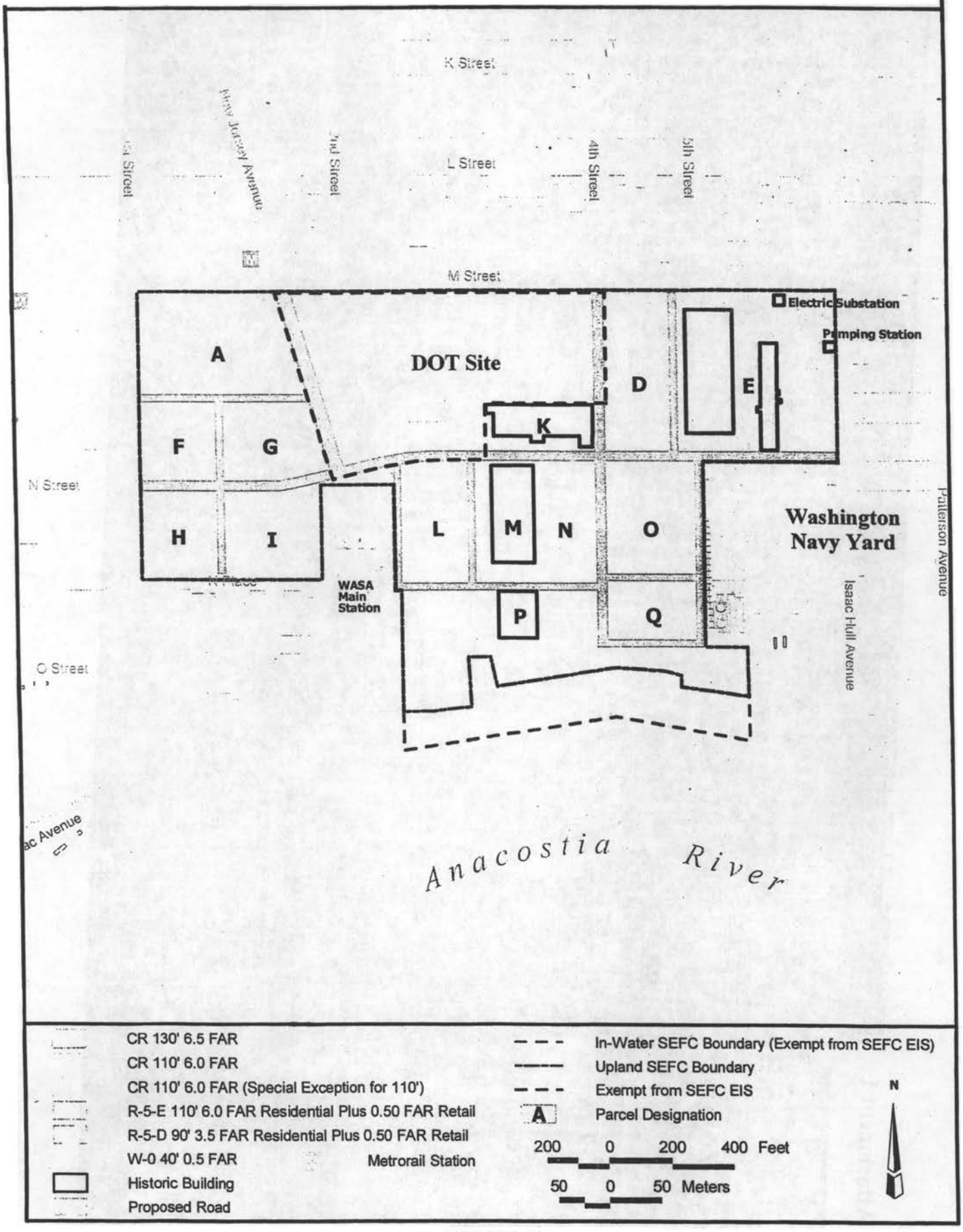


Figure 1-6

ATTACHMENT 3

May 7, 2003

NCPC
NATIONAL CAPITAL PLANNING COMMISSION

401 9th Street, NW
North Lobby, Suite 500
Washington, DC 20576
Tel 202 482-7200
Fax 202 482-7272
www.ncpc.gov

Mr. Andrew Altman, Director
Office of Planning
Government of the District of Columbia
801 North Capitol Street
Washington, DC 20002

Commission Members

Presidential Appointees
John V. Cogbill, III, Chairman
Richard L. Friedman
Jose L. Galvez, III

Mayoral Appointees
Arrington Dixon
Dr. Patricia Elwood

Ex Officio Members
Secretary of Defense
The Honorable Donald H. Rumsfeld

Secretary of the Interior
The Honorable Gale A. Norton

Administrator
General Services Administration
The Honorable Stephen A. Perry

Chairman
Committee on Governmental Affairs
United States Senate
The Honorable Susan M. Collins

Chairman
Committee on Government Reform
U.S. House of Representatives
The Honorable Tom Davis

Mayor
District of Columbia
The Honorable Anthony A. Williams

Chairman
Council of the District of Columbia
The Honorable Linda W. Cropp

Executive Director
Patricia E. Gallagher, AICP

Dear Mr. Altman:

We are in receipt of your request to the National Capital Planning Commission for comments on the Southeast Federal Center (SEFC) zoning petition, which is currently before the District of Columbia Zoning Commission. I appreciate the Office of Planning's effort to receive initial comments from NCPC before the Zoning Commission takes action on the proposal. In general, we believe the new SEFC Overlay is a positive step toward encouraging mixed-use redevelopment of the SEFC and is generally consistent with the intent of the *Southeast Federal Center Public-Private Development Act of 2000*. However, there are two important matters we would like to raise regarding the proposed zoning regulations.

The SEFC Overlay permits a number of uses at densities that will develop a vibrant, mixed-use neighborhood. It also permits uses that are appropriate, but potentially incompatible if designed incorrectly, making their approval subject to the Zoning Commission. However, we are concerned that the prohibition of chanceries in Sections 1803.1 and 1804.2 is contrary to federal law and unnecessarily eliminates a category of viable, compatible, and productive land uses for the SEFC.

The Foreign Missions Act of 1982 permits chanceries to locate as a matter of right in areas of the District zoned commercial, waterfront, or mixed use. In addition, the Act permits chanceries to locate in other areas, including some residential zones, subject to disapproval by the District of Columbia Board of Zoning Adjustment (BZA). Expressly prohibiting chanceries in the manner set forth in the Southeast Federal Center Zoning Overlay is clearly inconsistent with the *Foreign Missions Act*.

In addition to the legal issues, we do not believe that excluding foreign missions is sound policy. Such exclusion would compromise the intent of the SEFC redevelopment effort by eliminating a use that can promote economic activity in the SEFC. In June 2002, the NCPC published "The Economic and Fiscal Impact of Foreign Missions on the Nation's Capital." This study documents the substantial, positive economic impact foreign missions have in the District of Columbia and suggests the important role these facilities could play in generating collateral economic activity in the SEFC. I have enclosed a copy of the report for your information. For these legal and economic reasons, the exclusion of foreign missions should be removed from the proposed SEFC Overlay.

The second issue we raise relates to the approval process for specific uses established in Sections 1803.2, 1804.3, 1805.7, and 1808 of the proposed overlay. This process is similar to the approval process established in the Capitol Gateway/Buzzard Point Overlay District. In that case, Zoning Commission approved NCPC's request to be included as a review agency in the Capital Gateway "special exception" process, citing the abundance of federal interest in the Capital Gateway/Buzzard Point Area. Further, Section 3f(2) of the *Southeast Federal Center Public-Private Development Act of 2000* states that the redevelopment of the SEFC should be consistent with the objectives of NCPC's vision plan, *Extending the Legacy*. Therefore, NCPC should be afforded the opportunity to provide future comments and recommendations to the Zoning Commission, not only on a project's consistency with the *Legacy Plan* but also with respect to the impacts to the surrounding federal interests, including the Navy Yard, the Department of Transportation Headquarters and the original L'Enfant street grid. The "special exception" approach allows for a flexibility that would normally be undertaken through a Planned Unit Development process and as mandated by law would come to NCPC for review and comments.

We support the redevelopment of the Southeast Federal Center as a vibrant mixed-use community, and we believe the proposed zoning is a critical first step toward reaching that goal. We hope that communicating our concerns at this early stage will allow for these issues to be fully addressed by the Office of Planning and the Zoning Commission, thereby facilitating the approval process.

If you have any questions related to the issues stated in this letter, please contact David Zaidain at (202) 482-7230.

Sincerely,

Patricia Gallagher, AICP
Executive Director

Enclosure

cc: Anthony Costa, Assistant Regional Administrator
General Services Administration

Carol Mitten, Chairperson
District of Columbia Zoning Commission

bcc: J. Cogbill
P. Elwood
M. McGill
M. Acosta
A. Jain
H. Altman
D. Zaidain
G. Toop
E. McCarthy
R. Miller
J. Shiplett
A. Jackson
J. Parsons
A. Dixon
Reading File
Central File
UDPR File Copy

D. Zaidain:5/7/03

ATTACHMENT 4

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PROPOSED RULEMAKING
ZC Case No. 03-06
(Map Amendment & Southeast Federal Center Overlay District)

The Zoning Commission for the District of Columbia, pursuant to its authority under §§ 1, 3 and 8 of the Zoning Act of 1938, approved June 20, 1938, (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01, 6-641.03 and 6-641.07) hereby gives notice of its intent to amend the text of the Zoning Regulations (Title 11 DCMR) and to amend the Zoning Map of the District of Columbia so as to establish the Southeast Federal Center Overlay District. The proposed overlay district is to be applied to currently unzoned land that is Federally-owned, but which the United States General Services Administration intends to be privately developed and used. Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register.*

The Zoning Commission specifically requests comments on proposed new § 1803.13, which would permit a building in the proposed SEFC/CR District to occupy 100% of its lot, even though the building contains both residential and non-residential uses. Without this provision, a building in the proposed SEFC/CR Zone District that is devoted to residential uses would be subject to 11 DCMR § 634, which limits lot occupancy for such buildings to 75%, calculated at the lowest level where the residential use begins.

Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

The following rulemaking action is proposed:

A. Amend the Zoning Map of the District of Columbia as follows:

1. Zone from unzoned to SEFC/CR the area described in the attached metes and bounds descriptions entitled "Description of: Proposed "C-R" Zone 13.23 acres Part of Southeast Federal Center" and "Description of: Proposed "C-R" Zone 11.89 acres Part of Southeast Federal Center."

2. Zone from unzoned to SEFC/R-5-E the area described in the attached metes and bounds description entitled "Description of: Proposed "R-5-E" Zone 9.21 acres Part of Southeast Federal Center."

3. Zone from unzoned to SEFC/R-5-D the area described in the attached metes and bounds description entitled "Description of: Proposed "R-5-D" Zone 2.48 acres Part of Southeast Federal Center."

4. Zone from unzoned to SEFC/W-0 the area described in the attached metes and bounds description entitled "Description of: Proposed "W-0" Zone Waterfront Open Space 5.41 acres Part of Southeast Federal Center." This is the Open Space Area, which is described by proposed § 1805.2.

5. Zone from unzoned to SEFC/W-0 the area described in the attached metes and bounds description entitled "Description of: Part of Proposed "W-0" Zone (Development Area) 0.97 acres Part of Southeast Federal Center." This parcel is the Development Area, which is described by proposed § 1805.2

6. Apply the SEFC Overlay District, as established by proposed new 11 DCMR Chapter 18, over all the land described in the attached metes and bounds description entitled "Description of: Total Area to be Zoned Southeast Federal Center 42.22 acres, more or less," which includes all the land described in numbers 1 through 5, above.

B. Title 11, DCMR, is amended as follows.

1. Amend Chapter 1, section 105.1, to add a new subsection (q) to read as follows:

(q) SOUTHEAST FEDERAL CENTER (SEFC) OVERLAY DISTRICT

2. Amend Chapter 6, Mixed Use Districts, and § 631.2 to read as follows:

631.2 For the purposes of this section, the term "residential purposes" shall include dwellings, flats, multiple dwellings, rooming and boarding houses, community-based residential facilities, inns, guest room areas and service areas within hotels, *except that this term shall not include guest room areas and service areas within hotels located or proposed to be located on CR zoned property in the Capital Gateway Overlay District established by chapter 13 of this title* **or the Southeast Federal Center Overlay District established by chapter 18 of this title.**

(The language in italics is the language that was added by the adoption of the CG Overlay District. The language in bold underline is the proposed language to be added with the adoption of the SEFC Overlay District.)

3. Add a new Chapter 18, Southeast Federal Center Overlay District, to read as follows:

CHAPTER 18 SOUTHEAST FEDERAL CENTER OVERLAY DISTRICT

1800 PREAMBLE

1800.1 The Southeast Federal Center (SEFC) Overlay District is applied to an approximately 42-acre portion of the SEFC site that is designated for "federal use" and "parks, recreation, and open space" in the Comprehensive Plan for the National Capital. The following squares and portions of squares in the southeast quadrant of the District of Columbia are included in the SEFC Overlay District: Squares 743, 744, 802, 826, 853, portions of Squares 771 and 801, and a portion of land south of 771 and 802 bounded by the District of Columbia Water and Sewer Authority ("WASA") facility to the west, the Washington Navy Yard to the east, and the Anacostia River to the south. The site is bounded generally by M Street S.E. to the north; the nacostia River to the south; 1st Street, S.E. and WASA to the west; and the Washington Navy Yard to the east.

1800.2 The SEFC Overlay District and the underlying CR, R-5-E, R-5-D, and W-0 Zoning Districts shall constitute the Zoning Regulations for the geographical areas referred to in § 1800.1. Where there are conflicts between this chapter and the underlying zoning, the provisions of the SEFC Overlay District shall govern.

1801 SEFC OVERLAY DISTRICT STATEMENT OF INTENT

1801.1 The SEFC Overlay District is intended to provide for the development of a vibrant, urban, mixed-use, waterfront neighborhood, offering a combination of uses that will attract residents, office workers, and visitors from across the District and beyond.

1802 SEFC OVERLAY DISTRICT OBJECTIVES

1802.1 The following subsections set forth the objectives of the Southeast Federal Center Overlay District.

1802.2 Assure development of the area with a mixture of residential and commercial uses and a suitable height, bulk, and design of buildings, as generally identified in the Comprehensive Plan and in recognition of the objectives of the Anacostia Waterfront Initiative and the Near Southwest Urban Design Framework Plan.

1802.3 Encourage high-density residential development with a pedestrian-oriented streetscape through flexible zoning parameters.

1802.4 Encourage a variety of support and visitor-related uses, such as retail, service, entertainment, cultural, and hotel or inn uses.

1802.5 Provide for a reduced height and bulk of buildings along the Anacostia riverfront in the interest of ensuring views over and around waterfront buildings, and to provide for continuous publicly accessible open space along the waterfront.

1802.6 Require suitable ground-floor level retail and service uses near the Navy Yard Metrorail station; along M Street S.E.; near the SEFC/W-0 District; and at other key pedestrian locations.

1802.7 Encourage the design and development of properties in a manner that is sensitive to the adjacent Navy Yard and the historically significant buildings within the SEFC.

1802.8 Establish zoning incentives and restrictions to provide for the development of a publicly-accessible park along the Anacostia River and encourage uses in that park as permitted in the W-0 District.

1803 SEFC/CR ZONING DISTRICT

1803.1 Within the SEFC/CR District, the following buildings, structures, and uses are not permitted:

(a) College or university; and

(b) Parking lot or garage as a principal use located on or above grade, except as a temporary use as permitted by special exception in section 1803.2.

1803.2 Within the SEFC/CR District, the following buildings, structures, and uses are permitted only if approved by the Zoning Commission, in accordance with the standards specified in § 1808 and procedures specified in § 1809 of this title:

(a) Art gallery;

(b) Automobile, truck, or motorcycle accessory sales, including installation;

(c) Automobile rental agency, provided the use has no exterior automobile storage area;

(d) Cabaret;

(e) Dental lab;

(f) Department store;

(g) Gas station;

(h) Hotel/inn;

(i) International organization;

(j) Library;

(k) Museum;

(l) Place of worship, which may include a parsonage, vicarage, rectory, or Sunday school building, as well as any related programs associated with the place of worship in accordance with § 216;

(m) School, private, public, or trade;

(n) All buildings and structures that have frontage along M Street S.E.;

(o) Temporary parking lot or garage, for a maximum approval period of 5 years which may be renewed by the Zoning Commission, as a principal use located at or above grade; and

(p) Solid, freestanding walls and/or security gates exceeding a height of four feet, including structural supports.

1803.3 Within the SEFC/CR District, "preferred uses" listed in § 1807.2 of this title shall be permitted in accordance with the following:

(a) Any building or structure with frontage on M Street S.E. or New Jersey Avenue S.E. shall provide preferred uses comprising a minimum of seventy five percent (75%) of the frontage and a minimum of fifty percent (50%) of the gross floor area of the ground floor, not including parking, parking access, mechanical rooms, and other non-public spaces. This requirement shall not apply to buildings directly south of the historic wall along M Street S.E. between 4th Street S.E. and the Washington Navy Yard, for so long as the wall remains.

(b) Preferred uses may be provided on the ground floor level of buildings without frontage on M Street S.E. or New Jersey Avenue S.E., but are not required. If provided, the preferred use area shall conform to the requirements of §§ 1803.3(a), (e), (g), and (h);

(c) In addition to the preferred uses listed in § 1807.2, the preferred use space requirement of § 1803.3(a) may also be met by any use listed in § 1803.2, other than those listed in §1803.2 (b), (g), or (o), if approved by the Zoning Commission in accordance in accordance with the standards specified in § 1808 and procedures specified in § 1809 of this title.

(d) For good cause shown, the Commission may authorize interim occupancy of the preferred use space required under § 1803.3(a) by other uses permitted in the SEFC Overlay District for up to a five (5) year period; provided that the ground-floor space is suitably designed for future occupancy by preferred uses.

(e) Not less than fifty percent (50%) of the surface area of the street wall, including building entrances, of those properties described in subsections

1803.3 (a) and (b) shall be devoted to doors or display windows having clear or low emissivity glass.

(f) Preferred uses shall provide direct, exterior access to the ground level.

(g) The minimum floor-to-ceiling height for portions of the ground floor level devoted to preferred uses shall be fifteen (15) feet.

(h) Ground floor area required for preferred uses may not be transferred to any other lot through Combined Lot Development.

1803.4 In accordance with the procedures outlined in § 1810, two or more lots, whether contiguous or non-contiguous, within the SEFC/CR District may be combined for the purpose of allocating residential and non-residential uses regardless of the normal limitation on floor area by uses on each lot, provided that the aggregate residential and non-residential floor area shall not exceed the matter-of-right maximum height or density of the underlying zone districts, as may have been modified by the Overlay.

1803.5 The maximum building height in the SEFC/CR District shall not exceed 110 feet, unless the site has frontage on any portion of New Jersey Avenue S.E. that is south of and within 322 feet of M Street S.E., in which case a maximum height of 130 feet is permitted.

1803.6 Notwithstanding § 1803.5, a height of greater than 90 feet and no more than 110 feet shall be permitted for sites fronting on M Street S.E. east of 4th Street S.E. if approved by the Zoning Commission pursuant to the procedures set forth in § 1809 herein. The Commission shall consider the relationship of the new building to the Navy Yard to the east and may require graduated height, and/or design features because of the building's proximity to the Navy Yard.

1803.7 The maximum permitted density in the SEFC/CR District shall be 6.0 FAR overall with a maximum commercial density of 3.0 FAR, except that a site that is permitted a height of 130 feet is permitted a maximum commercial density of 6.5 FAR through combined lot development, in accordance with the provisions outlined in § 1810.

1803.8 Any proposed building that has frontage along M Street S.E. shall be subject to review by the Zoning Commission. An applicant requesting approval under this section must prove that the architectural design, site plan, landscaping, and sidewalk treatment of the proposed building are of superior quality, pursuant to the standards set forth in § 1808 and procedures set forth in § 1809.

1803.9 The streetwall of each new building along M Street S.E. shall be set back for its entire height and frontage along M Street S.E. not less than fifteen (15) feet measured from the face of the adjacent curb along M Street S.E.

(f) All buildings and structures that abut the Open Space Area, as described in § 1805.4, whether or not a street intervenes;

(g) Temporary parking lot or garage as a principal use located on or above grade; and

(h) Solid, freestanding walls and/or security gates exceeding a height of four feet.

1804.3 Within the SEFC/R-5-D and R-5-E Districts, "preferred uses" listed in § 1807.2 are permitted in accordance with the following:

(a) Any building or structure facing onto 4th Street or the SEFC/W-0 District shall provide preferred uses comprising a minimum of seventy five percent (75%) of the frontage and a minimum of fifty percent (50%) of the gross floor area of the ground floor, not including parking, parking access, mechanical rooms, and other non-public spaces;

(b) Preferred uses may be provided on the ground floor level of buildings or structures that do not face 4th Street S.E. or the SEFC/W-0 District, but are not required. If provided, the preferred uses shall conform to the requirements of § 1804.3(a), (e), (f) and (g). If the bonus density authorized pursuant to § 1804.3(c) is used to provide non-required preferred uses, the preferred use area must be dedicated to preferred uses for the life of the building;

(c) The density associated with preferred uses shall be in addition to otherwise permitted FAR, and shall not exceed 0.5 FAR;

(d) For good cause shown, the Commission may authorize interim occupancy of the preferred use space required under § 1804.3(a) by other uses permitted in the SEFC/R-5-D and R-5-E Districts for up to a five (5) year period; provided that the ground floor space is suitably designed for future occupancy by preferred uses;

(e) Not less than fifty percent (50%) of the surface area of the streetwall, including building entrances, of those properties described in subsections 1804.3 (a) and (c) shall be devoted to doors or display windows having clear or low emissivity glass;

(f) Preferred uses shall provide direct, exterior access to the ground level;

(g) The minimum floor to ceiling height for portions of the ground floor level devoted to preferred uses shall be fifteen (15) feet.

1804.4 The maximum permitted height in the SEFC/R-5-E District shall be 110 feet and in the SEFC/R-5-D District it shall be 90 feet.

(c) Cruise line operation, including necessary associated dock and land facilities;

(d) Solid, freestanding wall and/or security gate exceeding a height of four feet, not including structural supports;

(e) Marina, not including floating homes;

(f) Public food concession stand / kiosk(s) to a maximum of 3,000 square feet gross;

(g) Water taxi information / ticket booth and passenger shelter; and

(h) Other publicly-accessible maritime uses normally requiring direct access to the water.

1805.7 In accordance with the procedures outlined in § 1810, two or more lots, whether contiguous or non-contiguous, within the SEFC/W-0 District may be combined for the purposes of allocating density as provided and limited by § 1805.8.

1805.8 A lot or lots in the Development Area may receive and use density allocated from a lot or lots in the Open Space Area, subject to all other applicable area restrictions. If a lot is included within both geographic areas, the portion of the lot in the Development Area may use the unused density from the portion of the lot in the Open Space Area.

1805.9 The gross floor area of existing Building 171 shall not count toward any FAR computation.

1805.10 The minimum floor to ceiling height for the ground floor level of buildings in the SEFC/W-0 District shall be fifteen (15) feet.

1805.11 All proposed structures in the SEFC/W-0 District, or any proposed exterior renovation to any existing buildings or structures in the SEFC/W-0 District that would result in an alteration of the exterior design, shall be subject to review and approval by the Zoning Commission, in accordance with the standards specified in § 924 and procedures specified in § 925 of this title, and the standards set forth in § 1808 and procedures set forth in § 1809.

1806 PLANNED UNIT DEVELOPMENT

1806.1 The matter-of-right height and floor area ratio limits shall serve as the maximum permitted height and floor area ratio for a planned unit development ("PUD") in the SEFC Overlay District.

1807 PREFERRED USES

1807.1 Preferred uses (ground-floor street-oriented retail, service, entertainment, or arts uses), are permitted or required in accordance with §§ 1803.3 and 1804.3.

1807.2 Preferred uses are the following:

(a) Antique store;
(b) Apparel and accessories shop;
(c) Art gallery;
(d) Art supply store;
(e) Artist gallery;
(f) Auction house;
(g) Bakery;
(h) Bank/financial institution, provided that the use is not located at the intersection of two streets;
(i) Bar/cocktail lounge;
(j) Barber/beauty shop;
(k) Bicycle rental or repair;
(l) Bicycle shop;
(m) Boat/marine sales;
(n) Book store;
(o) Bowling alley;
(p) Cabaret;
(q) Camera/photo sales;
(r) Candy store;
(s) Catering establishment;
(t) Cobbler/shoe repair;
(u) Cosmetic/toiletries sales;
(v) Drug store;
(w) Dry cleaning or laundry;
(x) Dry goods;
(y) Electric appliance sales;
(z) Fabric store;
(aa) Film exchange;
(bb) Fish monger;

(cc) Flower stand or florist shop;

(dd) Food or grocery store;

(ee) Furniture store;

(ff) Gift shop;

(gg) Hardware store;

(hh) Hobby shop;

(ii) Home furnishings;

(jj) Interior decorating;

(kk) Jewelry store;

(ll) Leather goods;

(mm) Legitimate theatre;

(nn) Locksmith;

(oo) Music store;

(pp) Musical instruments;

(qq) Newsstand;

(rr) Notions/novelties;

(ss) Office supplies and equipment;

(tt) Off-premises alcohol sales;

(uu) Optical goods;

(vv) Optical lab;

(ww) Optician and optometrist;

(xx) Paint store;

(yy) Pet care establishment, including sale of pet supplies, grooming, trimming and commercial pet walking, but not the overnight boarding of dogs;

(zz) Pet shop;

(aaa) Photo studio;

(bbb) Physician or dentist office;

(ccc) Picture framing studio/shop;

(ddd) Pool hall;

(eee) Precision instruments;

(fff) Restaurant, not including drive-in or fast food;

(ggg) Second-hand store or consignment shop;

(hhh) Shoe store;

(iii) Sporting goods;

(jjj) Stationery;

(kkk) Tailor/dressmaker;

(lll) Ticket office;

(mmm) Tobacco products;

(nnn) Toy store;

(ooo) Travel agency;

(ppp) Variety store;

(qqq) Videotape or DVD rental for general public and family; and

(rrr) Other similar retail or service uses.

1808 ZONING COMMISSION REVIEW STANDARDS

1808.1 In addition to proving that the proposed uses, buildings, or structures meet the standards set forth in § 3104.1, the applicant for Zoning Commission approval of a use or structure within the SEFC Overlay District shall further demonstrate conformance to the following standards:

(a) The use, building, or structure will help achieve the objectives **of** the SEFC Overlay District as set forth in § 1802;

(b) The proposed building or structure shall be designed with a height, bulk, and siting which provides for openness of view and vistas to and from the waterfront and, where feasible, shall maintain views of federal monumental buildings, particularly along the New Jersey Avenue S.E. corridor;

(c) On or above-grade parking adjacent to, or visible from, the street shall be limited. Where parking cannot be placed underground, other uses such as retail or residential shall separate parking areas from the street, or where this is not possible, green landscaping or architectural treatment of facades shall adequately screen parking from the street and adjacent development.

1808.2 In evaluating the application, the Commission also may consider:

(a) Compatibility with buildings in the surrounding area through overall massing, siting, details, and landscaping;

(b) Use of high standards of environmental design which promote the achievement of sustainable development goals;

(c) Façade articulation that minimizes or eliminates the visibility of unarticulated blank walls from public spaces;

(d) Landscaping which complements the building;

(e) For buildings that include preferred uses in accordance with §§ 1803.3 or 1804.3, the Commission may consider the balance and location of preferred uses;

(f) In connection with its review pursuant to Section 1804.2, the Commission may consider the effect of the proposed use on the predominantly residential character of the R-5-D and**/or** R-5-E portion of the SEFC; and

(g) For development within or adjacent to the SEFC/W-0 District, the Commission may consider whether the project is consistent with the following goals:

(i) Providing a wide variety of active and passive recreational uses;

(ii) Encouraging uses that open to, overlook, and benefit the waterfront park;

(iii) Utilizing siting and design of buildings and uses to improve the natural ecology, to illustrate the importance of natural systems, and/or to interpret the historically important maritime context of the site.

1809 ZONING COMMISSION REVIEW PROCEDURES

1809.1 At the time the Commission is considering an application for Zoning Commission approval authorized by this Chapter, it may hear and decide any additional requests for **zoning** relief needed for the subject property.

1809.2 At the time of filing an application with the Commission, the applicant shall pay the filing fee specified in § 3180.1(b)(16) plus such fees as apply to any additional zoning relief requested. The provisions of § 3181 relating to the administration of fees shall apply, except that the applicant may appeal any decision of the Director regarding the fee schedule to the Commission, which shall decide the appeal at a meeting or hearing as a preliminary matter to hearing the application.

1810 COMBINED LOT DEVELOPMENT PROCEDURES

1810.1 Combined lot development is permitted within the SEFC/CR District, in accordance with §§1803.3 and 1803.7; and in the SEFC/W-0 District in accordance with §§ 1805.6 and 1805.7.

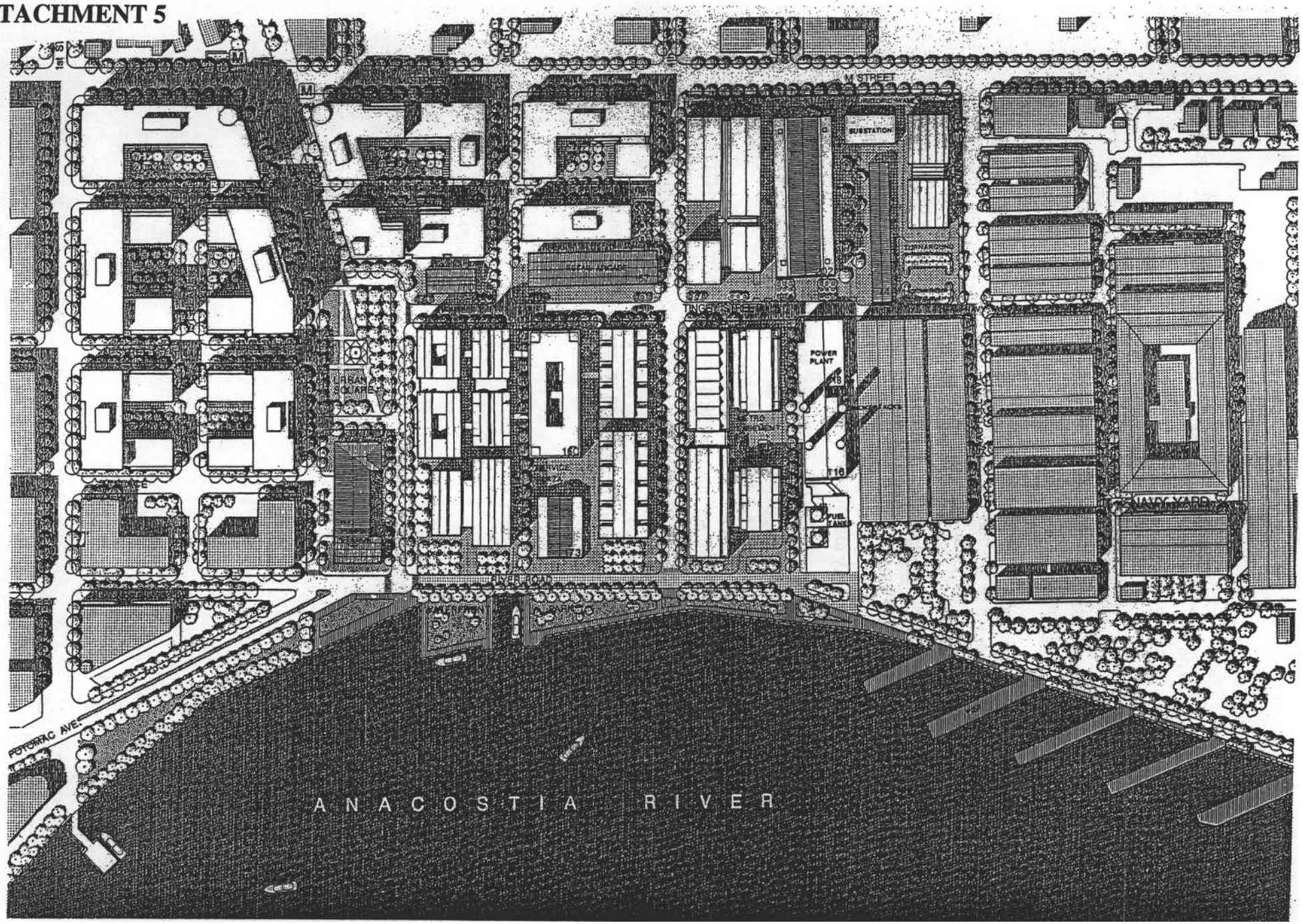
1810.2 No allocation of gross floor area shall be effective unless an instrument, legally sufficient to effect such a transfer, is filed with the Zoning Administrator in accordance with this section.

1810.3 The instrument shall bind the present and future owners of the respective SEFC/CR lots so as to permanently devote residential and non-residential gross floor area on site equal to that square footage transferred or received, and shall specify the allocation of residential and non-residential uses among the lots.

1810.4 The instrument shall bind the present and future owners of the SEFC/W-0 lots that are situated within the Open Space Area, as described in § 1805.4, to permanently forego the development of such square footage as was transferred to a lot in the Development Area and shall specify the amount of square footage transferred.

1810.5 The Office of the Corporation Counsel shall certify the instrument for legal sufficiency. The instrument shall also contain a certification by the Office of Planning attesting to:

ITACHMENT 5



The Existing Master Plan, Approved 1992

Wallace Roberts & Todd
July 3, 1997

(a) The lots' eligibility to send and receive allocated residential and non-residential uses; and

(b) The accuracy of the computations with respect to the amount of residential and non-residential uses or density reallocated or transferred.

1810.6 The District of Columbia need not be made a party to the instrument if the instrument provides that it shall neither be modified nor terminated without the express permission of the Zoning Commission of the District of Columbia.

1810.7 The instrument shall be recorded for all affected lots in the Office of Recorder of Deeds, so that the notice of restrictions and transfer shall run with the title and deed to each affected lot and so that each land record accurately reflects the amount and type of density associated with the lots.

1810.8 A certified copy of the recorded instrument shall be filed with the Zoning Administrator before approval of any building permit application that is affected by such allocation of uses or density.

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Alberto P. Bastida, Secretary to the Zoning Commission, Office of Zoning, 441 4th Street, N.W., Suite 210-S, Washington, D.C. 20001. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.

The metes and bounds descriptions follow.

Bernard H. Berne
4316 North Carlin Springs Road, #26
Arlington, Virginia 22203-2035
December 27, 2003

Phone: (703)243-0179 (home)
(301)594-1296, ext. 120 (work)

Office of the Secretariat
National Capital Planning Commission (NCPC)
401 Ninth Street, N.W.
Suite 500, North Lobby
Washington, DC 20576

Attn: Dave Zaidain

Re: NCPC January 8, 2004, Meeting: Southeast Federal Center Redevelopment Project: File Nos. Z.C. 03-06 and 6420

Dear Mr. Zaidain:

I would like to express my opposition to the above proposals that the Zoning Commission of the District of Columbia and the General Services Administration (GSA) have developed in regard to the Southeast Federal Center (SEFC). These proposals are contrary to the following federal statute and NCPC plans:

1. The NCPC vision plan entitled "Extending the Legacy: Planning America's Capital in the 21st Century" (Legacy Plan), which the Commission adopted in November 1997.

2. Federal statute as expressed in Public Law 106-407 (The Southeast Federal Center Redevelopment Act).

3. The NCPC Federal Elements of the Comprehensive Plan for the National Capital (1989).

Please consider my comments when helping to develop the NCPC Executive Director's recommendation for these proposals. Please also transmit copies of my comments to all Commission members.

Inconsistencies with Legacy Plan:

The Legacy Plan identifies the SEFC in its "Plan for Washington's Monumental Core" as location number 4. The Legacy Plan describes this location under the heading "Economic Development" as follows: "(4) Assist the transformation of the Southeast Federal Center and adjacent Navy Yard into a lively urban waterfront of offices, restaurants, shops and marinas."

In contrast, GSA's proposal provides for large amounts of residential development and waterfront parkland. It is important to recognize that the Legacy Plan does not provide for any residential development or parkland on the SEFC site, just as it does not provide for the development of warehouses, trash

transfer stations, or junkyards at the site. GSA's proposal is therefore contrary to the intent and language of the Legacy Plan.

The thrust of the Legacy Plan is to utilize the SEFC site for economic development. Parkland and residential development cannot achieve this goal as well as can office and retail development. Restrictive zoning of developable space to permit commercial uses only is required to meet this NCPC goal.

Inconsistencies with Southeast Federal Center Redevelopment Act (P.L. 106-407)

P.L. 106-407 states in Section 3 (Southeast Federal Center Development Authority): "(f) NATIONAL CAPITAL PLANNING COMMISSION. -- ... (2) VISION PLAN -- An agreement entered into under this section shall ensure that redevelopment of the Southeast Federal Center is consistent, to the extent practicable (as determined by the Administrator, in consultation with the National Capital Planning Commission), with the objectives of the (Legacy Plan)".

Any proposal, such as this one, that would encourage residential development and parkland on much of the SEFC site, does not "ensure to the extent practicable" that the redevelopment of the SEFC will be consistent with the Legacy Plan, whose objective for the SEFC is "Economic Development" through office and retail development. The GSA Administrator, therefore violated Section 3(f)(2) of P.L. 106-407 when proposing to NCPC the zoning and land use plan for the SEFC site.

Further, P.L. 106-407 states in Section 3 (Southeast Federal Center Development Authority): "(b) TERMS AND CONDITIONS -- An agreement entered into under this section -- (1) shall have as its primary purpose enhancing the value of the Southeast Federal Center to the United States".

Residential development and parkland would not enhance the value to the federal government to the extent that commercial (office and retail) development would. Commercial property in D.C. and other cities usually has a higher monetary value than does parkland and housing.

It is unlikely that zoning for residential development or mixed residential/commercial development would provide as much value to the United States than would restrictive zoning for commercial development for several reasons:

1. The area surrounding the SEFC is economically depressed and is reputed to possess a high crime rate. Any residential development in the SEFC would fail to attract many people willing to pay the high rents or to purchase the high-priced

condominiums that would most enhance the value of the SEFC's residential development. Such people usually demand better schools and security than are, or foreseeably will be, present in the neighborhood adjacent to the SEFC.

2. Space zoned for office and retail use has a higher monetary value than does comparable space zoned for residential use.

Any area near the waterfront zoned for parkland or public uses should be considerably smaller than that proposed. A waterfront walking or cycling trail continuous with adjacent properties may attract many users.

However, a park would only serve to separate retail and other commercial uses from the waterfront trail and from any other waterfront facilities. The park would therefore diminish the value of such properties, to the detriment of the federal government.

GSA's Plan and Proposed Zoning map for the SEFC proposes two areas of zoning (SEFC/R-5-D and SEFC/R-5-E) that would permit only residential and minimal (0.5 FAR) retail uses. The portion of this area zoned SEFC/R-5-D can accommodate up to 4.0 FAR.

The SEFC/R-5-D area can clearly accommodate office and retail development at a higher FAR than GSA has proposed. By proposing to develop the SEFC/R-5-D area at a lower density than practicable, and by restricting <u>both</u> the SEFC/R-5-D and the SEFC/R-5-E areas to residential and minimal retail, rather than only commercial (office and retail) uses, the GSA Administrator is proposing to violate Section 2(b) of P.L. 106-407.

Further, the plan and map propose to zone two other areas as SEFC/CR. This zoning district permits 6.0 FAR residential development. Commercial uses, such as office and retail, are limited to 3.0 FAR This zoning is therefore also inconsistent with P.L. 106-407.

<u>Inconsistencies with the NCPC Federal Elements of the Comprehensive Plan for the National Capital (1989)</u>

Federal Employment:

The Federal Elements of the NCPC Comprehensive Plan states in Table 1 on page 106 that the planning range targeted for Year 2000 employment levels at the SEFC is <u>22,400</u> employees. By encouraging the residential development of much of the SEFC, GSA's new plan and proposed zoning would effectively prevent the achievement of this NCPC target, to the detriment of both the United States and of the economic development of the District of Columbia.

Further, the Federal Elements of the NCPC Comprehensive Plan states on page 105: "1. The historic relative distribution of Federal employment of approximately 60 percent in the District of Columbia, the established seat of national government, and 40 percent elsewhere in the Region should continue within the next two decades." According to p. 25 of the NCPC Federal Capital Improvement Program, FY 2004-2009, only 52.7% of federal employment in the Region was in D.C. in 1999 (the most recent year for which the Program provides such information).

Many leased federal office facilities in the National Capital Region are outside of the District of Columbia. For example, the U.S. Patent Office is in the process of relocating to a new leased facility in Alexandria, Virginia. In addition, the new Homeland Security Agency is presently searching for a site somewhere in the National Capital Region to consolidate much of its operations.

The SEFC could accommodate many such federal offices in leased facilities at the SEFC if the site is exclusively zoned for commercial uses at the highest possible heights and densities. Such zoning would provide a unique opportunity to significantly increase federal employment in the District of Columbia and to achieve NCPC's target of 22,400 employees for the SEFC site.

Federal Open Space:

The Federal Elements of the NCPC Comprehensive Plan states on page 186 in its section entitled "National Capital Open Space System, Shorelines and Waterfronts":

"2. Within the District of Columbia, the character of publicly owned waterfront areas should reflect great variety, ranging from hard-edged urbanity in Georgetown, the Southwest Urban Renewal Area, and the Southeast Federal Center Area, ...".

In contrast, the proposed plan would zone a wide section of the SEFC near the waterfront area as W-O (Open Space Area).

The proposed plan, which can accommodate a wide grassy park, would <u>not</u> provide a "hard-edged urbanity" to the SEFC area. To be consistent with the Comprehensive Plan, the waterfront open space should be reduced to contain space sufficient only for public access on a 12-foot wide pedestrian/cyclist trail.

A strip not to exceed 150 to 200 feet should abut the waterfront, consistent with item number 5 on page 186 of the Comprehensive Plan. This space should be specifically designated only for the trail and for the development of a marina or other boating facility, to encourage recreational use of the waterfront, consistent with the Legacy Plan and the Comprehensive Plan.

The document that the D.C. Zoning Commission has provided in its "Notice of Proposed Rulemaking" for the SEFC (ZC Case No. 03-06) states on page 3 that the SEFC Overlay District is applied to a portion of the SEFC that is "'designated for .... parks, recreation, and open space' in the Comprehensive Plan for the National Capital". This is incorrect.

I can find no such designation for any part of the SEFC in the Comprehensive Plan, except for a provision for boating under a category of "recreational activities", in Diagram 3 on page 185 in its section entitled "National Capital Open Space System". The Comprehensive Plan contains no specific recommendation for a park or other open space in the SEFC area.

Recommendation No. 6 on page 198 of the Comprehensive Plan states: "Federal agencies should plan the incorporation of small people-intensive plazas, courts and parks oriented to the needs of the daytime working population as well as visitors into appropriate new Federal Office buildings". The proposed plan is inconsistent with this, as it does not propose any such open space except near the waterfront.

Executive Order 12072:

Executive Order 12072 requires federal agencies in urban areas to locate their facilities in central cities, such as Washington, D.C. GSA and other federal agencies can rapidly fill of the available office space in the SEFC by requiring that all agencies presently located in suburban Maryland and Virginia comply with Executive Order 12072 and with the NCPC Comprehensive Plan by planning to relocate their offices to leased facilities in the SEFC when the agencies' current leases expire. GSA can thus assure that federal agencies will quickly commit to leasing all available office space in the SEFC.

Therefore, if the SEFC site is zoned primarily for high density commercial use, GSA can not only help restore the historic 60%/40% proportion of federal employment in the National Capital Region, but can also assure the rapid occupancy of most or all of the developable space in the SEFC.

GSA's proposed plan for the SEFC would eliminate this unique opportunity to bring federal offices into leased facilities in the District of Columbia. Many federal agencies in the National Capital Region have found it impossible to comply with Executive Order 12072 because they could find no leased space in the District that could accommodate their needs. High-density commercial zoning of the SEFC can prevent this from recurring and can assure such compliance.

Therefore, in addition to being contrary to federal law, GSA's proposal is an unsatisfactory plan for a unique and valuable piece of federal property that can be privately developed and used, **or can be privately developed and federally-used.**

RECOMMENDATION:

To maximize the office and retail development of the SEFC, to thus enhance the value of the site to the U.S. government, and to comply with NCPC's Legacy Plan and Comprehensive Plan, I recommend that NCPC recommend that GSA revise the Plan and Proposed Zoning for the SEFC that it proposed in File No. 6420. I also recommend that NCPC disapprove the amendments to the Zoning Regulations and Map of the District as proposed in File No. Z.C. 03-06.

I recommend that NCPC ask GSA to develop a plan for the SEFC that would redevelop the entire SEFC site at the maximum permissible heights and at the maximum commercial densities, with certain exceptions. These exceptions include the Department of Transportation site, small areas of open space located throughout the site and a narrow strip of waterfront space zoned to accommodate boating facilities and a pedestrian/cyclist trail.

Thus, the zoning and the Overlay District for the SEFC should allow only office and retail uses throughout nearly all of the site to a maximum lot occupancy of 100%, a maximum FAR of 8.5 to 10.0 and a maximum height of 100 feet and 130 feet on 110-foot adjoining streets, such as New Jersey Avenue. The site should contain no other zoning, except in the areas noted above.

A C-4 zoning district, now applicable to the downtown D.C. core, would permit the above development. However, the C-4 district also permits "housing and mixed uses". The SEFC site (with the exceptions identified above) should therefore be designated as a special "Southeast Federal Center Overlay District" with special zoning that is similar to C-4, but that allows only office and retail uses.

The site plan needs to identify the locations of small parcels of open space throughout the entire SEFC area, consistent with Recommendation No. 5 on page 196 in the Comprehensive Plan. It is important that the plan not restrict the SEFC's open space to the waterfront area, as presently proposed. Thank you.

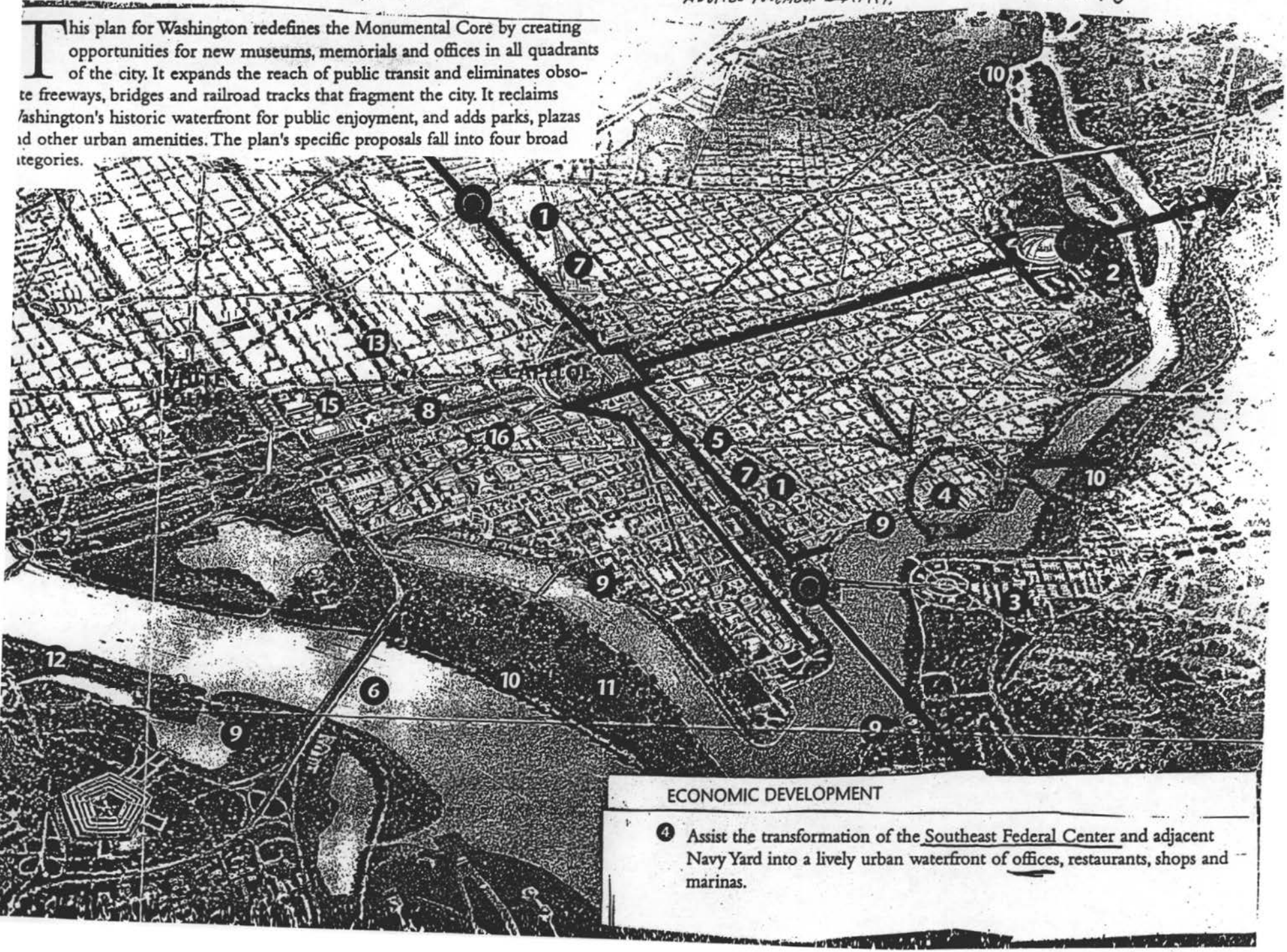
Sincerely yours,

Bernard H. Berne

Attachments:
Extracts from NCPC Legacy Plan
P.L. 106-407

'LAN FOR WASHINGTON'S MONUMENTAL CORE - NATIONAL CAPITAL PLANNING COMMISSION
INCORPORATED INTO "EXTENDING THE LEGACY: PLANNING AMERICA'S CAPITAL IN THE 21ST CENTURY" ADOPTED NOVEMBER ~~2004~~ 1997. MARCH, 1996

This plan for Washington redefines the Monumental Core by creating opportunities for new museums, memorials and offices in all quadrants of the city. It expands the reach of public transit and eliminates obsolete freeways, bridges and railroad tracks that fragment the city. It reclaims Washington's historic waterfront for public enjoyment, and adds parks, plazas and other urban amenities. The plan's specific proposals fall into four broad categories.



Public Law 106–407
106th Congress

An Act

Nov. 1, 2000
[H.R. 3069]

To authorize the Administrator of General Services to provide for redevelopment of the Southeast Federal Center in the District of Columbia.

Southeast Federal Center Public-Private Development Act of 2000.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Southeast Federal Center Public-Private Development Act of 2000".

SEC. 2. SOUTHEAST FEDERAL CENTER DEFINED.

In this Act, the term "Southeast Federal Center" means the site in the southeast quadrant of the District of Columbia that is under the control and jurisdiction of the General Services Administration and extends from Issac Hull Avenue on the east to 1st Street on the west, and from M Street on the north to the Anacostia River on the south, excluding an area on the river at 1st Street owned by the District of Columbia and a building west of Issac Hull Avenue and south of Tingey Street under the control and jurisdiction of the Department of the Navy.

SEC. 3. SOUTHEAST FEDERAL CENTER DEVELOPMENT AUTHORITY.

(a) IN GENERAL.—The Administrator of General Services may enter into agreements (including leases, contracts, cooperative agreements, limited partnerships, joint ventures, trusts, and limited liability company agreements) with a private entity to provide for the acquisition, construction, rehabilitation, operation, maintenance, or use of the Southeast Federal Center, including improvements thereon, or such other activities related to the Southeast Federal Center as the Administrator considers appropriate.

(b) TERMS AND CONDITIONS.—An agreement entered into under this section—

(1) shall have as its primary purpose enhancing the value of the Southeast Federal Center to the United States;

(2) shall be negotiated pursuant to such procedures as the Administrator considers necessary to ensure the integrity of the selection process and to protect the interests of the United States;

(3) may provide a lease option to the United States, to be exercised at the discretion of the Administrator, to occupy any general purpose office space in a facility covered under the agreement;

(4) shall not require, unless specifically determined otherwise by the Administrator, Federal ownership of a facility covered under the agreement after the expiration of any lease of the facility to the United States;

(5) shall describe the consideration, duties, and responsibilities for which the United States and the private entity are responsible;

(6) shall provide—

(A) that the United States will not be liable for any action, debt, or liability of any entity created by the agreement; and

(B) that such entity may not execute any instrument or document creating or evidencing any indebtedness unless such instrument or document specifically disclaims any liability of the United States under the instrument or document; and

(7) shall include such other terms and conditions as the Administrator considers appropriate.

(c) CONSIDERATION.—An agreement entered into under this section shall be for fair consideration, as determined by the Administrator. Consideration under such an agreement may be provided in whole or in part through in-kind consideration. In-kind consideration may include provision of space, goods, or services of benefit to the United States, including construction, repair, remodeling, or other physical improvements of Federal property, maintenance of Federal property, or the provision of office, storage, or other usable space.

(d) AUTHORITY TO CONVEY.—In carrying out an agreement entered into under this section, the Administrator is authorized to convey interests in real property, by lease, sale, or exchange, to a private entity.

(e) OBLIGATIONS TO MAKE PAYMENTS.—Any obligation to make payments by the Administrator for the use of space, goods, or services by the General Services Administration on property that is subject to an agreement under this section may only be made to the extent that necessary funds have been made available, in advance, in an annual appropriations Act, to the Administrator from the Federal Buildings Fund established by section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)).

(f) NATIONAL CAPITAL PLANNING COMMISSION.—

(1) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to limit or otherwise affect the authority of the National Capital Planning Commission with respect to the Southeast Federal Center.

(2) VISION PLAN.—An agreement entered into under this section shall ensure that redevelopment of the Southeast Federal Center is consistent, to the extent practicable (as determined by the Administrator, in consultation with the National Capital Planning Commission), with the objectives of the National Capital Planning Commission's vision plan entitled "Extending the Legacy: Planning America's Capital in the 21st Century", adopted by the Commission in November 1997.

(g) RELATIONSHIP TO OTHER LAWS.—

(1) IN GENERAL.—The authority of the Administrator under this section shall not be subject to—

(A) section 321 of the Act of June 30, 1932 (40 U.S.C. 303b);

(B) sections 202 and 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483, 484);

(C) section 7(a) of the Public Buildings Act of 1959 (40 U.S.C. 606(a)); or

(D) any other provision of law (other than Federal laws relating to environmental and historic preservation) inconsistent with this section.

(2) UNUTILIZED OR UNDERUTILIZED PROPERTY.—Any facility covered under an agreement entered into under this section may not be considered to be unutilized or underutilized for purposes of section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411).

SEC. 4. REPORTING REQUIREMENT.

(a) IN GENERAL.—Before entering into an agreement under section 3, the Administrator of General Services shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Governmental Affairs of the Senate a report on the proposed agreement.

(b) CONTENTS.—A report transmitted under this section shall include a summary of a cost-benefit analysis of the proposed agreement and a description of the provisions of the proposed agreement.

Effective date.

(c) REVIEW BY CONGRESS.—A proposed agreement under section 3 may not become effective until the end of a 30-day period of continuous session of Congress following the date of the transmittal of a report on the agreement under this section. For purposes of the preceding sentence, continuity of a session of Congress is broken only by an adjournment sine die, and there shall be excluded from the computation of such 30-day period any day during which either House of Congress is not in session during an adjournment of more than 3 days to a day certain.

SEC. 5. USE OF PROCEEDS.

(a) IN GENERAL.—Net proceeds from an agreement entered into under section 3 shall be deposited into, administered, and expended, subject to appropriations Acts, as part of the fund established by section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)). In this subsection, the term "net proceeds from an agreement entered into under section 3" means the proceeds from the agreement minus the expenses incurred by the Administrator with respect to the agreement.

(b) RECOVERY OF EXPENSES.—The Administrator may retain from the proceeds of an agreement entered into under section 3 amounts necessary to recover the expenses incurred by the Administrator with respect to the agreement. Such amounts shall

be deposited in the account in the Treasury from which the Administrator incurs expenses related to disposals of real property.

Approved November 1, 2000.

LEGISLATIVE HISTORY—H.R. 3069:

HOUSE REPORTS: No. 106–591 (Comm. on Transportation and Infrastructure).
SENATE REPORTS: No. 106–458 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 146 (2000):
May 8, considered and passed House.
Oct. 11, considered and passed Senate, amended.
Oct. 17, House concurred in Senate amendments.