GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORADUM

DATE: March 3, 2004

TO: District of Columbia Zoning Commission

FROM: Andrew Altman, Director
Office of Planning

SUBJECT: Waiver of Rules for Late Submittal of Supplementary Report on Case No. 03-06

The attached Supplementary Report concerning a proposed text amendment to the Southeast Federal Center (SEFC) Overlay, to permit "university and college" use with Zoning Commission approval is being submitted less than 10 days prior to the Zoning Commission's meeting to approve the final order. The Office of Planning respectfully requests that the Commission waive its rule and accept the report into the record.

Attachments

AA/jl

ZONING COMMISSION
District of Columbia
Case No. 03-06
Exhibit No. 65

ZONING COMMISSION
District of Columbia
CASE NO.03-06
EXHIBIT NO.65

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

SUPPLEMENTAL REPORT

DATE: March 3, 2004

TO: District of Columbia Zoning Commission

FROM: Andrew Altman, Director OP

SUBJECT: **Zoning Commission Case # 03-06 – Supplemental Report**

Proposed amendment to the Southeast Federal Center Overlay text, to list "University or college" as a use permitted with approval of the Zoning Commission.

Ward 6, ANC 6D.

APPLICANT A request was received from the Consortium for Universities of the Washington Metropolitan Area for initiation of a new case to amend the SEFC Overlay to permit "college or university" as uses permitted with Zoning Commission approval. The Office of Corporation Counsel has advised that since the final action on the SEFC Overlay has not yet been published, the Commission may reconsider the action as part of the original case.

I. RECOMMENDED ACTION:

The Office of Planning recommends that the Zoning Commission amend the final order for Zoning Commission Case # 03-06, to include the following amendments to the Southeast Federal Center Overlay text:

- **§1803.2 (SEFC/CR District buildings, structures, and uses permitted only if approved by the Zoning Commission) add:**

  "(q) University or college, subject also to the regulations of §615. For the purposes of the determination of FAR, floor area for all non-dormitory uses directly associated with "university or college" shall be considered non-residential, and not part of the retail required under §1803.3."

- **§1804.2 (SEFC/ R-5-D and R-5-E Districts buildings, structures, and uses permitted only if approved by the Zoning Commission), add:**

  "(i) University or college, subject also to the regulations of §210. "

II. BACKGROUND

Recently, the Zoning Commission approved and took final action on an application from the federal General Service Administration (GSA) to establish zoning on the Southeast Federal Center (SEFC) site and create a new SEFC Overlay District. At the meeting, during review of the final draft of the proposed overlay as drafted by the applicant's legal counsel following discussions between the Office of Planning (OP) and the applicant, Commission members suggested that "College or university" may be acceptable in the

SEFC, provided such uses conformed to the objectives and review standards for Zoning Commission approval. Also, the Consortium for Universities has, in a submission dated January 30, 2004, stated that a prohibition on college or university use differed from the originally advertised text of the SEFC Overlay, and initiated a request to amend the text of the SEFC Overlay to include college or university use by special exception.

This change first appeared in the pre-hearing submission made by the petitioner, GSA. Counsel for GSA indicated at the hearing that the changes made to the advertised text were minor, as did the OP report, as the originally advertised version of the SEFC Overlay as submitted by the applicant, in fact, did not permit colleges and universities. Office of Corporation Counsel (OCC) has confirmed that "college or university" is permitted only by special exception in each of the underlying zones. As advertised, the SEFC Overlay included two lists (§§ 1803.2 and 1804.2) that enumerate uses permitted only if approved by the Zoning Commission within the SEFC\CR and SEFC\R-5-D & E zones, respectively. Neither list, then nor now, includes "college or university" uses.

Because the advertised text did not include "college or university" in its list of uses subject to Zoning Commission review, these uses, and any other omitted special exception uses permitted in the underlying zones, would not be permitted under the SEFC Overlay. It was therefore unnecessary for the pre-hearing submittal to explicitly indicate that university or college uses were not permitted.

Moreover, specifically calling out one special exception use as being not permitted implies that all the other unmentioned special exceptions uses remain allowed in the SEFC Overlay, which was not the intent. OCC has therefore recommended to the Commission that the restriction on "college or university" be eliminated from the final text as redundant, since the original version of the SEFC Overlay as submitted by the applicant and advertised prior to the public hearing did not allow these uses either as a matter-of-right or with Zoning Commission approval. OCC has also advised that since the final action on the SEFC Overlay has not yet been published, the Commission may reconsider as part of the original case an amendment to permit "university or college" as a use permitted with Zoning Commission approval.

III. PROPOSAL

The Office of Planning recommends amending two sections of the SEFC Overlay to permit, with Zoning Commission approval, "University or college" within the SEFC/CR, SEFC/R-5-D and SEFC/R-5-E Districts (i.e. the entire SEFC site, exclusive of the SEFC/W-0 Waterfront Park area). Existing SEFC Overlay objectives and review guidelines, to which all uses that require Zoning Commission approval are required to show conformance, are considered adequate to ensure maintenance of the vision for the site as a truly mixed-use neighborhood connecting existing residential areas to the waterfront. In addition to meeting this test, university or college facilities would be subject to the existing underlying base zone review considerations for these uses.

OP also proposes language in the SEFC/CR District to ensure that all non-dormitory space devoted to university or college use is considered non-residential, rather than residential or required retail. This is to ensure and clarify the intent that the SEFC site provide a mixed use community with a large residential component, serviced by retail required at specific locations to serve the broader community.

IV. BACKGROUND

The SEFC site is in the Near Southeast area, generally between the WASA station and the Navy Yard,

and extending south from M Street SE to the Anacostia River. The 44 acre site is currently federally owned and administered by the GSA, which has been granted the authority to plan for and contract for private uses on the site, thus making it subject to District zoning. GSA has now selected a master developer for the site.

The GSA, District staff and the community participated in an extensive, multi-year planning process to develop a land use and zoning approach for the site and surrounding waterfront areas. As detailed in submissions from the applicant and by OP for the original zoning case, the SEFC site was envisioned as a high density community with a mix of residential, office, cultural, and retail development, with strong connections from existing neighborhoods to the waterfront via new open space parkland. Relevant planning initiatives include *Washington's Waterfronts* (December 1999); the *Near Southeast Neighborhood and Waterfront Workshop* (May 2000); the *SEFC Public-Private Development Act* (November 2000); the *Illustrative Plan for the SEFC* (2001); the *GSA Request for Qualifications* (April 2002); the *Strategic Neighborhood Action Plan* process (2002/2003); the *Anacostia Waterfront Initiative* (2003); and *the Near Southeast Target Area Plan* (2003).

Zoning Commission Case #03-06 (the applicant for which was the GSA, with representation by Shaw Pittman LLP) was to establish zoning for the Southeast Federal Center (SEFC) lands and to create a new SEFC Overlay District. A proposed zoning schedule for the then unzoned federal lands, as well as a draft SEFC Overlay (which, as noted by OCC, did not permit colleges or universities) was submitted by the applicant to the Zoning Commission in April of 2003, following extensive discussions between the applicant, the Office of Planning, and the community. This version was set down for a public hearing by the Zoning Commission, and advertised. The applicant and the Office of Planning continued discussions, and agreed to a number of modifications to the advertised text, which were considered to be minor and intended to refine and clarify the text. The agreed to changes were incorporated by the applicant into a version of the SEFC Overlay included in their pre-hearing statement dated August 15, 2003. It included new language, intended to clarify that "College or university" was not a permitted use in the SEFC Overlay.

The public hearing was held on September 4, 2003. At the public hearing, the ANC 6D representative noted objection to the proposed building heights and FAR on some of the parcels. A number of other parties spoke in favor of the proposal; no other party spoke in opposition. The public hearing was closed, and the Zoning Commission took proposed action on October 10, 2003. The Consortium for Universities subsequently raised objection to the exclusion of universities and colleges.

At its January 12, 2004 meeting, the Zoning Commission took Final Action on the proposed zoning and SEFC Overlay as prepared by the applicant. At the meeting, Commission members noted that college and university uses may be acceptable in the SEFC provided they conformed to the objectives and review standards for uses that require Zoning Commission approval. However, the Commission voted to approve the map and text amendment as drafted.

The Consortium for Universities of the Washington Metropolitan Area has since, in a letter dated January 30, 2004[1], requested an emergency amendment to the SEFC Overlay text, to "include college or university use by special exception".

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[1] The Consortium submission errantly states that in earlier and advertised versions of the SEFC Overlay, there was "no proposal for prohibiting college and university from the SEFC site" - in fact, the SEFC Overlay as submitted by the applicant and as advertised did not permit these uses.

V. COMPREHENSIVE PLAN

The proposed amendment would not be inconsistent with the Comprehensive Plan, provided that goals and objectives are met related to providing greater access to and utilization of DC's waterfront resources (§§700.2, 706); ensuring that planning and design respond to the unique waterfront situation (§§706, 1721.1); and encouraging the development of a true mixed-use community to serve existing Ward 6 residents (§§1701.1, 1733.1). OP believes that Zoning Commission review of proposals for these uses (as is the case for many other uses) against the existing SEFC objectives and review guidelines as well as the base zone regulations will ensure that these Comprehensive Plan objectives are also met.

VI. CONCLUSION

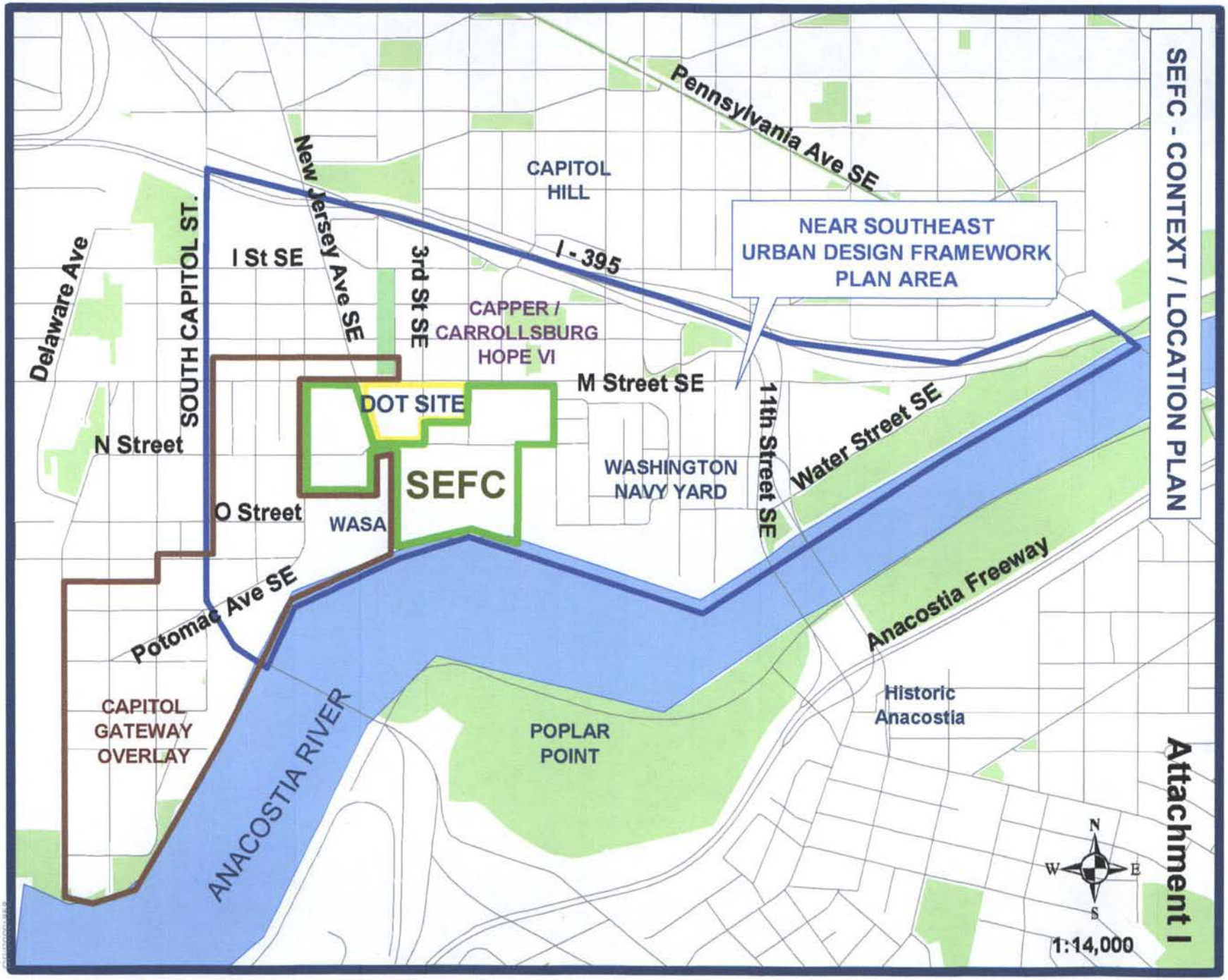
OP recommends that the Zoning Commission reconsider the final action on the SEFC Overlay and include "university or college" as uses that are permitted subject to Zoning Commission review. OP also proposes language in the SEFC/CR District to ensure that all non-dormitory space devoted to university or college use is considered non-residential, rather than residential or required retail.

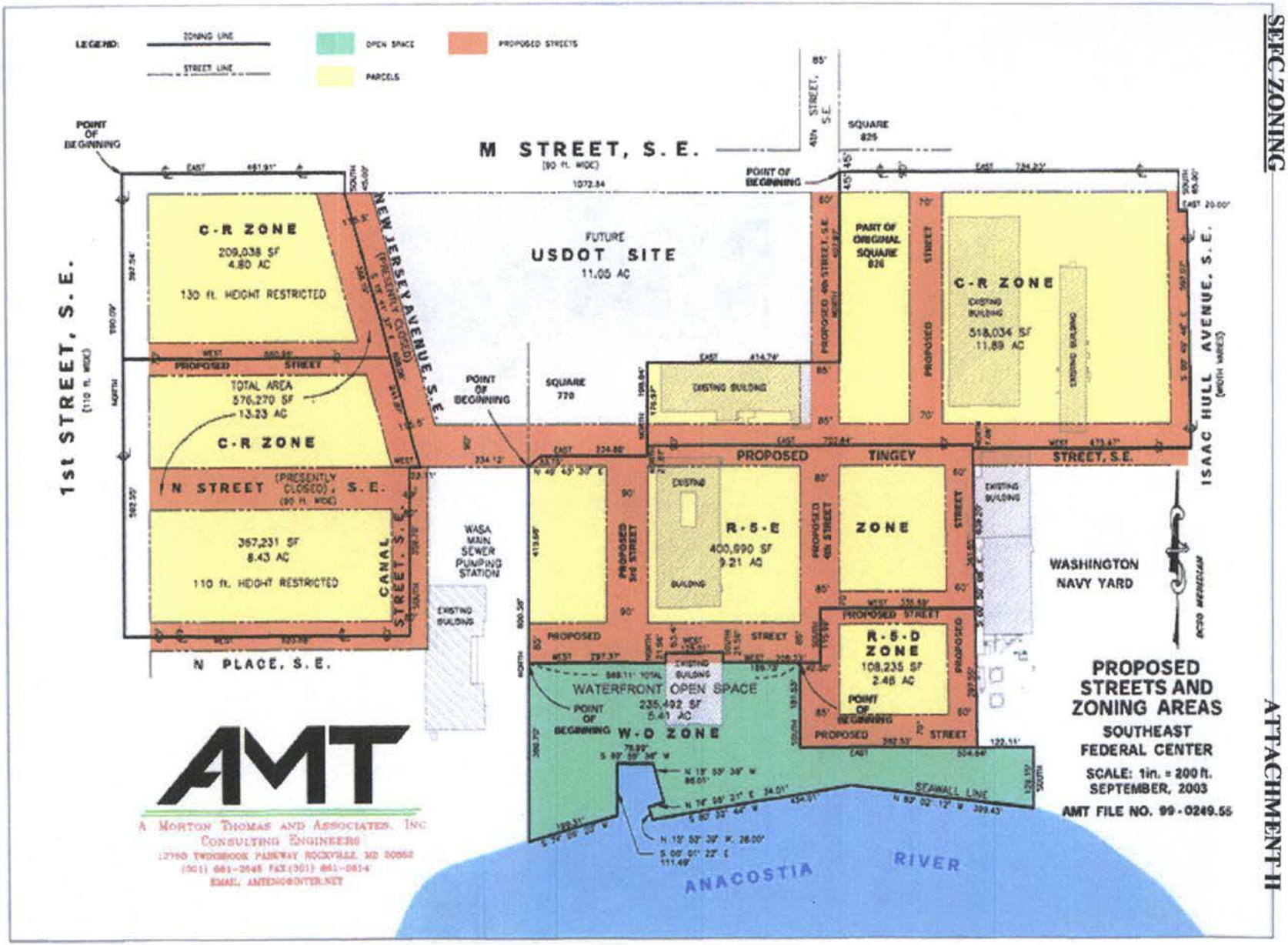
As this would, in fact, be a lessening of restrictions on these uses, when compared to the advertised version of the SEFC Overlay text as prepared by the applicant, OP feels that the Commission can adopt this amendment at this time.

ATTACHMENTS:

I. Context / Location Plan
II. Zoning Map, prepared by the applicant for Zoning Commission Case 03-06.

AA/jl


SEFC - CONTEXT / LOCATION PLAN
Pennsylvania Ave SE
CAPITOL HILL
NEAR SOUTHEAST URBAN DESIGN FRAMEWORK PLAN AREA
I - 395
New Jersey Ave SE
3rd St SE
I St SE
SOUTH CAPITOL ST.
Delaware Ave
CAPPER / CARROLLSBURG HOPE VI
M Street SE
DOT SITE
SEFC
N Street
O Street
WASA
WASHINGTON NAVY YARD
11th Street SE
Water Street SE
Anacostia Freeway
Potomac Ave SE
CAPITOL GATEWAY OVERLAY
ANACOSTIA RIVER
POPLAR POINT
Historic Anacostia
N
W
E
S
1:14,000
Attachment I


LEGEND:
ZONING LINE
STREET LINE
OPEN SPACE
PARCELS
PROPOSED STREETS
M STREET, S.E.
(80 ft. WIDE)
1072.84
POINT OF BEGINNING
SQUARE 825
45th STREET, S.E.
1st STREET, S.E.
(110 ft. WIDE)
C-R ZONE
209,038 SF
4.80 AC
130 ft. HEIGHT RESTRICTED
NEW JERSEY AVENUE, S.E.
(PRESENTLY CLOSED)
FUTURE
USDOT SITE
11.05 AC
PART OF ORIGINAL SQUARE 826
C-R ZONE
EXISTING BUILDING
518,034 SF
11.89 AC
ISAAC HULL AVENUE, S.E.
(WIDTH VARIES)
TOTAL AREA
576,270 SF
13.23 AC
C-R ZONE
POINT OF BEGINNING
SQUARE 770
EXISTING BUILDING
PROPOSED TINGEY STREET, S.E.
N STREET (PRESENTLY CLOSED), S.E.
(80 ft. WIDE)
367,231 SF
8.43 AC
110 ft. HEIGHT RESTRICTED
CANAL STREET, S.E.
WASA MAIN SEWER PUMPING STATION
EXISTING BUILDING
R-5-E
400,690 SF
9.21 AC
ZONE
WASHINGTON NAVY YARD
N PLACE, S.E.
WATERFRONT OPEN SPACE
235,492 SF
5.41 AC
POINT OF BEGINNING
W-O ZONE
R-5-D ZONE
108,235 SF
2.48 AC
SEAWALL LINE
ANACOSTIA RIVER
PROPOSED STREETS AND ZONING AREAS
SOUTHEAST FEDERAL CENTER
SCALE: 1in. = 200 ft.
SEPTEMBER, 2003
AMT FILE NO. 99-0249.55
AMT
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