GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

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DATE: June 08, 2004

TO: District of Columbia Zoning Commission

FROM: Andrew Altman, Director
Office of Planning

SUBJECT: Waiver of Rules for Late Submittal of Final Report on Case No. 04-02

The attached Final Report concerning a proposed map and text amendment to Zoning Regulations for the East M Street area, to rezone the lands and map the Capital Gateway Overlay District over the area, is being submitted less than 10 days prior to the Zoning Commission's Public Hearing. 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. 04-02
EXHIBIT NO. 8

ZONING COMMISSION
District of Columbia
CASE NO.04-02
EXHIBIT NO.9

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

FINAL REPORT

DATE: **June 7, 2004**

TO: **District of Columbia Zoning Commission**

FROM: **Andrew Altman, Director OP**

SUBJECT: **Zoning Commission Case No. 04-02**
East M Street Target Area of the Near Southeast Plan

I. APPLICATION-IN-BRIEF

Applicant: District of Columbia

Location: Squares 1000, 1001S, 1024, 1025E, 1048, 1048S, 1067, and 1080; portions of Squares 1025, 1025S; Reservations 128, 129, 130, 229 and 298; and certain unsubdivided lands constituting the rights-of-way for M Street SE, Virginia Avenue SE, 11th Street SE, the I-295 freeway, the I-395 freeway, and Water Street SE within the boundaries of the application area.

Ward 6; Advisory Neighborhood Commission 6B.

Proposal: An amendment to the Zoning Map and Zoning Regulations to:

(a) place the Capitol Gateway Overlay over the East M Street area;

(b) rezone lands from M, CM-1, and CM-2 to CG/W-3, or (for certain squares) CG/W-2 in the alternative;

(c) amend the CG/W-3 provisions within the East M Street area; and

(d) amend the Capitol Gateway Overlay to require a 14 foot floor to ceiling ground floor retail space height.

II. RECOMMENDED ACTION

In keeping with the Anacostia Waterfront Initiative and the Near Southeast Urban Design Framework Plan, the Office of Planning recommends zoning map and text amendments to:

1. **rezone from CM-2 to CG/W-3: Square 1000, Square 1001S, and surrounding lands;**
2. **rezone from CM-1 to CG/W-3, or, in the alternative, to CG/W-2: Square 1067 Lot 815, Square 1080 and surrounding lands;**
3. **rezone from M to CG/W-3: Square 1024, Square 1025 Lots 811, 812, and 813, Square 1025E, Square 1025S Lot 11, and Square 1048; Square 1048S, Square 1067 Lot 814, and surrounding lands;**
4. **map the Capitol Gateway Overlay District over the East M Street area, roughly bound by the north boundary of Interstate 295; 11th Street SE to the west; Water Street SE and the Anacostia River to the south; and the Sousa Bridge to the east, as shown in the attached;**

5. **amend the Capitol Gateway Overlay District as it would apply to the East M Street Area, to require Zoning Commission review of developments within the CG/W-3 District and to limit density and height within the CG/W-3 District to that permitted under the base zone; and**
6. **amend the Capitol Gateway Overlay to require a 14 foot floor to ceiling height for ground floor retail space**

III. EXECUTIVE SUMMARY

At its February 9, 2004 meeting, the Zoning Commission voted to set down for Public Hearing this application for zoning map and text amendments for the East M Street target area of the Near Southeast neighborhood. Of the 105 acres of land within the area, approximately 17 acres are privately owned. Most of this is undeveloped although proposals are in process for additional development on the Washington Gas Site and for development of the former Stewart Petroleum site. The area is within the Anacostia Waterfront Initiative (AWI) and the Near Southeast Urban Design Framework Plan, both of which call for mixed use, pedestrian and environmentally friendly development with greater connection to the water's edge. National Park Service land along the Anacostia River (to the south of Water Street SE) is not within the study are, and would remain unzoned.

OP recommends CG/W-3 zoning as being in keeping with zoning (and therefore development potential) adopted for both the Buzzard Point area and the SEFC site to the west, as well as with the AWI objectives. The Zoning Commission, at set down, requested that Squares 1025S, 1025E, and 1048S be advertised for CG/W-2 zoning in the alternative.

OP recommends that the Capitol Gateway Overlay District (CG Overlay) be applied to the area, with minor amendments as it would apply to the CG/W-3 zone in the East M Street area to require Zoning Commission review of developments, also in keeping with similar requirements for comparable M Street commercial properties in the Buzzard Point and SEFC areas to the west; and to not permit residential bonus density and height. OP also recommends the establishment of a minimum retail space height throughout the CG Overlay area.

The Public Notice included draft text for wording amendments to the CG Overlay. Amended wording (Attachment I), for Zoning Commission consideration, has been drafted by OP.

IV. CONTEXT – refer also to Context Map Attachment II

The 105-acre East M Street area is on the eastern edge of the rapidly developing Near Southeast Target Plan area of the AWI. It is roughly bounded by the north side of I-295 freeway to the north, the 11th Street Bridge to the west, the Anacostia River to the South, and the Sousa Bridge to the east. The area enjoys sweeping river views.

Vehicular access to the area is from the west - from M Street and 12th Street SE. There is no direct access from the freeway, or from the Sousa Bridge to the east. Access from the river is limited to the relatively small number of boaters utilizing the boat facilities on the NPS lands, although the AWI envisions this as a future "boathouse row". Access through the study area is along M Street SE. Other existing roads within the area include 12th Street SE running north-south; and Water Street SE running east-west. Rights-of-ways for Virginia Avenue SE and 13th Street SE also exist.

V. OWNERSHIP AND EXISTING LAND USE

NPS owns most or all of the land along the river as well as a number of small, scattered reservations. The Federal Government also owns land within and adjacent to the 11th Street Bridge right-of way, and the District owns land adjacent to and under the Southeast Freeway. Just over 17 acres are in private

ownership, including Washington Gas Light Company, developer of Maritime Plaza (11.7 acres); 1333 M Street SE LLC (.93 acres); and Consolidated Rail Corporation (4.74 acres). Most of the developable land is zoned M (General Industry), which permits an FAR of 6.0 and a height of 90'. There is also C-M-1 (Low Bulk Commercial / Light Manufacturing), mainly along the interstate and railway lines, and C-M-2 (Medium Bulk Commercial / Light Manufacturing), below the 11th Street Bridge.

Most of the north and west portions of the area are within the freeway and bridge rights-of-way. Much of the remainder is un- or under-developed, although little of the land is in a natural state. The only recent development within the area is the Maritime Plaza, consisting of two 4 to 5 story office buildings that were recently leased to the Bernstein Group, and on-grade parking. Large Tract Review Application 2004-02 has been submitted by Lincoln Property Company for the remainder of the Washington Gas site, and includes 2 or 3 additional office buildings of up to 7 stories in height, possibly a hotel and a 10 story parking structure, connected by a public plaza with additional parking below.

The other potential development parcel is Square 1048S, 1333 M Street SE. This small, triangular lot was a storage facility (removed) for the Steuart Petroleum Co. It is the subject of Zoning Commission Case # 03-22 for the development of a 26-unit townhouse development. This site is paved but contains no significant structures.

The Consolidated Rail Corp lands are within or adjacent to the railway line. NPS has since submitted information which confirms, to OP's satisfaction, that land along the waterfront for which ownership was unclear, is owned by NPS, and therefore outside the stated scope of this initiative.

VI. PROPOSAL – refer to Attachment I

OP is proposing that the East M Street area be rezoned, and that the CG Overlay be mapped. National Park Service lands are not proposed to be (re)zoned, and NPS lands along the waterfront would not be within the Overlay boundaries. In short, the proposal would:

- map the CG Overlay over the area;
- rezone existing M, C-M-2, and C-M-1 (industrial) lands as CG/W-3 zone;
- amend the CG Overlay for the CG/W-3 area within East M Street area, to require Commission review of all development and to restrict density and height to that of the base zone; and
- amend the Capitol Gateway Overlay to require a 14 foot floor to ceiling height for ground floor retail space.

An amended version of the CG Overlay is attached as Attachment I, with the proposed wording additions shown underlined. In addition, a number of wording changes from the originally advertised text are proposed, many in response to concerns raised by the representative for an area landowner. These changes, shown as **bold underlined text** in Attachment I, are intended to clarify the wording of the amendments, but to not change the intent or substance, other than that OP is proposing that the retail floor to ceiling height requirement be amended to 14' from 15', as this is more consistent with similar retail height requirements for most other recent overlay proposals.

Three alternatives have been identified for rezoning (shown in Attachment III and described below):

1. Option 1 – OP's original proposal that the East M Street area be rezoned CG/W-3;
2. Option 2 – as advertised in the alternative, for CG/W-3 zoning over most of the site, and CG/W-2 for Squares 1025S, 1025E, and 1048S; and

3. Option 3 – rezone the M and CM-2 areas to CG/W-3, and the CM-1 area to CG/W-2.

As analyzed below, of these options, OP feels that only Option 2 is not desirable.

1. **PROPOSED ZONING** – refer to Attachment III

The proposal was advertised as a rezoning to CG/W-3. The Zoning Commission requested that CG/W-2 zoning be advertised in the alternative for Squares 1025S, 1025E, and 1048S. OP continues to recommend CG/W-3 zoning, in keeping with the objectives of the AWI and the Near Southeast Plan. This zone would eliminate additional heavy industrial type use, and would provide flexibility by permitting the possibility of a wider mixture of uses, including residential, recreational, retail, and cultural or ceremonial uses in this area, in keeping with the AWI and Near Southeast Plan.

W-3 allows a development pattern that OP feels is consistent with that of the SEFC and Buzzard Point / Florida Rock areas, as noted in the chart below and graphically illustrated on map Attachments IV and V.

Florida Rock:	± 75' setback to 90 – 110' height
Buzzard Point (other than Florida Rock site):	± 75' setback to 70' height; ± 300' setback to 130' height
SEFC:	± 100' setback to 90' height; ± 300' - 450' setback to 110' height
East M Street – Land zoned M:	± 200 – 260' setback to 90' height maximum
East M Street – Land zoned CM1:	± 120' setback to 90' height

OP further believes that CG/W-3 is more in keeping with densities and heights permitted under current zoning in the area. This rezoning proposal is not intended to restrict development potential, but instead to provide flexibility and opportunities for a more mixed-use form of development that can respond to emerging market conditions and AWI objectives. OP feels that it is neither appropriate nor desirable to significantly reduce the permitted density or height of development parcels below that of present. Rather, a sufficient amount of development is important in promoting redevelopment and providing incentives to tie this currently somewhat secluded section of the city back into the overall urban development pattern. As noted above, the W-3 zone provides this flexibility and feasibility, while also providing heights and densities in keeping with current regulations and in-process development proposals from area landowners.

	BASE ZONE				PUD				CGOD			
Zone	MAX. FAR			Ht	MAX. FAR			Ht	MAX. FAR			Ht
	Res	Comm	Total		Res	Comm	Total		Res	Comm	Total	
M	0.0	6.0	6.0	90	0.0	6.0	6.0	90	0.0	6.0	6.0	90
C-M-2	0.0	4.0	4.0	60	0.0	4.0	4.0	90	0.0	4.0	4.0	90
C-M-1	0.0	3.0	3.0	40	0.0	3.0	3.0	60	0.0	3.0	3.0	40
W-3	6.0	5.0	6.0	90	6.0	5.0	6.0	90	7.0	5.0	7.0	130*
W-2	4.0	2.0	4.0	60	4.0	2.0	4.0	60	5.0	3.0	5.0	70

OP does not support CG/W-2 zoning as advertised in the alternative for squares at the south end of the study area, along Water Street SE. Rezoning these lands from M to CG/W-2 would unnecessarily and significantly reduce development potential and opportunities to provide both animation for and connections to the riverfront. These squares are also set back considerably further from the river than is the case for similarly sites along the riverfront, some of which allow greater densities and higher building heights than the 90' maximum proposed in the East M Street area.

However, OP feels that there is justification, given current zone densities and heights, to apply the CG/W-2 zone to the CM-1 portion in the north-east portion of the East M Street area, mainly owned by the District and Consolidated Rail, and covered with freeway and rail line. CM-1 permits a maximum density of 3.0 FAR (non-residential), and a maximum height of 40 feet, while W-2 permits a density of 4.0 FAR (including residential), and a maximum height of 60 feet. Portions of the CM-1 area are relatively close to both the Anacostia River to the south and to lower density residential lands in Capitol Hill to the north. Assuming that this land is ever available for development, CG/W-2 may be a more appropriate zone designation in that it would provide a density and a height that would better respond to its proximity to Capitol Hill and the river. The existing CG/W-2 designation would require Zoning Commission review of proposals, and could permit bonuses for residential development, although OP feels that it would be appropriate to limit development to the height and density permitted under the base zone.

2. PROPOSED MAPPING OF THE CG OVERLAY

The Office of Planning recommends that the CG Overlay be mapped over the East M Street area. While permitting the retention of any existing commercial or industrial uses in the CM or M industrial zones, the CG Overlay includes a number of provisions intended to encourage the development of an active mixed-use community.

Although separated from the remainder of the CG Overlay by the SEFC (subject to the separate but related SEFC Overlay District) and the Washington Navy Yard, OP feels that it is appropriate to apply the CG Overlay to this area because the sites have a similar industrial-warehouse history and character, and are ripe for redevelopment which is more in keeping with the desirable waterfront setting. OP also recommends minor amendments to the Overlay as it would apply to the East M Street area:

- to require Commission review of proposed developments within the CG/W-3 Zone District, as being consistent with other similarly situated land along the waterfront and commercial lands facing M Street east of South Capitol Street; and
- to restrict density and height in the CG/W-3 area to that of the base zone, as the base zone amounts are considered appropriate for the location and topography, and consistent with near-by development patterns and proposals for privately owned sites in the area.

OP is also recommending that the Overlay be amended to establish a minimum retail space height, throughout. OP originally recommended a 15' clear retail space height, but is now recommending 14' clear to be consistent with that of most other recent overlays and planning initiatives.

VII. COMPREHENSIVE PLAN

As noted in the earlier OP Set down report dated January 30 2004, the proposal would further a number of major themes of the Comprehensive Plan, as outlined and detailed in Chapter 1 - General Provisions Element, including:

(a) Stabilizing and improving the District's neighborhoods;

(b) Increasing the quantity and quality of employment opportunities in the District;

(d) Preserving and promoting cultural and natural amenities;

(e) Respecting and improving the physical character of the District; and

(i) Promoting enhanced public safety.

The mapping of the CG Overlay over the East M Street area and the proposed new zone districts would also further Comprehensive Plan goals and objectives, including ones related to the environment, transportation, urban design, and land use - particularly ones related to waterfront development. The proposal also furthers a number of Ward 2 and Ward 6 goals and objectives related to Urban Design, Economic Development, Environmental Protection, Transportation, and Land Use.

The proposal would also further AWI and Near Southeast Target Area Urban Design Framework Plan goals and objectives.

VIII. COMPREHENSIVE PLAN GENERALIZED LAND USE MAP

The area proposed to be rezoned and to be within the CG Overlay is designated on the Generalized Land Use Map as "*production and technical employment*". This designation reflects past use of the site, but not current planning thought and policy regarding appropriate uses for this section of the waterfront. The AWI and Near Southeast Plans both envision a mixture of uses, emphasizing ones that better relate to the vision of an active, publicly accessible riverfront recreation area than the current use designation.

IX. ANC 6B

The Planning and Zoning Committee of ANC 6B reviewed this proposal at its May 04, 2004 and June 01, 2004 meetings. The full ANC is scheduled to review the proposal at its June 8, 2004 meeting, which is subsequent to the date by which this report is required to be filed. ANC 6D, which includes the original CG Overlay area (Buzzard Point), is scheduled to review the proposal at its June 14, 2004 meeting.

X. AGENCY REFERRALS – refer to Attachment

This application was referred to the following District government agencies for review and comment:

1. Department of Consumer and Regulatory Affairs (DCRA) – no response as of the date of filing this report;
2. Department of Employment Services – notes that a first source agreement is not required for this application;
3. Department of Housing and Community Development (DCHD) – notes support for the application;
4. Department of Parks and Recreation - no response as of the date of filing this report;
5. Department of Public Works (DPW) - no response as of the date of filing this report;
6. DPW Tree and Landscape Division - no response as of the date of filing this report;

7. District Department of Transportation (DDOT) – notes that W-2 zoning for the land currently occupied by the freeway may be more appropriate, given its proximity to the Capitol Hill residential neighborhood to the north.
8. Environmental Health Administration - no response as of the date of filing this report;
9. *Fire and Emergency Medical Services Department* - no response as of the date of filing this report;
10. Metropolitan Police Department - no response as of the date of filing this report;
11. Water and Sewer Agency (WASA) – notes that the capacity of storm sewers and water mains will need to be evaluated, and that water lines would have to be protected from corrosive contaminated soils in the area. These would be a normal requirement of any development proposal in the area.

XI. CONCLUSION

OP continues to recommend rezoning of the area to CG/W-3, and mapping of the CG Overlay, as amended. However, OP would not be opposed to the rezoning of the CM-1 portion of the area to CG/W-2 rather than CG/W-3, to lessen potential development conflict if this area is ever available for development.

ATTACHMENTS:

I. CG Overlay with proposed amendments highlighted
II. Context Map
III. Zoning Options Map
IV. Near Southeast waterfront area maximum heights
V. Near Southeast waterfront area maximum densities
VI. Staff Comments

AA/jl

CHAPTER 16 CAPITOL GATEWAY OVERLAY DISTRICT

1600 PREAMBLE

1600.1 The Capitol Gateway (CG) Overlay District is applied to the Buzzard Point and Capitol Gateway areas, which are designated for mixed use development in the Comprehensive Plan for the National Capital. The following squares and portions of squares in the Southwest and Southeast quadrants of the District of Columbia are included in the CG Overlay District: 601, 602, 603, 605, 607, 609, 611, 612, 613, 656, 657, 658, 660, 661, 662, E662, 664, E664, 665, 666, E667, S667, 700 through 708, E708, S708, S744, 771, 698, 699, N743, 742 and 769.

1600.2 The CG Overlay District is also applied to the East M Street Area. The following squares and portions of squares in the Southeast quadrant of the District of Columbia are included in the CG Overlay District: Squares 1000, 1001S, 1024, 1025 (lots 811, 812 and 813); 1025E; 1025S (lot 11); 1048; 1048S; 1067; and 1080.

1600.~~2~~3 The purposes of the CG Overlay District are to:

(a) Assure development of the area with a mixture of residential and commercial uses, and a suitable height, bulk and design of buildings, as generally required by the Comprehensive Plan and planning studies of the area;

(b) Encourage a variety of support and visitor-related uses, such as retail, service, entertainment, cultural and hotel or inn uses;

(c) Allow for continuation of existing industrial uses, which are important economic assets to the city, during the extended period projected for redevelopment;

(d) 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 provide for continuous public open space along the waterfront with frequent public access points; ~~and~~

(e) Require suitable ground-level retail and service uses and adequate sidewalk width along M Street, S.E., near the Navy Yard Metrorail station; and

(f) Provide for development of Virginia Avenue S.E. in the East M Street area as a gateway to the river with a strong connection to the waterfront park and Riverwalk, and an active mix of uses including **office, residential,** retail, service, entertainment, cultural and hotel or inn uses.~~;~~

1600.~~3~~4 The CG Overlay District and the underlying CR, W-1, W-2, W-3, and C-3-C Districts shall constitute the Zoning Regulations for the geographic area referred

to in §§1600.1 and 1600.2. Where there are conflicts between this chapter and the underlying zoning, the provisions of the CG Overlay District shall govern.

1601 BONUS DENSITY AND HEIGHT

1601.1 A building or combined lot development used for hotel purposes is not eligible for the bonus density authorized in this section.

1601.2 In the CG/CR and CG/W-3 districts, a building or combined lot development shall be allowed a maximum density of 7.0 FAR; Provided that the additional 1.0 FAR in excess of the matter-of-right maximum of 6.0 FAR shall be devoted solely to residential uses. This bonus density provision shall not apply to CG/W-3 District within the East M Street area, described in §1600.2.

1601.3 For the purpose of accommodating bonus density as authorized by § 1601.2, the maximum permitted building height shall be that permitted by the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452; D.C. Code §§ 5-401 to 5-409), as amended; Provided that in squares 601, 656 and 657 those lots abutting or separated only by a street or alley from residentially zoned property shall provide a 1:1 building setback for any part of a building that exceeds 90 feet in height on the side abutting the residential zone.

1601.4 In the CG/W-1 District, a building or combined lot development shall be allowed a maximum density of 3.5 FAR and a maximum height of 55 feet; Provided that:

(a) The additional 1.0 FAR in excess of the matter-of-right maximum of 2.5 FAR shall be devoted solely to residential uses; or,

(b) The additional 1.0 far may be devoted to any permitted use in the W-1 zone if the building or the combined lot development includes at least 2.0 far of residential development.

1601.5 The Zoning Commission may grant additional density to lots in the CG/W-2 District, as part of the review and approval process applicable to that area, in the manner set forth in §§ 1603.5 and 1603.6.

1601.6 A building that qualifies as a Capitol South Receiving Zone site under § 1601.4(b) shall be subject to the maximum height and bulk limits of §1709.21 of this title.

1602 COMBINED LOT DEVELOPMENT

1602.1 Two or more lots within the Overlay District may be combined for the purpose of allocating residential and nonresidential uses regardless of the normal limitation on floor area by uses on each lot; Provided, that the aggregate residential and nonresidential floor area shall not exceed the matter-of-right maximum height or FAR of the underlying zone district(s), except when bonus density is being constructed.

1602.2 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 and recorded by the Recorder of Deeds in the land records against all lots included in the combined lot development;

1602.3 The instrument shall be in the form of a declaration of covenants that:

(a) Is signed by the owners of all affected lots;

(b) Runs with the land in perpetuity;

(c) Burdens all lots involved in the allocation of gross floor area;

(d) Binds the present and future owners of the lot sending nonresidential FAR to forgo the nonresidential development and occupation of an on-site area equal to the amount of gross floor area of nonresidential uses transferred;

(e) States the maximum permitted gross floor areas for all uses in all lots, the maximum allowed gross floor area for nonresidential uses in all lots, and the gross floor area of nonresidential uses allocated. The covenant shall further state that, after the transfer, the combined lots conform with the maximum gross floor area limitations for nonresidential uses on the lots before the transfer.

1602.4 The declaration of covenants shall expressly state that it may be amended or terminated only with the approval of the Zoning Commission, after public hearing and only upon a finding that the proposed modification or termination is fully justified and consistent with the purposes of this chapter

1602.5 The declaration of covenants shall be approved in content by the Zoning Administrator and certified for legal sufficiency by the Office of the Corporation Counsel. The declaration shall also contain a written statement by the Director of the D.C. Office of Planning attesting to:

(a) The lots' eligibility to allocate residential and nonresidential uses;

(b) The accuracy of the computations with respect to the amount of residential and nonresidential uses ~~re~~allocated; and

(c) Whether, after the transfer, the combined lots will conform with the maximum gross floor area limitations on nonresidential uses for the lots before any such transfer.

1603 ZONING COMMISSION REVIEW OF BUILDINGS, STRUCTURES AND USES IN THE CG/W-2 DISTRICT

1603.1 All proposed uses, buildings and structures in the CG/W-2 District, or any proposed exterior renovation to any existing buildings or structures in the CG\W-2 District that would result in an alteration of the exterior design, shall be subject to review and approval by the Zoning Commission.

1603.2 In addition to proving that the proposed use, building or structure meets the standards set forth in § 3104, the applicant shall further demonstrate that the use, building or structure:

(a) Will help achieve the desired mixture of uses in the CG Overlay District as set forth in §§ ~~1600.2~~1600.3 (a) and (b), with the identified preferred uses specifically being residential, hotel or inn, cultural, entertainment, retail or service uses; and

(b) In the case of waterfront lots, provides suitably designed public open space along the waterfront, as specified in § 1603.3.

1603.3 With respect to a building or structure to be constructed on a lot that faces or abuts the Anacostia River:

(a) The building or structure shall be set back by no less than seventy-five (75) feet, unless the Commission finds that such setback creates an undue economic hardship for the owner of the lot and in no case less than fifty (50) feet from the bulkhead.

(b) The application shall include a plan for suitable open space treatment of the setback area for such uses as walkway and bikeway, passive or active recreational use, and including provisions assuring private maintenance of the space, convenient and permanent public access to the space, and suitable connections to adjacent public space along the waterfront.

1603.4 With respect to all applications, the proposed building or structure shall be designed with a height, bulk and siting so as to provide for openness of views and vistas to and from the waterfront and, where practical, maintain views of federal monumental buildings.

1603.5 The Zoning Commission, at its discretion, may also provide for additional on-site or off-site bonus density to be earned for setbacks required under this section, based on the land area of the setback and the proposed features for public open space uses; Provided, that 2.0 FAR based on the land area of the open space setback shall be used as a general guideline.

1603.6 In the CG/W-2 District, the Zoning Commission, at its discretion, may grant bonus density for residential development in a building or a combined lot development, using a guideline of 1.0 FAR in excess of the normally allowed maximum of 4.0 FAR and an additional ten (10) feet in excess of the normally allowed maximum height of sixty (60) feet; Provided that:

(a) The building or combined lot development shall include at least 2.0 FAR of residential development;

(b) The Zoning Commission, at its discretion, may allow construction of such bonus density on the property zoned CG/W-2 or may allow only for the bonus density to be transferred off-site to a lot or lots zoned CG/CR by means of a combined lot development; and

(c) The provisions of § 1709 shall govern the prerequisites and procedures for transferring bonus density off site if permitted by the Commission.

1603.7 The Commission may hear and decide any additional requests for special exception or variance relief needed for the subject property. Such requests shall be advertised, heard, and decided together with the application for Zoning Commission review and approval.

1603.8 At the time of filing an application with the Commission, the applicant shall pay the filing fee specified in § 3180.1(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.

1604 ZONING COMMISSION REVIEW OF BUILDINGS AND STRUCTURES ON M STREET, S.E. BETWEEN SOUTH CAPITOL STREET AND 4TH STREET, S.E.

1604.1 Any proposed building on a lot that abuts M Street, S.E., between South Capitol Street and 4th Street, S.E. shall be subject to review and approval by the Zoning Commission.

1604.2 An applicant requesting approval under this section must prove that the proposed building's architectural design, site plan, landscaping and sidewalk treatment are of a superior quality, pursuant to the design and use requirements set forth in §§ 1604.3 through 1604.7.

1604.3 The streetwall of each new building shall be set back for its entire height and frontage along M Street not less than fifteen feet (15') measured from the face of the adjacent curb along M Street, S.E.;

1604.4 Each new building shall devote not less than fifty percent (35%) of the gross floor area of the ground floor to retail, service, entertainment or arts uses ("preferred uses") as permitted in §§701.1 through 701.5 and §§721.1 through 721.6 of this title; Provided, that the following uses shall not be permitted: automobile laundry, drive through accessory to any use, gasoline service stations, and office uses (other than those accessory to the administration, maintenance, or leasing of the building). Such preferred uses shall occupy 100% of the building's street

frontage along M Street, except for space devoted to building entrances or required to be devoted to fire control. The minimum floor to ceiling height for portions of the ground floor level devoted to such preferred uses shall be **fourteen (14)** feet.

1604.5 For good cause shown, the Commission may authorize interim occupancy of the preferred use space required by § 1604.4 by non-preferred uses for up to a five (5) year period; Provided that the ground floor space is suitably designed for future occupancy by the preferred uses.

1604.6 Not less than fifty percent (50%) of the surface area of the streetwall of any new building along M Street shall be devoted to display windows having clear or low-emissivity glass except for decorative accent, and to entrances to commercial uses or the building;

1604.7 Notwithstanding §2117.8(c)(1), no driveway may be constructed or used from M Street to required parking spaces or loading berths in or adjacent to a new building;

1604.8 A building that qualifies as a Capitol South Receiving Zone site under § 1601.3(b) and for which a building permit has been applied for prior to August 31, 2001 shall not be subject to the requirements of this Section.

1604.9 The Commission may hear and decide any additional requests for special exception or variance relief needed for the subject property. Such requests shall be advertised, heard, and decided together with the application for Zoning Commission review and approval.

1604.10 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.

1605 ZONING COMMISSION REVIEW OF BUILDINGS, STRUCTURES AND USES IN THE EAST M STREET AREA OF THE CG/W-3 DISTRICT

1605.1 Within the East M Street area, as described in §1600.2, all proposed uses, buildings, and structures in the CG/W-3 District, or any proposed exterior renovation to any existing buildings or structures in the CG/W-3 District that would result in an alteration of the exterior design, shall be subject to review and approval by the Zoning Commission.

1605.2 In addition to proving that the proposed use, building or structure meets the standards set forth in § 3104, the applicant shall further demonstrate that the use, building or structure will:

(a) will help achieve the desired mixture of uses **in addition to the permitted office use,** and a variety of support and visitor-related uses such as retail, service, entertainment, cultural and hotel or inn; and

(b) in the case of waterfront lots, provide suitably designed public open space along the waterfront, as specified in § 1605.3.

1605.3 With respect to a building or structure to be constructed on a lot that faces or abuts the Anacostia River:

(a) The building or structure shall be set back by no less than seventy-five (75) feet **from the bulkhead or the mean high water level, whichever provides the larger setback,** unless the Zoning Commission finds that such setback creates an undue economic hardship for the owner of the lot and in no case less than fifty (50) feet from the bulkhead.

(b) The application shall include a plan for suitable open space treatment of the setback area for such uses as walkway and bikeway, passive or active recreational use, and including provisions assuring private maintenance of the space, convenient and permanent public access to the space, and suitable connections to adjacent public space along the waterfront.

1605.4 Notwithstanding §1601, the maximum building height and density shall be that of the base W-3 zone, as described in §§930 and 931.

1605.5 With respect to all applications, the proposed building or structure shall be designed with a height, bulk and siting **so as to maximize opportunities for** views and vistas to and from the waterfront and to maintain views of federal monumental buildings.

1605.6 The **Zoning** Commission may hear and decide any additional requests for special exception or variance relief needed for the subject property. Such requests shall be advertised, heard, and decided together with the application for Zoning Commission review and approval.

1605.7 At the time of filing an application with the **Zoning** Commission, the applicant shall pay the filing fee specified in § 3180.1(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."

~~1605~~1606 EXISTING INDUSTRIAL USES

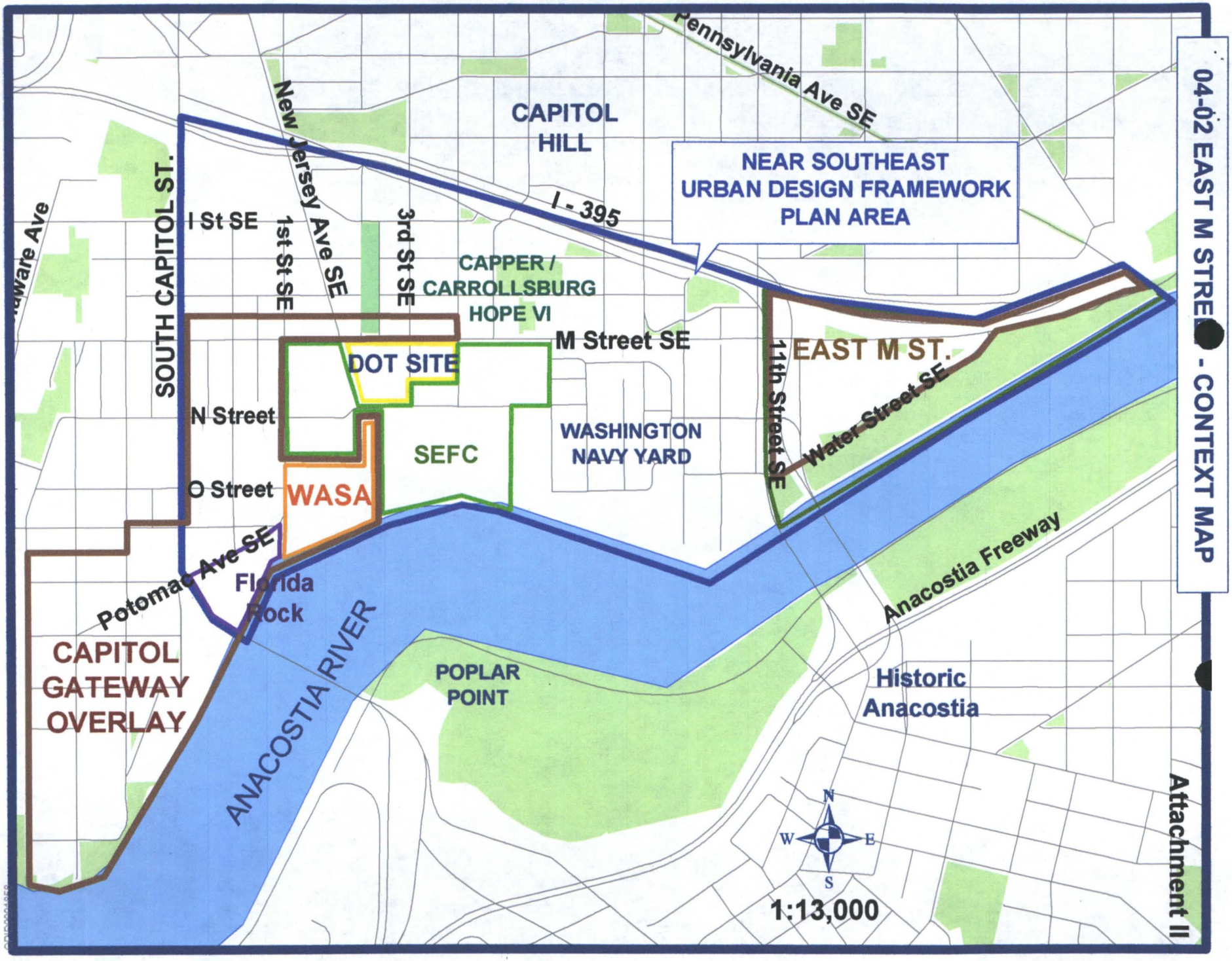
~~1605~~1606.1 A commercial or industrial use that is first permitted in the CM or M districts and that is in existence with a valid Certificate of Occupancy as of (date), shall be deemed a conforming use, but shall not be entitled to expand.

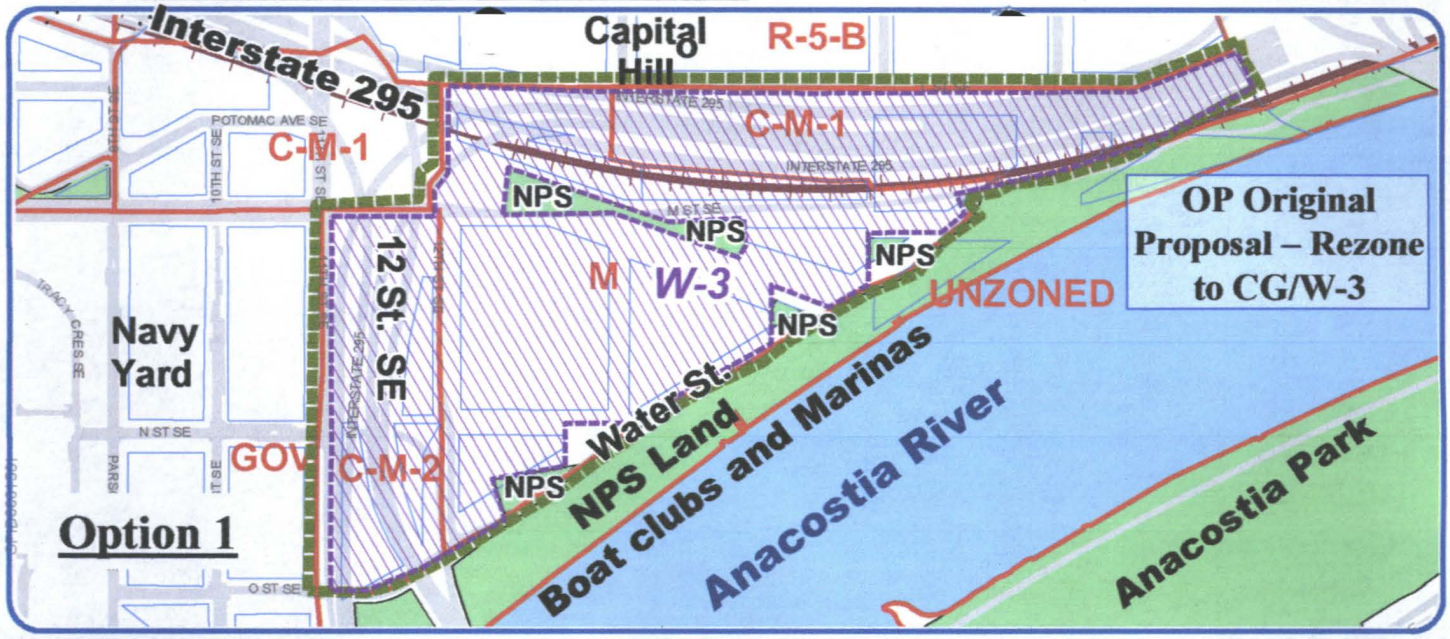
~~1606~~1607 **REFERRAL TO THE NATIONAL CAPTIAL PLANNING COMMISSION**

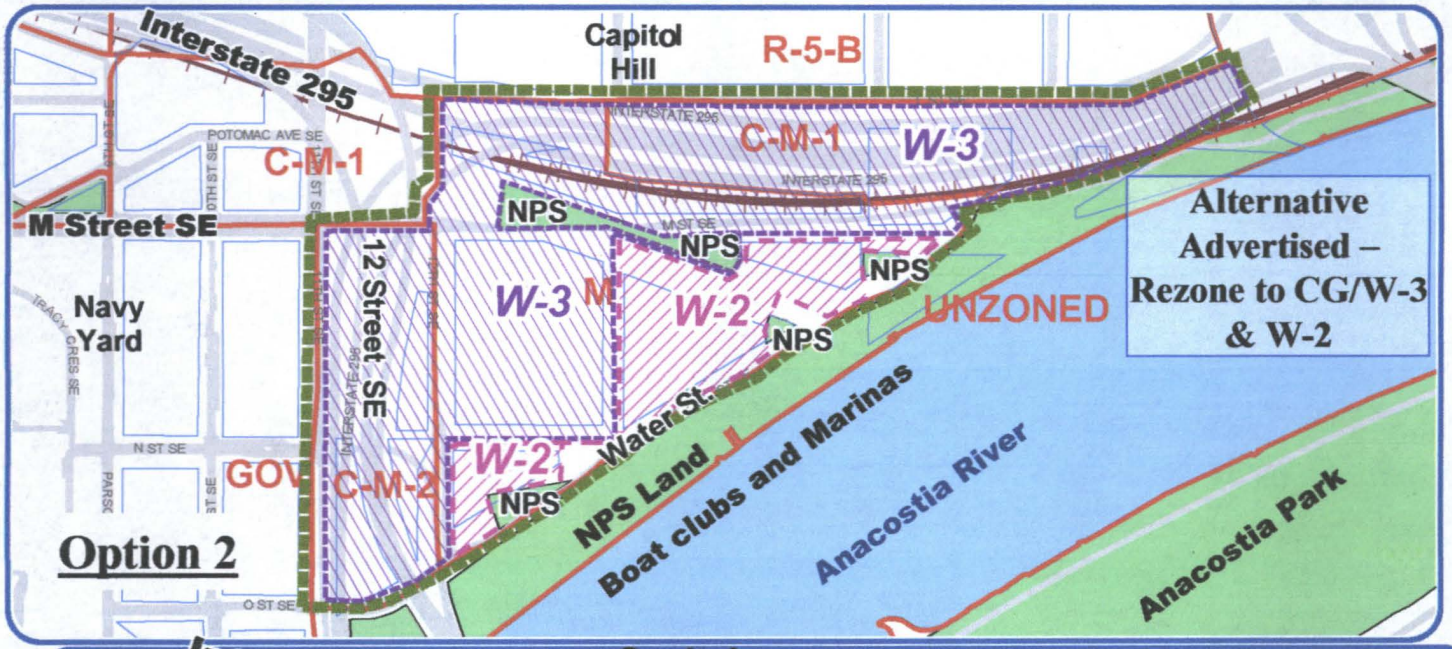
~~1606~~1607.1 A proposed project subject to review by the Zoning Commission shall be referred to the National Capital Planning Commission for comment and review pursuant to § 492(b)(2) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 774, 810; D.C. Code, 2001 Ed. § 6-641.05 (formerly codified at D.C. Code § 5-417 (1994 Repl.))).

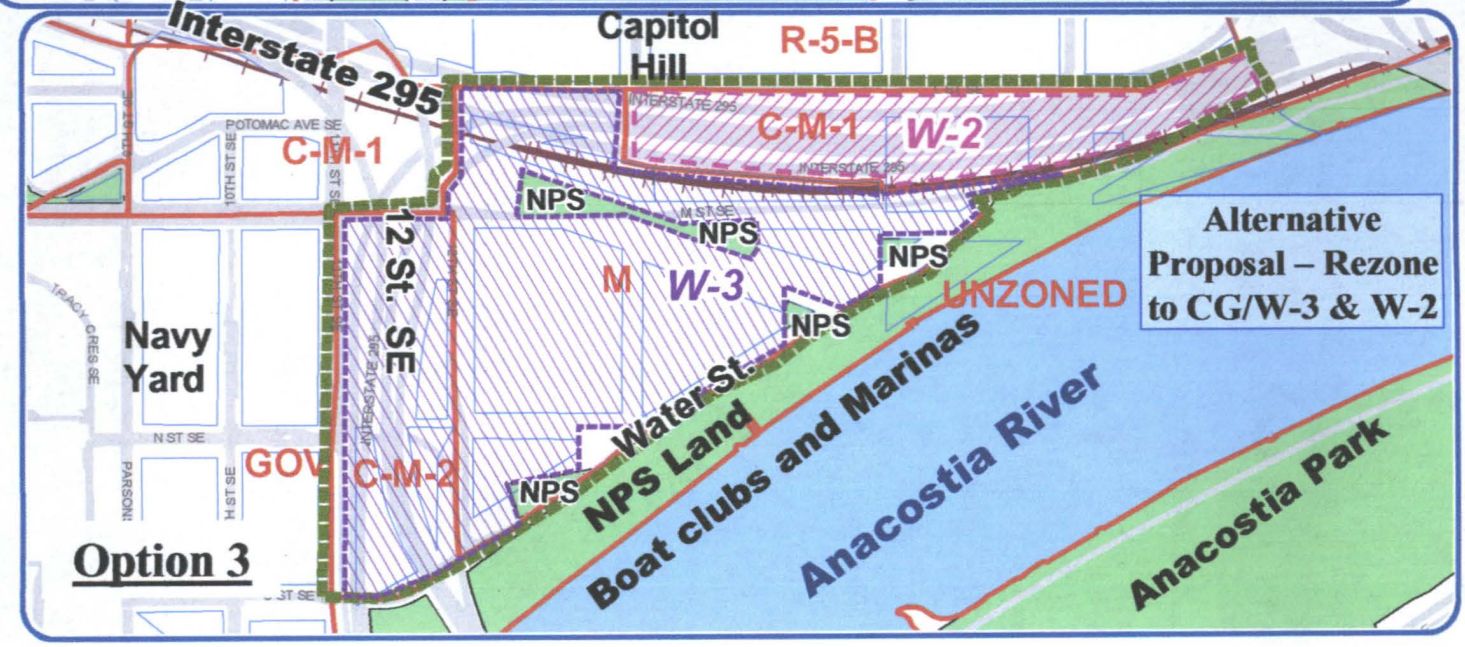
~~1606~~1607.2 The report of the National Capital Planning Commission shall be in writing. It also may be presented orally by the chairperson or duly authorized representative of the Planning Commission.

draft

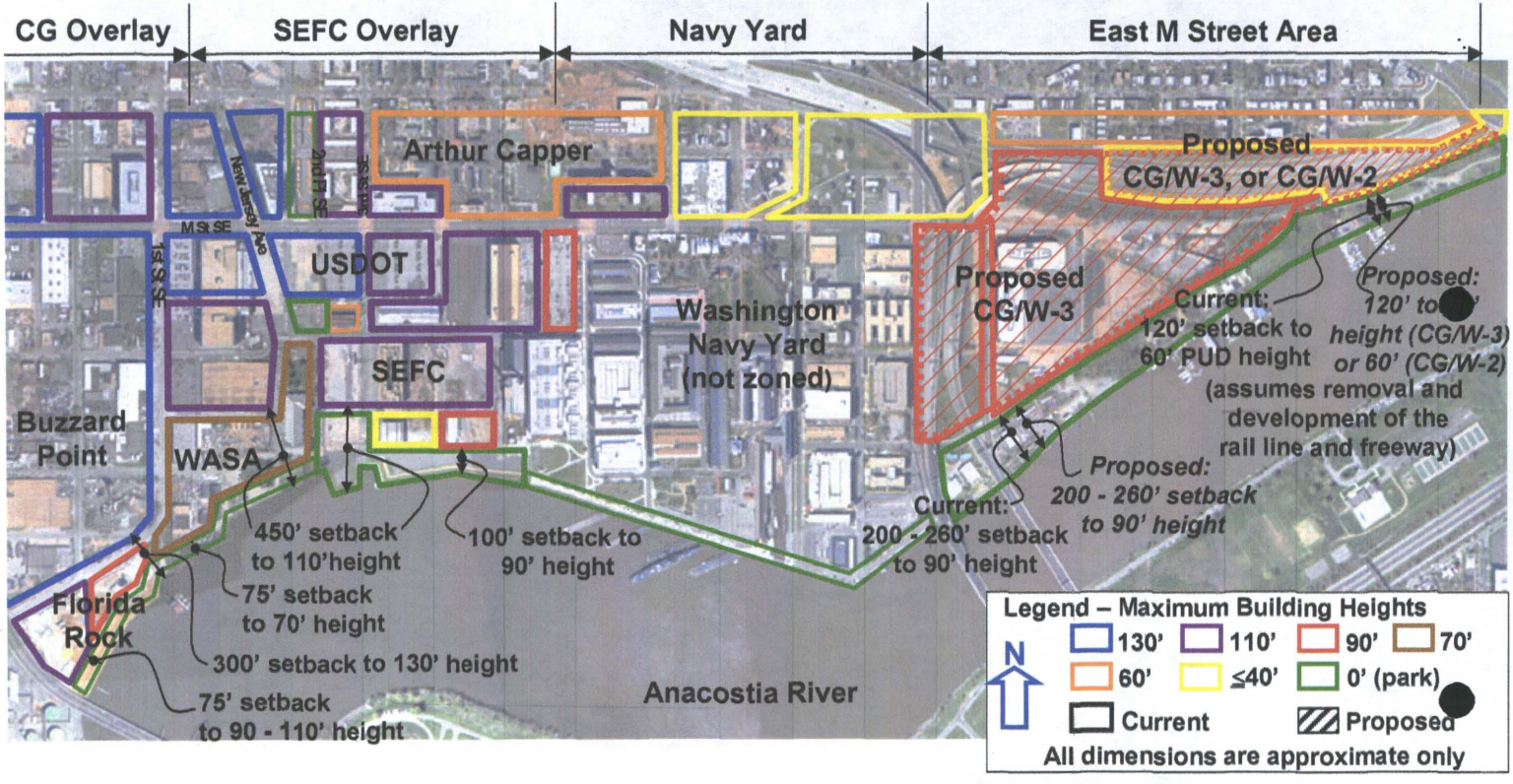

04-02 EAST M STREET - CONTEXT MAP
NEAR SOUTHEAST
URBAN DESIGN FRAMEWORK
PLAN AREA
CAPITOL
HILL
Pennsylvania Ave SE
New Jersey Ave SE
I - 395
SOUTH CAPITOL ST.
I St SE
1st St SE
3rd St SE
CAPPER /
CARROLLSBURG
HOPE VI
M Street SE
DOT SITE
N Street
SEFC
WASHINGTON
NAVY YARD
EAST M ST.
11th Street SE
Water Street SE
O Street
WASA
Potomac Ave SE
Florida
Rock
CAPITOL
GATEWAY
OVERLAY
ANACOSTIA RIVER
POPLAR
POINT
Anacostia Freeway
Historic
Anacostia
N
W
E
S
1:13,000
Attachment II


Interstate 295
Capital Hill
R-5-B
C-M-1
POTOMAC AVE SE
10TH ST SE
NPS
M ST SE
M
W-3
UNZONED
OP Original Proposal – Rezone to CG/W-3
Navy Yard
12 St. SE
N ST SE
GOV
C-M-2
Water St.
NPS Land
Boat clubs and Marinas
Anacostia River
Anacostia Park
O ST SE
Option 1


Interstate 295
Capitol Hill
R-5-B
C-M-1
W-3
POTOMAC AVE SE
10TH ST SE
M Street SE
NPS
M ST SE
W-3
M
W-2
UNZONED
Alternative Advertised – Rezone to CG/W-3 & W-2
Navy Yard
12 Street SE
N ST SE
GOV
C-M-2
Water St.
NPS Land
Boat clubs and Marinas
Anacostia River
Anacostia Park
O ST SE
Option 2

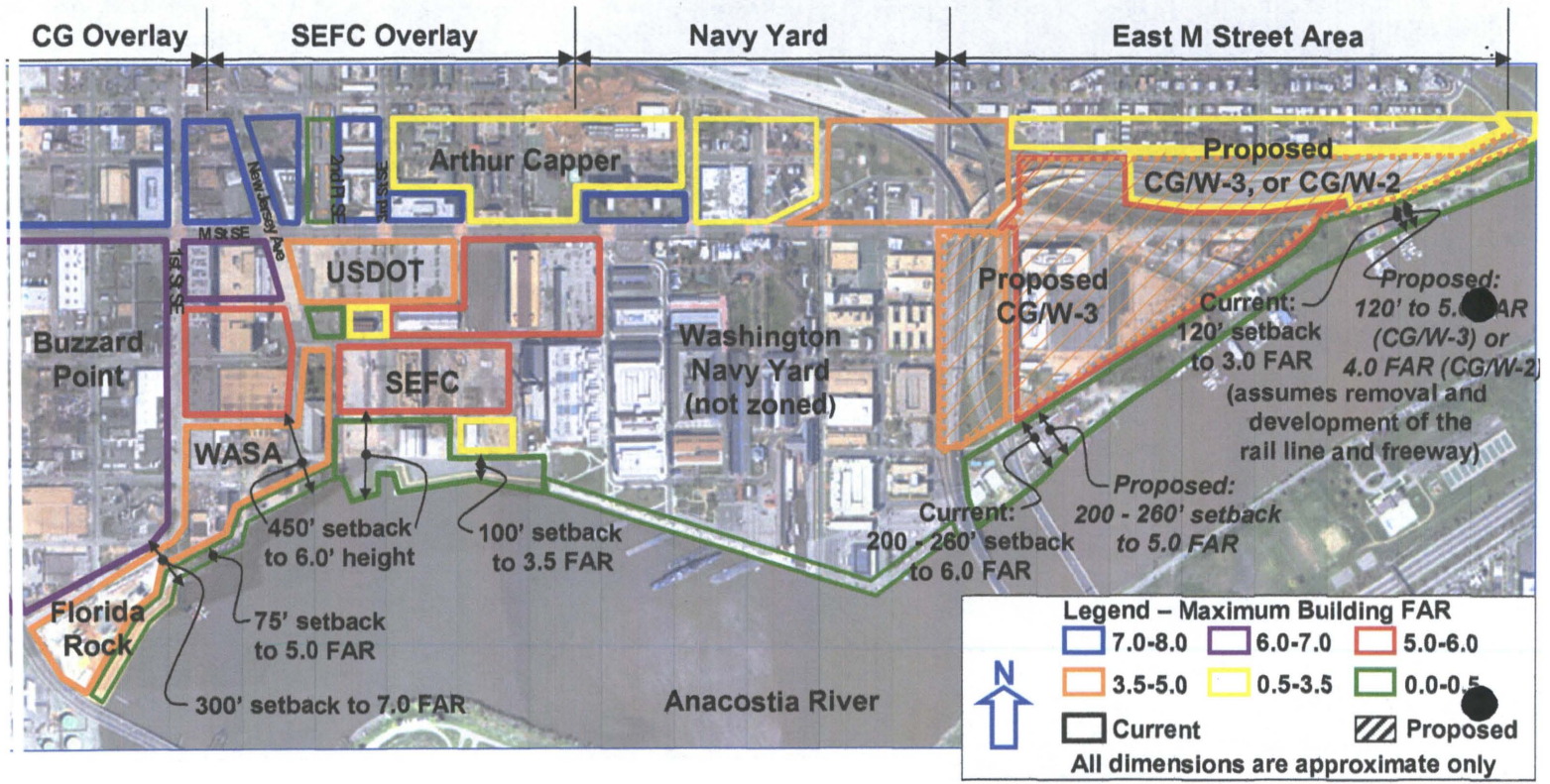

Interstate 295
Capitol Hill
R-5-B
C-M-1
W-2
POTOMAC AVE SE
10TH ST SE
NPS
M ST SE
M
W-3
UNZONED
Alternative Proposal – Rezone to CG/W-3 & W-2
Navy Yard
12 St. SE
N ST SE
GOV
C-M-2
Water St.
NPS Land
Boat clubs and Marinas
Anacostia River
Anacostia Park
Option 3

ZC CASE 04-02 – EAST M STREET **NEAR SOUTHEAST AREA MAXIMUM BUILDING HEIGHTS**



ATTACHMENT IV

ZC CASE 04-02 – EAST M STREET **NEAR SOUTHEAST AREA MAXIMUM BUILDING DENSITIES**



ATTACHMENT V

Zoning Commission Case 04-02, East M Street

Agency Comments

Department of Employment Services (letter attached)

Department of Housing and Community Development (letter attached)

DC Water & Sewer Authority (memo attached)

DC Department of Transportation (via email)

As the Freeway in this area may someday be removed, we might want to consider W-2 for the area east of Maritime Plaza. This is because, once the freeway is removed, this area will sit across the street from the lower residential areas which are south of Pennsylvania Avenue.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Employment Services

Office of Employer Services

MEMORANDUM

TO: Joel Lawson
Development Review Specialist
Office of Planning

FROM: Margaret V. Wright
Acting Associate Director
Office of Employer Services

DATE: MAY 2 4 2004

SUBJECT: Zoning Commission Case # 04-02- Capital Gateway Overlay District II-East M Street SE

As requested, the Department of Employment Services (DOES) has reviewed Zoning Commission Case # 04-02, Capital Gateway Overlay District II-East M Street SE.

The applicant, which is the Office of Planning, has proposed an amendment to the Zoning Map and Zoning Regulations to:

(1) place the Capital Gateway Overlay over the East M Street area;
(2) rezone lands from M and CM to W-3 (or W-2 alternative)
(3) amend the W-3 provisions of the Capital Gateway Overlay as it would apply in the East M Street area; and
(4) amend the Capital Gateway Overlay to require a 15 foot floor to ceiling ground floor retail space.

Please be advised that the Office of Planning is not required to sign a First Source Agreement as the result of their request to amend the Zoning Map and Zoning Regulations for Case Number 04-02. This application has met all criteria established by the Department of Employment Services pursuant to D.C. Law 14-24, D.C. Law 5-93, and Mayor's Order 83-265.

If you need additional information, please contact me at margaret.wright@dc.gov or (202) 698-3533.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

MEMORANDUM

TO: Joel Lawson
Development Review Specialist
Office of Planning

FROM: Lawrence C. Cager, Jr.
Deputy Director for Development Finance

DATE: May 14, 2004

SUBJECT: Department of Housing and Community Development (DHCD) Review of Zoning Commission Case No. 04-02 – Capital Gateway II – An Amendment to the Zoning Map and Zoning Regulations to Place Capital Gateway Overlay over the East M Street SE Area

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DHCD has reviewed the above referenced Zoning Commission Case you sent by e-mail on April 29, 2004. This memorandum offers comments on the Zoning Commission Case. After staff review of the application materials, DHCD is supportive of Zoning Commission Case No. 04-02 for the following reasons:

1. The East M Street SE Area has an industrial/warehouse character that is substantially like the industrial/warehouse character of the Buzzard Point/South Capitol waterfront area. The Capital Gateway Overlay District (CG Overlay) was applied to the Buzzard Point/South Capitol area in order to encourage more environmentally sound new development on private lands in that area. These new developments will provide greater access to the rebuilt waterfront at Buzzard Point. Application of the CG Overlay to the whole East M Street SE Area will, likewise, encourage more environmentally sound developments that provide greater access to the waterfront in the East M Street SE Area.
2. The change of the current zoning on the privately held land (approximately 17 acres) in the East M Street SE Area from M and C-M to W-3 will encourage mixed-use development projects that complement the waterfront park areas and encourage increased access to these waterfront park areas. Current known development proposals for the privately held land propose densities that are less than the densities that would be permitted under the W-3 zoning.

3. The combination of the CG Overlay in the entire East M Street SE Area and the change of zoning on the privately held land to W-3 are in agreement with the objectives of the Anacostia Waterfront Initiative and the Near Southeast Urban Design Framework Plan. Both of these plans envision a mixture of uses that will provide a more active, publicly accessible waterfront area.
4. The recommendation that the Zoning Commission review proposed developments in the W-3 zone of the East M Street SE will further assure that a mixture of uses are approved that will complement the waterfront and encourage increased access to the waterfront area.

DISTRICT OF COLUMBIA SEWER AND WATER AUTHORITY
5000 OVERLOOK AVE SW, WASHINGTON, DC 20032

MEMORANDUM:

May 28, 2004

To: Andrew Altman, Director
Office of Planning

From: Kamlesh Parekh, P.E.
Civil Engineer

Subject: Zoning Commission Case # 04-02 – Capital Gateway Overlay District
II – East M Street SE

The District of Columbia Water and Sewer Authority (DCWASA) has reviewed the information for the above referenced project. We offer the following comments:

1. Capacity of the existing storm sewers must be evaluated because the proposed zoning will change the existing area of permeable land surface available for the control of runoff. If the existing storm sewer does not have adequate hydraulic capacity, on-site storage of storm water or a construction of new storm sewer discharging into the river will be required.
2. The existing six and eight inch water mains may not be adequate to supply all water for fire protection and other uses at adequate pressure. Pressure and flow tests of the existing water mains will be required to assess availability of water. Also, water flow requirements for fire protection will be needed to evaluate the impact of the new development on the water system. However, a 36-inch main is available in M Street and two 30-inch mains are available in 11th Street.
3. The site has been contaminated with corrosive soils. DCWASA will require soil investigation and recommendations to protect water pipes. WASA may require appropriate pipe material to protect water pipe from corrosion. WASA will require removal of hazardous soils from water main trenches.
4. In order to evaluate adequacy of the sanitary sewer, you will need to provide future average and maximum daily wastewater flow from the new development.
5. If you have any question, please feel free to call me on 202-787-2415 or please send me an e-mail to kparekh@dcwasa.com.