

GOVERNMENT OF THE DISTRICT OF COLUMBIA

OFFICE OF PLANNING



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OFFICE OF THE DIRECTOR

MEMORANDUM

ZONING COMMISSION
District of Columbia

TO: District of Columbia Zoning Commission

FROM: Jennifer Steingasser, ^{JS} Deputy Director

DATE: July 16, 2007

CASE NO. 04-33B
EXHIBIT NO. 4

SUBJECT: Final Report - Inclusionary Zoning Amendments, Case #04-33B

This report contains the Office of Planning's (OP's) final recommendations in Case 04-33B, the refinement and expansion of the Inclusionary Zoning (IZ) requirements of Chapter 26 of the Zoning Regulations. It also furnishes the Commission with the additional information requested of OP at the Commission's May 4, 2006 public meeting.

I. SUMMARY RECOMMENDATION

The Office of Planning recommends the Zoning Commission adopt amendments to Chapter 26, Inclusionary Zoning that would:

- 1) Apply IZ to the R-2 zone district and refine the application of IZ to the R-3 and R-4 zone districts;
- 2) Amend floor area ratio (FAR), lot occupancy and height for each zoning overlay, to ensure potential access to the 20% bonus density provided by IZ;
- 3) Amend § 2604.2 to allow additional height for residential projects in the SP-2 and C-2-C zone districts and to reduce the 90% lot occupancy to 80% lot occupancy, in order to increase the availability of light and air to units in these zone districts
- 4) Amend §2601 & §2602 to bring them into conformance with the Inclusionary Zoning Implementation Act of 2006;
- 5) Amend §§ 2603.1 and 2603.2 to base the minimum IZ requirements on the residential use provided and not on the overall matter of right density of a given site, or the non-residential use developed;
- 6) Delete § 2606, which requires projects to go before the BZA if they are not achieving the full 20% bonus, but are otherwise meeting the language of § 2603
- 7) Amend §2607, Off-Site Compliance, to allow the use of Combined-Lot covenants and to clarify the relief process;

- 8) Amend §2608 to resolve the date of applicability and projects previously approved by the Zoning Commission.

At the public meeting the Commission asked OP for more information about:

- The impacts and effectiveness of applying IZ to the R-2 district.
- The practicality of applying IZ to three neighborhood commercial overlays that are also in historic districts:
 - Eighth Street Overlay (south of the SE – SW freeway);
 - Woodley Park Overlay (Connecticut Avenue, south of National Zoo);
 - Cleveland Park Overlay (North of National Zoo).

The Commission requested that OP study:

- How IZ might impact the view shed from the historic Fort Totten battlements; and
- How IZ would impact the Capital Gateway Overlay District, which provides for density incentives and combined lot development.

A. Background

In November 2004 the Campaign for Mandatory Inclusionary Zoning (CMIZ) applied to the Zoning Commission to hold public hearings on requiring certain residential development projects to set aside a percentage of units as affordable to targeted incomes. After meeting with CMIZ and the development community, the Office of Planning recommended three alternatives for set down at public hearings: the CMIZ proposal for a mandatory IZ program; an alternative mandatory program introduced by OP after meetings with the development community and CMIZ; and a voluntary IZ program introduced by OP.

At its April 9, 2005 public meeting the Zoning Commission voted to set down the mandatory alternatives, but divided consideration of IZ into the design of the program, and where it should be applied in the District of Columbia. Case #04-33 first covered the design of the IZ program through three nights of hearings in the summer of 2005. Over the Fall of 2005, the Zoning Commission deliberated and voted to have language prepared for the basic elements of IZ including target incomes, percent of units affordable, bonus density, building envelope flexibility, and provisions for zoning relief. After reviewing language in the Spring of 2006, the Zoning Commission approved final language in June 2006. Hearings were then held on the areas and zone districts where IZ should be required. The Commission voted to approve the zone districts and exemptions that the Office of Planning recommended. Final action was taken at the public meeting of February 12, 2007.

On May 14, 2007 the Commission voted to set down amendments to the Inclusionary Zoning revisions that the Office of Planning had introduced based on questions from the development community regarding interpretation of the IZ regulations to certain development scenarios; refinements discussed with the Office of the Attorney General (OAG); and issues raised by the Zoning Commission. These included: 1) applying IZ to the R-2 zone district; 2) refining the text to provide greater clarity; and, 3) providing language to specify how the base, bonus and affordable set-aside are calculated for each overlay zone, and the appropriate height and lot occupancy increases to accommodate IZ in those overlays.

II. APPLICATION OF IZ IN R-2

OP Recommends: That inclusionary zoning requirements be extended to the District's R-2 zone.

OP's supplemental report dated November 2, 2006 first discussed the possibility of applying IZ in the R-2 zone district and concluded that OP should provide the Commission with language for consideration. OP's setdown report dated May 4, 2007 provided the Zoning Commission with language for applying IZ to the R-2 and compared the District's existing R-2 neighborhood form with the proposed IZ/R-2.

Two major questions arose from OP's setdown report regarding application of IZ in the R-2 zone district. First, are IZ changes to the lot dimensions with the existing R-2 district consistent with the Comprehensive Plan and Zoning Regulations descriptions of low density housing? Second, is there sufficient development opportunity in the R-2 district to produce significant affordable units?

A. R-2 Form

OP's setdown report noted that many lots in the R-2 zone are already consistent with the lot dimensions proposed for the IZ changes. Similar to OP's report last year, the following illustrations present the changes to R-2 lot dimensions in perspective. Figure 1 presents the base R-2 form under the current zoning regulations. Figures 2 and 3 show two IZ scenarios developed by OP that accommodate the 20% increase in the number of lots within the same parcel.

R-2 Lot Requirements: Matter of Right Semi-Detached (Narrower Width)

Min Lot Width:
30 Feet

Min Lot Area:
3,000 Square Feet

Min Lot Depth
(computed):
100 Feet

Lot Occupancy:
60%

Side Yard:
8 Feet



Figure 1. Illustration of R-2 Base Lot Constraints.

These dimensions permit a house that is twenty-two feet wide and fifty-five deep and that is between 2,420 and 3,620 square feet in size, depending on the number of stories. As noted in OP's setdown report, the provision of a side yard is a crucial distinction of the R-2 from more dense residential zones.

R-2 IZ Lot Requirements: Matter of Right Semi-Detached (Shallower Depth)

Minimum Lot Width:
30 feet

Minimum Lot Area
2,500 square Feet

Minimum Lot Depth
(Computed)
83 Feet

Lot Occupancy:
60%

Side Yard:
8 feet



Figure 2. Illustration of IZ/R-2 Shallow Lot Constraints

These dimensions permit a house that is twenty-two feet wide and forty-five deep and that is between 1,980 and 2,970 square feet in size, depending on the number of stories.

R-2 IZ Lot Requirements: Special Exception Semi-Detached

Minimum Lot Width
25 Feet

Minimum Lot Area
2,500 Square Feet

Minimum Lot Depth
(Computed)
100 Feet

Lot Occupancy:
60%

Side Yard:
8 Feet



Figure 3. Illustration of IZ/R-2 Narrow Lot Constraints.

These dimensions permit a house that is seventeen feet wide and eighty-eight feet deep that is between 2,992 and 4,488 square feet in size, depending on the number of stories.

As OP stated in the set down report, 34% of R-2 detached lots are smaller than the minimum 4,000 sf zoning requirements. 70% of R-2 semi-detached lots in the District are smaller than current 3,000 sf minimum currently required by zoning and 47% of lots are even smaller than what IZ would permit. OP's review determined the smaller lots were most often due to a reduction of the lot depth, while width was often similar to the minimums required by zoning. Smaller lots with narrower frontages, similar to those initially proposed by OP for IZ, do exist, but they were less common.

B. R-2 Land Capacity and Planning

Two issues surround the impact of applying IZ to the R-2 district. They are related to OP's concepts of simplicity, equity, and effectiveness. First, is the amount of existing vacant R-2 land that is either large enough to trigger an IZ requirement, or could be assembled to trigger an IZ requirement. Second, as a long range planning tool, are IZ requirements appropriate to the R-2 zone. The first issue goes towards the impact and effectiveness IZ could have on affordable housing in the short term. The second is related to OP's concepts of simplicity and equity as land in Washington's new neighborhoods is zoned R-2, or small area plans or Comprehensive Plan consistency efforts rezone land to R-2 for the long term.

1) Available land

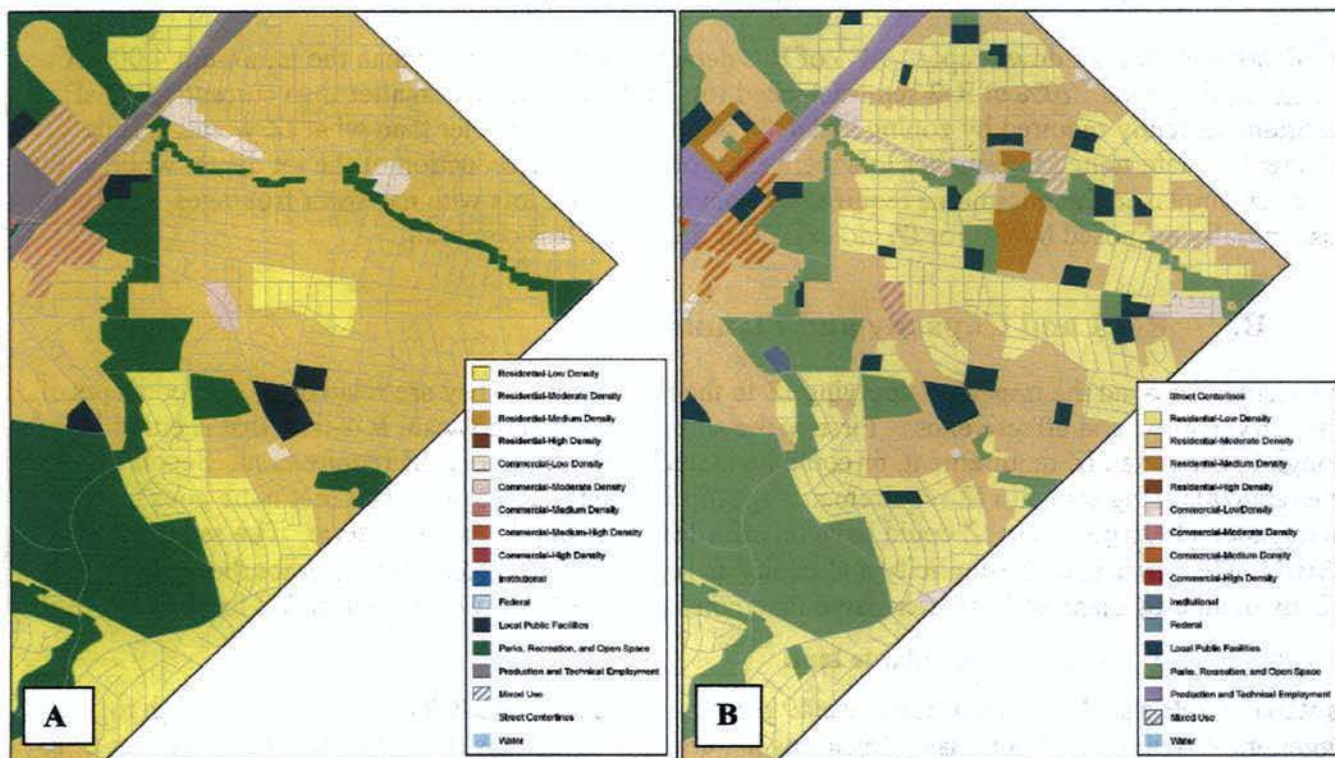
As stated in OP's setdown report there are 49 parcels currently zoned R-2 that are large enough to trigger an IZ requirement. OP has refined this list down to 11 parcels totaling 486,000 square feet of R-2 land that are privately held and suitable for development. If these parcels were developed as efficiently as

possible, they would develop 162 number of semi-detached homes under current zoning and 194 homes under IZ, of which 24 would be affordable to households at both 50% of AMI and 80% of AMI. In addition to this there is 3.6 million square feet of scattered site, unassembled R-2 zoned land that is currently vacant. 10% of this land is in parcels between 10,000 and 30,000 square feet. Most of the vacant R-2 land is concentrated in the Far Northeast/Southeast Planning Area.

Developer behavior would likely seek to avoid IZ requirements by developing such parcels without assembling them into 30,000 square feet or larger parcels. However, if land was added to these parcels Than another 116 units of would be developed or 139 under IZ. While the potential is not as significant as the District’s multi-family zones the ability to provide affordable single-family dwelling is all the more crucial to providing an appropriate mix of housing choices. Opportunities should therefore be maximized.

2) Comprehensive Planning

General growth pressures on the District are not likely to cause the rezoning of land to a lower density category like the R-2 zone. However, there are a number of policy statements in the Comprehensive Plan encouraging the development and protection of family-type units, such statements might lead to rezoning to R-2 in some cases. In addition there are several comprehensive Plan map amendments, particularly in the Far Northeast and Southeast planning area that reduce land use to low density residential primarily to match the existing zoning and neighborhood form (see Figure 4 A & B.). Future Comprehensive Plan consistency efforts might result in additional land rezoned to R-2.



**Figure 4 A & B. A) 1998 Comprehensive Plan Land Use
B) 2006 Comprehensive Land Use Map**

III. FURTHER ANALYSIS OF THE APPLICATION OF IZ IN FOUR OVERLAY ZONES

OP Recommends: that language be added to each overlay to provide clarity on how IZ applies in a given overlay, how the bonus density is calculated, how the set-aside requirement is calculated and what flexibility is allowed with regards to height and lot occupancy.

To determine the necessary flexibility in the building envelope for each overlay, OP followed the same process completed for the base zones in previous reports. There should be:

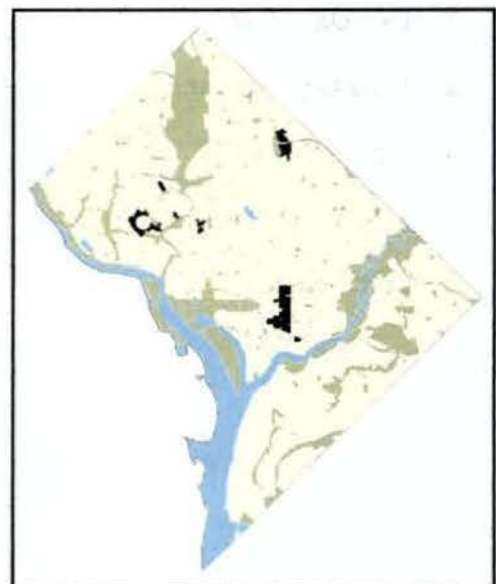
- No change in building type;
- The smallest possible changes to building envelope in order to minimize changes in neighborhood form; and
- A lot occupancy that, depending on the nature of the zone/overlay, would vary up to a maximum of 80%
- A floor-to-floor average of eleven feet to determine the number of stories and height necessary to accommodate the bonus density. More specifically, it was a fifteen foot ground floor with ten foot floor to floor above.

OP grouped the overlays into three different categories to determine the appropriate interaction of overlays with the IZ regulations:

- In overlays with density restrictions on matter of right development, the IZ bonus would be calculated based on the restricted FAR;
- In overlays with density incentives, the IZ bonus would be calculated from the base zone and would be given priority over the overlays' incentives;
- In overlays with both density incentives and combined lot development provisions, the IZ bonus would be calculated from the base zone and would be given priority over the overlays' incentives, but additional language would be needed to account for the combined lot provisions.

A. Overlays with Density Restrictions

The location of the density-restrictive overlays is indicated in the illustration to the right. OP has previously proposed respecting the intent of these overlays by calculating the bonus density from the restricted density. The FAR, height and lot occupancy restrictions for IZ are summarized in the table that follows



Base Zone	Base Zone			Overlay Zone			IZ Bonus		
	FAR	Lot Occupancy	Max Height	FAR	Lot Occupancy	Max Height	Maximum FAR	Lot Occupancy	Max Height
Capitol Interest (CAP)									
R-5-B	1.8	60%	50	1.8	60%	40	2.16	75%	40
C-2-A	2.5	60%	50	1.8	60%	40	2.16	75%	40
SP-1	4.0	80%	65	1.8	80%	40	2.16	80%	40
Cleveland Park (CP)									
C-2-A	2.5	60%	50	2.0	60%	40	2.40	75%	45
Eighth Street SE (ES)									
C-3-A	4.0	75%	65	3.0	75%	45	3.60	75%	55
Fort Totten (FT)									
C-3-A	4.0	75%	65	4.0	75%	65	4.80	80%	65
CR	6.0	75%	90	5.0	75%	80	6.00	75%	90
Naval Observatory (NO)									
R-5-A	0.9	40%	40	0.9	40%	40	1.08	40%	40
C-2-A	2.5	60%	50	2.5	60%	40		N/A	
Reed-Cooke (RC)									
R-5-B	1.8	60%	50	1.8	60%	40	2.16	75%	40
C-2-B	3.5	80%	65	3.5	80%	50		(1)	
Woodley Park (WP)									
C-2-A	2.5	60%	50	2.5	60%	40	3.00	75%	50
C-2-B	3.5	80%	65	3.0	80%	50	3.60	80%	55

Table 1.

At the May 14, 2007 public meeting, the Commission considered OP's testimony and its report of May 4, 2007 and asked OP to provide additional analysis for four of the seven overlays with density restrictions. The Commission wished to gain a better understanding of how OP's proposals to accommodate IZ would impact the intentions of the overlay, and of the historic districts. OP did two of analyses: massing and scale; and view-shed. The Overlays are:

Massing and Scale Analysis

1. Cleveland Park;
2. Woodley Park; and,
3. Eighth Street SE.

View Shed Analysis

4. Fort Totten

In each massing analysis OP assumed a fifteen-foot high ground floor and ten foot residential floors above. While the zones all permit commercial uses, and therefore up to 100% lot occupancy on non-residential floors (e.g., retail uses), OP limited all the floors to the residential lot occupancy limit of the zone district. The view shed analysis investigated the impact of differing building heights on the views from the top of Fort Totten, a full page map of that analysis is attached.

1. Cleveland Park (CP) Neighborhood Commercial Overlay (11 DCMR §1306)

OP Recommends: that the Commission adopt the amendments to the Cleveland Park overlay that OP recommended in its May 4, 2007 report, as advertised in the DC Register on June 1, 2007.

The Cleveland Park Overlay borders each side of Connecticut Avenue, NW between Macomb and Porter Streets. It is within the Cleveland Park Historic District. The overlay is characterized by a variety of building heights ranging from one-story storefronts to five-story residential buildings, rising sixty feet above the street.

The east side of Connecticut Avenue is characterized by mostly one-to-three story storefront buildings. The main exception is the sixty foot tall apartment building built in 1922 on the north side of Macomb Street, at 3301 Connecticut.

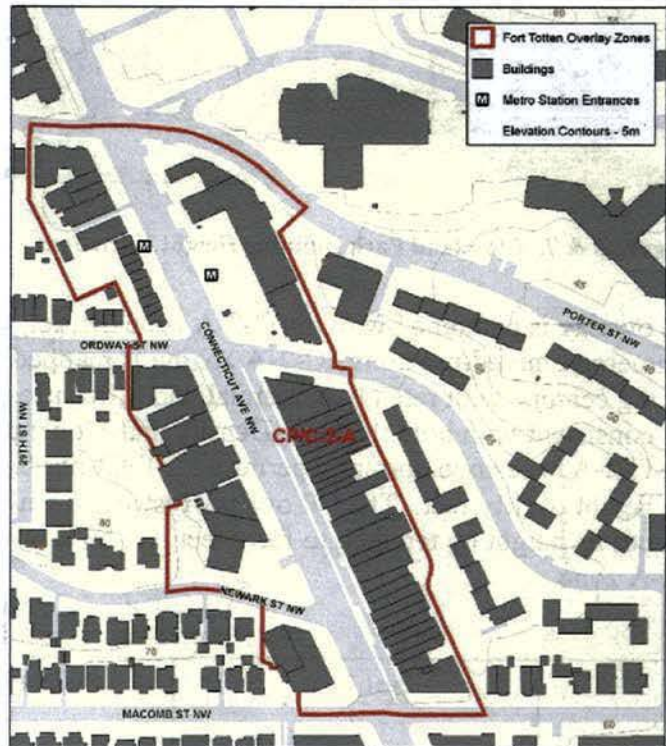


Figure 5. Cleveland Park Overlay

The west side of the overlay has a more varied profile. The southern end is anchored by the Cleveland Park public library between Macomb and Newark Street. Between Newark and Ordway streets there is an art-deco apartment and retail building that rises 4 stories/40 feet and is set back from Connecticut by a private parking lot on Connecticut Avenue. Continuing north are one story retail store fronts and the Uptown Theater, which is approximately 45-feet high. Between the Uptown Theatre and Ordway Street are several three story mixed-used row structures and a five story apartment building built in 1927 on the south side of Ordway Street. These structures start rising from a berm over Connecticut with the apartment building rising to a total of 60 feet above the street (see Figure 6). The block between Ordway and Porter Streets varies from one to four stories.



Figure 6 & 7. Cleveland Park Building Height Variations - 3346 (Left) and 3413 (Right) Connecticut Avenue.

The overlay is combined with the C-2-A zone district, which is the District's most common commercial/mixed-use zone. C-2-A zoning is mapped throughout the District to provide neighborhood-serving centers, with retail, commercial and office uses, and with residential use permitted throughout. It is consistent with both the Low-Density and Moderate-Density Comprehensive Plan designations. The C-2-A base zone normally permits 1.5 FAR of non-residential and up to 2.5 FAR for residential, up to a height of fifty feet. The CP overlay restricts a building's FAR/square footage to 2.0 FAR and reduces its height by ten feet, to forty feet, i.e. 80% of what would otherwise have been allowed in the C-2-A zone.

Base Zone	Base Zone			Overlay Zone			IZ Bonus		
	FAR	Lot Occupancy	Max Height	FAR	Lot Occupancy	Max Height	Maximum FAR	Lot Occupancy	Max Height
Cleveland Park (CP)									
C-2-A	2.5	60%	50	2.0	60%	40	2.40	75%	45

Table 2.

Inclusionary Zoning would permit projects of 10 units or more to have an additional five feet in height, up to 45 feet, and 0.4 greater FAR than the restricted envelope of the overlay.

To test the impacts of the IZ bonuses on neighborhood character OP considered several sites for study. The neighborhood has no vacant land for immediate development so any site chosen would have to involve redevelopment of existing structures. After examination of property ownership and consultation with the staff of the Historic Preservation Office, OP chose the site of the existing Cleveland Park library as a location on which: 1) development large enough to trigger IZ might conceivably occur; and

2) the site has significant unused development capacity. The site is 19,913 square feet of which 62% is currently developed with the library at an estimated FAR of 1.1.¹

The following illustrations show: the context with the current library; a by-right development scenario under the overlay restrictions; and with a theoretical IZ development. The design of the building is generic with architectural details simply added to help illustrate relative scale. The main goal is intended to assess the overall relationship of the height and bulk on the surrounding neighborhood form, not the details of its design. OP assumed that a new or expanded building would continue to devote the first floor primarily to library use with all residential uses on the upper floors above the library.

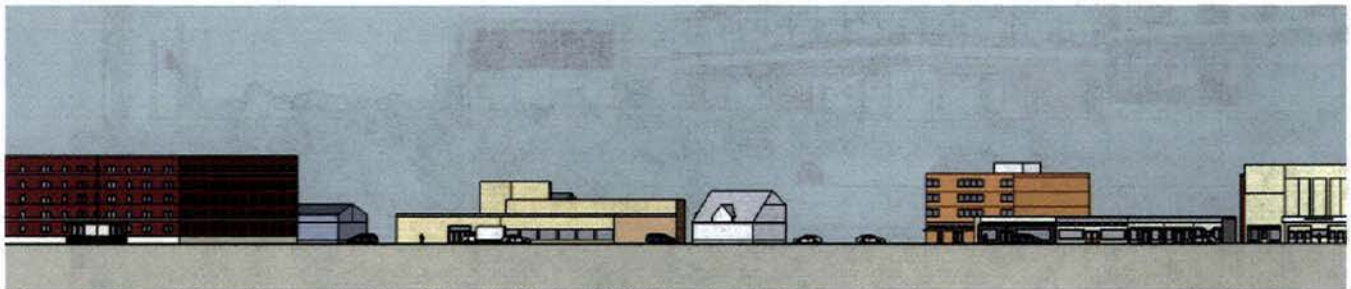


Figure 8. West Elevation – Cleveland Park Existing Neighborhood Context.

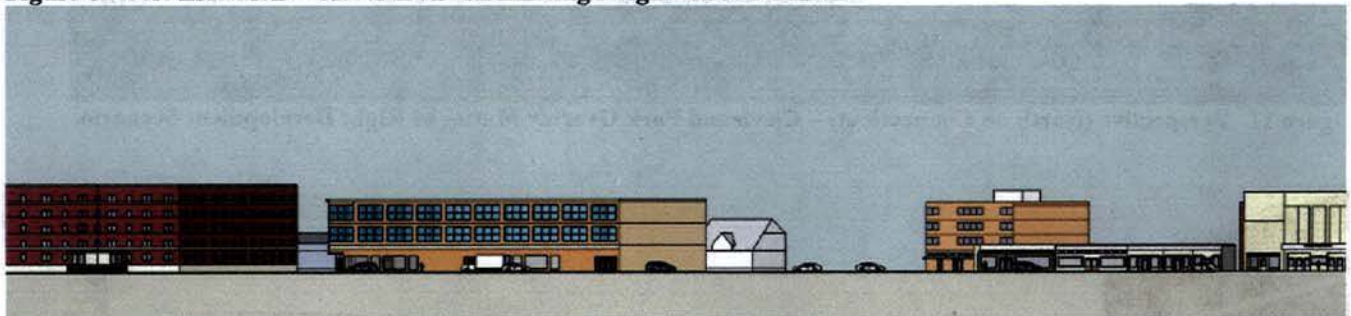


Figure 9. West Elevation - Cleveland Park Overlay Matter of Right Development Scenario.

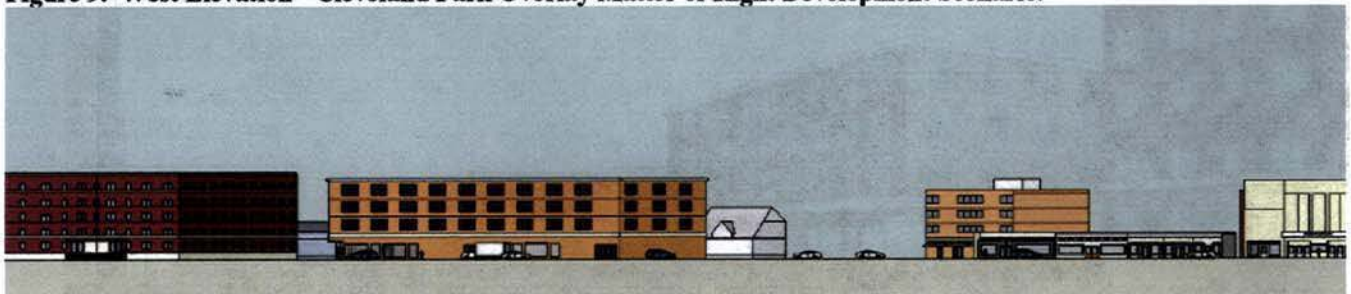


Figure 10. West Elevation - Cleveland Park Overlay IZ Development Scenario.

¹ NOTE: There is growing consideration that the Cleveland Park library is a contributing building to the historic district. As such any redevelopment would have to incorporate the existing structure in the design. To simplify the massing models OP did not attempt to include these design challenges, but focused on general height and massing.



Figure 11. Perspective (North on Connecticut) – Cleveland Park Overlay Matter of Right Development Scenario.



Figure 12. Perspective (North on Connecticut) - Cleveland Park Overlay IZ Development Scenario.

As the computer illustrations show, a building with the maximum 2.4 FAR and 4-story/ 45' height would be no taller than the apartment building across Macomb Street to the south, the apartment building to the east across Connecticut Avenue, or the top of the Uptown Theater. From Connecticut Avenue, the proposed structure at the northwest corner of the avenue and Newark Street would appear to be similar in height and bulk to the apartment on the southwest corner of the Avenue and Newark Street. OP's design brings the massing toward Connecticut Avenue to provide appropriate setbacks from the single family homes to the west. OP will be able to demonstrate these simulations in more detail at the public hearing.

The Historic Preservation Office (HPO) staff has reviewed the illustrations and said that a building with such height and mass would not, on its face, be deemed incompatible with the historic district. It would, of course, be subject to design review and possible changes as part of the HPRB review process.

Based on HPO staff's reaction to the simulation, OP believes the impact of IZ on this overlay would be acceptable.

2. Woodley Park (WP) Neighborhood Commercial Overlay (11DCMR § 1307)

OP Recommends: that the Commission adopt the amendments to the Woodley Park overlay that OP recommended in its May 4, 2007 report and that were advertised in the June 1, 2007 DC Register.

The Woodley Park Overlay borders each side of Connecticut Avenue, NW between Calvert Street and Cathedral Avenue. It is within the Woodley Park Historic District. The overlay is generally characterized by small-scale commercial structures one to three stories high, but there are residential and mixed-use buildings that rise to four or five stories, and significantly taller buildings immediately across the street from the overlay.

On the east side of Connecticut Avenue, building heights range from one story to five stories with the tallest being a five-story historic apartment building at the southeast corner of Connecticut Avenue and Cathedral Avenue. On the west side of the avenue, next to the Woodley Park Metro entrance, buildings range from one

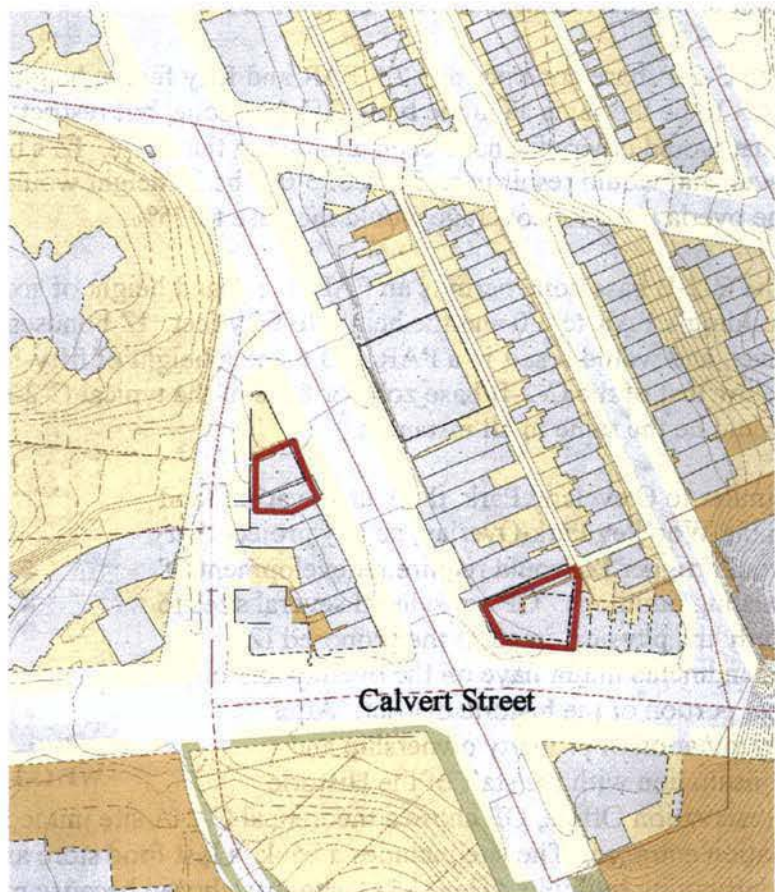


Figure 13. Woodley Park

to three stories. Immediately west of the overlay boundaries there is a ninety foot tall, nine-story apartment building that essentially has the impact of an eight story building due to topography and the historic seven-story Wardman Park hotel that is set back from the avenue and elevated twenty-five feet above the Connecticut Avenue.

The overlay is combined with the C-2-A base zone on the west side of Connecticut Avenue, and C-2-B base zone on the east side of the street. Both of these zones are intended to provide neighborhood-serving centers with retail, commercial and office uses, and with residential use permitted throughout. C-2-A is consistent with both the Low-Density and Moderate-Density Comprehensive Plan designations. C-2-B is consistent with the Moderate-Density Comprehensive Plan designation.

Base Zone	Base Zone			Overlay Zone			IZ Bonus		
	FAR	Lot Occupancy	Max Height	FAR	Lot Occupancy	Max Height	Maximum FAR	Lot Occupancy	Max Height
Woodley Park (WP)									
C-2-A	2.5	60%	50	2.5	60%	40	3.00	75%	50
C-2-B	3.5	80%	65	3.0	80%	50	3.60	80%	55

Table 3. WP Development Scenario Comparisons

The C-2-A base zone permits 2.5 FAR and fifty feet in height. The WP overlay permits a building's FAR to be the same as in the typical C-2-A zone, but restricts a building's height to forty feet, or 80% of what would otherwise have been allowed in that zone. IZ's bonuses are calculated from this restricted level, and would result in an FAR of 3.0. The IZ height would be the same as the C-2-A height without the overlay. IZ lot coverage would increase to 75%.

The C-2-B base zone permits an FAR of 3.5 and height of sixty-five feet. The WP overlay restricts a building's FAR to 3.0 and the height to fifty feet. IZ bonuses would be calculated from this restricted level, and would result in a FAR of 3.6 and a height of fifty-five feet. The IZ height is still ten feet below that of the C-2-B base zone or 85% of the typical C-2-B height without the overlay. Lot coverage would be the same in all instances.

Similar to Cleveland Park, there is no vacant land in the Woodley Park Overlay, so any project that would trigger IZ would require redevelopment of existing buildings. OP considered several sites to study the physical impacts the proposed IZ amendments might have on the overlay and on that portion of the historic district. After examination of property ownership and consultation with the staff of the Historic Preservation Office, OP chose a theoretical C-2-A site immediately south of the Woodley Park Metrorail station entrance. The site includes a bank, a fast food store and drugstore, and also a restaurant in a contributing building. This C-2-A site was chosen because most of buildings necessary to assemble a



WP/C-2-A - Existing Conditions Perspective

WP/C-2-A - Existing Conditions Perspective

site large enough to trigger IZ are not contributing structures to the historic district, and therefore most likely to be redeveloped. The site is also immediately adjacent to the Woodley Park Metro entrance.

A theoretical C-2-B site across Connecticut Avenue was also examined by OP. The building was explored because it is not a contributing structure, and it is at the intersection of Calvert and Connecticut where height would appropriately frame the intersection.

C-2-A Site

The following illustrations show the primary, Metro-adjacent site, and comparison views of the site and its context with the current bank, drug store and restaurant, and with a theoretical new matter of right and IZ development. The design of the building is generic and is intended to assess overall impact of the height and bulk, not the details of its design. The site is small, but would enable the construction of a building with ground floor retail and 10 small residential units on the second through fourth floors. Note that the ninety foot high building in the background is on the west side of 27th Street, immediately outside the overlay boundary.



Figure 14. West Elevation – Woodley Park Overlay (C-2-A) Matter of Right Development Scenario.



Figure 15. West Elevation – Woodley Park Overlay (C-2-A) IZ Development Scenario.

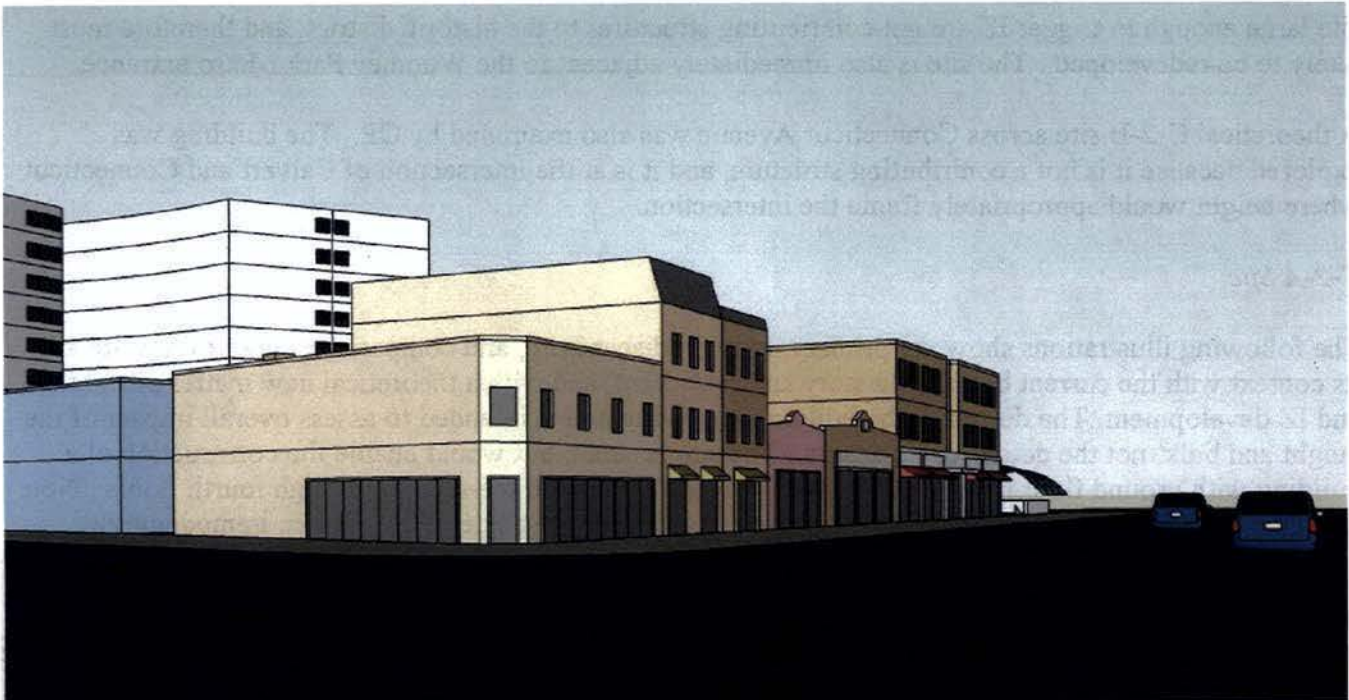


Figure 16. Perspective – Woodley Park Overlay (C-2-A) Matter of Right Development Scenario.



Figure 17. Perspective – Woodley Park Overlay (C-2-A) IZ Development Scenario.

These sites are the most likely locations on the west side of Connecticut Avenue within the Woodley Park Overlay to redevelop because they are underutilized and non-contributing structures to the Woodley Park Historic District with the exception of one of the buildings.

As the illustrations show, the WP matter of right development on the theoretical sites is consistent with the existing structures, while the IZ scenario is taller than the adjacent structures. However, the IZ scenario is not significantly out of scale with buildings on the west side of Connecticut Avenue. As OP and HPO staff reviewed the computer illustration, it became more apparent that, from a pedestrians perspective, the hypothetical IZ buildings would seem to be in context from most perspectives, and slightly noticeable from only a very few viewpoints.

The hypothetical 3.0 FAR, 45-foot high four-story building on the west side of Connecticut would likely seem in context when viewed from the south and east, west and to the north-west, across the avenue. The two-story and three-story buildings at the corner of Calvert Street and Connecticut Avenue are of sufficient mass to anchor the south end of the block and act as a bookend to the hypothetical IZ building. The IZ building would appear contextual from these directions also because of the significantly taller Calvert House apartments and Wardman Tower hotel buildings across 27th Street, to the west.

The vantage point from which a four-story IZ building might be noticed is from the near-north, coming up the escalators from the Metrorail station. Much of the impression here would be dependent on the quality of the design. Redevelopment of the site would enable retail uses to orient toward the Metro entrance. The hypothetical four-story building would demand more attention, but would have a fully-designed façade facing the Metro, as opposed to the existing nearly-blank wall. To reflect Woodley Park, its architecture would need to pay particular attention to the established context of the overlay's architectural rhythms and details.

The reaction of the HPO staff to the hypothetical building was initially mixed, but as the three-dimensional illustrations progressed, staff concluded that such a building could be designed to be compatible with the historic district. HPO staff's main concern was that massing on the theoretical site could lead toward the infill of the rest of the block over the contributing buildings. However, staff agreed that a three to four story building could be designed to be compatible with the historic district, because the apartment building/Stanford University residence at the corner of Connecticut Avenue and Woodley Road is tall enough and has a dense enough appearance of mass to give appropriate context to a well-designed new building.

C-2-B Site

The hypothetical building on the east side of Connecticut Avenue is on the site of a one story, eighteen foot tall light brick commercial structure constructed in the 1937. It is a contributing building and as such any redevelopment would have to incorporate the structure into the redevelopment of the site.² The site itself is 8,242 square feet in size. The C-2-B permits 3.0 FAR,



Figure 18. WP/C-2-B - Existing Conditions Perspective

² Again to simply the massing model OP did not attempt to incorporate the existing structure.

fifty feet in height and 80% lot occupancy or a building of 24,726 gross square feet and a footprint of 6,593 square feet. Within the fifty feet the building would need to have three floors and 75% of a fourth floor. Assuming a ground floor of fifteen to eighteen feet, the upper residential floors generally would be average eleven feet floor-to-floor, or higher. Figures 19 and 20 provide illustrations of what this might look like. The 75% coverage of the top floor provides an opportunity for balconies, terraces, or step-backs on the top floor.

The IZ scenario would permit an FAR of 3.6, fifty-five feet in height and 80% lot occupancy for a total building area of 29,671 gross square feet. Four floors and 50% of a fifth floor would be needed to use the full 20% bonus density. Once again, assuming a ground floor of fifteen to eighteen feet, the upper floor to floor heights would run between nine and a quarter and ten feet in height. Figures 21 and 22 illustrate what this might look like in the context of the Woodley Park neighborhood. The lower floor-to-floor average heights and the fifth floor's covering only 50% of the site has the net effect of reducing the height of the building immediately over the sidewalk and permits the remaining density to be shifted backwards again permitting balcony use. This is more noticeable in the elevation images of Figure 19 and Figure 20.

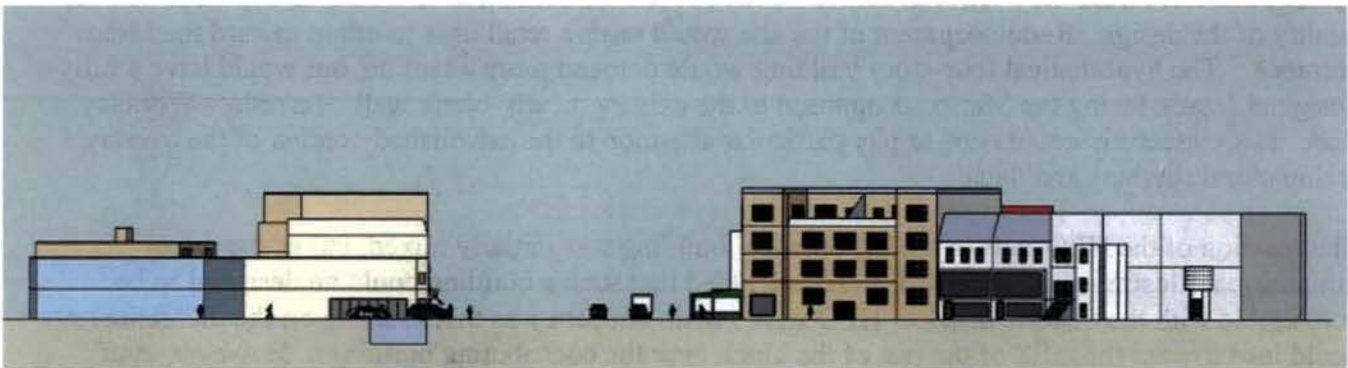


Figure 19. South Elevation - Woodley Park Overlay Matter of Right Development Scenario.

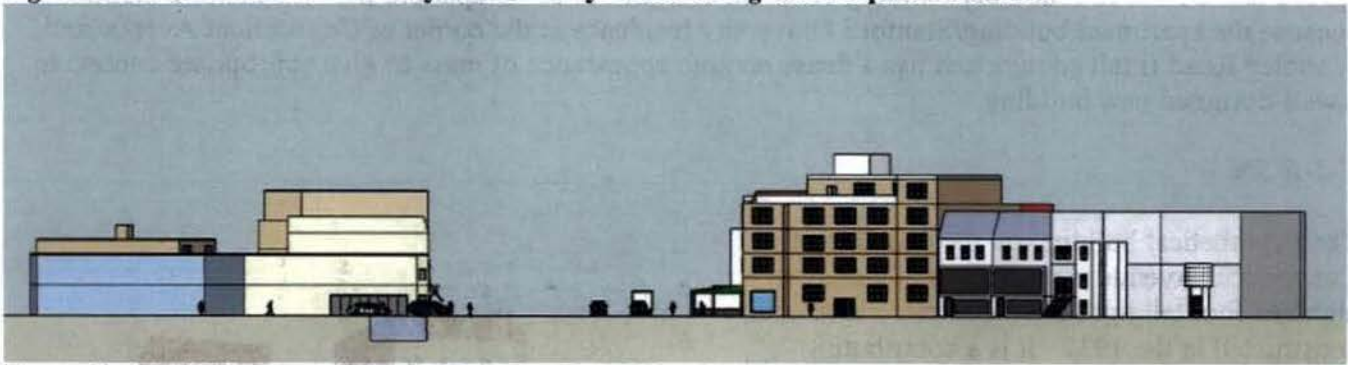


Figure 20. South Elevation - Woodley Park Overlay IZ Development Scenario



Figure 21. Calvert Street Perspective – Woodley Park Matter of Right Development Scenario.



Figure 22. Calvert Street Perspective – Woodley Park Overlay IZ Development Scenario.

Based on OP's analysis and HPO staff's reaction to the simulation, OP believes that the impact of IZ on this overlay could likely be accommodated.

3. Eighth-Street (ES) Southeast Neighborhood Commercial Overlay (11DCMR § 1309)

OP Recommends: that the Commission adopt the amendments to the Eighth Street overlay that OP recommended in its May 4, 2007 report as advertised in the June 1, 2007 DC Register.

The Eighth Street (ES) Overlay covers a block to the east and west of 8th Street to 7th and 9th Streets between Virginia Avenue and M Street Southeast. This is the lower end of the 8th Street commercial corridor, just north of the Navy Yard. The area is composed of a mix of mostly 19th century and early 20th century commercial and residential structures, and a significant amount of vacant land. Building heights range from one story to three stories. The overlay is within the Capitol Hill Historic District. The District's new Comprehensive Plan identifies the area as mixed-use, moderate density.

The area is zoned C-3-A, as modified by the overlay. The C-3-A district permits medium density development of up to 4.0 FAR for residential use and sixty-five feet in height in compact areas along arterial street or transit stops outside of the Central Business District. It provides density incentives for residential development with a general pattern of mixed-use development. The C-3-A zone is a medium density zone district and is inconsistent with the new Comprehensive Plan's Future Land Use designation. However the ES overlay restricts development to a level consistent with the Comprehensive Plan. The Comprehensive Plan map shows it as Moderate Density Mixed-Use Commercial and Residential. The ES overlay is intended to encourage commercial development that is supportive of Navy Yard functions, and that is low enough to respect the scale of the Navy Yard's historic 8th Street gate and nearby structures.

The overlay restricts development to 3.0 FAR, forty-five feet in height and 75% lot occupancy. IZ would permit 3.6 FAR and fifty-five feet in height. IZ's bonuses would be calculated from the overlay's restricted level, and would result in a building's FAR being 90% of what would be permitted absent the overlay and 102% of what would be permitted under the overlay. The height would be the 85% of that permitted absent the overlay, and 122% of what would be permitted with the overlay. Lot coverage is the same in both C-3-A and ES/C-3-A.



Figure 23. Eighth Street Overlay Boundaries

Base Zone	Base Zone			Overlay Zone			IZ Bonus		
	FAR	Lot Occupancy	Max Height	FAR	Lot Occupancy	Max Height	Maximum FAR	Lot Occupancy	Max Height
Eighth Street SE (ES)									
C-3-A	4.0	75%	65	3.0	75%	45	3.60	75%	55

Table 4. ES Development Scenario Comparisons

OP tested a site at the southeast corner of 8th and L Streets, and Virginia Avenue just south of the freeway, to study potential impacts on neighborhood scale of the IZ bonuses. Not only is the site vacant and a large enough lot in single ownership to trigger the IZ requirements, but a four story building was approved for the site by the HPRB last year. The site is 5,720 square feet. Under the overlays restrictions this would permit a four-story building of 17,160 gross square foot building and a floorplate of 4,290 square feet. The IZ FAR of 3.6 would increase the size of the building to 20,592 gross square feet, in four floors and 80% of a fifth floor.³ A five story building is the highest that would still be consistent with the moderate density designation under the Comprehensive Plan. The following illustrations show the changes IZ would make to building form.

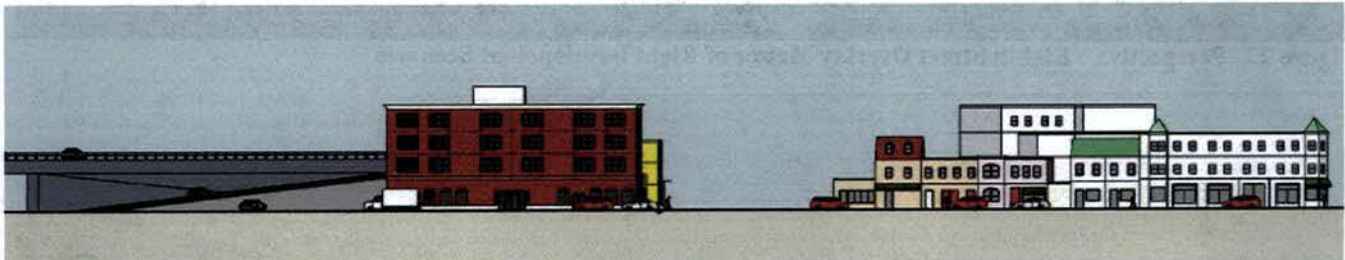


Figure 21. East Elevation – Eighth Street Overlay Matter of Right Development Scenario.

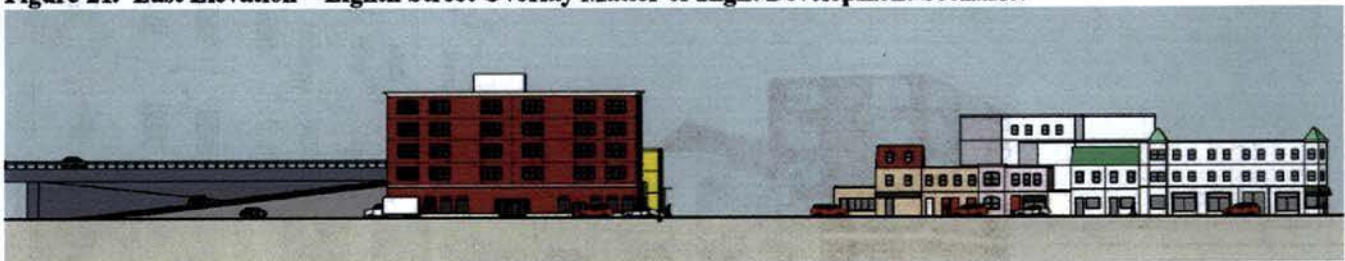


Figure 22. East Elevation – Eighth Street Overlay IZ Development Scenario.

³ OP's illustration do not show any setbacks/balconies on the fifth floor



Figure 23. Perspective – Eighth Street Overlay Matter of Right Development Scenario



Figure 24. Perspective – Eighth Street Overlay IZ Development Scenario

The hypothetical five-story IZ building would be taller than existing nearby one to four story buildings, and approximately three stories taller than the top of the freeway. OP staff has reviewed this model with HPO staff, which feels that the height is not inappropriate in theory. HPO staff pointed out that

concerns in the historic district can be very site specific. This location and similar vacant land on the eastern half of the southeastern square or the northwestern square of the overlay are places where the fifty-five foot height could be accommodated into a historically sensitive design. HPO staff concluded that in other places in the overlay, where the existing historic fabric is more intact, the additional height would be difficult to achieve. HPRB's opinion would depend on the site and building details. OP's illustration does not attempt to include such details. OP notes that within the two block long overlay, this site is at the farthest point away from the Navy Yard gate on 8th Street. It would not block the view of the gate as a southbound person emerged from under the twenty-five foot high freeway structure. From the gate house and adjacent historic structures, the hypothetical building would help to screen the presence of the freeway.

Of the three overlays analyzed for massing and scale, the ten foot increase in the ES overlay was probably the most significant in relation to the existing scale of buildings. However, as stated, HPO staff concluded that certain vacant sites, such as across from the I-295, could accommodate the additional height while other sites might be more restricted by the immediate context. Based on OP's analysis and HPO staff's reaction to the simulation, OP believes that the impact of IZ on this overlay could likely be accommodated.

4. Fort Totten (FT) Overlay (11DCMR § 1561)

The Fort Totten Overlay (Figure 25) is in northeast Washington, and is bordered generally by Riggs Road, South Dakota Avenue and the Fort Totten historic site and federal park. Metrorail's Red Line has an above-ground station in the middle of the overlay. The overlay is not within a historic district. However, one of the goals of the overlay is to protect view sheds to the west of the historic Civil War fortifications that comprise Fort Totten. Until the last two years, all of the buildings near the overlay had been one to four-story single-family houses, walk-up apartments and stores. Construction is nearing completion on a somewhat denser and higher residential complex east-adjacent to the Metro station. The project ranges as high as five stories.

The overlay is mapped in combination with the C-3-A, CR, and M zone districts to the east of the fort. The overlay is intended to encourage residential and commercial development while protecting views from the fort. The C-3-A and CR districts, which are mapped in the northern section of the overlay, are, in combination with the overlay

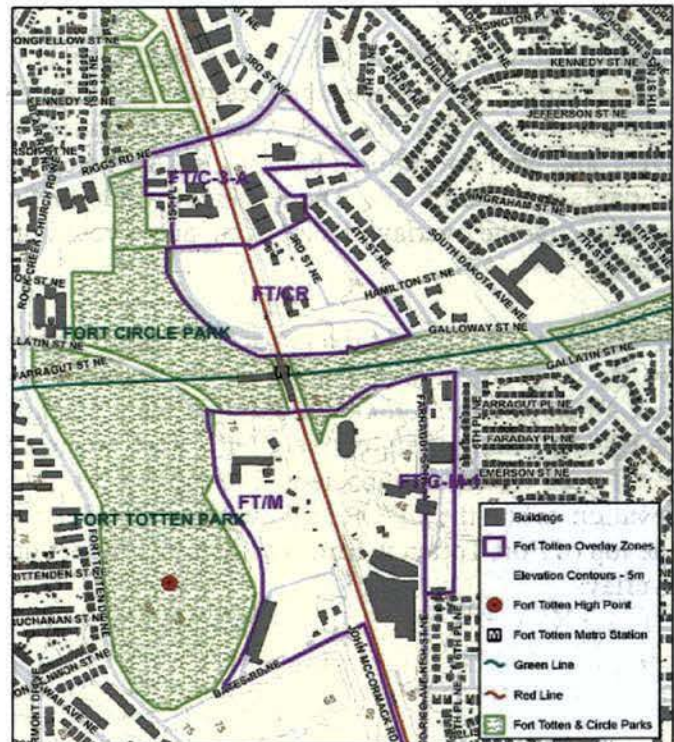


Figure 25. Fort Totten Overlay.

Base Zone	Base Zone			Overlay Zone			IZ Bonus		
	FAR	Lot Occupancy	Max Height	FAR	Lot Occupancy	Max Height	Maximum FAR	Lot Occupancy	Max Height
Fort Totten (FT)									
C-3-A	4.0	75%	65	4.0	75%	65	4.80	80%	65
CR	6.0	75%	90	5.0	75%	80	6.00	75%	90
M	IZ is not mapped in the M district, which does not permit residential uses.								

Table 5. FT Overlay Development Scenario Comparisons

consistent with that area's Comprehensive Plan Future Land Use Map designation of Medium-Density. The M district is consistent with the southern portion of the overlay's Production, Distribution and Repair designation. However, the M district is not covered by IZ because that zone district does not permit residential use.

In the C-3-A zone district, the FT overlay permits a building's FAR, lot occupancy and height to be the same as in the base zone. IZ bonuses would result in a building's FAR being 120% of what would be permitted by both the base zone and the overlay. The height would be the same as the base zones, but the lot occupancy would increase by 5% over both the base zone and the overlay.

In the CR zone district, the FT overlay restricts a building's FAR to 83% of what would have otherwise been permitted by the base zone; restricts a building's height to 89% of the base zone's, and permits the same lot occupancy as the base zone's. IZ bonuses would be calculated from the overlay's restricted levels, and would result in a building's FAR being the same as the base zone's, but 120% of the overlay's restricted FAR. The IZ height would be the same as for the base zone's, and 113% of what is permitted by the overlay. IZ lot occupancy would remain the same as in both the base and overlay zone districts.

OP shifted its analysis of the impacts of height and lot occupancy changes for IZ on the Fort Totten overlay from potential impact on neighborhood character to the impact on views from the Fort Totten Park. Inclusionary Zoning's most significant change to the overlay is the addition of ten feet in height to the FT/CR's limit of eighty feet. OP's goal was to determine the extent to which views from the top of Fort Totten would be impacted. The top of Fort Totten, where the historic battlements are, is 324 feet in elevation, while the FT/CR highest ground level point is 197 feet and drops to a low point of 148 feet. The top of Fort Totten is from 127 feet to 176 feet higher than the CR portion of the Fort Totten Overlay.

of either height. Finally, within the dotted lines, land not colored by green, red, or blue is obstructed by the natural slope of the terrain. Figure 27 provides a zoomed-in view of the area along the DC - Maryland border.

This analysis demonstrates the extent to which views of the surrounding landscape might be obstructed by an eight to ninety-foot tall building. OP concluded that the ten foot increase in height on the view from the top of Fort Totten would be minimal.



F
Figure 27. Aerial View of Land Impacted by Ninety Feet Buildings

B. Overlays with Density Incentives, but Without Combined Lot Development

The Commission did not request additional information, and OP has not identified any further issues regarding these overlays. They are the Hotel/Residential (HR), H Street (HS), Takoma (TK) and Georgia Avenue overlays. The Commission suggested possible deletion, or at minimum remapping, of the HR overlay. This is outside the scope of this report. The Commission did not advertise consideration of the Georgia Avenue overlay because it is already an ongoing case, and IZ language could be incorporated later. OP did not identify any conflicts between IZ and the Takoma or H Street overlays, as the Takoma overlay did not require any adjustments to height and the H Street plan included affordable housing recommendations that OP incorporated into IZ. Therefore, OP is not reviewing these overlays in detail in this report.

C. Overlays with Density Incentives, and With Combined Lot Development

As OP stated in the setdown report, combined lot provisions create special circumstances that require separate consideration. Combined lot in the ARTS and CG overlays permits two sites to transfer greater intensity of use on one site as long as the total floor area ratio (FAR) meets the regulations when compared to the land area of both sites.

Of the two overlays with density incentives and combined lot provisions, the Commission requested more detailed analysis of the interaction of IZ and only one of these overlays -- the Capital Gateway Overlay. However, in giving further study to the CG Overlay, OP realized that in addition to a clarification for the CG Overlay, a new section would be needed to clarify the intentions of the IZ regulations with respect to the ARTS Overlay.

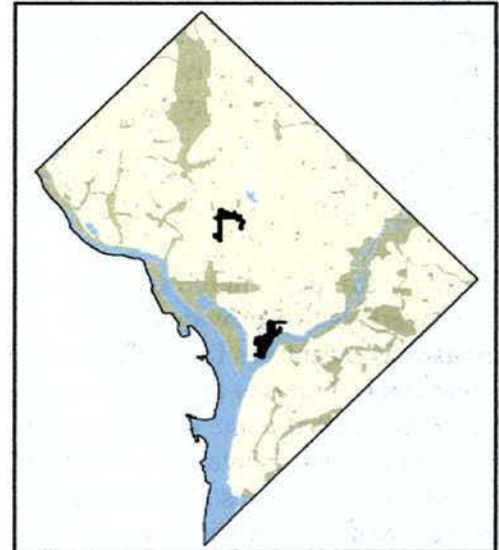
OP Recommends: That the Zoning Commission adopts the language recommended by OP in the May 14, 2007 report and advertised in the June 1, 2007 DC Register, with the following clarification and addition:

§ 1601.1: Bonus density achieved via §§ 1601.2 or 1601.4 does not effect add to the set-aside requirements of §2603.

§ 1909.2: Bonus density achieved via §1904.2 does not add to the set-aside requirement of §2603.

These proposed changes would make it clear that the FAR bonuses for residential use that stem from the overlays not be used in calculating the required affordable set aside. This would help maintain the bonuses' value as an incentive for residential development.

The Capitol Gateway Overlay is mapped on both sides of South Capitol Street between the Anacostia River and just north of M Street, SE. It stretches from Fort McNair on the west to the Southeast Federal Center on the east. Its boundaries are illustrated above in purple. The overlay is relatively large and is quite detailed. It is intended to ensure that this area develops with a mix of residential, retail and office uses, while allowing for the continuation of existing industrial uses. Retaining views to the waterfront is also one of its primary aims. The CG requires some set backs, offers FAR and height bonuses, and permits combined lot developments. The zone districts within the overlay are C-2-C, C-3-C, CR, W-1, W-2, and W-3. All of the W-1 and W-3 areas are now within the expanded boundaries of Fort McNair, and were, therefore, not analyzed for this report.



Although most of the CG overlay concentrates on ensuring setbacks from property lines on important streets and along the waterfront, or ensuring that a certain amount of retail is provided on ground floors, the overlay does provide bonus density as an incentive in the CR, W-3, W-1, and – on a discretionary basis – the W-2 district.

A basic assumption in the application of IZ in overlays that provide density bonuses as incentives for preferred uses is that the IZ bonuses and the requirements that come with them take precedence over an overlay's bonuses and any preferred uses. Within the CG overlay, density incentives are provided for the W-1, W-3, and CR zone districts. By OP's analysis, the IZ requirements and bonuses, plus the CR overlay preferred uses and bonuses can be accommodated in all of zones of the overlay.

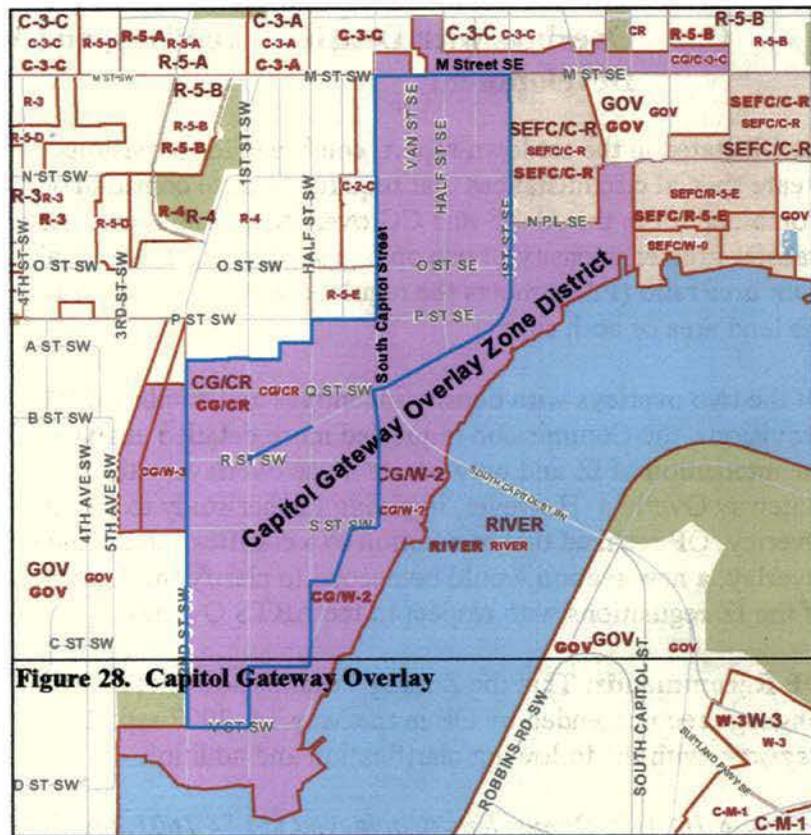


Figure 28. Capitol Gateway Overlay

Base Zone	Base Constraints			Overlay Zone			IZ Bonus			IZ + Overlay Bonus		
	FAR	% Lot Occ.	Max Height	FAR	Lot Occ.	Max Height	FAR	Lot Occ.	Max Height	Maximum FAR[1]	Lot Occ.	Max Height
Capitol Gateway												
C-2-C	6	80%	90	6	80%	90	7.2	80%	110	7.2	80%	110
C-3-C	6.5	100%;	90	6.5	100%;	90	7.8	100%	90	7.8	100%	90
CR - 110'		75%		7.0 res.	75%		8.2	75%		8.2	75%	110
CR - 130'		75%			100%;	90	8.2	75%		8.2	75%	130
W-1	6	80%	45		75%		7.2	80%	100			
W-2	2.5	80%	45	3.5		55	3	80%	50	3	75%	50
W-3 - 110'	4	75%	60	4.0[2]		55	4.8	75%	80	5.8	80%	80
W-3 - 130'	6	75%	90	7.0 res/		130'	7.2	75%	100	8.2	75%	110
										8.2	75%	130

[1] § 1603.6 and 1603.5: Zoning Commission has discretion to allow 5.0 FAR and a height of 60 feet. If setbacks required, Commission may increase FAR of remaining building site but approximately 2.0 FAR based on the area of setback.

[2] See § 1603.5

Table 6. CG Development Scenario Comparisons

As the table above indicates, in **bold italics**, the IZ bonus would increase densities from those provided by the overlay for all zone districts except W-3. The CG/W-3 district is now within the boundaries of Fort McNair. The IZ bonus would increase heights from those provided for by the overlay for all zone

districts except C-3-C. In that zone, the additional IZ density can be achieved by increased residential lot coverage.

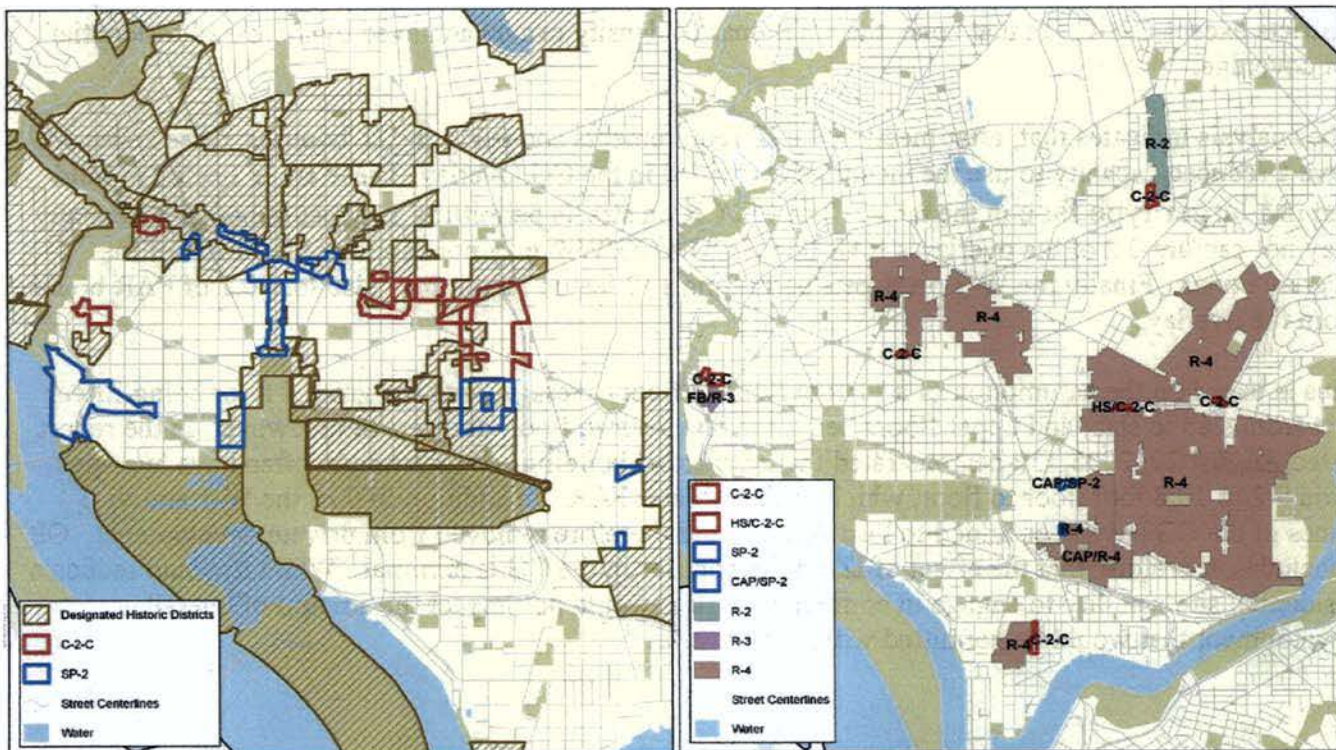
The analysis indicates that, after meeting the IZ requirements and using the IZ bonuses, three zones will have a reduced capacity to use the incentives provided in the CG Overlay. These are indicated in **bold** and in a larger type face in the table. The CG/CR on streets permitting 110 feet in height potentially may not capture 0.2 of the overlay's FAR bonus. The CG/W-2 may not capture 0.3 FAR of the overlay bonus. Finally the W-3 on streets permitting 110 feet in height may also lose 0.2 of FAR bonus from the overlay.

This is based on the assumption of a 11 foot floor-to floor- average, with the ground floor being fifteen feet from slab to slab, and upper floors being ten feet floor to floor, on average. However, in the report dated August 29, 2005, OP demonstrated that residential buildings of such height often have averages from 9.2 to 10.8 foot floor to floor, which enable greater FAR. In addition to this, the W-1 and W-3 zones in the CG have been added to Fort McNair and therefore removed from private development. OP concludes, therefore, that the effect of IZ on the bonuses in the CG is minimal. While it would reduce a residential site's ability to engage in combined lot, this would not impact the amount of overall development that would be permitted within the overlay.

IV. SP-2 AND C-2-C

OP Recommends: Adding ten feet in height to the SP-2 and C-2-C zones in order to facilitate the use of IZ's bonus density.

Based on OP's architectural analysis in the report dated September 26, 2006, OP concluded that it was necessary to add ten feet in height to the ninety foot limit of the SP-2 and C-2-C zone districts instead of expanding lot occupancy to 90%. In the previous report OP identified locations where height increases from IZ were within or adjacent to historic districts. Figure 29 and 30 shows where SP-2 and C-2-C interact with both historic districts and/or single family residential zones between R-1 and R-4.



Figures 29 and 30. SP-2 & C-2-C and Historic Districts and Single-Family Residential Zone Districts

The main interaction between historic Districts and the C-2-C and SP-2 zones occurs in the 16th street, Dupont Circle and Lafayette Square Historic Districts.⁴ Similar interactions occurred with the CR zones OP presented to the Commission in the report dated September 26, 2006. Based on the architectural analysis provided in that report, OP had concluded that bonus height up to ten feet in denser historic districts can be generally achieved without unacceptable levels of impact on historic neighborhood scale and character.

There are several places where a C-2-C district is adjacent to R-2 and R-4 neighborhoods, three of which are the Capitol Gateway, H Street overlays, and across from the Rhode Island Avenue Metro station. In the Capitol Gateway Overlay, OP is proposing C-2-C be permitted heights of 110 feet because of its location on South Capitol Street where the fifteen foot setback makes it difficult to achieve the bonus density in 100 feet. In the CG overlay there is mandatory Zoning Commission review of projects that can ensure appropriate setbacks from the R-4 zone are included in the design. The H Street plan included recommendations on affordable housing that were not included in the H Street Overlay because IZ was being considered at the same time. Zoning changes for affordable housing were deferred to Case #04-33. Finally, the sliver of R-2 zoning that is adjacent to the C-2-C zone on the north side of Rhode Island Avenue underwent a Comprehensive Plan map change in 2006 to be consistent with the underlying neighborhood form, which is primarily row houses. The old plan designated it as

⁴ A majority of the C-2-C is in the Downtown Development District where development is permitted up to the Height Act and is also exempted from IZ requirements

Production & Technical Employment. It was changed to Moderate Density Residential as a result of the Office of Planning's work on the Comprehensive Plan update and Council Amendments.

Of the three sites where the increases to one hundred feet in height are adjacent to single family homes, the Rhode Island Avenue site has the greatest potential impact without other compensating factors. Figure 31 A & B below are a series of shadow studies showing the impact of the ten additional feet on the adjacent row houses. The differences in the shadows shown are on March 21 at 2:20 pm are very slight and difficult to see. Shadow studies were also done for January 15 and June 15. There was a difference of between 7 minutes and 15 minutes a day when shadows hit the foundation of the row houses to the east.

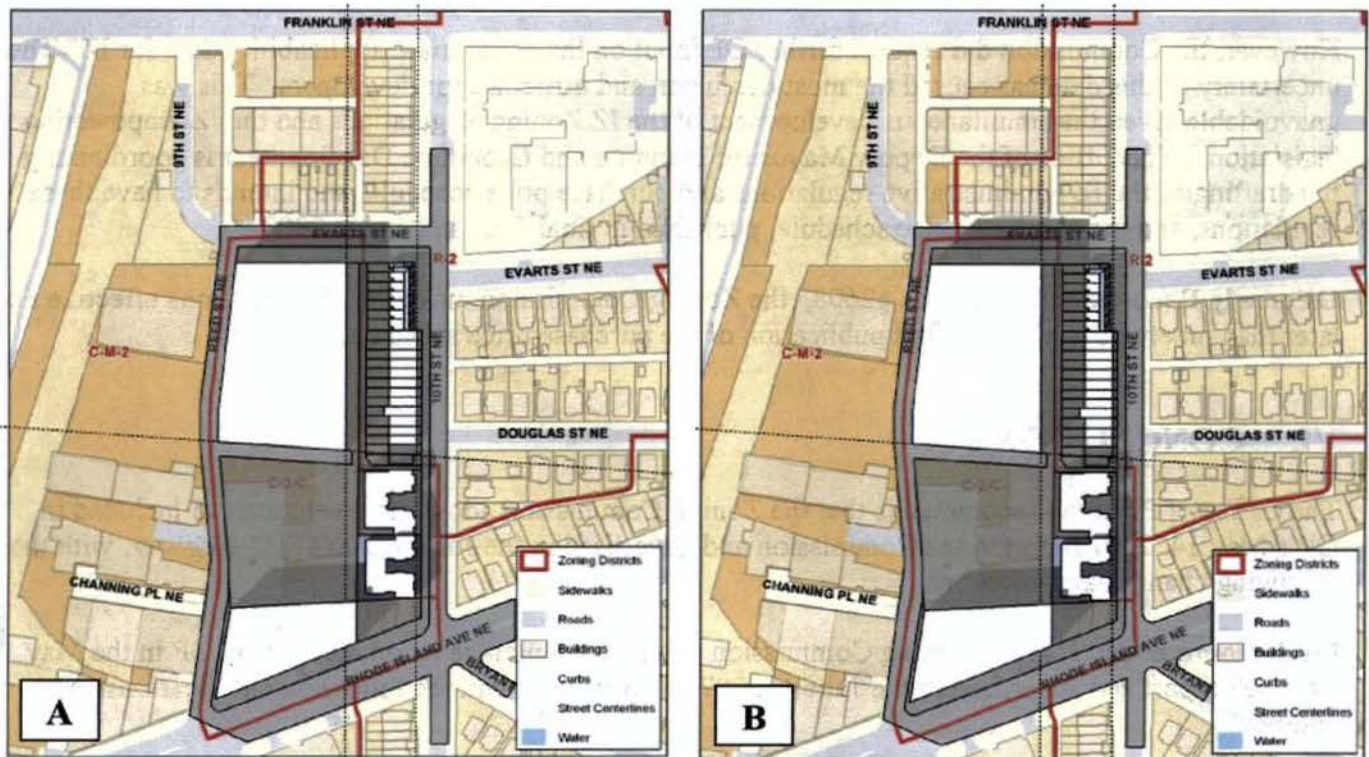


Figure 31 A & B. Shadows Studies of Ninety (A) and One Hundred (B) Foot Tall Building.

The illustrations indicate that this height increase will have minimal impact on the adjacent single-family zones. However, due to the overall limited nature of adjacencies and to the surrounding context, OP concluded that the addition of the ten extra feet in height would not cause significant impact on neighborhood character.

V. TECHNICAL AND CONSISTENCY AMENDMENTS

The remaining amendments proposed in OP's setdown report included: consistency language with the Inclusionary Zoning Act of 2006 passed by Council in December 2006, and with Chapter 24 Planned

Unit Development Procedures (withdrawn), and clarifications of set-aside calculations, exemptions procedures, and off-site compliance, and the setting of an applicability date

The Commission did not request additional study of OP's May 4, 2007 recommendations regarding set-aside requirements, exemption from compliance, and off-site compliance and combined lot amendments. Since set-down, OP has not uncovered additional issues that need to be addressed regarding these topics.

Therefore, for §§ 2603 1, 2603 2, 2606, and 2607.

OP Recommends: That the Zoning Commission adopts the language recommended by OP in the May 14, 2007 report and advertised in the June 1, 2007 DC *Register*.

However, the Commission did request further OP input on the appropriate applicability date for IZ. The uncertainty of this date has caused the most confusion and difficulty for developers. This was unavoidable given the simultaneous development of the IZ Zoning Regulations and the IZ empowering legislation. The Office of the Deputy Mayor for Planning and Economic Development is coordinating the drafting of the IZ administrative regulations and purchase price schedule, and intends to have these regulations, and the purchase price schedule, published in final form in August 2007.

OP newly Recommends: That, in §2608, the Zoning Commission make the IZ regulations effective no later than ninety days after the first publication of the purchase price schedule.

VI. CONCLUSION

The Office of Planning recommends that the Zoning Commission adopt the amendments⁵ included in OP's May 14, 2007 report to the Commission and advertised in the June 1, 2007 DC *Register*, with the following changes and additions.

OP Recommends: That the Zoning Commission adopts the language recommended by OP in the May 14, 2007 report and advertised in the June 1, 2007 DC *Register*, with the following clarifications and addition.

§ 1601 1. Bonus density achieved via §§ 1601 2 or 1601 4 does not ~~effect~~ add to the set-aside requirements of §2603

§ 1909.2: Bonus density achieved via §1904.2 does not add to the set-aside requirement of §2603.

§2608: The provisions of this Chapter shall become effective [no more than] ninety days following the issuance of the first purchase/rental schedule or the publication date in the DC Register.

Attachment

JLS/ar-slc