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Office of the Director

MEMORANDUM**TO:** District of Columbia Zoning Commission**FROM:** *Jennifer* Jennifer Steingasser, Deputy Director, Development Review & Historic Preservation**DATE:** February 20, 2009ZONING COMMISSION
District of Columbia**SUBJECT: Public Hearing Report for ZC 08-04A**

Southeast Federal Center (SEFC) Parcel P – Phase 2

Zoning Commission Design Review Under the SEFC Overlay

CASE NO. 08-04AEXHIBIT NO. 16**I. SUMMARY RECOMMENDATION**The Office of Planning **recommends approval** of the proposed design and requested zoning relief.**II. APPLICATION-IN-BRIEF****Location:** South East Federal Center (SEFC) site, Ward 6, ANC 6D
Square 771, Lots 801 and 802**Applicant:** Forest City LLC, for the General Services Administration of the USA**Current Zoning:** SEFC/W-O (Southeast Federal Center Overlay/Waterfront District)**Proposed****Development:** The applicant is proposing to restore and renovate the historic Lumber Shed building and construct two new retail buildings within the defined SEFC/W-O Development Area. They would also like to establish retail uses within the waterfront kiosks and install a visual marker along the waterfront, within the Open Space Area.**Review and Relief:** Pursuant to 11 DCMR § 1805.11, all new structures and/or changes to the exterior design of buildings located within the SEFC/W-O district require design review and approval by the Zoning Commission.

Pursuant to § 1809.1, the applicant is also requesting the following:

- ❖ Special exception approval
 - § 925 - to allow multiple retail and service uses in the Development Area
 - § 1805.6 – to allow certain uses in the Open Space Area
 - § 411 – from the roof structure requirements requiring a 1:1 ratio for the set back of structures from the exterior wall
- ❖ Variance approval
 - § 2101 – from the parking requirements
 - § 930, § 938 – from the height requirements and waterfront setback requirements for the visual marker

III. EXECUTIVE SUMMARY

The applicant is seeking Zoning Commission design review, special exception, and variance approval to restore and renovate a historic building, construct two new retail buildings, and install a visual marker on the Southeast Federal Center (SEFC) site known as Parcel P. Parcel P is comprised of two components, a Development Area and an Open Space Area. The Development Area improvements include the historic Lumber Shed building and the two proposed retail pavilions. In the Open Space Area, a new visual marker in the form of a public art tower is proposed at the terminus of the promenade as well as new retail uses within the waterfront kiosks.

No off-street parking is proposed for the site. Public access to the retail areas will be provided from 2nd Street, SE, the southward extension of 3rd, 4th, and 5th Streets, SE, and from a new public street, Water Street, SE, an east-west street which will form the north boundary of the site.

The building renovations and design of the new construction are generally consistent with the objectives and Zoning Commission review standards for the SEFC Overlay. OP supports the application and feels that it will serve as an attractive amenity for the SEFC site and the District overall, as well as support the redevelopment of the Anacostia riverfront in conformance with the objectives of the Anacostia Waterfront Initiative.

IV. BACKGROUND

The Zoning Commission approved a comprehensive zoning package for the entire site in 2004, which included the creation of the SEFC Overlay District (ZC Case # 03-06). Since that time, the General Services Administration selected Forest City LLC as the master developer for the entire site. The SEFC development (now called "The Yards") will include approximately 1.8 million square feet of office space, 2,800 residential units, and neighborhood and destination retail uses. The Zoning Commission approved Phase 1 of this project in May 2008 (ZC Case # 08-04) which included the waterfront park features, a pedestrian bridge, Overlook feature, and promenade.

V. SITE AND AREA DESCRIPTION

The SEFC site is located in the Near Southeast area and is bound generally by M Street, SE to the north; 1st Street, SE to the west; the Anacostia River to the south; and the Washington Navy Yard to the east. The SEFC site is approximately 42 acres in size, excluding an 11 acre parcel on M Street, SE which is the location of the new Department of Transportation (USDOT) Headquarters (ZC Case #03-05).

The Parcel P property on the SEFC site is located immediately north of the Anacostia River between 2nd and 5th Streets, SE with Water Street, SE, a new street, forming the northern boundary. Parcel P is zoned SEFC/W-0 (limited low-density waterfront-related development) and is divided into two areas, a Development Area, which is located along the northern boundary of the parcel, and an Open Space Area, located to the south, bordering the Anacostia River. The only existing building on this parcel is the Lumber Shed building, a contributing structure to the Washington Navy Yard Historic District. This two-story building is proposed to be renovated in this phase of development. The historic DC Water and Sewer (WASA) facility is located to the west, and the Washington Navy Yard is immediately adjacent to the east of the property. The Arthur Capper/Carrollburg Hope VI redevelopment is located directly to the north of the SEFC site, across M Street, SE. The Navy Yard and Waterfront-SEU Green Line Metro Stations are located to the north and west of the site on M Street, along with several Metrobus lines.

VI. PROJECT DESCRIPTION

The applicant is proposing to develop retail to be located in existing and new structures within the defined Development Areas, as well as within the approved Overlook element in the Open Space Area. The majority of the retail uses would be located along the northern edge of Parcel P, adjacent to Water and 4th Streets, SE. A description of the main elements in this phase of development is provided below:

- *Lumber Shed Building (P1)* –a 2-story historic structure located along Water Street, SE that is planned to be renovated. The reinforced concrete frame would be retained; the existing pink corrugated tin siding would be removed and new glass and wood facades constructed. The building would be approximately 34,000 sq. ft with two levels of retail and commercial uses and an open central core. The proposed rooftop deck at the rear of the building would provide views of the Anacostia River and adjacent park features to the south.
- *New Retail Pavilions (P2A & P2B)* – two new buildings to be located along the Water Street, SE and 4th Street, SE edges of the site. Combined, the two-story buildings would frame this corner of the site with over 25,000 sq. ft. of retail/commercial space. Both buildings include open terraces on the upper level overlooking the adjacent streets and plaza.
- *Retail Kiosks* –retail spaces proposed within the lower level of the Overlook feature, which was previously approved in Phase 1 (ZA Case #08-04). This area is anticipated to accommodate a café and food concession area as well as the water taxi ticket booth.
- *Visual Marker/Public Art* –a 60-ft steel tower to be installed at the southwest edge of the promenade. This visual marker has been sited to align with the tree-lined pedestrian walk leading to the water. Views of the public art tower would be possible from several vantage points outside the site. The tower itself is proposed to be illuminated from the inside so it would be visible at night.

VII. COMPREHENSIVE PLAN

The Future Land Use Map in the 2006 Comprehensive Plan designates the site for parks, recreation, and open space. The proposed development is not inconsistent with this designation. The Generalized Policy Map indicates the site for Land Use Change, from federal to private mixed use development.

The proposed project is generally not inconsistent with the Comprehensive Plan. By providing pedestrian-oriented retail uses and a visual marker within the proposed waterfront park, the proposal would further policies of the Land Use, Parks, Recreation and Open Space, Historic Preservation, and Urban Design elements. The development would also further relevant policies of the Lower Anacostia Waterfront/ Near Southwest Area Element by helping to develop new waterfront neighborhoods (AW-1.1.2), creating waterfront commercial development (AW-1.1.3), restoring an important historical resource (AW-1.2.1), enhancing the pedestrian nature of the waterfront through the installation of new public art (AW-1.1.6 and AW-1.2.2), and improving access to the Near Southeast shoreline (AW- 2.3.2).

VIII. ANACOSTIA WATERFRONT INITIATIVE

The subject site is within the Anacostia Waterfront Initiative (AWI) area. A key goal of the AWI is to create a vibrant waterfront with a variety of uses and places for people to interact. The AWI also seeks to revitalize surrounding neighborhoods, enhance and protect park areas, improve water quality and the environment, and increase access to the water and maritime activities.

The Near Southeast target area of the AWI includes the SEFC site. The proposed development on Parcel P of the SEFC site would further the following planning principles found in the AWI Framework Plan for the Near Southeast target area:

- ❖ *Introduce a Mixture of Uses at the Waterfront.* This is achieved through integrating retail, cultural, and other uses on the SEFC site.
- ❖ *Create a Great Waterfront Park at SEFC.* Desired park elements which are being provided here include active retail uses along the perimeter of the park and the restoration and conversion of a historic building.

In addition, the Urban Design Framework for the Near Southeast area includes the following goals:

- ❖ *Connect the SEFC site to the residential neighborhoods to the north through pedestrian-friendly waterfront access and retail activity along the waterfront;*
- ❖ *Integrate and preserve historic structures in the redevelopment of the site and seek creative solutions to their adaptive reuse.*

The planned improvements on the SEFC site meet all of the above stated planning goals and principles by providing a variety of uses, restoring and reusing a historic building, and enhancing the pedestrian oriented nature of the park by locating ground level retail along the street edge.

IX. ZONING

In Case # 03-06 (July 9, 2004), the Zoning Commission approved a comprehensive zoning package for the SEFC site. The SEFC Zoning Overlay was the culmination of many years of planning by the General Services Administration (GSA) and the Office of Planning. The Overlay was intended to help expedite development on the 42 acre SEFC site and to encourage a mixed-use, pedestrian-friendly environment. The SEFC Overlay District was also established, "... to provide for the development of a vibrant, urban, mixed-use, waterfront neighborhood, offering a combination of uses that will attract residents, office workers, and visitors from across the District and beyond" (§1801.1). While much of the development on this large site will be by-right, the SEFC Overlay stipulates that development adjacent to the waterfront will require Zoning Commission review.

The subject site is within the SEFC/W-O District. The SEFC District is intended to:

- "(a) *Encourage open space;*
- (b) *Promote a lively, interactive waterfront environment;*
- (c) *Discourage parking;*
- (d) *Provide a Development Area for retail and cultural uses;*
- (e) *Provide an Open Space Area, intended to be the site of open space recreation use as well as limited uses that are directly waterfront dependent; and*
- (f) *Allow for a continuous publicly-accessible pedestrian and bicycle trail along and adjacent to the waterfront as part of the Anacostia Waterfront Trail system."* (1805.1).

Open space and park uses are permitted as-of-right in this zone while retail, service, and other similar uses may only be approved via special exception. The proposed development does not require a PUD or rezoning.

X. MANDATORY REVIEW OF ALL NEW BUILDINGS AND EXTERIOR RENOVATIONS

“All proposed structures in the SEFC/W-0 District, or any proposed exterior renovation to any existing buildings or structures in the SEFC/W-0 District that would result in an alteration of the exterior design, shall be subject to review and approval by the Zoning Commission, in accordance with the standards specified in § 927 and procedures specified in § 928 of this title, and the standards set forth in § 1808 and procedures set forth in § 1809.” (§ 1805.11). This phase of review includes the renovation of an existing building as well as construction of two new retail pavilions and a public art tower.

An analysis of the project against the relevant zoning objectives and standards is provided below. OP notes that, between Chapter 9, W-0 Waterfront District regulations and Chapter 18, SEFC Overlay regulations, there is an overlap in review requirements.

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

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

Objectives relevant to this proposal include:

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

Phase 2 of the SEFC development includes the renovation of an existing structure as well as the construction of new buildings that would include retail and commercial uses. The proposal also introduces retail/service uses that would complement the water-oriented activity within the Overlook feature in the Open Space Area of the site. Proposed uses include restaurants designed to allow views of the Anacostia River and food/concession sales areas along the promenade.

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

The new buildings proposed for the site are two stories, each with reduced upper level footprints to allow for rooftop decks. The buildings have been sited to hold the urban street edges at the north and west boundaries of the site. The buildings, constructed mainly of glass, also have plaza spaces in between that allow views of and access to the river and park from the street.

- 1802.6 Require suitable ground-floor level retail and service uses ... near the SEFC/W-0 District; and at other key pedestrian locations.*

Water Street and 4th Street, SE will serve as key pedestrian access points to the park from the north. As such, ground-floor retail and service uses will be provided in three buildings, the existing historic Lumber Shed structure and two new buildings, located along the Water Street, SE and 4th Street, SE edges of the site. Retail uses will also be provided on the promenade, within the lower level of the Overlook feature.

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

The previously approved park plan includes important river walk connections to the historic Washington Navy Yard to the east. In addition, the historic Lumber Shed building is proposed to be restored and utilized for retail/commercial uses. The new retail buildings, which are adjacent to the Lumber Shed, have been designed to complement the existing structure both in scale and building materials.

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

As approved in ZC case #08-04, the waterfront park is publicly accessible from a variety of entrance points, one of which will eventually include the water. The elimination of off-street parking and presence of ground-floor retail would encourage pedestrian activity on the site and provide important services and amenities for park users.

- 1808.1(b) The proposed building or structure shall be designed with a height, bulk, and siting that provide for openness of view and vistas to and from the waterfront and, where feasible, shall maintain views of federal monumental buildings, particularly along the New Jersey Avenue, S.E. corridor;*

All of the existing and proposed structures within the park have been designed to draw visitors from the adjacent areas to the site as well as facilitate views of the waterfront from a variety of vantage points. The new and existing structures will be 2 stories in height and have been sited to allow views of the park features and the river from the street edges at the north and west ends of the site. While the proposed visual marker exceeds the allowed height for structures, it is located at the lowest elevation of the site near the water's edge. In addition, due to the location and size of the structure, OP does not believe that it will negatively impact any views to or from federal monumental sites.

- 1808.1(c) On or above-grade parking adjacent to, or visible from, the street shall be limited. Where parking cannot be placed underground, other uses such as retail or residential shall separate parking areas from the street, or where this is not*

possible, green landscaping or architectural treatment of facades shall adequately screen parking from the street and adjacent development.

No off-street parking is proposed for the site.

- 1808.2 *In evaluating the application, the Commission also may consider:*
(a) Compatibility with buildings in the surrounding area through overall massing, siting, details, and landscaping;

This site is part of a larger redevelopment project that will bring new buildings, uses, and residents to this area. The planned development of this area, per the SEFC overlay, will be high density mixed-use office and residential along M Street SE, and high density residential uses with ground floor retail at the center of the SEFC site. The proposed structures on this parcel have been designed and sited to serve as a transition from the high-density uses to the north to the waterfront park to the south. The proposed park buildings will be much lower in height than those on adjacent properties so as to not obstruct views of the river.

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

The proposed buildings would not include off-street parking facilities, encouraging the use of alternative forms of transportation to access the park. The previous phase of the development also included a stormwater management concept aimed at reducing runoff. The proposed redevelopment of the site will also increase the permeability of the site overall and adaptively reuse an existing historic building.

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

All of the facades of the existing and proposed buildings are viewable either from the proposed public streets or from the park itself. As a result, they have been designed to eliminate unarticulated blank walls. In addition, the service core functions have been thoughtfully sited to mitigate their exterior appearance and impact. OP has requested that the applicant provide additional information regarding the retail façade below the Overlook.

(d) Landscaping which complements the building;

The landscaping elements, most of which were reviewed and approved in Phase 1, were designed to complement park structures and uses. Landscaping has been used to define walkways and paths to park features as well as provide definition for seating areas near the proposed retail buildings.

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

The applicant has not indicated specific uses for the proposed buildings. However, the anticipated uses include restaurants, concession areas, and other retail and service uses. The proposed locations include retail spaces along the Water and 4th Street edges as well as within kiosks on the lower level of the Overlook.

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

Proposed uses will be among the listed preferred and special exception uses for the district. In addition, they will be in buildings of a size and bulk that should not impact the residential character of the adjacent district. The anticipated retail/service uses would serve the residents of this area as well as park visitors.

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

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

The previously approved waterfront park includes a wide variety of recreational uses, ranging from landscaped gardens to festival spaces to bike routes. The plan incorporates a mix of active and passive uses and has adequate transitional spaces provided between each.

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

The retail buildings include rooftop terraces that provide views of the waterfront park and Anacostia River to the south. Plazas have been designed and located to connect street level uses to lawn areas and a promenade along the river. A tree-lined vista of the water has been created, visible from the retail pavilions, to draw visitors and users towards the water. Finally, an elevated overlook area has also been included to enhance views of the river.

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

In accordance with the SEFC overlay, most of the retail spaces are located along Water Street, rather than directly adjacent to the waterfront. Proposed park features have been sited and designed to enhance the maritime context of the site, including the preservation and adaptive reuse of an existing structure. OP anticipates the further development of the public education nature center, marina, and boating activities will provide additional opportunities to expand on the maritime context of the site.

XI. RELIEF REQUESTED

§1809.1 permits the Commission to consider any requests for relief as part of its review of the project. The proposed buildings and land uses require special exception and variance approval for land use (§§'s 925 & 1805.6), roof structures (§ 411), parking (§ 2120), height (§ 930), and waterfront setbacks (§ 938).

Report Section	Standard	W-0	SEFC/W-O	Proposed Construction	Relief Required
	Floor Area Ratio (§ 931.1)	0.5		0.1 (FAR of historic bldg not included per § 1805.9)	No
	Lot Occupancy (§ 932.2)	25%		14.2%	No
A - 1	Use (§ 925) - Development Area	Special exception required for retail/commercial uses		Retail/commercial uses w/in existing and new buildings	Special Exception, subject to § 927
A - 1	Use (§ 1805.6) – Open Space Area		No retail uses w/in Open Space Area	Retail uses w/in waterfront kiosks in Open Space Area	Special Exception, subject to § 927
A - 2	Roof Structures (§ 930.3)	1:1 setback ratio from exterior wall		< 1:1 setback ratio	Special Exception, subject to § 3104.1 and § 411
B	Parking (§ 2101)	27 spaces required; surface lots prohibited	A stated district purpose is to discourage parking	No off-street parking spaces are provided	Variance for # of parking spaces
B	Building Height (§ 930)	40 ft. for structures and buildings		60 ft – visual marker Retail buildings < 40 ft.	Variance for visual marker only
B	Waterfront Setback (§ 938)	100 ft. min. setback from bulkhead		Visual marker w/in 20' of bulkhead	Variance

A. Special Exception Review of Uses and Roof Structures within the W-0 District

The proposal includes retail buildings and uses that require special exception approval. While the applicant has not determined each building use, they have indicated all future uses will be consistent with the listed special exception uses for the district, found in § 925.1. In addition, the new retail buildings will require special exception relief for the location of roof structures.

The general criteria for special exceptions, the §927 special exception criteria for projects located in the W-O district, and the § 411.11 criteria for roof structures special exceptions are discussed below.

“3104.1 The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) (formerly codified at D.C. Code § 5-424(g)(2) (1994 Repl.)), to grant special exceptions, as provided in this title, where, in the judgment of the Board, the special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Map subject in each case to the special conditions specified in this title, as follows: ...”

The requested special exceptions for the location of the roof structures and proposed uses are not inconsistent with the purpose and intent of the zoning regulations. The uses anticipated would include those specifically listed as appropriate for the SEFC/W-0 district. These features would help promote the development of a “lively waterfront environment” by providing opportunities for street-level retail and enhancing pedestrian activity on Water and 4th Streets, SE. The proposed buildings will allow for views of the river and other waterfront park features.

The proposed building features and uses would not adversely affect the use of neighboring properties, which include the Water and Sewer Authority (WASA) pumping station on the west, Parcels L, M, and N within the SEFC site to the north (future high-density residential sites), and the Washington Navy Yard on the east. The building heights, including the height of the roof structures, are significantly shorter than the proposed and existing adjacent buildings. The retail and commercial uses would serve as an amenity for neighboring uses and residents. The proposed structures should not impact views of the water from any direction.

1. §927, W-0 Special Exception Review Criteria

a) The buildings, structures, and uses will enhance the visual and public recreational opportunities offered along the waterfront;

The renovation of the Lumber Shed building and the proposed retail pavilions have been designed and sited to frame an interior public plaza within the park. The previously approved plaza areas will provide seating for anticipated retail uses in proposed and existing buildings. The presence of ground level retail opening onto the plaza, upper level roof terraces that provide views of the Anacostia River, and concession areas within the Overlook Area all serve to enhance the public recreational opportunities offered along the waterfront.

b) The buildings, structures, and uses on land will be located and designed to minimize adverse impacts on the river and riverbank areas;

The buildings and uses on land are concentrated at the north edge of the site along the street frontage on Water Street, SE and 4th Street, SE. Thus, the more active uses are located the farthest away from the water. While the proposed public art feature would be located on the promenade, it is a passive feature with a relatively small footprint. The new and existing structures located on land have been designed to promote use and enjoyment of the riverbank area. No adverse impacts on the river are anticipated as a result of the proposed construction.

c) If the proposed use is a boathouse, marina, or yacht club, the buildings will be located entirely on shore directly in front of berths, separated only by the setback area described in 938, unless doing so would result in an infeasible project and would hinder furtherance of the objectives of the W-O District;

d) Buildings, structures, and uses on, under, or over water will be located and designed to minimize adverse impacts on the river and riverbank areas;

This phase of the park approval does not include any structures located on the water. A marina proposed in Phase 3 of the park development will require separate Zoning Commission review, as would any associated structure.

e) All structures and buildings will be located so as not likely to become objectionable to surrounding and nearby property because of noise, traffic, or parking, and so as not to limit public access along or to the waterfront, other than directly in front of the principal building or structure of a boathouse, marina, or yacht club.

The structures subject to special exception review have been designed to enhance access to the river as well as provide connections between the mixed-use areas to the north of the site and the park below. The proposed structures, no more than two stories in height, will contain uses found within or similar to the list of preferred uses for the SEFC/W-0 district. As such, they should not be objectionable to neighboring uses with regard to noise, traffic, or parking impacts.

With regard to traffic, pedestrian and vehicular access is provided from 2nd, 3rd, and 4th Streets, SE connecting to Water Street, SE, a new street proposed at the north boundary of the site. Plazas are appropriately located to serve as transitions between the areas designed for more active uses at the north of site to the passive recreational features at the south of the site.

Finally, no parking facilities are proposed for this site. The proposed waterfront park will be within walking distance of the Navy Yard Green Line Metro station and multiple bus routes along M Street. It is not anticipated that the proposed structures will have a negative impact on parking. The larger SEFC site has been designed to protect the waterfront area from the potential impacts of parking by prohibiting off-street parking areas within the W-O Waterfront District, although future buildings to the north of the park are planned to contain underground parking, some of which would be available to park/retail users. As such, the impact of the proposed structures with regard to noise, traffic, and parking on nearby property should be minimal.

f) Impervious surfaces will be minimized and buildings, structures, and other uses will be designed and sited to minimize potential for surface storm water run-off directly into the river.

The previously approved park includes several grassed and planted areas which will reduce the amount of hard-surfaced area currently on the site. In addition, a stormwater management concept plan was approved in the first phase of this proposal that is designed to minimize the amount of surface stormwater run-off into the river. Within the development area, the proposed buildings occupy less of the site than they would be allowed to do.

g) Screening, coping, setbacks, fences, the location of entrances and exits, or any other consideration for accessory or non-accessory parking spaces will be designed to screen and protect adjacent parkland and the waterfront.

This criteria is not applicable as no parking areas are included in this request.

h) Emergency access will be provided to any buildings, structures, or other space devoted to active public use.

This criteria was intended to address emergency access to potentially remote sites within large park areas. In this case, active public uses are generally located near the north end of the site and have adequate frontage on a publicly accessible street.

2. § 411.11 Roof Structures Special Exception Review Criteria

“Where impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable, the Board of Zoning Adjustment shall be empowered to approve, as a special exception under § 3104, the location, design, number, and all other aspects of such structure regulated under §§ 411.3 through 411.6, even if such structures do not meet the normal setback requirements of §§ 400.7, 530.4, 630.4, 770.6, 840.3, or 930.3, when applicable, and to approve the material of enclosing construction used if not in accordance with §§ 411.3 and 411.5; provided, that the intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely”.

The new retail pavilions (P2A & P2B) require zoning relief from this requirement. Due to the overall park layout and their location on the lot, the proposed retail buildings have four highly visible facades. Their design locates mechanical and service core elements in areas that benefit from direct access to a public street and are the least visually intrusive. The Lumber Shed building and the adjacent retail pavilion (P2A) have been designed so that their service core functions are aligned and can take advantage of a centralized access way. As a result, the related rooftop equipment has also been located along the building edge adjacent to this interior access way. Similarly, the second retail building (P2B) includes mechanical and rooftop equipment located adjacent to east building wall facing 4th Street, SE. In both cases, the proposed roof structures have been located so that they have the least impact on river views from the upper levels and roof terraces of these buildings. Full compliance with the roof structure location requirements would not be practical or desirable due to the overall site design and need for access to a public street.

As for the conditions of the surrounding area, the buildings planned for the adjacent parcels to the north are much taller than the two-story retail pavilions. In addition, the retail buildings would be located at the northern boundary of waterfront park. Their design is consistent with the SEFC/W-0 zoning for the site. As such, the roof structures should not adversely impact enjoyment or use of or impair the light and air for adjacent buildings.

OP has no objection to the requested special exception for roof structure location. The proposed retail building designs incorporate an efficient service and loading system within a relatively small footprint. While this maximizes the amount of open space on the site, it also limits the ability to provide an adequate setback for roof structures. Despite this, the proposed roof structures are sited to limit visual intrusions of the views of the river and park features.

B. Variance Relief for Parking Requirements and the Visual Marker

The proposal includes a visual marker, in the form of a public art tower, on the promenade; a feature located less than 20 feet from the bulkhead. This request also does not include any off-street parking for the requested retail/commercial uses. OP is supportive of the visual marker as an important feature highlighting the waterfront. In addition, the W-0 district was designed to limit off-street parking. OP feels the request meets the relevant tests, and would be in support of approval of such relief. The general criteria for variances are discussed below.

Variance Criteria

The requested variance relief must satisfy the following criteria for area variances:

1. *Is the property unique due to:*
 - a. *Exceptional narrowness, shallowness, or shape at the time of original zoning regulation adoption,*
 - b. *Exceptional topographical conditions or*
 - c. *Other extraordinary or exceptional situation?*

The subject property is affected by exceptional conditions. The land was historically under federal control and released for private development in 2000 by an act of Congress. At that time, a master plan was created for the build-out of site, which included a mix of uses (retail, cultural, institutional) within a park setting. The site is located within the lowest density Waterfront District (W-0) zone, which allows limited retail uses (via special exception approval) while discouraging off-street parking. Development on the site is governed by the SEFC Overlay, which includes a detailed set of design and review criteria, including Zoning Commission review. The site also has unique physical characteristics. It provides direct access to the Anacostia River and is located in the middle of a planned riverfront bicycle trail. Finally, the site has a slight elevation change between the waterfront and the street level, and is largely located within the current 100-year flood plain.

2. *Does the uniqueness, in combination with the zoning regulations, result in peculiar and exceptional practical difficulties to the owner?*

The site has been designed to encourage and accommodate alternate forms of access with an emphasis on making it attractive to pedestrian and bicycle traffic. The master plan for the site anticipated pedestrian-oriented retail and service uses along the street edge to attract park visitors. As such, the W-0 zone and the SEFC overlay both provide for the development of retail and commercial uses within their respective zones. However both districts also contain a stated aversion to off-street parking requirements. The W-0 district discourages parking in its purpose statement and the SEFC/W-0 district prohibits visible off-street parking. This makes it difficult to provide off-street parking to support the desired retail and service uses. While OP does not normally accept the zoning regulations themselves as constituting a practical difficulty, in this case, the **conflicting** zoning requirements create a practical difficulty for the owner to eliminate the required parking for the retail/service uses needed to make the waterfront park viable.

OP has no objection to the proposed height and location of the public art tower given the configuration of park features and its intended purpose to draw people to the site, or specifically, to the waterfront. On the site, there is a 9-foot difference in elevation between the street and the promenade. The visual marker would be located close to the waterfront where the site has its

lowest elevation and its height would be the least objectionable to neighboring buildings and uses. If this feature were located farther from the water's edge, it would be closer to neighboring residences. It would also have less prominence when viewed from the water, and less relevance. Alternatively, limiting the height of the visual marker to 40 feet would result in a structure that appears shorter than the proposed retail buildings when viewed from street and is less apt to visually attract people to the site, or provide the waterfront focus desired by the applicant.

3. Does granting the variance result in a substantial detriment to the public good or will it substantially impair the intent, purpose, and integrity of the zone plan?

The requested variance from off-street parking requirements is consistent with the purpose and integrity of the zone plan. This is clearly expressed in the W-0 district purpose statement which discourages parking and within the SEFC Overlay which limits off-street parking in areas visible from the street. In addition, the proposed retail uses that trigger the parking requirement are located within walking distance from a Metro stop and several bus routes on M Street, SE. Finally, a large quantity of surface parking currently exists in the area and is anticipated to continue after the future after development of the adjacent lots. As a result, granting this variance should not substantially detriment the public good as it will support safer pedestrian and bicycle access to the site. In addition, parking within future buildings on the SEFC site is expected to be available as those building develop.

The proposed location and height of the visual marker should not result in a substantial detriment to public good or the zone plan. A visual marker was anticipated for this site and it has been sited to be as far as possible from adjacent residences and office buildings. In addition, the proposed height and design of the feature should not impact view sheds of the river.

XII. AGENCY REFERRALS

OP has not received comments from other District agencies.

XIII. FEDERAL REVIEW

The National Capital Planning Commission (NCPC) has submitted comments regarding their general support for the proposed retail buildings and visual marker. The Commission on Fine Arts (CFA) was scheduled to review the proposal on February 19, 2009.

XIV. COMMUNITY COMMENTS

The Office of Planning has received no comments on the project from the community. ANC 6D met on February 9, 2009 regarding this project and indicated their support for the request.

XV. RECOMMENDATION

The Office of Planning finds that the proposal for Phase 2 of The Yards development is generally consistent with the Comprehensive Plan and the Near Southeast target area objectives within the Anacostia Waterfront Initiative Framework Plan. The proposal is also generally consistent with the W-O Waterfront District and the SEFC Overlay regulations and guidelines. The development would encourage viability of the waterfront park by adding retail and service uses, encouraging

pedestrian activity, and linking neighborhood uses to the park and river to the south. The proposed retail buildings would activate the newly created Water Street, SE. The proposal also includes the preservation and restoration of a historic structure. The building design is intended to complement the industrial character of the area while providing views of the Anacostia River. Overall, this phase of the project would further the development of the Anacostia River as a community and regional destination. As such, the Office of Planning recommends **approval** of the proposed phase of development on Parcel P, including the requested zoning relief.

JS/ayj