

Appendix A: Zoning Comments by Subtitle

These comments are based on the public hearing report for ZC 08-06A – Zoning Regulations Review (ZRR) —Text Amendment, Title 11, Zoning Regulations: Subtitles A—Authority, W—Mapping, X—General Processes, Y—Board of Zoning Adjustment, and Z—Zoning Commission, dated September 10, 2013 and the Memorandum to the Zoning Commission dated November 4, 2013 in reference to Case No. 08-06A.

Note:

- Requests/recommendations are shown as underlined.
- Proposed zoning text is shown in **red**.

All Subtitles

We recommend all references to the term “Central Area” be changed to “Central Washington.” This will avoid confusion with “Central Area” references such as in Subtitle I Section 100.2(g) with the term as defined in Subtitle B and 45 DCR 1046.

Subtitle A: Authority and Applicability

We recommend specifying NCPC’s authorities in Section 400.1 as this section specifies the Commission of Fine Arts’ authorities. To provide clarity to administrators, building permit applicants, architects and lay people reviewing the zoning regulations, it’s advisable to specify NCPC’s role in processing and reviewing proposed buildings or other structures. Suggested language:

In addition to all provisions of this title, District of Columbia agencies shall advise and consult with the National Capital Planning Commission (NCPC) before preparing construction plans to be paid for at least in part from federal or District amounts (40 U.S.C. §§8722 (b,d)); NCPC may make a report and recommendation on the relation, conformity, or consistency of proposed amendments of the zoning regulations and maps with the comprehensive plan for the National Capital; and the Planning Commission may also submit to the Zoning Commission proposed amendments or general revisions to the zoning regulations or the zoning map for the District of Columbia. (40 U.S.C. §§8724(a))

We recommend adding a section that articulates Pennsylvania Avenue Development Corporation (PADC) authorities, specifically those transferred to NCPC. The PADC Plan and related authorities are important tools to reinforce the connection between the White House and the Capitol, and to integrate the Monumental Core with commercial activities to the north. NCPC has a critical role to review and determine the consistency of development proposals within the PADC area for compliance with the PADC Plan, pursuant to 40 U.S.C. § 6702(d) and the Memorandum of Agreement dated July 25, 1996, 61 Fed. Reg. 41789

Subtitle G – Mixed Use Zones

Naval Observatory Overlay District

Current Code:

DCMR 1 § 3012 covers Agency Reports required under the Zoning Commission Procedures, Rules of Practice, and Procedure.

- 3012.1(a)(2) - Those applications for approval [by the Zoning Commission] pursuant to 11 DCMR § 1610.1(a) and (d)” shall be sent for review and comment to the National Capital Planning Commission.
- 1531.4 The NO Overlay District is intended to provide additional controls on private land, in order to protect recognized Federal interest concerns. The concerns include the critical scientific mission performed at the Naval Observatory and the security needs of the Vice-President's residence.
- 1531.5 The NO Overlay District shall act to further restrict the development controls permitted in existing districts to reduce or eliminate any possible harm or restrictions on the mission of the Federal establishment within the NO Overlay District.

Proposed Code:

This overlay would become Mixed Use Zone – Naval Observatory (M-28).

While the new standards for the area generally mirror the existing ones, there is no corollary section that specifies NCPC review. NCPC is also coordinating with the Navy to ensure that the proposed code is consistent with the Naval Observatory Lighting Study that was completed in May 2012. The Navy is submitting comments under separate cover that address their desire to expand the zone to the south and incorporate the lighting standards outlined in their study.

Subtitle I: - Downtown Zones

We recommend changing references the Central Area in Section 100.1 and 100.2 to “Central Washington.” This clarification would best avoid confusion with the “Central Area” term defined in Subtitle B and 45 DCR 1046.

Pennsylvania Avenue: D7B1 / D6B2 / D6B1 / D4B1

When Congress dissolved the Pennsylvania Avenue Development Corporation (PADC) in 1996, it transferred various responsibilities along Pennsylvania Avenue to the GSA, NCPC and NPS.¹ 40 U.S.C. § 6702(d) states that “The National Capital Planning Commission is responsible for ensuring that development in the Pennsylvania Avenue area is carried out in accordance with the Pennsylvania Avenue Development Corporation Plan – 1974.”

¹ See 40 U.S.C § 6701 et. seq

The Pennsylvania Avenue Development Corporation Plan (the Plan) and Square Guidelines provide federal guidance on the planning, design and development of 23 squares along and near Pennsylvania Avenue, NW. U.S. Code Chapter 40 § 6712 states that select agencies or instrumentalities of the federal or District of Columbia governments may exercise any lawful powers in the Plan area that are consistent with the Plan. These currently include GSA, NPS, and NCPC. The District Department of Transportation has jurisdiction over the cartway. Below is a summary of our concerns:

- The proposed zoning for portions of Pennsylvania Avenue, NW between the White House and the U.S. Capitol (specifically as it relates to building heights, footprint setbacks, and upper story setbacks) is inconsistent with the Plan and Square Guidelines, and also inconsistent with the Federal Elements of the Comprehensive Plan. NCPC therefore requests that the proposed zoning text be amended to recognize the Pennsylvania Avenue Development Corporation Plan and Square Guidelines, and address inconsistencies between them, as highlighted below and discussed in more detail in Appendices A and B.
- The zoning update's *Pennsylvania Avenue Sub-Area (Subtitle I, Section 608)* fails to encompass all squares within the Plan statutory defined area. See 40 U.S.C. § 6711 and Appendix B for boundary map. Thus, while some portions of the Plan area are zoned D-7-B-1, other areas are zoned D-6-B-1 or D-6-B-2. However, the character described in the Sub-Area *Objectives* is applicable to all squares within the Plan boundary. NCPC recommends expanding the Sub-Area to cover the entire Plan area, and to include references to the Plan, its goals and objectives, and the Square Guidelines.
- The sections of D-6-B-1 (*Subtitle I, Section 210*) and D-6-B-2 (*Subtitle I, Section 211*) regarding building setbacks, upper story step-backs, and overall height requirements are inconsistent with the Plan. This may lead to confusion regarding the development potential of a site. NCPC recommends that the language in Sections 210 and 211 reference the Pennsylvania Avenue Sub-Area and establish a building envelope in the Zoning Code consistent with the standards set forth in the Plan.
- It appears that the *Height and Upper Story Setback Development Conditions (Subtitle I, Section 306)* allows a matter of right height of 160 feet beginning at the building line for buildings within the Pennsylvania Avenue Historic District and fronting Pennsylvania Avenue. This proposed requirement is not consistent with the building set-backs and upper story step-backs required in the Plan before the maximum height is attained. If this interpretation is correct, the proposed language in the zoning update is inconsistent with the Plan and Square Guidelines, and should be amended. Note: Provisions in DCOP's Subtitle I memo dated November 4, 2013 are also unclear.

The following section discusses these concerns in more detail. NCPC proposed zoning text changes are shown in **red** below (see Appendix C for proposed zoning and map of squares):

1. **The 1974 Pennsylvania Avenue Development Corporation (PADC) Plan and Square Guidelines, which provide federal guidance on the development of 22 squares along and near Pennsylvania Avenue, are not recognized in the zoning code.** The Plan and Guidelines set forth a series of objectives that guide the overall vision of a “symbolic ceremonial way between the Capitol and the White House and as a link between the governmental city and the private city.” As such, this link between the federal and local city is of prime significance and should be reflected in the zoning code. Objectives from the Plan relevant to the zoning code include:
 - Making the Avenue function as a bridge, not as a barrier, between the monumental Federal core to the south and the city’s downtown to the north.
 - Bringing people back to live along the Avenue.
 - Providing a mixture of commercial and cultural activities along the Avenue that will attract a variety of people and stimulate street life.
 - Bringing new economic life – jobs, shopping, and business opportunities – to the Avenue while reinforcing existing activity both on the Avenue and in the adjacent downtown area.
 - Enhancing the city’s tax base through more intensive use of land in this prime location.

The PADC Plan also calls out a building envelope to help reinforce the objectives listed above, including:

- a 75 foot sidewalk (or 50 foot setback from the building line)
- use of the cornice line of the Federal Triangle building across the street as the initial building height
- an upper story setback between 50 and 100 feet before rising up to the final building height of 160 feet.

Building envelopes are further defined on a site-by-site basis in each Square Guideline.

In addition, plans for all exterior public and private square improvements within the PADC boundary must be submitted to NCPC for review, but this is not codified in the zoning code. After the dissolution of the PADC in 1996, the responsibility of reviewing all minor and major redevelopment projects were given to GSA and NCPC. If a private property owner proposes to make renovations to a property within the PADC area, they must submit plans to both agencies prior to applying for a building permit.

- *608.1 Overview*
 - *“Objectives to be Achieved by Additional Use/Design Regulations: Maintain Pennsylvania Avenue as a mixed use monumental street with additional height to emphasize its role in physically linking the executive and legislative branches of*

the federal government. Reinforce design principles, building development envelope, and other guidance found in the Pennsylvania Avenue Development Corporation Plan and Square Guidelines.

- *“Boundaries, Property Squares and Streets:*
 - *“General Location: The north side of Pennsylvania Avenue between 9th-3rd Street and 15th Street, including the east side of 13th Street between Pennsylvania Avenue, NW, and E Street, NW.”*
 - *“Squares: 225, 254, 291, ~~222~~ 322, ~~and~~ 226, 255, 348, 378, 379, 406, 407, 408, 430, 431, 432, 457, 458, 459, 460, 491, and 533 as outlined in the map that follows.*
 - *“Designated Street Segments: generally indicated with black lines on map and detailed in the Section 608.2 table that follows.” (Should be updated to identify Pennsylvania Avenue as a primary street between 15th and 3rd Streets, NW.)*
- *608.3 Sub-Area Use Regulations*
 - *(c) Buildings in Squares 254, 291, 322, 347, ~~and~~ 378, 379, 406, 408, 431, 457, 458, and 459 are subject to the use regulations of the Arts Sub-Area*
- *608.4 Sub-Area Design Regulations*
 - *(d) Buildings with the Pennsylvania Avenue Development Corporation (PADC) boundary are subject to the PADC Plan and Square Guidelines for design guidance, including (but not limited to) building setback lines, building frontage heights, upper story setbacks and overall heights.*
 - *(e) Buildings within the Pennsylvania Avenue Development Corporation boundary are required to submit all proposed external improvements for review by the National Capital Planning Commission and the General Services Administration. Review must be performed prior to issuance of a building permit. (Include map of PADC boundary)*
- *311.2:*
 - *Chapter 6 contains additional front setback measurement rules on segments of the following designated streets in geographic subareas of downtown:*
 - *(a) South Capitol Street and M Street, SE, in the M and South Capitol Streets sub-area.*
 - *(b) Pennsylvania Avenue between 3rd and 15th Streets, NW.*
- *312.1:*

- Chapter 6 contains additional front setback conditions on segments of the following designated streets in geographic subareas of downtown:
 - (a) The eastern side of South Capitol Street and the northern side of M Street, SE, that are within the M and South Capitol Streets sub-area.
 - (b) *Pennsylvania Avenue between 3rd and 15th Streets, NW.*
2. **The zoning update language for D-6-B-1 (Subtitle I, Section 210) and D-6-B-2 (Subtitle I, Section 211) is inconsistent with the 1974 PADC Plan and Square Guidelines.** The proposed code for both zones is currently shown as 130' with no building setbacks, upper story setbacks, or overall height requirements; this is not consistent with the PADC Plan and Square Guidelines.

With the exception of Squares 378 and 379, all squares within the PADC boundary currently have square guidelines. Following the PADC amendment process as outlined in the 1996 MOA, square guidelines for 378 and 379 will be developed to conform to PADC guidance. Other squares may also update their guidelines using the amendment process.

Proposed Code:

- 210.1 *The D-6-B-1 Zone:*
 - (e) Includes designated street segments with special requirements, as referenced in italics in the zone table, in the Chinatown, Connecticut Avenue, Retail Core, *Pennsylvania Avenue* and ~~Arts~~ Arts sub-areas; and
 - D-6-B-1 Zone Table
 - (Italicized references apply only to structures located in the zone on designated street segments in the Chinatown, Connecticut Avenue, Retail Core, *Pennsylvania Avenue* and ~~Arts~~ Arts sub-areas described in Chapter 6.)
 - Front Setback, Column B: *Sections 306.3 and 608*
 - Design Requirements – by Zone, Column B: *Section 608*
 - Design Requirements – by Designated Street Segments, Column B: *Sections 603, 605, 606.4, 607.4, 608*
 - Design Review Requirements, Column B: *Section 608.4*
- 211.1 *The D-6-B-2 Zone:*
 - (e) Includes designated street segments with special requirements, as referenced in italics in the zone table, in the Chinatown, Massachusetts Avenue, *Pennsylvania Avenue* and Arts sub-areas; and
 - D-6-B-2 Zone Table
 - (Italicized references apply only to structures located in the zone on designated street segments in the Chinatown, Massachusetts

Avenue, Pennsylvania Avenue and Arts sub-areas described in Chapter 6.)

- *Front Setback, Column B: Sections 306.3 and 608*
- *Design Requirements – by Zone, Column B: Section 608*
- *Design Requirements – by Designated Street Segments, Column B: Sections 603, 605, 606.4, 607.4, 608*
- *Design Review Requirements, Column B: Section 608.4*

3. **Please clarify the *Height and Upper Story Setback Development Conditions Section (Subtitle I, Section 306)*.** The September 9, 2013 version reads as if all buildings within the Penn Ave Historic District that front Pennsylvania Avenue have the right to build up to 160 feet at the building line with no building setback or upper story setback requirement; updates identified in the November 4, 2013 memo for *Subtitle I* included a proposed amendment to the language, but the status of this amendment is uncertain.

If the proposed language does allow for development along the Avenue to rise to 160 feet at the building line, this is inconsistent with the PADC Plan and Square Guidelines.

Proposed Code:

- *Section 306.2:*
 - *“In the D-6-B-1, D-6-B-2, and D-7-B-1 zones, a certain buildings or other structures with frontage on Pennsylvania Avenue may be erected to a height not exceeding one hundred sixty feet (160 feet); provided:*
 - a) *The height of the building or structure shall be measured from the Pennsylvania Avenue curb at the middle of the front of the building or other structure to the highest point of the roof or parapet exclusive of any structure on the roof; and*
 - b) *The building follows the building setback, height frontage, upper story setbacks and other design requirements identified in the Pennsylvania Avenue Development Corporation Plan and Square Guidelines; and or*
 - c) *That portion of the building or other structure that exceeds one hundred thirty-five feet (135 ft.) in height shall be set back a minimum of fifty feet (50 ft.) from the building line along Pennsylvania Avenue-, whichever is more restrictive.*
- *Section 306.3:*

- Chapter 6 contains design-related conditions on height and upper story setbacks for segments of the following designated streets in geographic subareas of downtown:
 - Massachusetts Avenue and Mount Vernon Square;
 - *Pennsylvania Avenue between 3rd and 15th Streets, NW;*
 - South Capitol Street at the northeast corner of South Capitol Street and M Street, SE; and
 - The intersections of 5th and K Streets, NW, in the Mount Vernon Triangle sub-area.

D8B1 Federal Triangle South (Independence Avenue)

NCPC and GSA provided comments on the ZC 08-06A – Zoning Regulations Review (ZRR) released in October, several of which were incorporated into the November 4, 2013 Memorandum. The comments below are follow-up comments to the November Memorandum.

213.1 Maximum Allowable Building Height/Build-to-line

As currently proposed, NCPC maintains that the maximum allowable height and setbacks in the D8B1 zone are inconsistent with the Federal Elements of the Comprehensive Plan. There is a significant national interest since this area is located across the street from the National Mall and the Smithsonian Campus. NCPC, in coordination with several federal and District agencies, recently completed the SW Ecodistrict Plan which lays the groundwork for the revitalization of this area. NCPC is concerned about impacts from the proposed building height and build-to-lines on the symmetry of building scale on Independence Avenue, views from the National Mall, and views of the Smithsonian Campus.

Like Constitution Avenue, Independence Avenue is a major street within the monumental core area of the city. It is home to the Smithsonian Institution's southern campus and a host of large but relatively low-lying federal buildings. These federal buildings are similar in height to the Smithsonian buildings and generally cannot be seen over their rooflines when standing on the National Mall. As a result, the experience of the National Mall is that of a truly public space within a park-like setting framed by trees and civic institutions.

NCPC recently completed a massing study for the redevelopment of buildings within the SW Ecodistrict with an emphasis on the potential height and massing of new buildings on the south side of Independence Avenue. NCPC conducted this study to inform both the development of design principles for this area and to analyze the impacts of the proposed height and massing of the D8B1 zone.

The modeling study (Appendix B) analyzes different building heights and setbacks on Independence Avenue. It looks at the existing conditions today and two alternative schemes from various viewpoints:

Existing Conditions Today:

Building	Height	Setback from Property Line
USDA (south)	82'	8'8" from the property line along Independence Avenue/ 34' from the property line at the corner of 12 th and Independence Avenue
Forrestal Building (Dept. of Energy)	88'	80' from the property line
Orville Wright (FAA)	130'	91' from the property line
Wilber Wright (FAA)	83'	27' from the property line

Scheme 1: SW Ecodistrict Plan Concept (see Appendix B pg. 2)

Building height along the south side of Independence Avenue = 110' + 20'² penthouse

Setback = 34' feet from the property line to align with part of the USDA building that is inset on the southwest corner of Independence and 12th Street.

Scheme 2: Proposed D8B1 Zoning (see Appendix B pg. 2)

Building height along south side of Independence Avenue = 130' + 20' penthouse

Setback = None (the build-to-line is the property line).

Based on this modeling study and the general increase in building height from what exists today, NCPC maintains that the proposed maximum building height of 130' and the proposed build-to-line at the property line is inconsistent with the Federal Elements of the Comprehensive Plan including policies that seek to:

*"Develop the monumental core in accordance with the principles of the Legacy Plan and the policies of the Memorials and Museums Master Plan. The National Mall's historic open space and monumental character should be respected and preserved for the benefit of future generations. New development should not infringe on the integrity of the National Mall and the surrounding monumental core."*³

*"Protect the integrity, form, and design of the L'Enfant Plan's system of streets and reservations from inappropriate new buildings and physical incursions."*⁴

*"Plan carefully for appropriate uses and compatible design in and near the monumental core to reinforce and enhance its special role in the image of the nation's capital."*⁵

² NCPC assumed a penthouse of 20' in height pending potential changes to the zoning code.

³ Comprehensive Plan Federal Elements: Preservation and Historic Features, the Historic Plan of Washington – p.166-168

⁴ Comprehensive Plan Federal Elements: Preservation and Historic Features, the Historic Plan of Washington – p.166-168

⁵ Comprehensive Plan Federal Elements: Preservation and Historic Features, National Capitol Image – pg. 161

Given the important location of these federal parcels, the possibility that the parcels may be privatized and redeveloped by-right, and future parcelization and street widths in this area are unknown, NCPC recommends that the proposed zoning include provisions to protect national interests as discussed above.

NCPC Staff Recommendations for Next Steps:

NCPC is exploring several alternative recommendations for the zoning rewrite that immediately protect national interests along Independence Avenue, while a more comprehensive area redevelopment strategy is prepared for a longer-term horizon. Potential alternative approaches to protect national interests within the ZRR proposal include:

- (1) A maximum allowable building height and setbacks that are consistent with the Comprehensive Plan policies and the content of SW Ecodistrict Plan. Under this scenario, NCPC would engage federal and local stakeholders to develop these recommendations. See Appendix B for more detail.
- (2) A procedure that includes consultation with and advisory review by the National Capital Planning Commission of building massing and open space along Independence Avenue at no later than at the 35% plan development stage.
- (3) Preparation of a master plan for the area in coordination with federal and local stakeholders to determine parcelization and massing and then zone accordingly.

Additional Comments on specific zoning text:

213.1

- Though the SW Ecodistrict cannot be formally mentioned since it has not been adopted by OP, when adherence to the MD Ave. objectives is mentioned, “and related plans” should be included (this is consistent with the criteria section of §213.3)
- In the D8B1 zone table, please revise the Regulatory topic “Maximum FAR” to reflect that cultural uses shall be treated the same as residential in terms of exceeding the 6.5 FAR with that use. Chapter 8 will need to be updated as well.

Proposed new subsections:

213.2 Historic ROW may not be used when calculating GSF.

213.3 Building in a historic ROW is prohibited (*unless it adheres to §213.5*)

The following sections (§213.4 and 213.5) do not apply to property owned and occupied primarily by the US government.

213.4 An owner whose property contains no historic ROW might exceed the 6.5 FAR density if:

1. The property contains only residential or cultural uses on the 2nd floor and up, OR contains only cultural and/or residential beyond the 6.5 FAR OR the owner creates/purchases density credits; AND
2. The proposed development undergoes a review by the Zoning Commission to determine if the proposal is consistent with the criteria of §213.6 (formerly §213.3)

213.5 An owner whose property contains historic ROW might exceed the 6.5 FAR density if is granted a Special Exception by the Zoning Commission by adhering to the following:

1. The Director of DDOT has determined the land is not essential to the District's future vehicular and pedestrian network; AND
2. An alternate use of the ROW is beneficial (as deemed by the Zoning Commission) to the city, and provision for transportation infrastructure improvements will be made; AND
3. The property contains only residential or cultural uses on the 2nd floor and up, OR contains only cultural and/or residential beyond the 6.5 OR the owner creates/purchases density credits; AND
4. The proposed development undergoes a review by the Zoning Commission to determine the proposal is consistent with the criteria of §213.6 (formerly §213.3)

213.6 Criteria used by the Zoning Commission for review of projects in excess of 6.5 FAR (formerly §213.3)

- Though the SW Ecodistrict cannot be formally mentioned since it has not been adopted by OP, when adherence to the MD Ave. objectives is mentioned in §213.3.a, "and related plans" should be included
- Under the desired mix of uses for §213.3.b, "offices" should not be exclusively private; cultural and arts uses should be further defined (this could include museums and arts uses)
- Views to and from the National Mall and the Smithsonian Campus should be protected.

Primary and secondary streets should be designated for this area, similar to the rest of the Downtown zone. NCPC would like to coordinate with GSA and DCOP on the primary and secondary street classification.

All Downtown Zones: Maximum allowable building height on major streets and avenues and near national resources within the historic L'Enfant City.

The L'Enfant City includes some of the most important civic and cultural resources in the nation. These elements contribute to Washington's distinctive character and delineate major symbolic areas that are central to the functions and image of the nation's capital. In particular, the urban design qualities of the streets that intersect with or abut the U.S. Capitol, White House, and National Mall and other important axes, and the placement of civic buildings, are significant contributors to the form and image of the nation's capital. As noted above, the Zoning Commission has a long legacy of reinforcing the symbolic importance of this part of the city through special protections that carefully scale building height in deference to these specific national symbols. Through its enforcement of the Height of Buildings Act and the Schedule of Heights, the Zoning Commission has assured that the city's iconic open spaces and civic character are protected over the long term and enhanced for the benefit of District residents and the millions of American and international visitors who come to the city each year.

Staff's initial analysis has identified two areas where increases in the matter of right (MOR) building height in the proposed zoning code may impact the views and settings of prominent national resources. These include:

Independence Avenue – Proposed D-8-B-1 Zone

See Section D-8-B-1 Federal Triangle South on pg. 7.

North Capitol Street – Proposed D-3-B-1 and D-5-B-1 Zones

The vista providing views of the Capitol along North Capitol Street is a contributing element of the L'Enfant Plan. The scale and symmetry of building edges and height along North Capitol Street influence the quality of the linear views from the north to the Dome and define the preeminent gateway experience to the monumental core area.

Currently the MOR building heights on both sides of the street are limited to 90 feet which not only protects views of the Capitol Dome but also creates a sense of symmetry along each side of the street and as an entire composition when viewing the Dome.

The proposed zoning code increases the matter of right (MOR) height from 90 feet to 110 feet in the D-3-B-1 Zone (on the west side of the street), and from 90 feet to 130 feet on the D-5-B-1 Zone (east side of the street). See Appendix C for map.

We are concerned that the proposed MOR height increases will have the following impacts when viewed looking south from K Street:

- It will lead to irregularities in the height of the building walls that frame the vista. The east side building wall will be 130' in height and the west side building wall will be 110' in height.

- Buildings at 130' on the east side of the street would impact the view of the Capitol Dome.
- The east side of North Capitol Street (south of H Street) will result in a very irregular building wall because the historic City Post Office Building and the smaller building owned by the Architect of the Capitol are adjacent to privately owned sites that could develop up to 130' in height.

As a general principle, the *existing building height* conditions along North Capitol Street south of K Street should be retained. To reinforce the preeminence of the Dome as a visual symbol and the urban design character of the street:

- Building heights along streets that intersect with the U.S. Capitol, including North Capitol, should continue to be scaled in deference to the Dome with a general landscape vista (where the width of the street is greater than the height of buildings that flank the street), to protect the existing sweeping and open vistas.
- The regulatory structure that informs building mass along North Capitol Street should generally consider the viewshed towards the Capitol as a coherent composition including matters of scale, symmetry, and setback, wherever possible. Although variety in building lines and scale will occur on any street, as a general urban design principle, the zoning itself should not split single streets with different building height along either side within the same block. Rather, variety within the zoning should be introduced between blocks wherever possible.

As a first step, we prepared the attached conceptual massing study (see Appendix C), which illustrates our understanding of the proposed matter of right height increases on North Capitol St. and illustrates some of the concerns outlined above. We will prepare additional studies that consider alternative strategies to protect national interests on North Capitol south of K Street.

The Commission's final recommendations in the Master Plan for Building Heights in Washington, DC (Height Study), submitted to the U.S. Congress in 2013, reaffirmed the importance of matters related to building height along streets within this part of the city. In particular, the pre-eminence of the Capitol within vistas of the Capitol along radiating and orthogonal avenues, including North Capitol Street, South Capitol Street, East Capitol Street, New Jersey Avenue, Maryland Avenue and Delaware Avenue, should be reinforced.

The NCPC is consulting with federal agencies that have interests within the L'Enfant City or a presence along important L'Enfant Plan streets and avenues to better understand their opinions about how the proposed zoning updates will affect the unique qualities of the city—particularly with regards to building heights. There are also a discrete number of site-specific federal interests that should be taken under consideration related to access and security of certain federal buildings and property, adjacent uses, and public space. NCPC is consulting with: the Architect of the Capitol, the U.S. Secret Service, the National Park Service (NPS), the General Services Administration (GSA), the U.S. Commission of Fine Arts, the Smithsonian Institution, and the Advisory Council on Historic Preservation.

Over the next three months, NCPC will evaluate whether the proposed zoning impacts any additional viewsheds or site specific national resources in the L'Enfant City. Such an evaluation is supported by the District's Comprehensive Plan⁶ and the work of the Height Study.

Staff will consult with the Office of Planning on any issues of concern and propose additional recommendations (if any) to the Zoning Commission by the September 15th public comment deadline.

Subtitle K: Special Purpose Zones

The current zoning code gives NCPC advisory review for development projects within the following overlay zones (defined as special purpose zones in the proposed code): the SE Federal Center, Capitol Gateway, and Union Station North Overlay Districts. The purpose of this review is for NCPC to ensure the protection of national interests. The rationale behind these previous commitments is outlined for each Overlay District below.

It is our understanding that NCPC's advisory review has been preserved in Subtitle K; however, there is no reference to NCPC in this subtitle. NCPC respectfully requests that our advisory review for these special purposes zones that was previously granted in various zoning actions be made clear in this subtitle.

Capitol Gateway Overlay District

NCPC Commission Action (October 2002): NCPC requested to be included as a referral agency in the special exception process as set forth in the CG/W-2 Zoning District – Section §1603 of the proposed regulations. The Commission recommended that the Zoning commission, after the joint District-Federal South Capitol Study is completed, consider developing zoning tools that will encourage the avenue to develop as a coherent corridor and gateway to the National Capital. The Commission cited the following national interests:

- Anacostia Waterfront Initiative
- South Capitol Street and Potomac Avenue (Special streets in the Preservation and Historic Features Element of the Comp Plan)
- Proximity to Southeast Federal Center and Ft. McNair, both of which are adjacent to the Capitol Gateway Overlay District

Zoning Commission Action, Notice of Final Rulemaking & Order No. 96-3/89-1 (November 2002): A supplemental vote taken on November 18, 2002 added a provision including NCPC in the agency referral process prior to the Zoning Commission's consideration of projects within the CG/W-2 district. The Commission recognized that, unlike a typical special exception application, the approval process for these properties will not be reviewed by NCPC through its

⁶ DC-Chapter 9, Urban Design, Action UD-1.4. Policy for the revision of the District's zoning regulations to determine the feasibility of overlays or special design controls that would apply to major boulevards and gateway streets. The purpose of such overlays would be to ensure the protection and enhancement of important views and to upgrade the aesthetic quality of key boulevards.

representative on the Board of Zoning Adjustment. The Zoning Commission agreed with NCPC that there are significant areas of federal interest adjacent to this portion of the overlay.

Section 3012.1 was amended to include NCPC as a referral agency:

- c. The second sentence of § 3012.1 was amended to read as follows:

As soon as an application requesting Zoning Commission review and approval pursuant to Chapter **16 or** 18 of this Title is accepted for filing by the Director of the Office of Zoning, a copy of the application shall be referred to the D.C. Office of Planning and other appropriate agencies **for review and comment.**~~as well as A copy shall also be sent to the National Capital Planning Commission, for review and comment, of all Chapter 16 applications and those applications for approval pursuant to 11 DCMR § 1603.~~

Proposed Code:

The Capitol Gateway Overlay District will become a *Special Purpose Zone*. As stated in Section K 100.1: “THE PURPOSE OF THE SPECIAL PURPOSE (K) ZONES is TO PROVIDE FOR single large sites that require a cohesive, self-contained set of regulations to guide site design, building height and bulk, land uses, or other aspects of development.”

While the new standards for the area generally mirror the existing ones, there is no corollary section that specifies NCPC review. NCPC respectfully requests that our advisory review for these special purposes zones continue and be made clear in this subtitle.

Southeast Federal Center Overlay District

NCPC Commission Action (January 2004: NCPC recommended that the Commission be included as a referral agency in the Southeast Federal Center Overlay special exception process. The Commission cited the following national interests:

- SEFC must be redeveloped consistent with the vision of Legacy (Southeast Federal Center Public-Private Development Act of 2000)
- Interests within and adjacent to significant federal facilities including DOT and Navy Yard

Zoning Commission Action, Notice of Final Rulemaking & Order No. 03-06 (March 2004): The Zoning Commission agreed and recommended that NCPC be included as a referral agency in the Southeast Federal Center Overlay special exception process. Section 3012.1 was amended to include NCPC as a referral agency:

- c. Section 3012.1 was amended to read as follows:
- 3012.1 As soon as an application or petition is set down for a public hearing, the matter shall be referred to the D.C. Office of Planning and any other public agencies that may be requested to provide information and

assistance, depending on the nature of the case. *As soon as an application requesting Zoning Commission review and approval pursuant to Chapter 16 or 18 of this Title is accepted for filing by the Director of the Office of Zoning, a copy of the application shall be referred to the D.C. Office of Planning and other appropriate agencies, as well as to the National Capital Planning Commission, for review and comment.*

Proposed Code:

The Capitol Gateway Overlay District will become a *Special Purpose Zone*. As stated in Section K 100.1: “THE PURPOSE OF THE SPECIAL PURPOSE (K) ZONES is TO PROVIDE FOR single large sites that require a cohesive, self-contained set of regulations to guide site design, building height and bulk, land uses, or other aspects of development.”

While the new standards for the area generally mirror the existing ones, there is no corollary section that specifies NCPC review. NCPC respectfully requests that our advisory review for these special purposes zones continue and be made clear in this subtitle.

Union Station North District

NCPC Commission Action (April 2011): NCPC requested that NCPC be afforded an opportunity to review and provide comments on the Union Station North Stage 1 and Master Plan submission on the south side of H Street so as to further advise the Zoning Commission on the potential impacts to the federal interest in this case, including the historic character and setting of Union Station and the character of the Washington skyline.

Zoning Commission Action, Notice of Final Rulemaking & Order No. 09-21 (April 2011): The Zoning Commission voted to authorize the requested referrals believing they could benefit from NCPC’s comments, and comments pertaining to a master plan submission. Although the master plan review process does not directly address height, the decisions reached will affect the size of the building located south of H Street, and the Zoning Commission would prefer to learn of any NCPC concerns as early in the process as possible. Although NCPC did not request referrals of Consolidated review applications, the text added requires those as well because such reviews include the Stage 1 height analysis of interest to NCPC. Nevertheless, the Zoning Commission wishes to make clear that NCPC’s views will not be given the great weight that may only be afforded the recommendations of OP and the affected ANC under District law.

Section 3012, AGENCY REPORTS, subsection 3012.1 was amended to include NCPC as a referral agency:

“3012.1 As to those applications or petitions for which set down is required, as soon as an application or petition is set down for a public hearing, the matter shall be referred to the D.C. Office of Planning and any other public agencies that may be requested to provide information and assistance, depending on the nature of the case. As to those applications for which set down is not required pursuant to § 3011.1, as soon as an application requesting Zoning Commission review and approval pursuant

to chapters 16, 18, 28 and 29 of this title is accepted for filing by the Director of the Office of Zoning, a copy of the application shall be referred to the D.C. Office of Planning and other appropriate agencies for review and comment. A copy shall also be sent for review and comment to:

- (a) The National Capital Planning Commission of:
 - (1) All chapter 18 applications;
 - (2) Those applications for approval pursuant to 11 DCMR §1610.1(a) and (d);
 - (3) The portion of the application for Master Plan approval relating to the single building south of H Street pursuant to 11 DCMR § 2918.1; and
 - (4) Those applications for Stage 1 or Consolidated approval for any part of the single building south of H Street pursuant to 11 DCMR § 2919.1;...”

Proposed Code:

The Union Station North Overlay District will become a *Special Purpose Zone*. As stated in Section K 100.1: “THE PURPOSE OF THE SPECIAL PURPOSE (K) ZONES is TO PROVIDE FOR single large sites that require a cohesive, self-contained set of regulations to guide site design, building height and bulk, land uses, or other aspects of development.”

While the new standards for the area generally mirror the existing ones, there is no corollary section that specifies NCPC review. NCPC respectfully requests that our advisory review for these special purposes zones continue and be made clear in this subtitle.

Subtitle W: Mapping

We advise that proposed modifications to overlay zone regulations may be inconsistent with the Comprehensive Plan and other federal authorities. The proposal to eliminate or modify the existing overlay districts could significantly impact federal interests. We refer you to our earlier comments on the overlay proposal as provided in the Office of Planning’s October 15, 2009 Proposed Amendments to Zoning Regulations – Downtown (Attachment A). NCPC may provide additional comments as we continue to review the October 9, 2013 proposed amendments.

Subtitle X: General Procedures

We advise that proposed modifications to chancery regulations appear to be inconsistent with the Foreign Missions Act of 1982 and the Comprehensive Plan. We will provide more detailed comment under separate cover.

Subtitle Y: Board of Zoning Adjustment Practices and Procedures

We advise that changes to Board of Zoning Adjustment (BZA) practices and procedures must be referred to NCPC. NCPC staff has found that previous changes to BZA practices and procedures haven't consistently been conveyed to NCPC. The statutory language of 40 U.S. C. § 8724 confers discretionary authority on NCPC to comment on proposed amendments to zoning regulations and maps. As the BZA Practices and Procedures are incorporated into the Zoning Regulations, the D.C. Zoning Office is obligated to send changes thereto to NCPC. NCPC may decline to comment on the proposed changes but the discretion is ours vis-à-vis offering a recommendation versus the zoning office determining whether or not to refer.

Z: Zoning Commission Practices and Procedures

We advise that changes to Zoning Commission (ZC) practices and procedures must be referred to NCPC. NCPC staff has found that previous changes to ZC practices and procedures haven't been consistently conveyed to NCPC. The statutory language of 40 U.S. C. § 8724 confers discretionary authority on NCPC to comment on proposed amendments to zoning regulations and maps. As the ZC Practices and Procedures are incorporated into the Zoning Regulations, the DC Zoning Office is obligated to send changes thereto to NCPC. NCPC may decline to comment on the proposed changes but the discretion is ours vis-à-vis offering a recommendation versus the zoning office determining whether or not to refer.

For Example: Section 604.3. This section states that Zoning Commission may proceed without referral to or report from the NCPC. Any text amendment (even rules of practice and procedure) is required to be referred to the NCPC for review per the National Capital Planning Act. The Commission is not obligated to comment but it has the right to comment if it so chooses.

We recommend adding a provision to Chapter 900 that reflects Section 12 of the District of Columbia Public Space Utilization Act. Staff finds that Chapter 9—Air Space Development clearly outlines the policies and procedures, including NCPC's authority to review and approve all development applications for airspace. To clarify policies and procedures for development by public agencies, we recommend adding a provision that refers to the authority of the Federal and District governments to construct structures in airspace, per Section 12 of the District of Columbia Public Space Utilization Act (DC Official Code § 10-1121.01).