

Commission Action

September 3, 2015

PROJECT
**District of Columbia Comprehensive
Zoning Regulations Review**

Washington, DC

SUBMITTED BY
Zoning Commission of the District of Columbia

NCPC FILE NUMBER
ZC 08-06A

NCPC MAP FILE NUMBER
00.00(06.20)44196

APPLICANT'S REQUEST
Approval of report to the Zoning
Commission of the District of Columbia

ACTION TAKEN
Approve comments as requested

REVIEW AUTHORITY
Advisory
per 40 U.S.C. § 8724(a) and DC Code § 2-
1006(a)

The Commission:

Commends the District of Columbia for its significant effort in updating the District's Zoning Code and appreciates the productive collaboration that NCPC staff has enjoyed with District staff in addressing matters important to the nation's capital.

Finds that the District of Columbia's Zoning Regulations provide an important framework that regulates the design and development of many sites, buildings, roadways, and open spaces in the nation's capital. As such, the regulations may direct future development in a manner that affects the interests of the federal government. These include:

- 1) **Federal Interests:** Federal land, buildings and operations, including security and public open space. The federal interest also extends to the location, expansion and replacement of chanceries. To ensure reciprocal treatment with regards to its chancery facilities abroad, the United States Government must ensure adequate provision of facilities for foreign missions and international organizations in the District of Columbia.
- 2) **National Interests:** The form, character and experience of the nation's capital, particularly within the historic L'Enfant City.

Finds that these interests and staff comments on the zoning regulations are grounded in previously approved or endorsed NCPC policies and plans such as the Federal Elements of the Comprehensive Plan, the Legacy Plan, the Monumental Core Framework Plan, and the SW Ecodistrict Plan.

Advises that NCPC's review and comments are narrowly focused on matters important to the federal and national interests within the L'Enfant City and in particular the monumental core of DC, including areas near prominent national resources such as the White House, the National Mall and Union Station in addition to special streets and viewsheds.

Finds that NCPC review of the District's Zoning Regulations is especially important now that the proposed regulations streamline the development process. In certain zones the regulations increase the matter-of-right height in downtown zones, eliminating the need for the planned-unit-development (PUD) review process. The result is that NCPC and the Zoning Commission will no longer review projects during the design phase that would have used the PUD¹ process to receive additional height in areas adjacent to sensitive federal assets. While NCPC's recommendations are only advisory in this process, historically it has offered the federal government an opportunity to comment on projects that might have an impact on federal buildings, land, and form and character of the nation's capital.

Notes that the Zoning Commission and the District Office of Planning (DCOP) have addressed a majority of the comments previously raised by the NCPC and staff. NCPC staff has worked closely with DCOP staff over the last year. These collaborative discussions, with the exception of proposed chancery regulations, have resulted in regulations that largely protect federal and national interests.

Advises the Zoning Commission that there are eight federal comments/concerns that still remain:

1) Design Criteria for the D8 Zone (Independence Avenue, SW)

Finds that like Constitution Avenue, Independence Avenue is a major avenue adjacent to the National Mall within the monumental core of the city. It is home to the Smithsonian Institution's southern campus and a host of large federal buildings that are relatively low in height and compatible with the Smithsonian Campus.

Finds that the massing, siting, and composition of buildings on Independence Avenue today generally cannot be seen over the rooflines of the Smithsonian buildings when standing on the National Mall, creating an experience of a truly public space within a park-like setting framed by trees and civic institutions.

Finds that this is the first time NCPC had to contemplate a new backdrop to the south side of the National Mall – one that will be more visible and private as proposed in the proposed zoning regulations.

Acknowledges that NCPC's SW Ecodistrict Plan recognizes that redevelopment on and around Independence Avenue presents a significant opportunity to increase density and the mix of uses

¹ Per the National Capital Planning Act, NCPC reviews map and text amendments to the Zoning Code.

that would make the area south of the National Mall a more enjoyable place to live, work, and visit.

Recognizes that the amount of redevelopment necessary to make this area an exceptional place will inevitably change the backdrop of the National Mall and the Smithsonian Campus.

Finds that the proposed zoning is impactful to views of the Smithsonian's south campus from the Mall but strives to achieve a balance by increasing density without completely overwhelming the architectural features of the Castle and the other Smithsonian buildings.

Finds that this unique circumstance warrants exceptional design and planning and therefore:

Recommends that the Zoning Commission strengthen the proposed criteria for their review of projects in the D8 Zone (Independence Avenue) in Subtitle I Section 581.2 by adding:

- The design of buildings on Independence Avenue should complement, not compete with, the Smithsonian buildings when viewed from the National Mall and the Independence Avenue.
- Rooftop structures, architectural embellishments, and penthouses should be carefully located and designed to not compete with the architectural features of the Smithsonian Institution's original building when viewed from its center point on the National Mall and from 10th Street.

Finds that the proposed zoning restricts structures/development in the first twenty-five (25) vertical feet of rights-of-way but allows structures above 25' similar to the Forrestal Building extending over 10th Street. This should not be allowed if redevelopment occurs.

Recommends in Subtitle I Section 575.2(a) delete the following: "...no structure, building or building addition may be constructed above ~~or within twenty-five (25) vertical feet of the grade of a street right-of-way that...~~"

Notes that the zoning restricts structures on street rights-of-way that were included in the 1791 L'Enfant Plan, closed by the Council of the District of Columbia, and incorporated into the District of Columbia's official Highway Plan. There is uncertainty with regard to which streets were actually closed during urban renewal. As such, the District Elements of the Comprehensive Plan (which would inform a future update of the Highway Plan) should be updated to include the restoration of the 1791 L'Enfant Plan streets (including C Street, 11th Street, and Virginia Avenue) and therefore:

Recommends removing the provision that "the right-of-way must have been closed" from the zoning regulations to allow the restoration of the 1791 L'Enfant Plan streets (including C Street, 11th Street, and Virginia Avenue).

2-3) NCPC Referral: Independence Avenue and Burnham Place/Union Station

Finds that unlike streets with terminating viewpoints where the protection of the view corridor can be achieved through straight forward development controls, the protection of larger views not defined by a single viewpoint is more complicated. Independence Avenue across from the National Mall and Burnham Place next to Union Station are of special interest to NCPC because they are areas where major redevelopment is likely to occur adjacent to significant national resources in the monumental core. In the proposed zoning, there will not be a mechanism for the NCPC (and therefore federal agencies) to formally review and comment on proposed redevelopment. Granting NCPC referral for projects in these areas is warranted because of the potential for major redevelopment; the proximity to national resources; and because NCPC as a planning agency analyzes projects and potential impacts to federal and national resources at the multi-block scale and therefore:

Recommends NCPC Referral for:

- Independence Avenue, SW between 6th and 12th Street, SW (Subtitle I Section 618)
- The future Master Plan and Stage I submission for Burnham Place - Union Station North Zone (Subtitle K; Chapter 3). Note: this referral exists in the current zoning code but was removed in the proposed zoning.

4) Zoning Commission Review on North Capitol Street

Finds that the vista of the U.S. Capitol along North and South Capitol Streets is one of the most important gateways and viewsheds in the city. Both of these streets are located in areas undergoing major redevelopment and increase in density.

Finds that while Zoning Commission Review of new development on South Capitol Street is proposed in accordance with rigorous criteria that protect and enhance local and national interests, the review does not extend to North Capitol Street.

Finds that it would be beneficial to have Zoning Commission review of North Capitol Street to help create a consistent public realm and a strong urban design framework for this prominent gateway and viewshed and therefore:

Recommends that the Zoning Commission review projects on North Capital Street south of M Street in accordance with the criteria of Subtitle I: Section 701.2(b).

5) Pennsylvania Avenue Sub-Area

Finds that the proposed zoning creates the Pennsylvania Avenue Sub-Area for the blocks within the PADC Boundary (3rd – 15th Streets, NW) and that the Sub-Area regulations state that this area is also governed by the PADC Plan of 1974, as amended.

Recommends the following minor modifications to the zoning text:

In Section 608: Modify the objective for the Pennsylvania Avenue Sub-Area to read “maintain Pennsylvania Avenue as a mixed-use monumental but lively street with additional height on its north side and active ground floor uses to bridge the downtown with the National Mall and the monumental core”.

In Section 608.10: Change the term “PADC Plan of 1974, as amended” to “as implemented by the Pennsylvania Avenue Development Corporation General Guidelines and Uniform Standards 36 CFR §910.1 et seq.” to reference all the related documents in the PADC legislation.

6) J. Edgar Hoover Site (FBI) on Pennsylvania Avenue

Finds that unlike the proposed zoning for the rest of Pennsylvania Avenue which has a matter-of-right height of 160', the zoning for the J. Edgar Hoover site (on Pennsylvania Avenue between 9th and 10th Streets, NW) allows a matter-of-right height of 130'. A property owner can achieve 160' feet in height through the PUD process.

Notes that development within the PADC Boundary is unique in that the PADC plan and square guidelines for Pennsylvania Avenue between 3rd and 15th govern development and take precedent over zoning and that there may not be incentive to pursue a PUD if the square guidelines allow a height above 130'.

Notes that NCPC has initiated the process of a plan amendment and square guidelines (40 U.S.C. § 6702(d)) for the J. Edgar Hoover site in coordination with GSA, NPS, the Commission of Fine Arts, the DC State Historic Preservation Office, the DC Office of Planning and Department of Transportation.

7) Future Urban Design Study

Notes that NCPC staff's analysis of the ZRR and the Urban Design Element of the Comprehensive Plan for the National Capital highlight the need for a close look at development controls, review processes, and the public realm for streets that form an edge at important reservations and streets with significant views and terminating vistas. Examples include 16th Street, North Capitol Street, New Jersey Avenue, Virginia Avenue, and Constitution Avenue.

Comments that NCPC staff would like to work with the District Office of Planning in the update to the federal and local elements of the Comprehensive Plan to ensure that policies (and subsequent zoning) protect and enhance prominent view corridors and reservations through an urban design and public realm framework.

8) Chanceries

Finds that the regulations governing Chancery Applications (Subtitle X, Chapter 2) violate federal policy and law established by the Foreign Missions Act of 1982 (FMA). The proposed chancery regulations alter the congressionally mandated review process and procedures and the balance between federal and local interests by requiring the Board of Zoning Adjustment (BZA) to consider:

- Use a square as the first and preferred area for evaluation; and
- Use 50% or more of a square devoted to office and/or institutional uses as the definition of mixed-use in its determination of whether to disapprove a chancery application “in any other area” where mixed uses are present.

Finds that these proposed requirements negate the discretion afforded the BZA by the FMA as confirmed by the District of Columbia Office of Attorney General (formerly the District of Columbia Office of the Corporation Counsel), the District of Columbia Zoning Commission, and the United States Court of Appeals for the District of Columbia Circuit.

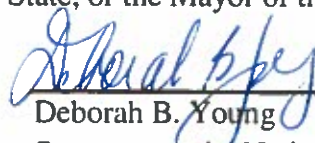
Recommends:

- Adopt the following language as an alternative for § 201.4:

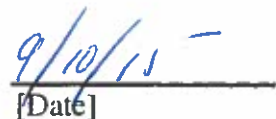
For the purposes of Subtitle X § 201.3 determination, the “area” shall be the area the BZA determines most accurately depicts the existing mix of uses adjacent to the proposed location of the chancery.

- Adopt the following language as an alternative for § 201.5:

An area shall be considered to be a mixed-use area if as of the date of the application more than 50% of the zoned land within the area is devoted to uses other than residential uses as defined in Subtitle B, Chapter 2. In addition, the BZA may find that an area with less than or equal to 50% of non-residential uses is a mixed-use area upon a showing of non-residential uses, as may be submitted by the applicant, the Secretary of State, or the Mayor of the District of Columbia.


Deborah B. Young

Secretary to the National Capital Planning Commission


[Date]