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December 9, 2013

Anthony J. Hood, Chairman
Zoning Commission of the District of
Columbia
441 Fourth Street, N.W., Suite 210
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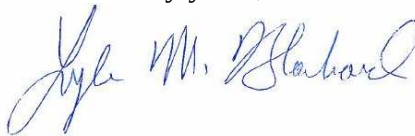
**Re: Zoning Commission Case No. 08-06A--Comprehensive Zoning Text
Revisions; Recommended Revisions and Corrections to Proposed Subtitle K,
Chapter 2 Southeast Federal Center Submitted by Forest City Washington,
Master Developer of The Yards (Southeast Federal Center)**

Dear Chairman Hood and Members of the Zoning Commission:

In furtherance of the testimony of Ramsey D. Meiser, Senior Vice President of Development, Forest City Washington, given at the November 14, 2013 public hearing, enclosed please find a "redline" of Subtitle K, Special Purpose Zones, Chapter 2 regarding the Southeast Federal Center that contains revisions and corrections proposed by Forest City Washington. The "redline" shows additions and deletions to the proposed text by underlining and strike-throughs, respectively.

We appreciate your consideration of these revisions and corrections as you deliberate on the Zoning Regulations Rewrite. If you have any questions, please do not hesitate to have the staff at the Office of Zoning contact either of us.

Sincerely yours,



Lyle M. Blanchard



Kate M. Olson

GREENSTEIN DELORME & LUCHS, P.C.

Chairman Anthony J. Hood
December 9, 2013

Enclosure

cc: Ms. Jennifer Steingasser, D.C. Office of Planning
Mr. Joel Lawson, D.C. Office of Planning
Mr. Ramsey D. Meiser, Forest City Washington
Jacques B. DePuy, Esq.

CHAPTER 2 -- SOUTHEAST FEDERAL CENTER

["REDLINED" VERSION DEPICTING REVISIONS AND CORRECTIONS REQUESTED BY FOREST CITY WASHINGTON, MASTER DEVELOPER OF THE YARDS (FORMERLY KNOWN AS THE SOUTHEAST FEDERAL CENTER); 12/9/13]

200 GENERAL PROVISIONS

- 200.1 The Southeast Federal Center (SEFC) zones 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
- 200.2 The objectives of the SEFC zone are to:
- (a) Assure development of the area with a mixture of residential and commercial uses and a suitable height, bulk, and design of buildings, as generally identified in the Comprehensive Plan and in recognition of the objectives of the Anacostia Waterfront Initiative and the Near Southeast Urban Design Framework Plan.
 - (b) Encourage high-density residential development with a pedestrian-oriented streetscape through flexible zoning parameters.
 - (c) Encourage a variety of support and visitor-related uses, such as retail, service, entertainment, cultural, and hotel or inn uses.
 - (d) Provide for a reduced height and bulk of buildings along the Anacostia riverfront in the interest of ensuring views over and around waterfront buildings, and provide for continuous publicly-accessible open space along the waterfront.
 - (e) Require suitable ground-floor level retail and service uses near the Navy Yard Metrorail station; along M Street S.E.; near the SEFC-4 zone; and at other key pedestrian locations.
 - (f) 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.
 - (g) 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 SEFC-4 Zone.
- 200.3 The SEFC-1 Zone provides for high density mixed use development with ground floor retail, and review of the relationship of new buildings to the M Street SE corridor and the adjacent Washington Navy Yard.

- 200.4 The SEFCF-2 Zone provides for high density residential development with limited ground floor retail, and the review of the relationship of new buildings to the SEFC waterfront park open space area.
- 200.5 The SEFC-3 Zone provides for medium density residential development with limited ground floor retail, and the review of the relationship of new buildings to the SEFC waterfront park open space area.
- 200.6 The SEFC-4 District provides for a 5 acre minimum public park along the Anacostia River, with a defined retail area to serve residents of the neighborhood and the District.
- 200.7 Additional objectives for the SEFC-4 Zones are 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.
- 200.8 The SEFC-4 District is divided into two geographic areas:
- (a) SEFC-4A, Development Area, consisting of the northeastern portion of the SEFC-4 District, specifically the existing Building 173 and that portion of the SEFC-4 District located directly to the east of Building 173, north of a line extending east from the south elevation of Building 173; and
 - (b) SEFC-4B, Open Space Area, consisting of all property within the SEFC-4 District that is located outside of the Development Area.
- 200.9 Notwithstanding the requirements of C § ~~402.2402.3~~, two or more principal buildings or structures may be erected ~~as a matter of right on a single subdivided lot on lots located~~ within the SEFC-4 zone provided that such principal buildings or structures are erected on Lot 809 in Square 771 (the site of the Lumbershed Building), within the SEFC-4A Development Area on Parcels P2a or P2b (as such parcels are depicted on the Master Plan for The Yards dated August, 2013) or on Parcel 3 (as depicted on the foregoing Master Plan) and further provided that such buildings or structures comply with all other requirements of C § ~~603XXX~~ (as such requirements may be modified by this chapter). [NOTE: The reference to C § 603 appears to be in error.]
- 200.10 Parking

- (a) The provision of vehicular parking spaces shall not be required. Any parking spaces and access provided shall conform to the requirements of Subtitle C Chapter 19.
- (b) Bicycle parking spaces shall be required, in accordance with the standards of Subtitle C Chapter 20.
- (c) Parking spaces, passenger drop-off areas, loading areas and access to any of the foregoing provided for boathouses, marinas, yacht clubs, or other recreational uses within the SEFC-4 District shall not be located within the waterfront setback area required in C § 2302.1(a). ~~may be located in accordance with the provisions of Subtitle C §2301.5.~~

201

DEVELOPMENT STANDARDS FOR THE SEFC-1 ZONE (CR)

201.1

The development standards for the SEFC-1 zone ~~is~~are as set forth in the following table, subject to the additional provisions of this subsection:

Max. Height	Max. FAR Residential	Max. FAR Other Uses	Max. FAR Permitted	Max. Lot Occupancy	GAR	Rear Setback Yard	Side Setback Yard
110 ft.	6.0	3.0	6.0	N/A 100% (non-residential) 75% (residential)	.20	2.5" per foot of height, 12' min.	None Req.; Min. 5 ft -

- (a) The by-right height shall serve as the maximum permitted height for a planned unit development ("PUD").
- (b) A site that has frontage on any portion of New Jersey Avenue, S.E. that is south of and within 322 feet of M Street, S.E., is permitted a maximum height of 130 feet.
- (c) Sites fronting on M Street, S.E. ~~and~~ east of 4th Street, S.E. are restricted to a height of 90 feet. A building height of 110 feet maximum is permitted if reviewed and approved by the Zoning Commission pursuant to the standards and procedures of K § 210 and 211. For the purposes of this review, the Commission shall consider the relationship of the new building to the Navy Yard to the east and may require graduated height and/or design features because of the building's proximity to the Navy Yard.

201.2

Floor Area Ratio:

- (a) The by-right floor area ratio limit shall serve as the maximum permitted floor area ratio for a planned unit development ("PUD").
- (b) Combined lot development of two or more lots within the SEFC-1 zone, whether contiguous or non-contiguous, is permitted for the purpose of allocating density for residential and non-residential uses, regardless of any other

limitation on floor area by uses as established in this chapter, in accordance with K § 209, provided that:

- (1) The aggregate residential and non-residential floor area shall not exceed the matter-of-right maximum height or density of the SEFC-1 Zone;
- (2) A site that is permitted a height of 130 feet is permitted a maximum non-residential density of 6.5 FAR through combined lot development; and
- (3) Ground floor area required for ground-floor street-oriented preferred uses required in accordance with K § ~~206.3~~ may not be transferred to any other lot through combined lot development.

201.3 **Gross Floor Area**

- (a) Non-residential floor area shall be the total gross floor area of the building not dedicated to uses in one of the following Use Group categories:
 - (1) Residential;
 - (2) Emergency Shelter; or
 - (3) Lodging.

201.4 **Lot Occupancy**

- (a) A building ~~occupied by both residential and non-residential preferred uses provided in accordance with K § 206.3~~ shall be permitted 100% lot occupancy ~~for the ground and second stories.~~
- (b) No public recreation and community center shall occupy more than twenty percent (20%) of the lot upon which it is located; except that it may occupy up to forty percent (40%) if approved by the Zoning Commission, provided that the agency shows that the increase is consistent with the preservation of open space.

201.5 **Side Setback**

- (a) No side setback is required. However, any side setback provided shall be five (5) feet minimum.

201.6 **Front Setback**

- (a) Fifteen (15) feet minimum for the entire height and frontage of each new building along M Street, S.E., measured from the face of the adjacent curb along M Street, S.E.
- (b) Twenty (20) feet minimum for the entire height and frontage of each new building along the east side of 4th Street, S.E., measured from the face of the adjacent curb along 4th Street, S.E.

201.7 **Courtyard**

- (a) Where a courtyard is provided, it shall have the following minimum dimensions:

	Open Courtyard Width:	Closed Courtyard Width	Closed Courtyard Area:
Residential (except hotel):	Four inches per foot (4 in./ft.) of height of courtyard; Ten feet (10 ft.) minimum.	Four inches per foot (4 in./ ft ⁴ .) of height of courtyard; Fifteen feet (15 ft.) minimum.	Twice the square of the required width of courtyard dimension; Three hundred and fifty square feet (350 sq. ft.) minimum.
Non-Residential and Lodging:	Two and one-half inches per foot (2 1/2 in./ft.) of height of courtyard; Six feet (6 ft.) minimum.	Two and one-half inches per foot (2 1/2 in./ft.) of height of courtyard; Twelve feet (12 ft.) min.	Twice the square of the required width of courtyard dimension; Two hundred and fifty square feet (250 sq. ft.) minimum.

201.8 Minimum Lot Dimensions

- (a) A record lot may be created with respect to the parcel on which Building 167 is located, notwithstanding other requirements of Subtitle C Chapter 5. Any enlargements or additions to Building 167 shall comply with all requirements of this title.

201.9 Driveways and Parking

- (a) No driveway may be constructed or used from M Street, S.E. to vehicular parking spaces in or adjacent to a new building.

201.10 Loading

- (a) No driveway may be constructed or used from M Street, S.E. to access loading spaces in or adjacent to a new building.

202 DEVELOPMENT STANDARDS FOR THE SEFC-2 ZONE

- 202.1 The development standards for the SEFC-2 zone ~~are~~^{is} as set forth in the following table, subject to the additional provisions of this subsection:

Max. Height	Max. FAR Residential	Max. FAR Other Uses	Max. FAR Permitted	Max. Lot Occupancy	GAR	Rear Setback Yard	Side Setback Yard
110 ft.	6.0	0.5	6.56-0 with bonus density	75%	.3	2.5" per foot of height, 12' min.	None Req. Min. 5ft-

202.2 Height:

- (a) For the purposes of determining maximum height permitted under the Height Act of 1910, and for achieving the height permitted in K § 202.1, the SEFC-2 Zone is considered a "Mixed-Use" District.

- (b) The by-right height shall serve as the maximum permitted height for a planned unit development ("PUD").

202.3 **Floor Area Ratio:**

- (a) The by-right floor area ratio limit shall serve as the maximum permitted floor area ratio for a planned unit development ("PUD").

(a) (b) The density associated with preferred uses shall be in addition to otherwise permitted FAR, and shall not exceed 0.5 FAR. A building containing preferred uses (whether or not required) shall have a maximum permitted FAR of 6.5 but if the foregoing bonus density is used to provide non-required preferred uses, the preferred use area must be dedicated to preferred uses for the life of the building.

202.4 **Lot Occupancy**

- (a) A building occupied by both residential and non-residential preferred uses provided in accordance with K § 207.3 shall be permitted 100% lot occupancy for the ground and second stories.
- (b) No public recreation and community center shall occupy more than twenty percent (20%) of the lot upon which it is located; except that it may occupy up to forty percent (40%) if approved by the Zoning Commission, provided that the agency shows that the increase is consistent with the preservation of open space.

202.5 **Side Setback**

- (a) No side setback is required. However, any side setback provided shall be five (5) feet minimum.

202.6 **Courtyard**

- (a) Where a courtyard is provided, it shall have the following minimum dimensions:

	Open Courtyard Width:	Closed Courtyard Width	Closed Courtyard Area:
Residential (except hotel):	Four inches per foot (4 in./ft.) of height of courtyard; Ten feet (10 ft.) minimum.	Four inches per foot (4 in./ft.) of height of courtyard; Fifteen feet (15 ft.) minimum.	Twice the square of the required width of courtyard dimension; Three hundred and fifty square feet (350 sq. ft.)
Non-Residential and Lodging:	Two and one-half inches per foot (2 1/2 in./ft.) of height of courtyard; Six feet (6 ft.) minimum.	Two and one-half inches per foot (2 1/2 in./ft.) of height of courtyard; Twelve feet (15 ft.) min.	Twice the square of the required width of courtyard dimension; Two hundred and fifty square feet (250 sq. ft.)

203 **DEVELOPMENT STANDARDS FOR THE SEFC-3 ZONE**

- 203.1 The development standards for the SEFC-3 zone are as set forth in the following table, subject to the additional provisions of this subsection:

Max. Height	Max. FAR Residential	Max. FAR Other Uses	Max. FAR Permitted	Max. Lot Occupancy	GAR	Rear Setback Yard	Side Setback Yard
90 ft.	3.5	0.5	4.0 <u>4.03-5 with bonus density</u>	75%	.3	2.5" per foot of height, 12' min.	None Req. <u>Min 4 ft.-</u>

203.2

Height:

- (a) For the purposes of determining maximum height permitted under the Height Act of 1910, and for achieving the height permitted in K § 203.1, the SEFC-3 zones is considered "Mixed-Use" Districts.
- (b) The by-right height shall serve as the maximum permitted height for a planned unit development ("PUD").

203.3

Floor Area Ratio:

- ~~(a)~~ The by-right floor area ratio limit shall serve as the maximum permitted floor area ratio for a planned unit development ("PUD").

~~(a)~~ (b) The density associated with preferred uses shall be in addition to otherwise permitted FAR, and shall not exceed 0.5 FAR. A building containing preferred uses (whether or not required) shall have a maximum permitted FAR of 4.0 but if the foregoing bonus density is used to provide non-required preferred uses, the preferred use area must be dedicated to preferred uses for the life of the building.

203.4

Lot Occupancy

- (a) A building occupied by both residential and non-residential preferred uses provided in accordance with K § 207.3 shall be permitted 100% lot occupancy for the ground and second stories.
- (b) No public recreation and community center shall occupy more than twenty percent (20%) of the lot upon which it is located; except that it may occupy up to forty percent (40%) if approved by the Zoning Commission, provided that the agency shows that the increase is consistent with the preservation of open space.

203.5

Side Setback

- (a) No side setback is required. However, any side setback provided shall be ~~five (5) feet~~ a minimum of four (4) feet.

203.6

Courtyard

- (a) Where an courtyard is provided, it shall have the following minimum dimensions:

	Open Courtyard Width:	Closed Courtyard Width	Closed Courtyard Area:
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Residential (except hotel):	Four inches per foot (4 in./ft.) of height of courtyard; Ten feet (10 ft.) minimum.	Four inches per foot (4 in./ft.) of height of courtyard; Fifteen feet (15 ft.) minimum.	Twice the square of the required width of courtyard dimension; Three hundred and fifty square feet (350 sq. ft.)
Non-Residential and Lodging:	Two and one-half inches per foot (2 1/2 in./ft.) of height of courtyard; Six feet (6 ft.) minimum.	Two and one-half inches per foot (2 1/2 in./ft.) of height of courtyard; Twelve feet (15 ft.) min.	Twice the square of the required width of courtyard dimension; Two hundred and fifty square feet (250 sq. ft.)

204

DEVELOPMENT STANDARDS FOR THE SEFC-4 ZONE

204.1

The development standards for the SEFC-4 zone ~~are~~^{is} as set forth in the following table, subject to the additional provisions of this subsection:

Max. Height	Max. FAR Residential	Max. FAR Other Uses	Max. FAR Permitted	Max. Lot Occupancy	GAR	Rear Setback Yard	Side Setback Yard
40 ft.	0.5	0.5	0.5	25%	n/a	-	12 ft.

204.2

Height:

- The by-right height shall serve as the maximum permitted height for a planned unit development ("PUD").
- A building or structure located on, in or over the water; or a watercraft, including a floating home shall have a height of twenty five (25) feet maximum. For the purposes of this subsection, the maximum height shall be measured from the mean high water level along the shore directly in front of the building, structure or watercraft to the highest point of the building or structure, not including sailboat masts.

204.3

Floor Area Ratio:

- The by-right floor area ratio limit shall serve as the maximum permitted floor area ratio for a planned unit development ("PUD").
- Floor area ratio shall be the gross floor area of all buildings and structures located on land and any associated permanent structure located on, in, or over water, other than a floating home, divided by the total area of the lot.
- The floor area ratio on a lot used exclusively for recreational use, marina, yacht club, or boathouse buildings and structures shall not exceed 0.75.
- The gross floor area of existing Building 173 shall not count toward any FAR computation. The second story of Building 173 may be used for general office purposes on an interim basis of not more than twenty (20) years from the date of the initial Certificate of Occupancy for this use; provided that any such office space is suitably designed for future occupancy by retail uses and to not adversely impact ground floor retail uses.

- ~~(-) Two or more lots, whether contiguous or non-contiguous, within the SEFC 4 District may be combined for the purposes of allocating density as provided for and limited by K § 204.3(f), in accordance with the procedures outlined in K § 209.~~
- ~~(-) A lot or lots in the SEFC 4A area may receive and use density allocated from a lot or lots in the SEFC 4B area, subject to all other applicable area restrictions. If a single lot is included within both geographic areas, the portion of the lot in the SEFC 4A area may use the unused density from the portion of the lot in the SEFC 4B area.~~

~~204.6~~ **Gross Floor Area**

- ~~(-) Non residential floor area shall be the total gross floor area of the building not dedicated to uses in one of the following categories:~~
 - ~~(0) Residential;~~
 - ~~(0) Emergency Shelter; or~~
 - ~~(0) Lodging.~~

~~204.11~~204.4 **Lot Occupancy**

- (a) Lot occupancy shall be the total area occupied by all buildings and structures located on land and by any associated permanent structure located on, in, or over water, other than a floating home, divided by the total area of the lot.
- (b) The lot occupancy on a lot used exclusively for a recreational use, marina, yacht club, or boathouse buildings and structures shall not exceed fifty percent (50%).

~~204.12~~204.5 **Side Setback**

- (a) No setback is required for any building or structure located entirely on, over, or in the water. If a side yard is provided, its minimum width shall be at least five (5) feet.
- (b) Any building or structure located in whole or in part on land shall provide a side yard on each side of twelve feet (12 ft.) minimum.

~~204.13~~204.6 **Courtyard**

- (a) Where a courtyard is provided, it shall have the following minimum dimensions:

	Open Courtyard Width:	Closed Courtyard Width	Closed Courtyard Area:
Residential (except hotel):	Four inches per foot (4 in./ft.) of height of courtyard; Ten feet (10 ft.) minimum.	Four inches per foot (4 in./ft.) of height of courtyard; Fifteen feet (15 ft.) minimum.	Twice the square of the required width of courtyard dimension; Three hundred and fifty square feet (350 sq. ft.) minimum.

Non-Residential and Lodging:	Two and one-half inches per foot (2 1/2 in./ft.) of height of courtyard; Six feet (6 ft.) minimum.	Two and one-half inches per foot (2 1/2 in./ft.) of height of courtyard; Twelve feet (15 ft.) min.	Twice the square of the required width of courtyard dimension; Two hundred and fifty square feet (250 sq. ft.) minimum.
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~~204.14~~204.7 **Waterfront Setback**

(a) A Waterfront Setback shall be provided in accordance with the provisions of Subtitle C Chapter 23.

(b) The Waterfront Setback shall have a depth of one hundred feet (100 ft.) minimum.

204.9 Special Development Standards Applicable to the SEFC-4A Development Area

(a) Notwithstanding the provisions of Section 204 above, subject to review and approval by the Zoning Commission pursuant to Section 208.5, any structure that is proposed to be located on Parcels P2a, P2b or P3 (as such parcels are identified on the Master Plan referred to above) may be developed to a maximum FAR of 4.0, a lot occupancy of 100% and without regard to Rear Setback, Side Setback or Courtyard requirements.

(b) No Waterfront Setback requirement shall be applicable to any structure proposed to be located on Parcel P3.

~~(b)~~ (c) Notwithstanding Sections C § 402 and 403, all requirements of Section 204 that pertain to a lot or that require computations based on the area or size of a lot shall refer to a record lot, a theoretical lot or an assessment and taxation lot (as the case may be) and no street frontage requirements shall be applicable to any of such lots if it is not practicable to provide such street frontage.

205 PREFERRED USE PROVISIONS

205.1 Preferred uses shall be ground-floor street-oriented uses within the Animal ~~Care~~, Sales, Care, and Boarding; Arts, Design & Creation; Eating and Drinking Establishments; Retail; Financial Service; or General Service use groups, subject to the following restrictions:

(a) In the Animal Care, Sales, and Boarding use groups, the overnight boarding of dogs shall not be permitted except as necessary for convalescence; and

(b) In the Financial Service use group, a bank or financial institution shall not be located at the intersection of ~~two streets~~ First and N Streets.

206 USE PERMISSIONS (SEFC-1)

206.1 Except as prescribed below, use permissions, including uses permitted by-right, uses permitted with conditions, uses permitted by special exception, uses permitted as accessory uses, and uses not permitted shall be in accordance with the Use Group G (M-10 Zone) of Subtitle G, as prescribed in G §§ ~~1419 through 1420~~ and 1421.

Notwithstanding K § 206.1, the following use restrictions and permissions shall apply in the SEFC-1 zone:

- (a) Uses subject to special exception review in the ~~M-10-VM-10~~ zone that are not listed in K § 206.2 (b) as being subject to Zoning Commission review and approval, are not permitted within the SEFC-1 zone. Notwithstanding the foregoing, uses within the Animal Sales, Care and Boarding use group shall be permitted By Right provided that the overnight boarding of dogs shall not be permitted except as necessary for convalescence.
- (b) Within the SEFC-1 zone, the following buildings, structures, and uses are permitted only if reviewed and approved by the Zoning Commission, in accordance with the standards specified in K § 210 and procedures specified in K § 211:
 - (1) All buildings and structures that have frontage along M Street, S.E.; subject also to the applicant proving that the architectural design, site plan, landscaping, and sidewalk treatment of the proposed building are of superior quality;
 - (2) Automobile, truck, or motorcycle accessory sales, including installation;
 - (3) Automobile rental agency, provided the use has no exterior automobile storage area;
 - (4) Dental lab;
 - ~~(5)~~ (5) Department store of greater than 80,000 square feet of gross floor area;
 - ~~(6)~~ (5) Gas station;
 - ~~(7)~~ (6) Hotel/inn;
 - ~~(8)~~ (7) International organization;
 - ~~(9)~~ (8) Library;
 - ~~(10)~~ (9) Museum;
 - ~~(11)~~ (10) Institution, Religious, which may include a parsonage, vicarage, rectory, or Sunday school building, as well as any related programs.
 - ~~(12)~~ (11) Education, Private and Education, Public, including trade school;
 - ~~(13)~~ (12) Temporary parking lot or garage, for a maximum approval period of five (5) years, which may be renewed by the Zoning Commission, as a principal use located at or above grade;
 - ~~(14)~~ (13) Solid, freestanding wall and/or security gate exceeding a height of four (4) feet, including structural supports; ~~and~~

(14) Education, College/University;

(16) Entertainment, Assembly, and Performing Arts; and

(17) Medical Care.

206.3

Preferred uses listed in K § 205 shall be permitted in accordance with the following criteria:

- (a) Any building or structure with frontage on M Street, S.E. or N Street, S.E. shall provide preferred uses comprising a minimum of seventy-five percent (75%) of the frontage on M Street, S.E. or N Street, S.E. and a minimum of seventy-five percent (75%) of that portion of the gross floor area of the ground floor within a depth of fifty (50) feet from the exterior facade of the front of building, not including parking, parking access, mechanical and fire control rooms, and other non-public spaces. This requirement shall not apply to:
 - (1) Buildings directly south of the historic wall along M Street, S.E. between 4th Street, S.E. and the Washington Navy Yard, for so long as the wall remains; or
 - (2) Any addition to a building with frontage on M Street, S.E. or N Street, S.E. if the addition to such building has no frontage on such streets but, as allowed pursuant to K § 206.3(b) below, preferred uses may be provided on the ground floor level of such buildings;
- (b) In addition to the preferred uses listed in K § 205, the preferred use space requirement of K § 206.3(a) may also be met by any use listed in K § 206.2 (b), other than those listed in K § 206.2 (b) (2), (6), or (13), if reviewed and approved by the Zoning Commission in accordance with the standards specified in K § 210 and procedures specified in K § 211;
- (c) In addition to the locations in which preferred uses are required pursuant to K § 206.3(a), preferred uses may be provided on the ground floor level of buildings in other areas within the SEFC-1 District, but are not required. If provided, such preferred use area shall not be required to conform to the requirements of K §§ ~~206.2~~206.3 (a), (e), (f), and (g);
- (d) For good cause shown, the Commission may authorize interim occupancy of the preferred use space required under K § ~~206.2~~206.3(a) by other uses permitted in the SEFC zones for up to a five (5) year period; provided that the ground-floor space is suitably designed for future occupancy by preferred uses;
- (e) Not less than fifty percent (50%) of the surface area of the street wall, including building entrances, of those building frontages described in subsections K § ~~206.2~~206.3(a) shall be devoted to doors or display windows having clear or low emissivity glass;
- (f) Preferred uses shall provide direct, exterior access to the ground level; and

- (g) The minimum floor-to-ceiling height for portions of the ground floor level devoted to preferred uses shall be fourteen (14) feet.

207 USE PERMISSIONS (SEFC-2 AND SEFC-3)

207.1 Except as prescribed below, use permissions, including uses permitted by-right, uses permitted with conditions, uses permitted by special exception, uses permitted as accessory uses, and uses not permitted shall be in accordance with the use provisions of ~~the Use Code F (A-5 zone)~~ of Subtitle F ~~(R-5-D,R-5-E)~~, as prescribed in F §§ 1400 through 1403. ~~Subtitle F Chapter 14.~~

207.2 Notwithstanding K § 207.1, the following use restrictions and permissions shall apply in the SEFC-2 and SEFC-3 zones:

- (a) The following buildings, structures, and uses are not permitted:

- (1) Detached ~~or,~~ semi-detached dwelling or residential flats; ~~rowhouse dwelling;~~
- (2) Parking lot or garage as a principal use located on or above grade, except as a temporary use as permitted by special exception in K § 207.2(b); ~~and-~~
- (3) ~~Sanitarium; and~~
- (4) Uses subject to special exception review in the A-5 zone that are not listed in K § ~~222.2(e)~~207.2(b) as being subject to Zoning Commission review and approval are not permitted in the SEFC-3 and SEFC-2 zones, unless such uses are permitted as preferred uses pursuant to Section 207.3.

- (b) The following buildings, structures, and uses are permitted only if reviewed and approved by the Zoning Commission, in accordance with the standards ~~specified in K § 224~~ and procedures specified in K § ~~210 and 211~~225:

- (1) All buildings and structures that abut the SEFC-4B zone, whether or not a street intervenes but excluding buildings and structures that abut the SEFC-4A zone including existing Building 160 and any additions thereto and any building or structure to be constructed on Parcel N (as such parcel is depicted in the Master Plan referenced above) immediately to the east of Building 160 (i.e., north of Water Street, S.E., west of 4th Street, S.E. east of Third St., S.E., and south of Tingey Street, S.E.).
- (2) Uses from the following use groups: Arts, Design and Creation; Institutional, General; and Lodging-cultural, or hotel use, subject to a maximum FARan overall cap within the SEFC-3 and SEFC-2 zones of 1.0.- Notwithstanding the foregoing, Lodging uses shall be limited by the overall FAR of the SEFC-2 or SEFC-3 zones, as applicableFAR maximum;

- (3) ~~Hospital~~Medical Care;
- (4) Institutional, Religious Based, which may include a parsonage, vicarage, rectory, or Sunday school building, as well as any related programs.
- (5) Private club, lodge, fraternity house, sorority house, or dormitory;
- (6) Education, Private and Education, Public, including trade; except as provided in K § 207.4;
- (7) Temporary parking lot or garage, for a maximum approval period of five (5) years, which may be renewed by the Zoning Commission, as a principal use, located at or above grade;
- (8) Solid, freestanding wall and/or security gate exceeding a height of four (4) feet; ~~and~~

(9) Education, College/University; ~~and~~

~~(9)~~ (10) Daytime Care.

207.3

Within the SEFC-3 and SEFC-2 Districts, "preferred uses" listed in K § 205 of this Title shall be regulated in accordance with the following criteria:

- (a) Preferred uses shall be provided in any building or structure facing:
 - (1) Tingey Street, S.E., west of 4th Street, S.E., and east of 4th Street, S.E., but in the latter case, ~~and~~ only along the southern side of Tingey Street, S.E., for a length of fifty (50) feet minimum as measured from the west exterior facade of any building or structure constructed on the southeast corner of Tingey St., S.E. and 4th Street, S.E., or
 - (2) The SEFC-4 Zones.
- (b) Where required, preferred uses shall comprise a minimum of seventy-five percent (75%) of the frontage facing Tingey Street, S.E., or the SEFC-4 District, and a minimum of seventy-five percent (75%) of the applicable portion of the gross floor area of the ground floor with a depth of fifty (50) feet from the exterior facade of the front of the building, not including parking, parking access, mechanical and fire control rooms, and other nonpublic spaces.
- (c) The requirement to provide preferred uses shall not apply to any addition to a building facing onto Tingey Street, S.E. or the SEFC-4 District if the addition to the building has no frontage facing onto Tingey Street, S.E. or the SEFC-4 District, but, as allowed pursuant to K § 207.3 (e) below, preferred uses may be provided on the ground floor level of such addition.
- (d) For Building 160, notwithstanding the requirements noted above, the total amount of preferred use space shall be a minimum of 3,000 square feet of space facing Tingey Street, S.E. and a minimum of 6,000 square feet of space facing Water Street, S.E., for a total of at least 9,000 square feet.

- (e) In addition to the locations in which preferred uses are required pursuant to K § 207.3(a) above, preferred uses may be provided on the ground floor level of buildings or structures in other areas within the SEFC-3 and SEFC-2 Districts, but are not required. If provided, such preferred use area shall not be required to conform to the requirements of K § 207.3(a), (h), (i), and (j). If the bonus density authorized pursuant to K § 207.3(f), is used to provide non-required preferred uses, the preferred use area must be dedicated to preferred uses for the life of the building;
- (f) The density associated with preferred uses shall be in addition to otherwise permitted FAR, and shall not exceed 0.5 FAR;
- (g) For good cause shown, the Commission may authorize interim occupancy of the preferred use space required under K § 207.3(a) by other uses permitted in the A-5 Zones for up to a five (5) year period; provided that the ground floor space is suitably designed for future occupancy by preferred uses;
- (h) Not less than fifty percent (50%) of the surface area of the street wall, including building entrances, of those building frontages dedicated to preferred uses ~~described in required under~~ K § ~~207.3~~207.3(a) shall be devoted to doors or display windows having clear or low emissivity glass;
- (i) Preferred uses shall provide direct, exterior access to the ground level; and
- (j) The minimum floor-to-ceiling height for portions of the ground floor level devoted to preferred uses shall be fourteen feet (14 ft.).

207.4 A trapeze school and aerial performing arts center may be established and continued as a matter of right in Parcel 0 (as such parcel is depicted on the Master Plan referenced above) until December 31, 2014, during which time no parking shall be required.

207.5 The continuation of the trapeze school and aerial performing arts center use after December 31, 2014 shall require ~~special exception~~ approval by the Zoning Commission in accordance with the standards ~~specified in K § 210~~ and procedures specified in K § 210 and 211, and shall include a determination as to whether and what amount of parking should be required.

208 USE PERMISSIONS (SEFC-4)

208.1 Within the SEFC-4A Development Area~~development area~~ and the SEFC-4B Open Space Area, use permissions, including uses permitted by right, uses permitted with conditions, uses permitted by special exception, uses permitted as accessory uses, and uses not permitted shall be in accordance with the provisions of ZoneUse Group B (M-11 zone) of Subtitle G, as prescribed in G §§ 1405 - 1406. In addition to the foregoing, uses from the following Use Groups shall be allowed within the SEFC-4A Development Area: Arts, Design and Creation; Eating and Drinking Establishments; Parks and Recreation; Retail; and Service, General. Notwithstanding the foregoing, the following uses shall not be permitted: Floating Home, a Drive-Through, the installation of automobile accessories, a laundry or dry cleaning facility that exceeds 2,500 square feet of gross floor area or a Sexually-Oriented Business Establishment.

~~208.2~~ Within the SEFC-4B open space area, only the following uses shall be permitted as a matter of right:

- ~~(-) Boat construction on an occasional basis by a local community organization;~~
- ~~(-) Community garden operated by a local community organization or District government agency;~~
- ~~(-) Publicly accessible park or open space, playground, or athletic field, including pedestrian and bicycle trails, necessary support facilities, and fitness circuits;~~
- ~~(-) Public nature education or interpretive center including a boat dock; and~~
- ~~(-) Seasonal or occasional market for produce, arts, and crafts, with nonpermanent structures.~~

~~208.8~~208.2 Within the SEFC-4B Open Space Area~~open space area~~, the following buildings, structures, and uses are permitted only if reviewed and approved by the Zoning Commission in accordance with the standards specified in K § 210 and procedures specified in K § 211:

- (a) Boat launching facility, dock, wharf, or pier for use by the general public;
- (b) Boathouse or Boatboat rental facility for non-motorized water vessels;
- (c) Cruise line operation, including necessary associated dock and land facilities;
- (d) Solid, freestanding wall and/or security gate exceeding a height of four (4) feet, not including structural supports;
- (e) Marina, not including ~~floating homes~~Floating Homes;
- (f) Public food concession stand(s) or~~I~~ kiosk(s), which may serve alcoholic drinks, to a maximum of 3,000 gross square feet;
- (g) Water taxi and related facilities, including information / ticket booth and passenger shelter;
- ~~(g)~~(h) Yacht Club; and
- ~~(h)~~(i) Other publicly-accessible maritime uses normally requiring direct access to the water.

~~208.9~~208.3 The minimum floor-to-ceiling height for the ground floor level of buildings shall be fourteen (14) feet.

~~208.10~~208.4 All proposed structures in the SEFC-4 Districts, or any proposed exterior renovation to any existing buildings or structures in the SEFC-4 Districts 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 set forth in K § 210 and procedures set forth in K § 211.

209 COMBINED LOT DEVELOPMENT PROCEDURES (SEFC-1 ~~AND SEFC-4~~)

209.1 Combined lot development is permitted within the SEFC-1 zone in accordance with K § 201.2(b), ~~and in the SEFC-4 District in accordance with K §§ 204.3 (e) and (f).~~

209.2 No allocation of gross floor area shall be effective unless an instrument, legally sufficient to effect such a transfer, is filed with the Zoning Administrator in accordance with this Section.

209.3 The instrument shall bind the present and future owners of the respective SEFC-1 lots so as to permanently devote residential and non-residential gross floor area on site equal to that square footage transferred or received, and shall specify the allocation of residential and non-residential uses among the lots.

~~209.4 The instrument shall bind the present and future owners of the SEFC-4 lots that are situated within the Open Space Area, as described in K § 200.11, to permanently forego the development of such square footage as was transferred to a lot in the Development Area and shall specify the amount of square footage transferred.~~

~~209.5~~209.4 The Office of the Attorney General shall certify the instrument for legal sufficiency. The instrument shall also contain a certification by the Office of Planning attesting to:

- (a) The lots' eligibility to send and receive allocated residential and nonresidential uses; and
- (b) The accuracy of the computations with respect to the amount of residential and non-residential uses or density reallocated or transferred.

~~209.6~~209.5 The District of Columbia need not be made a party to the instrument if the instrument provides that it shall neither be modified nor terminated without the express permission of the Zoning Commission of the District of Columbia.

~~209.7~~209.6 The instrument shall be recorded for all affected lots in the Office of Recorder of Deeds, so that the notice of restrictions and transfer shall run with the title and deed to each affected lot and so that ~~each the~~ land records s that pertain to each affected lot accurately reflects the amount and type of density associated with the lots.

~~209.8~~209.7 A certified copy of the recorded instrument shall be filed with the Zoning Administrator before approval of any building permit application that is affected by such allocation of uses or density.

210 ZONING COMMISSION REVIEW STANDARDS

210.1 In addition to proving that the proposed uses, buildings, or structures meet the standards set forth in Subtitle Y Chapter 8, the applicant for Zoning Commission approval of a use or structure within a SEFC zone shall further demonstrate conformance to the following standards:

- (a) The use, building, or structure will help achieve the goals and objectives of the SEFC ~~Area~~zone as set forth in K § ~~204~~200.2 and, if applicable, 200.7;
- (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;
- (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.

210.2 In evaluating the application, the Commission also may consider:

- (a) Compatibility with buildings in the surrounding area through overall massing, siting, details, and landscaping;
- (b) Use of high standards of environmental design that promote the achievement of sustainable development goals;
- (c) Facade articulation that minimizes or eliminates the visibility of unarticulated blank walls from public spaces;
- (d) Landscaping which complements the building;
- (e) For buildings that include preferred uses in accordance with K §§ 206.3 or 207.3, the Commission may consider the balance and location of preferred uses;
- (f) In connection with its review pursuant to K § 207.2 (b), the Commission may consider the effect of the proposed use on the predominantly residential character of the SEFC-2 and/or SEFC-3 zones; and
- (g) For development within or adjacent to the SEFC-4 District, the Commission may consider whether the project is consistent with the following goals:
 - (1) Providing a wide variety of active and passive recreational uses;
 - (2) Encouraging uses that open to, overlook, and benefit the waterfront park;
 - (3) 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.

211 ZONING COMMISSION REVIEW PROCEDURES

211.1 At the time the Zoning Commission is considering an application for approval authorized by this Chapter, the Commission may hear and decide any additional requests for zoning relief needed for the subject property. Any exceptions from the

requirements of this Chapter, other than those pertaining to use, preferred use, height or FAR, shall be permitted as special exceptions pursuant to the standards specified in Section 210.

211.2

At the time of filing an application with the Commission, the applicant shall pay the filing fee specified in Subtitle Y plus such fees as apply to any additional zoning relief requested. The provisions of Subtitle Y relating to the administration of fees shall apply, except that the applicant may appeal any decision of the Director regarding the fee schedule to the Commission, which shall decide the appeal at a meeting or hearing as a preliminary matter to hearing the application.