

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission**



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
AND**

ZONING COMMISSION ORDER NO. 09-21

Z.C. Case No. 09-21

(Text and Map Amendments to Establish the Union Station North District)

April 25, 2011

The Zoning Commission for the District of Columbia (the "Commission"), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01(2001)); having held a public hearing as required by § 3 of the Act (D.C. Official Code § 6-641.03(2001)), and having referred the proposed amendments to the National Capital Planning Commission ("NCPC") for a 30-day period of review pursuant to § 492 of the District of Columbia Charter, hereby gives notice of the adoption of the following amendments to the Zoning Regulations, title 11, DCMR, and to the Zoning Map.

The amendments establish a new stand-alone zone called Union Station North, or USN, to permit and guide development of the air rights over the railroad tracks north of Union Station. USN will consist of bulk and design provisions, including height, density, parking, and street frontage requirements, as well as provisions necessary for the unique conditions associated with developing 14 acres over an active rail yard. USN also establishes a Commission design review and approval process, similar to that used in the Capitol Gateway Overlay, with a set of review criteria to evaluate development applications and an additional requirement of a master plan as a prerequisite to obtaining review of specific projects. The text pertaining to the USN District will be contained in a new chapter 29.

In addition, the Commission adopted conforming amendments to existing §§ 105, 2602, 2603, 3010 through 3012, 3015, 3022, 3027, 3104, and 3202. These amendments, among other things, exempt USN reviews from the set down process and permit the Commission to proceed to final action without referral to the NCPC, whose zoning jurisdiction is limited to proposed changes in the zoning text or map. Section 105, which lists the zone districts, is also amended to include districts that were inadvertently not added to the list at the time they were established.

A Notice of Proposed Rulemaking was published in the *D.C. Register* ("DCR") on March 25, 2011, at 58 DCR 2719. The amendments shall become effective upon the publication of this notice in the *D.C. Register*.

Procedures Leading to Adoption of Amendments

The District of Columbia Office of Planning (“OP”) initiated this case by filing a report dated September 17, 2010 that served as a petition requesting the amendments.

The Commission gave Advisory Neighborhood Commission (“ANC”) 6C notice pursuant to § 13 of the Advisory Neighborhood Commissions Act of 1975 (“ANC Act”), effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(2001)). The ANC written report is discussed and given great weight in the portion of this order entitled “ANC Great Weight.”

The Commission voted to set down the proposal for hearing at its December 14, 2009, public meeting.

The public hearing was originally scheduled for March 15, 2010, rescheduled for May 13, 2010, and then cancelled. The third public hearing scheduled for December 16, 2010, was postponed until January 6, 2011, because of inclement weather.

In response to requests for further information and text refinements made by the Commission, at the conclusion of the January 6th hearing, OP submitted a Supplemental Report dated February 8, 2011. In its report, OP offered new provisions describing a site-wide Master Plan. The Master Plan would be submitted prior to or together with the first Stage 1 or Consolidated application and would examine, for the entire USN District, the general dimensions and locations of sidewalks and streets, plazas or other open spaces, and building sites. Similar to Stage 1 and Stage 2 reviews, these features and the overall site design would be reviewed against the purposes of the USN District and specific review criteria.

In response to the Commission’s concern that a true mix of uses might not be achieved on the site OP proposed, through its Supplemental Report dated February 18, 2011, a second layer of residential requirement as the site is built out. The original proposal required 0.5 floor area ratio (“FAR”) of residential be constructed after 3.0 FAR of non-residential was constructed. That would leave an additional 0.5 FAR of residential available after the 5.5 FAR non-residential cap was met. The revised text proposed to advance the second 0.5 FAR of residential and require it after 4.0 FAR of non-residential is constructed. This advancement of residential use in the development timeline was intended to increase the likelihood that a minimum of the full 1.0 FAR of residential will be constructed on the site.

The February 18, 2011, OP Supplemental Report also offered revised text to clarify and strengthen the community outreach requirements and to respond to concerns expressed by AMTRAK.

The Commission considered these changes and other information furnished in the February 18, 2011, OP Supplemental Report at its public meeting of February 28, 2011. Although the Commission appreciated the improvements to the text proposed by OP, the Commission

expressed reservations about the proposed allowance of a maximum height of 130 feet, and how that potential height of buildings would relate to surrounding development, including Union Station. It therefore continued its consideration of the case in order for OP to provide text that addressed these concerns.

OP, through its Supplemental Report dated March 8, 2011, offered responsive text. In the USN zone the design review process gives the Commission the ability to adjust building unit height, massing and design as deemed appropriate based on the review criteria. The additional text proposed to make that power more explicit by refining a Stage 1 submittal requirement, a Stage 1 review criterion, and, just north of Union Station, limiting height unless exemplary design of building units is found to complement that historic landmark.

Also, at the request of the affected ANC 6C, OP recommended a slight modification to the Community Outreach review criteria to emphasize that a review applicant is expected to meet with the ANC, in addition to other outreach efforts.

At its regularly scheduled meeting of March 14, 2011, the Commission voted to authorize the publication of the revised text and the proposed map amendments as a notice of proposed rulemaking and to refer the text and map amendments to the NCPC for the 30-day period of review mandated by the District Charter.

As noted, a notice of proposed rulemaking was published in the March 25, 2011, edition of the *D.C. Register*, but no written comments were received.

Through a letter dated April 14, 2011, the NCPC Executive Director provided the Commission with the action taken by NCPC at its meeting of April 7, 2011. (Exhibit No. 43.) The action document indicated that NCPC voted to express its support for efforts to develop the air rights over a large portion of the Union Station rail yard into an active, mixed-use development, and the urban design approach of stepping down building heights toward Union Station.

NCPC, however, expressed its concern over the potential negative impacts that could result from the grant of the 130 feet of maximum height available through the review process. It therefore requested that NCPC be afforded an opportunity to review and provide comments on the Union Station North Stage 1 and Master Plan submissions on the south side of H Street.

At its regularly scheduled meeting of April 25, 2011, the Commission considered whether to take final action to approve the text and map amendments. In response to the comments made by NCPC, the Commission voted to authorize the requested referrals. The Commission believed that it could benefit from NCPC's comments, including its 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 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 being added to this Order requires those as well because such reviews include the Stage 1 height

analysis of interest to NCPC. Nevertheless, the 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.

The Commission also authorized the addition of conforming amendments to §§ 3015, 3022, and 3027 that were inadvertently omitted from the notice of proposed rulemaking.

These changes do not constitute a substantial alteration of the text and therefore republication is not required pursuant to 1 DCMR § 310.5.

ANC Great Weight

Section 13(d) of the ANC Act requires District agencies, when taking certain actions, to give great weight to the issues and concerns raised in the written report of the affected ANC. To satisfy the great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. A change to the Zoning Regulations or map is one of the actions that require great weight.

By letter dated December 13, 2010 (Exhibit No. 17), the Chairman of ANC 6C indicated that having met all of the requirements under the ANC Act to take official action, it had voted to support the proposed map and text amendments, subject to five conditions. The letter also indicated that Mr. Rob Amos was authorized to represent ANC 6C. During his testimony at the public hearing, Mr. Amos¹ went through each of the five conditions and indicated how the text met each requirement. (Hearing Transcript pp. 80-83). As noted, the community outreach provisions were further strengthened consistent with the ANC's recommendations. The Commission acknowledges the ANC's suggestion for a community advisory board, but believes it does not have the authority to create such an independent body.

It is clear from Mr. Amos' testimony that ANC 6C fully supports the proposed text and map amendments and the Commission finds that advice to be persuasive.

Action Taken

Therefore, for the reasons stated above, and having complied with all procedural and substantive requirements mandated by District law, and having concluded that the proposed text and map amendment are not inconsistent with the Comprehensive Plan, the Zoning Commission for the District of Columbia takes the following actions:

The following amendments to the Zoning Map are made:

¹ At the time of his testimony, Mr. Amos was not an ANC Commissioner, but chaired the ANC's Planning and Zoning Commission as a citizen member.

Rezone from C-M-3 to USN the following squares and air rights lots, as more specifically described in the plat attached to Zoning Commission Order No. 09-21:

Square 717, Lot 7001 (between H and K Streets, N.E.); and

Square 720, Lots 7000 and 7001 (between Union Station and H Street, N.E.).

Rezone from C-M-3 and M to USN the following squares and air rights lots, as more specifically described in the plat attached to Zoning Commission Order No. 09-21:

Square 717, Lot 7002 (between H and K Streets, N.E.).

The text of the Zoning Regulations, title 11 DCMR, is amended as follows:

By adding a new chapter 29, UNION STATION NORTH (USN) DISTRICT, to read as follows:

CHAPTER 29 UNION STATION NORTH (USN) DISTRICT

2900	PREAMBLE
2901	APPLICABILITY
2902	PURPOSES
2903	THE PLATFORM
2904	SINGLE BUILDINGS AND BUILDING UNITS
2905	HEIGHT
2906	ROOFTOP PENTHOUSES
2907	MAXIMUM FLOOR AREA RATIO (FAR) – SINGLE BUILDING
2908	MAXIMUM NON-RESIDENTIAL FLOOR AREA RATIO (FAR) – DISTRICT-WIDE LIMIT
2909	COMPUTATION OF FAR
2910	BICYCLE PARKING
2911	OFF STREET AUTOMOBILE PARKING
2912	LOADING
2913	USES AS A MATTER OF RIGHT
2914	ACCESSORY USES AND BUILDINGS
2915	SPECIAL EXCEPTIONS
2916	GROUND FLOOR AREAS REQUIRED TO BE DEVOTED TO PREFERRED USES
2917	ZONING COMMISSION REVIEW – GENERAL
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2919	ZONING COMMISSION REVIEW – STAGE 1, STAGE 2, AND CONSOLIDATED APPLICATIONS
2920	COMMUNITY REVIEW
2921	AGENCY REVIEW
2922	MASTER PLAN SUBMITTAL REQUIREMENTS

2923	MASTER PLAN REVIEW CRITERIA
2924	STAGE 1 SUBMITTAL REQUIREMENTS
2925	STAGE 1 REVIEW CRITERIA
2926	STAGE 2 SUBMITTAL REQUIREMENTS
2927	STAGE 2 REVIEW CRITERIA
2928	ASSOCIATED RELIEF
2929	TIMEFRAME FOR APPROVAL
2930	MINOR MODIFICATIONS
2931	SCHEDULE OF FEES

2900 PREAMBLE

- 2900.1 The Union Station North (USN) District is a Unique Location District created to implement the Comprehensive Plan and other public policy goals and objectives.
- 2900.2 Unique Location Districts are intended to apply to single large sites that require a cohesive, self-contained set of regulations to guide site design, building height and bulk, or other aspects of development.
- 2900.3 The USN District recognizes the unique characteristics and development constraints of the site and provides for appropriate, site specific methods for the measurement of height and density.
- 2900.4 The USN District shall constitute the Zoning Regulations for the geographic area referred to in § 2901.1. Where there are conflicts between this chapter and other chapters of this title, the provisions of the USN District shall govern.
- 2900.5 When used in this chapter, the term “Transportation Way” means any piece of infrastructure, the intent of which is to convey people or goods from one place to another. Examples include, but are not limited to, sidewalks, stairs, elevators, fixed guideways for transit, and streets. Transportation ways may be either on, above or below ground, and may be either publicly or privately owned. Transportation ways do not include internal components of any portion of a building.

2901 APPLICABILITY

- 2901.1 The USN District is mapped on the following squares and air rights lots, as more specifically described in the plat attached to Zoning Commission Order No. 09-21:
- (a) Square 717, Lots 7001 and 7002 (between H and K Streets, N.E.); and
 - (b) Square 720, Lots 7000 and 7001 (between Union Station and H Street, N.E.).

2901.2 The land and the volume of space below the air rights lots shall not be zoned USN. Development will occur on top of a structural platform that will span the railroad tracks underneath.

2901.3 The USN District shall not be applied to any lot located on the ground or any air rights lot outside of the boundaries described in § 2901.1.

2902 PURPOSES

2902.1 The purposes of the USN District are to:

- (a) **Implement the Comprehensive Plan** by ensuring that development of the air rights is not inconsistent with the goals and policies of the Comprehensive Plan including:
 - (1) Creating a catalytic development, providing a connection between neighborhoods west of the railroad tracks and east of the railroad tracks with an active streetscape;
 - (2) The infill of an underutilized property near a multi-modal transportation hub, the provision of a mix of high density commercial and residential uses; and
 - (3) Preservation and enhancement of Union Station, and general economic development of the NoMa area and the District of Columbia.
- (b) **Reconnect the City** by creating an urban fabric that will reconnect the H Street commercial corridor to the east, North Capitol Street to the west, NoMa to the north and west, and Union Station to the south;
- (c) **Provide a Suitable Visual Relationship to Surroundings** by ensuring the provision of exemplary architecture for any building in the USN District, and encouraging upper story setbacks and minimized penthouses;
- (d) **Improve the Character of H Street** by establishing H Street, N.E., between 1st and 2nd Streets, N.E., as an attractive, active, pedestrian-oriented street with active ground floor uses and a varied façade;
- (e) **Utilize Transportation Infrastructure** by facilitating development that would take advantage of Union Station's unique combination of local, regional and national investment in pedestrian, bicycle, rail transit, bus transit, and intercity rail infrastructure, and ensuring that development complements, and allows the expansion and enhancement of the transportation infrastructure;

- (f) **Establish a Mix of Uses** throughout the USN District including residential and retail, as well as office, hotel and other permitted uses; and
- (g) **Create a Walkable Environment** by requiring suitable ground floor uses, appropriate building design and appropriate site layout, including wide sidewalks.

2903 THE PLATFORM

- 2903.1 The buildings to be erected within the USN will be supported by two (2) platforms erected above the existing railroad tracks and separated by H Street, N.E. (the “Platform” or “Platforms”).
- 2903.2 The Platforms will be generally horizontal structures that provide support for the new surface area, above the railroad tracks, on which development will be built.
- 2903.3 In addition to providing structural support, the Platforms may house mechanical equipment, parking and loading areas, and non-residential, residential, retail, and arts uses permitted by §§ 2913 through 2916, as well as utilities and rail-related uses.
- 2903.4 Structures below the grade of the railroad tracks and generally vertical, above-grade columns and structures will support the Platforms (collectively “Foundation Systems”). The term “Platform” or “Platforms”, when used in this chapter, does not include Foundation Systems or any station and rail-related functions or facilities that are constructed below the Platforms on the subjacent lots.
- 2903.5 Although portions of a Platform may extend below the volume of an air rights lot, any provision of this chapter pertaining to the Platform shall apply to the entire Platform.

2904 SINGLE BUILDINGS AND BUILDING UNITS

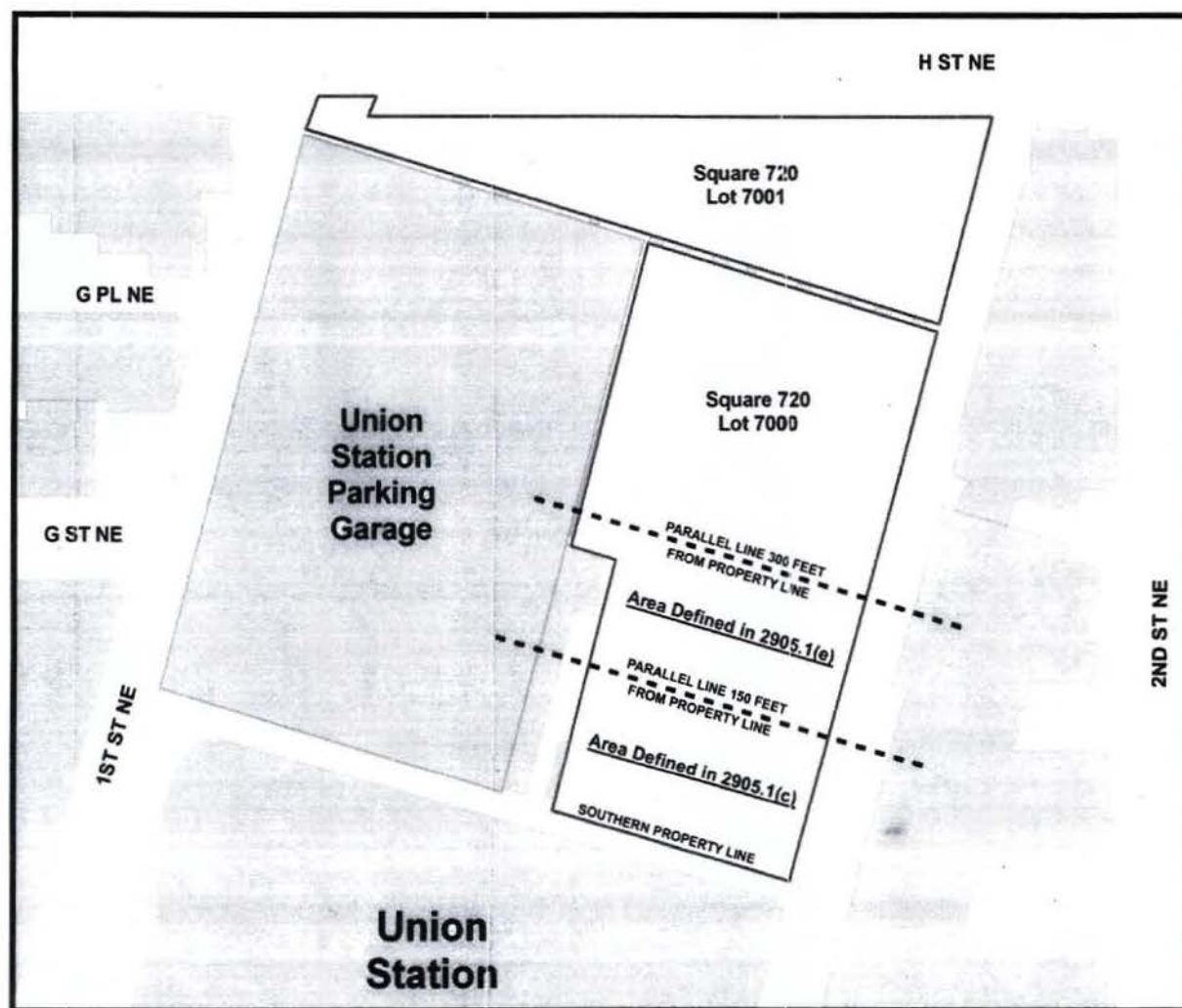
- 2904.1 For the purposes of the USN District, each Platform and all improvements constructed thereon are deemed to comprise a single building.
- 2904.2 Any part of a single building that is not connected to any other part of the same single building, other than through the structure of the Platform, will be hereinafter referred to as a Building Unit.

2905 HEIGHT

- 2905.1 **The maximum height** of a building or structure shall not exceed one hundred thirty feet (130 ft.), except that:

- (a) The maximum height of any portion of a building or structure that is both north of the centerline of Eye Street and east of a north-south line located two hundred feet (200 ft.) west of the eastern boundary of Lot 7002 in Square 717 shall not exceed ninety feet (90 ft.);
- (b) Within the area defined in § 2905.1(a), a height of greater than ninety feet (90 ft.) and no more than one hundred ten feet (110 ft.) shall be permitted if reviewed and approved by the Zoning Commission pursuant to the procedures set forth in §§ 2917 and 2919, and subject to the following:
 - (1) The Commission will make a preliminary decision whether to approve the additional height as part of its Stage 1 review;
 - (2) The preliminary approval will become final unless modified or disapproved during the Stage 2 review;
 - (3) In making its decision, the Commission shall consider the design review criteria set forth in §§ 2925.3, 2925.5, and 2925.8 and 2927.3 and 2927.9;
 - (4) The Commission must find that the building unit or units located within the defined area exhibit exceptional architectural quality; and
 - (5) The Commission may require upper story setbacks or other design modifications that it deems necessary.
- (c) The maximum height of any portion of a building or structure that is both north of the southern property line of Lot 7000 in Square 720 and south of a parallel line one hundred fifty feet (150 ft.) from the southern property line (as that area is depicted in the illustration appended to this subsection) shall not exceed ninety feet (90 ft.);
- (d) Within the area defined in § 2905(c), a height of greater than ninety feet (90 ft.) and no more than one hundred ten feet (110 ft.) shall be permitted if reviewed and approved by the Zoning Commission pursuant to the procedures set forth in §§ 2917 and 2919, and subject to the criteria of § 2905.1(b)(1) through 2905.1(b)(5);
- (e) The maximum height of any portion of a building or structure that is both north of a line parallel to and one hundred fifty feet (150 ft.) from the southern property line of Lot 7000 in Square 720 and south of a parallel line three hundred feet (300 ft.) from the southern property line (as that area is depicted in the illustration appended to this subsection) shall not exceed one hundred ten feet (110 ft.); and

- (f) Within the area defined in § 2905(e), a height of greater than one hundred ten feet (110 ft.) and no more than one hundred thirty feet (130 ft.) shall be permitted if reviewed and approved by the Zoning Commission pursuant to the procedures set forth in §§ 2917 and 2919, and subject to the criteria of § 2905.1(b)(1) through 2905.1(b)(5).



2905.2 The measurement of building height shall be taken from the elevation of the sidewalk on H Street at the middle of the front of the building, to the highest point of the roof or parapet rather than from grade as would otherwise be required by § 199.

2906 ROOFTOP PENTHOUSES

- 2906.1 Rooftop penthouses not intended for human occupation, such as penthouses over mechanical equipment, a stairway, or an elevator shaft shall be erected or enlarged pursuant to § 770.6 through 770.8.
- 2906.2 Such a penthouse shall not exceed eighteen feet, six inches (18 ft., 6 in.), in height above the roof upon which it is located. Mechanical equipment shall not extend above the permitted eighteen foot, six inch (18 ft., 6 in.), height of the housing.
- 2906.3 A penthouse not intended for human occupancy may be erected to a height in excess of that authorized in the USN District subject to the provisions of the Height Act.
- 2906.4 Spires, towers, domes, pinnacles, or minarets serving as architectural embellishments, ventilator shafts, antennas, chimneys, smokestacks, or fire sprinkler tanks may be erected to a height in excess of that which this section otherwise authorizes.

2907 MAXIMUM FLOOR AREA RATIO (FAR) – SINGLE BUILDING

- 2907.1 The maximum FAR for any single building in the USN District shall be six and one half (6.5), which shall be computed in accordance with § 2909.

2908 MAXIMUM NON-RESIDENTIAL FLOOR AREA RATIO (FAR) – DISTRICT-WIDE LIMIT

- 2908.1 The maximum non-residential FAR for the entire USN District is five and one half (5.5).
- 2908.2 Until a one half (0.5) FAR of residential uses have been developed within the entire USN District, as evidenced by a certificate or certificates of occupancy for residential uses, no certificate of occupancy for non-residential uses may be issued that would result in a non-residential FAR for the entire USN District of greater than three (3.0).
- 2908.3 Until one (1.0) FAR of residential uses have been developed within the entire USN District, as evidenced by a certificate or certificates of occupancy for residential uses, no certificate of occupancy for non-residential uses may be issued that would result in a non-residential FAR for the entire USN District of greater than four (4.0).
- 2908.4 The minimum residential FAR may be apportioned between the single building north of H Street and the single building south of H Street, provided that the aggregate residential floor area is not decreased.

2908.5 The minimum residential FAR shall not include the FAR dedicated to residential parking located above the level of the Platform.

2909 COMPUTATION OF FAR

2909.1 Computation of the maximum gross floor area for each building shall be determined by multiplying six and one half (6.5) by the area of a single building's lot, subject to the exclusions identified in § 2909.5.

2909.2 Computation of the maximum non-residential gross floor area for the entire USN shall be determined by multiplying three (3.0), four (4.0) or five and one half (5.5), as applicable, by the combined areas of each single building's lot, subject to the exclusions identified in § 2909.5.

2909.3 The lot of the single building north of H Street consists of the area within lots 7001 and 7002 in Square 717.

2909.4 The lot of the single building south of H Street consists of the area within lots 7000 and 7001 in Square 720.

2909.5 Lot area shall not include private rights-of-way that generally serve the principal entrances to building units, including the fourteen foot (14 ft.) minimum sidewalk width required by § 2923.5.

2909.6 Notwithstanding § 2909.5, lot area shall include private rights-of-way that generally provide access to service, loading or automobile parking areas, as well as sidewalk area beyond the fourteen foot (14 ft.) minimum width required by § 2923.5.

2909.7 The term "gross floor area" has the same meaning as defined in § 199, except that the term only applies to the area of all enclosed structures above the top of the Platforms.

2910 BICYCLE PARKING

2910.1 Bicycle parking spaces shall be provided at a minimum as follows:

Type of use	Indoor Spaces	Outdoor spaces
Residential	One for every three units	One for every twenty units, with a minimum of two
Non-residential	One for every 10,000 square feet of gross floor area, with a minimum of two	One for every 40,000 square feet of gross floor area, with a minimum of two
Retail/service	One for every 10,000 square feet of gross floor area, with a minimum of two	One for every 5,000 square feet of gross floor area, with a minimum of two

- 2910.2 All bicycle parking spaces shall be well lit and provide convenient access to the uses they are intended to serve.
- 2910.3 Outdoor spaces may be provided in public space subject to the approval of the District Department of Transportation (DDOT).
- 2910.4 All required bicycle parking spaces shall be a minimum of two feet (2 ft.) in width and six feet (6 ft.) in length.
- 2910.5 An aisle five feet (5 ft.) in width shall be provided between rows of bicycle parking spaces and the perimeter of the area devoted to bicycle parking.
- 2910.6 If a room or common locker not divided into individual spaces is used to meet these requirements, twelve square feet (12 sq. ft.) of floor area shall be considered the equivalent of one (1) bicycle parking space. Where manufactured metal lockers or racks are provided, each locker or stall devoted to bicycle parking shall be counted as one (1) bicycle parking space.
- 2910.7 Signs shall be posted stating where bicycle parking spaces are located in each building or structure where bicycle parking spaces are required. The signs shall be located in a prominent place at each entrance to the building or structure. The sign shall have a white background with black lettering that is no less than two inches (2 in.) in height.

2911 OFF STREET AUTOMOBILE PARKING

- 2911.1 The provisions of chapter 21 do not apply to the USN District.

2911.2 There shall be no minimum number of automobile parking spaces required in the USN District.

2911.3 No lease or purchase agreement for a dwelling unit may include within its terms the sale or lease of an automobile parking space.

2911.4 Automobile parking spaces need not be located on the same lot with the building or building unit they are intended to serve, but must be located on a lot within or below the USN District.

2912 LOADING

2912.1 Loading shall be provided as required in chapter 22 for the C-3-C District.

2912.2 The Zoning Commission may, as a special exception, permit the reduction, elimination, relocation or consolidation of loading facilities, provided that the applicant demonstrates that:

- (a) The proposed number of loading facilities will be adequate to serve the related uses;
- (b) The loading facilities are designed such that loading and unloading of service vehicles would be accomplished without the need to move goods and materials across public areas;
- (c) The proposed loading facilities would not tend to affect adversely other modes of transportation using the adjacent public or private transportation way, as defined in § 2900.5;
- (d) The proposed loading facilities would not tend to affect adjacent properties adversely; and
- (e) The Commission may impose conditions as to screening, lighting, coping, setbacks, fences, location of entrances and exits, widening of abutting transportation ways, or any other requirement it deems necessary to protect the adjacent property and the safety and function of other modes of travel.

2913 USES AS A MATTER OF RIGHT

2913.1 Any use permitted in the C-3-C District under § 741 shall be permitted as matter-of-right.

2914 ACCESSORY USES AND BUILDINGS

2914.1 Any accessory use or building permitted in the C-3-C District under § 742 shall be permitted as an accessory use or building in the USN District.

2915 SPECIAL EXCEPTIONS

2915.1 All uses not permitted as a matter-of-right in the C-3-C District but permitted as special exceptions in the C-1, C-2, and C-3 Districts are permitted as special exceptions in the USN District if approved by the Board of Zoning Adjustment under § 3104, except that Sexually-Oriented Businesses shall be prohibited.

2916 GROUND FLOOR AREAS REQUIRED TO BE DEVOTED TO PREFERRED USES

2916.1 One hundred percent (100%) of the ground floor H Street frontage of building units shall be occupied by the preferred uses listed in §§ 1710 and 1711, except for space devoted to building entrances or lobbies, space required to be devoted to fire control, or space dedicated to transit or rail entrances or passenger circulation.

2916.2 Banks or financial institutions identified in § 1710.1(h) shall occupy no more than one hundred (100) total linear feet of ground floor H Street frontage, and no more than fifty feet (50 ft.) of ground floor H Street frontage in any one building unit.

2916.3 No single commercial occupancy shall occupy more than one hundred (100) total linear feet of ground floor H Street frontage.

2916.4 The entire ground floor of all building units shall have a minimum slab to slab height of fourteen feet (14 ft.), except for those spaces within the ground floor of any building unit devoted to the following uses: mechanical, electrical, and plumbing; storage; fire control; loading; and retail corridors and service corridors.

2917 ZONING COMMISSION REVIEW – GENERAL

2917.1 All proposed buildings, structures, or any proposed exterior renovation to any existing buildings or structures that would result in an alteration of the exterior design, as well as any associated open spaces such as parks or plazas, shall be subject to review and approval by the Zoning Commission in accordance with the following provisions. No review or approval by the Zoning Commission is required for construction of Foundation Systems within the USN District.

2917.2 Sections 2918 and 2919 describe the following types of Zoning Commission reviews:

- (a) Master Plan;
- (b) Stage 1;
- (c) Stage 2; and
- (d) Consolidated.

2917.3 Any application must be signed by the owner of the subject air rights lot, but need not be signed by the owner of the subjacent lots, even if a portion of the Platform extends into the air space below the level of the air rights lot.

2918 ZONING COMMISSION REVIEW – MASTER PLAN

2918.1 Prior to or together with either the first Stage 1 or the first Consolidated application submitted pursuant to this chapter, the applicant shall submit for review and approval by the Commission a Master Plan for the entire USN District.

2918.2 A Master Plan review will examine, for the entire USN District, the dimensions and locations of transportation ways, as defined in § 2900.5, and the general locations of open spaces and building sites, in accordance with the review criteria of § 2923.

2918.3 A Master Plan shall be determined by the Commission to be not inconsistent with the Comprehensive Plan, to generally further the purposes of the USN District and to be acceptable in all the review criteria of § 2923.

2918.4 An approved Master Plan may be modified through application to the Commission, and the application for modification shall be subject to the same approval criteria as set forth in § 2918.3.

2918.5 An applicant must return to the Commission for review and approval of Stage 1 and Stage 2 applications or a Consolidated application prior to applying for a building permit or beginning construction of any portion of the approved Master Plan application.

2919 ZONING COMMISSION REVIEW – STAGE 1, STAGE 2, AND CONSOLIDATED APPLICATIONS

- 2919.1 A Stage 1 or Stage 2 application may request review and approval of one (1) or more building units, structures or open spaces, or of one (1) or two (2) buildings..
- 2919.2 An applicant may request consideration of the Stage 1 or Stage 2 applications individually or through a consolidated review.
- 2919.3 A Stage 1 review will examine the specific arrangement of building units on the site, the specific location of open spaces, the massing and height of building units, the mix of uses, access to structures, the location of transportation ways, as defined in § 2900.5, and access to and from the Platforms, in accordance with the Review Criteria of § 2925.
- 2919.4 A Stage 2 review will examine the outward appearance of building units, the design of landscape and hardscape, the functionality of transportation ways, and the general location of uses, in accordance with the Review Criteria of § 2927.
- 2919.5 A Consolidated review will examine all the aspects of design mentioned in § 2919.3 and 2919.4, in accordance with the Review Criteria of §§ 2925 and 2927. An application for Consolidated Review shall include all submittal requirements listed in §§ 2924 and 2926.
- 2919.6 A Stage 1, Stage 2, or Consolidated application shall be determined by the Commission to be not inconsistent with the Comprehensive Plan, not inconsistent with the approved Master Plan, to provide for a mix of uses, to be acceptable in all other applicable Review Criteria as set forth in §§ 2925 and 2927, to generally further the purposes of the USN District, and to comply with all other requirements of this chapter.
- 2919.7 An approved Stage 1, Stage 2 or Consolidated application may be modified through application to the Commission, and the application for modification shall be subject to the same approval criteria as set forth in § 2919.6.
- 2919.8 Upon the effective date of the Zoning Commission Order granting approval of a Stage 1 application, the applicant may apply for a building permit to construct any portion of the Platforms related to that Stage 1 application.

2919.9 An applicant must return to the Commission for review and approval of a Stage 2 application prior to applying for a building permit or beginning construction for any other portion of the approved Stage 1 Review Application.

2920 COMMUNITY REVIEW

2920.1 In conformance with § 3099.1 of this Title, the affected Advisory Neighborhood Commission (ANC) shall be granted party status to any application submitted pursuant to this chapter, and may participate in the public hearing for the application pursuant to § 3012.5 and 3012.6.

2921 AGENCY REVIEW

2921.1 The Office of Zoning shall refer the application to the Office of Planning, the District Department of Transportation, Fire and Emergency Services, the District Department of the Environment, and any other relevant District agencies for review and comment.

2922 MASTER PLAN SUBMITTAL REQUIREMENTS

2922.1 An applicant requesting approval of a Master Plan application shall provide:

- (a) A written description of the proposal, including a description of how the Master Plan review criteria are met; and
- (b) A plan or plans encompassing the entire USN District and showing:
 - (1) The location and dimensions of private rights-of-way and alleys;
 - (2) The lot areas to be used for FAR calculations, both for the entire USN District as well as the north and south buildings, pursuant to § 2909;
 - (3) The general locations of plazas, parks, or other open spaces;
 - (4) The general locations of sites for future building units; and
 - (5) Any other information needed to understand the project.

2923 MASTER PLAN REVIEW CRITERIA

2923.1 The criteria stated in the subsections that follow are applicable to Master Plan applications.

- 2923.2 Internal Connectivity – Internal connections shall result in a form of development that generally reflects the grid pattern of the District and that avoids the creation of excessively large building blocks. Internal connections shall be provided through a combination of private rights-of-way, sidewalks, paths, plazas, and parks, with a main multi-modal access point to both buildings from H Street, N.E.
- 2923.3 External Connectivity – The Master Plan shall provide the opportunity for pedestrian connections in appropriate and feasible locations to surrounding development and surrounding neighborhoods including Union Station, NoMa west of the railroad tracks, and northern Capitol Hill.
- 2923.4 Private Rights-of-Way Width – To facilitate pedestrian and bicycle movement, the curb-to-curb width of private rights-of-way shall not be excessively large.
- 2923.5 Sidewalk Width – The width of sidewalks along private rights-of-way that generally serve the principal entrances to building units shall not be less than fourteen feet (14 ft.).
- 2923.6 Community Outreach – The application shall demonstrate that community outreach has occurred through participation in multiple venues and through multiple formats, including the affected ANC, and which could include but not be limited to meetings with the community, an informational website, emails, or mailed flyers.

2924 STAGE 1 SUBMITTAL REQUIREMENTS

- 2924.1 An applicant requesting approval of a Stage 1 Review Application shall provide:
- (a) A written description of the proposal, including a description of how the applicable review criteria are met;
 - (b) Site plans, elevations, renderings, photosimulations, aerial axonometric massing diagrams, or any other suitable materials necessary to describe the project;
 - (c) For any building unit located south of H Street, N.E. ground-level view studies from multiple vantage points showing the relationship between the proposed building unit and Union Station;
 - (d) A circulation plan, including the location of all transportation ways, as defined in § 2900.5, off-street parking spaces and loading berths, including an indication of which spaces are designated for which use, and a reasonable numerical range of the number of parking spaces to be provided; The circulation plan shall show how the design facilitates

north-south bicycle movement through the site and to areas outside the site, including the Metropolitan Branch Trail;

- (e) The area and dimensions of the application site;
- (f) The gross floor area and floor area ratio for each building unit, including a break-down for each use, and the total gross floor area and floor area ratio for the building, including a breakdown for each use;
- (g) A comprehensive transportation assessment for the development under consideration, addressing pedestrian, bicycle, transit, and automobile capacity and circulation;
- (h) Estimated quantities of potable water required by the project, and of sanitary sewage and storm water to be generated, including the methods of calculating those quantities; and
- (i) Any other information needed to understand the project.

2925 STAGE 1 REVIEW CRITERIA

- 2925.1 The criteria stated in the subsections that follow are applicable to Stage 1 applications.
- 2952.2 External Connectivity – The development shall provide pedestrian connections in appropriate and feasible locations to surrounding development and surrounding neighborhoods including Union Station, NoMa west of the railroad tracks, and northern Capitol Hill. The application shall indicate the location of all such proposed connections. Connections are especially encouraged near the intersection of 1st and K Streets, N.E., 2nd and K Streets, N.E., and 2nd and Eye Streets, N.E.
- 2925.3 Building Unit Heights and Visual Relationship to Surroundings – A suitable height for each building unit and appropriate massing relationship between proposed building units and adjacent neighborhoods, Union Station and other historic landmarks, and the Federal precincts near the Capitol and the Supreme Court shall be provided, with particular attention paid to the eastern portion of the property north of Eye Street, N.E. The application shall also generally indicate what types of materials would be used on the portions of the exterior of the Platforms constructed pursuant to § 2917.14 that would be visible to the public.

- 2925.4 **Transportation Hierarchy** – The movement of pedestrians, bikes and transit shall be prioritized, and provide reasonable accommodation for automobiles. The location of parking and loading access shall not unduly impact the movement of pedestrians and bicyclists.
- 2925.5 **Division of Building Form** – Monolithic buildings or the creation of excessively large building blocks shall be avoided. Building unit massing and orientation should reflect the pattern of other development in the District.
- 2925.6 **Publicly Accessible Space** – Any public space provided such as streets, parks or plazas shall be easily visible and publicly accessible.
- 2925.7 **Mix of Uses** – The application shall demonstrate how the proposal contributes to an overall mix of uses in the USN District.
- 2925.8 **Impacts on Surroundings** – The proposed development shall not tend to substantially affect nearby properties adversely due to obstruction of light or air or because of noise, odors, or other impacts on air quality, including exhaust from trains. The development shall incorporate sufficient venting mechanisms for railroad uses below the site.
- 2925.9 **Building Livability** – The vibration and noise caused by the movement of trains under residential buildings shall be mitigated.
- 2925.10 **Community Outreach** – The application shall demonstrate that community outreach has occurred through participation in multiple venues and through multiple formats, including the affected ANC, and which could include but not be limited to meetings with the community, an informational website, emails, or mailed flyers.

2926 STAGE 2 SUBMITTAL REQUIREMENTS

- 2926.1 An applicant requesting approval of a Stage 2 Review Application shall provide:
- (a) Information required in § 2924.1(a) through (f);
 - (b) Elevations, detail drawings, renderings, or other graphics that clearly demonstrate the proposed architectural details, signage, materials to be used, and the lighting scheme for the building units;

- (c) Typical floor plans and sections that show the location of uses, access to uses, points of fenestration, general internal circulation, projections and any other feature necessary to understand the project, and a table showing the floor area of each use;
- (d) A detailed landscaping plan;
- (e) A list of environmental features and characteristics of the development; and
- (f) Any other information needed to understand the overall architectural character of the project.

2927 STAGE 2 REVIEW CRITERIA

- 2927.1 The criteria stated in the subsections that follow are applicable to Stage 2 applications.
- 2927.2 External Connectivity – External connections shall provide adequate size, materials, lighting and signage to move users easily and safely.
- 2927.3 Visual Relationship to Surroundings – A suitable visual relationship between building units and adjacent neighborhoods, Union Station and other historic landmarks, and the Federal precincts near the Capitol and the Supreme Court shall be provided, with particular attention paid to the eastern portion of the property north of Eye Street, N.E.
- 2927.4 Active Entrances to Building Units – Public and publicly accessible areas such as sidewalks, parks, and plazas shall be activated through the use of operational entrances to retail, office, residential, and other uses.
- 2927.5 Visual Façade Permeability – Where there are no operational entrances to uses, design of structures fronting on public and publicly accessible areas shall incorporate windows. Or, where windows are not appropriate, unarticulated blank walls shall be minimized to the extent possible.
- 2927.6 Environmental Stewardship – A high degree of environmental stewardship should be demonstrated. Characteristics may include, but not be limited to the following:
- (a) Onsite energy generation;
 - (b) Rainwater harvesting;

- (c) Green roofs, including green spaces on the upper surface of the Platforms;
- (d) Other landscaping on the upper surface of the Platforms such as rainwater capturing tree boxes;
- (e) Use of native species, drought tolerant species, adequate planting depth and efficient irrigation in landscaping;
- (f) Use of efficient plumbing fixtures and fittings, enhanced insulation, and cool roofing;
- (g) Use of environmentally friendly products in construction and operation;
- (h) Natural lighting, including large windows, light wells, skylights, and daylight penetration to railroad facilities below the Platforms;
- (i) Natural ventilation, including balconies, terraces, operable windows, and vent shafts;
- (j) Minimizing construction waste; or
- (k) Facilitation of transit usage by allowing and/or constructing improved access to transit facilities and interconnections between transit modes.

- 2927.7 Private Open Space – Residential uses shall incorporate private open space such as balconies and terraces for individual units where practical and architecturally compatible.
- 2927.8 Design of Open Spaces – Public and private open spaces shall incorporate shaded areas and adequate seating capacity.
- 2927.9 Light and Air – Adequate light and air shall be provided to all building units in the USN District.
- 2927.10 Parking Access – Convenient access shall be provided from any parking provided to the uses it is intended to serve.

- 2927.11 Community Outreach – The application shall demonstrate that community outreach has occurred through participation in multiple venues and through multiple formats, including the affected ANC, and which could include but not be limited to meetings with the community, an informational website, emails, or mailed flyers.

2928 ASSOCIATED RELIEF

- 2928.1 Relief from any section of this chapter may be heard and decided by the Commission as a special exception in accordance with § 3104. In addition to the criteria of § 3104, the applicant shall demonstrate that the purposes of the USN District would be met even if the relief were granted.
- 2928.2 An applicant requesting approval of a project that would result in nonconformity with the minimum residential or maximum non-residential FAR for the USN District, as established by § 2908, shall demonstrate how the proposal would not be inconsistent with the purpose of establishing a mix of uses.
- 2928.3 The Zoning Commission may hear and decide any additional request for special exception or variance relief from any other provision of the Zoning Regulations for the subject property.
- 2928.4 Request for relief shall be advertised, heard, and decided together with the application for Zoning Commission review and approval.

2929 TIMEFRAME FOR APPROVAL

- 2929.1 The Zoning Commission may approve timeframes within which time an application must be filed for a building permit or a Stage 2 application must be filed.

2930 MINOR MODIFICATIONS

- 2930.1 The Zoning Administrator shall have authority to approve minor modifications in the final plans approved by the Zoning Commission as set forth in § 2409.6 and 2409.7.

2931 SCHEDULE OF FEES

- 2931.1 At the time of filing an application with the Zoning Commission, the applicant shall pay the filing fee specified in § 3180.1(b)(16), plus such fees as apply to any additional zoning relief requested. The provisions of § 3181 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 Zoning Commission, which shall decide the appeal as a preliminary matter to hearing the application.

Chapter 1, THE ZONING REGULATIONS, § 105, ZONE DISTRICTS, subsection 105.1 is amended to include the USN District in the list of Zone Districts, so that the provision reads as follows:

105.1 For the purpose of this title, the District of Columbia shall be divided into the following zone districts:

(a) RESIDENCE DISTRICTS, as follows:

(1) R-1 one-family detached dwellings, subdivided as follows:

(A) R-1-A low density; and

(B) R-1-B high density;

(2) R-2 one-family, semi-detached dwellings;

(3) R-3 row dwellings;

(4) R-4 row dwellings, conversions, and apartments; and

(5) R-5 general residence, subdivided as follows:

(A) R-5-A low density;

(B) R-5-B moderate density;

(C) R-5-C medium density;

(D) R-5-D medium-high density; and

(E) R-5-E high density;

(b) SPECIAL PURPOSE DISTRICTS, as follows:

(1) SP limited offices and apartments, subdivided as follows:

(A) SP-1 medium density; and

(B) SP-2 medium-high density;

- (c) **MIXED USE (COMMERCIAL-RESIDENTIAL) DISTRICTS, as follows:**
 - (1) **CR mixed uses (retail, residential, office, and light industry);**
- (d) **COMMERCIAL DISTRICTS, as follows:**
 - (1) **C-1 neighborhood shopping;**
 - (2) **C-2 community business center, subdivided as follows:**
 - (A) **C-2-A medium density;**
 - (B) **C-2-B medium-high density; and**
 - (C) **C-2-C high density;**
 - (3) **C-3 major business and employment center, subdivided as follows:**
 - (A) **C-3-A medium bulk;**
 - (B) **C-3-B medium bulk; and**
 - (C) **C-3-C high bulk;**
 - (4) **C-4 central business district; and**
 - (5) **C-5 (PAD) Pennsylvania Avenue development;**
- (e) **INDUSTRIAL DISTRICTS, as follows:**
 - (1) **C-M commercial-light manufacturing, subdivided as follows:**
 - (A) **C-M-1 low bulk;**
 - (B) **C-M-2 medium bulk; and**
 - (C) **C-M-3 high bulk; and**

- (2) M general industry;
- (f) LANGDON OVERLY (LO) DISTRICT;
- (g) WATERFRONT DISTRICTS, as follows:
 - (1) W mixed uses, subdivided as follows:
 - (A) W-0 waterfront open space and recreation, low density;
 - (B) W-1 moderate density;
 - (C) W-2 medium density; and
 - (D) W-3 high density;
- (h) MIXED USE DIPLOMATIC OVERLAY DISTRICT, as follows:
 - (1) D low and medium density;
- (i) HOTEL-RESIDENTIAL INCENTIVE OVERLAY DISTRICT, as follows:
 - (1) HR high density;
- (j) CAPITOL INTEREST OVERLAY DISTRICT, as follows:
 - (1) CAP low to medium density;
- (k) NEIGHBORHOOD COMMERCIAL OVERLAY DISTRICTS, as follows:
 - (1) Cleveland Park Neighborhood Commercial (CP) Overlay District;
 - (2) Woodley Park Neighborhood Commercial (WP) Overlay District;
 - (3) Macomb-Wisconsin Neighborhood Commercial (MW) Overlay District;
 - (4) Eighth Street Southeast Neighborhood Commercial (ES) Overlay District;

- (5) Takoma Neighborhood Commercial (TK) Overlay District;
- (6) H Street Northeast Neighborhood Commercial (HS) Overlay District; and
- (7) Georgia Avenue Commercial (GA) Overlay District
- (l) REED - COOKE (RC) OVERLAY DISTRICT;
- (m) MISCELLANEOUS OVERLAY DISTRICTS, as follows:
 - (1) Dupont Circle (DC) Overlay District;
 - (2) Tree and Slope Protection (TSP) Overlay District;
 - (3) Foggy Bottom (FB) Overlay District;
 - (4) Naval Observatory Precinct (NO) Overlay District;
 - (5) Wesley Heights (WH) Overlay District;
 - (6) Sixteenth Street Heights (SSH) Overlay District;
 - (7) Fort Totten (FT) Overlay District;
 - (8) Chain Bridge Road/University Terrace (CB/UT) Overlay District; and
 - (9) Capitol Hill Commercial (CHC) Overlay District;
- (n) DOWNTOWN DEVELOPMENT (DD) OVERLAY DISTRICT;
- (o) UPTOWN ARTS - MIXED USE (ARTS) OVERLAY DISTRICT;
- (p) CAPITOL GATEWAY (CG) OVERLAY DISTRICT;
- (q) SOUTHEAST FEDERAL CENTER (SEFC) OVERLAY DISTRICT;
- (r) HILL EAST (HE) DISTRICT; and
- (s) UNION STATION NORTH (USN) DISTRICT.

Chapter 26, INCLUSIONARY ZONING, is amended as follows:

Section 2602, APPLICABILITY, subsection 2602.1 is amended to indicate that the USN District is subject to Inclusionary Zoning so that the provision reads as follows:

- 2602.1 Except as provided in § 2602.3, the requirements and incentives of this chapter shall apply to developments that:
- (a) Are mapped within the R-2 through R-5-D, C-1 through C-3-C, USN, CR, SP, or W-1 through W-3 Zone Districts, unless exempted pursuant to § 2602.3; and
 - (b) Have ten (10) or more dwelling units (including off-site inclusionary units); and
 - (c) Are either:
 - (1) New multiple-dwellings;
 - (2) New one-family dwellings, row dwellings, or flats constructed concurrently or in phases on contiguous lots or lots divided by an alley, if such lots were under common ownership at the time of construction; or
 - (3) An existing development described in subparagraph (i) or (ii) for which a new addition will increase the gross floor area of the entire development by fifty percent (50%) or more.

Section 2603, SET-ASIDE REQUIREMENTS, is amended as follows:

Subsection 2603.2 is amended to specify the amount of gross floor area that must be set aside for Inclusionary Zoning Units in the USN District, so that the provision reads as follows:

- 2603.2 An inclusionary development of steel and concrete frame construction located in the zone districts stated in § 2603.1 or any development located in a C-2-B, C-2-C, C-3, CR, R-5-C, R-5-D, SP, USN, W-2, or W-3 Zone District shall devote the greater of eight percent (8%) of the gross floor area being devoted to residential use or fifty percent (50%) of the bonus density utilized for inclusionary units.

Subsection 2603.4 is amended to specify the affordability level for reserved Inclusionary Zoning Units, so that the provision reads as follows:

- 2603.4 Developments located in CR, C-2-B through C-3-C, USN, W-2 through W-3, and SP Zone Districts shall set aside one hundred percent (100%) of inclusionary units for eligible moderate-income households.

Chapter 30, ZONING COMMISSION PROCEDURES RULES OF PRACTICE AND PROCEDURE, is amended as follows:

Section 3010, APPLICATIONS AND PETITIONS, subsection 3010.2 is amended to include USN Master Plan, Stage 1, Stage 2; and Consolidated review applications among the types of proceedings that are considered contested cases, so that the provision reads as follows:

3010.2 Contested cases are adjudicatory in nature; present issues for resolution at a public hearing that potentially will affect a relatively small number of persons or properties; and involve primarily questions of fact applicable to a small number of persons or properties, while broader issues of public policy are secondary concerns. Contested cases include, without limitation, the following:

- (a)** Planned unit developments filed according to chapter 24 of this title;
- (b)** Requests for zoning map amendments filed by the property owner or owners for a single property or for multiple properties that are contiguous or are only separated by a street or alley;
- (c)** Applications for air space development; and
- (d)** Applications for Zoning Commission review and approval pursuant to chapters 16, 18, 28, and 29 of this title, as well as § 1709.21.

Section 3011, REVIEW AND PROCESSING OF APPLICATIONS AND PETITIONS, Subsection 3011.1 is amended to include USN District Master Plan, Stage 1, Stage 2, and Consolidated review applications among the types of proceedings that are permitted to be immediately scheduled for a hearing without the requirement that the Commission first decide to setdown the case for such a hearing, so that the provision reads as follows:

3011.1 Except as provided in § 2523.4, as soon as an application or petition is accepted for filing by the Director of the Office of Zoning, the Director shall place a copy of the application or petition in the public record of the Commission and refer a copy to the D.C. Office of Planning for review and recommendation on whether the matter should be processed further, except that the applications for Zoning Commission review and approval filed pursuant to chapters 16, 18, 28, and 29 of this title, which are deemed complete by the Director, shall be immediately scheduled for hearing consistent with the notice provisions of this chapter. The exception from the requirements of this subsection shall not apply to an application for Zoning Commission approval pursuant to § 1612 unless accompanied by a written report of the Office of Planning certifying that the application is compliant with the standards of that section.

Section 3012, AGENCY REPORTS, subsection 3012.1 is amended to include USN District Master Plan, Stage 1, Stage 2, and Consolidated review applications as among the types of applications that are referred to the D.C. Office of Planning for a hearing report immediately after being accepted for filing and to require that certain Master Plan, Stage 1, and Consolidated review applications be referred to NCPD, so that the provision reads as follows:

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;
- (b) The Capitol Police Board for those applications for approval pursuant to 11 DCMR § 1612.18; and
- (c) The District Department of Transportation for those applications for special exception approval pursuant to § 2803.

Section 3015, NOTICE OF CONTESTED CASE HEARINGS, subsection 3015.4, is amended by inserting a reference of chapter 29, so that the provision will read as follows:

3015.4 When a Zoning Map amendment, planned unit development, air space development, or Zoning Commission review and approval pursuant to chapters 16, 18, 28, and 29 of this title is requested by a property owner for the property

owned, the applicant shall give additional notice of the public hearing by posting the property with notice of hearing at least forty (40) days in advance of the hearing.

Section 3022, CONTESTED CASE HEARINGS, subsection 3022.1, is amended by inserting a reference of chapter 29, so that the provision will read as follows:

3022.1 The contested case procedures in § 10 of the D.C. Administrative Procedure Act, D.C. Official Code § 2-509, and this section shall apply to applications for a change in the Zoning Map pursuant to § 102 and to applications for planned unit developments, air space developments, and similar plan review activities of the Commission, including those required by chapters 16, 18, 28, and 29 of this title, as well as §§ 1709.21 and 2523.2, except as otherwise provided in § 3010.7.

Section 3027, PROPOSED ACTION, subsection 3027.4, is amended by inserting a reference of chapter 29, so that the provision will read as follows:

3027.4 The Commission need not take proposed action with respect to an application for Zoning Commission review and approval pursuant to chapters 16, 18, 28, and 29 of this title, as well as §§ 1709.21 and 2523.2, but may take final action in accordance with § 3028, either at the close of the hearing or at a subsequent public meeting and, in the case of an application pursuant to § 2523, at the initial public meeting regarding the application.

Chapter 31, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE, § 3104, SPECIAL EXCEPTIONS, subsection 3104.1 is amended by modifying the chart appended to that provision to insert references to the USN District next to those uses that are only permitted by special exception in that zone, so that the chart reads as follows:

TYPE OF SPECIAL EXCEPTION	ZONE DISTRICT	SECTIONS IN WHICH THE CONDITIONS ARE SPECIFIED
Accessory apartment to one-family detached dwelling	R-1 District	§ 202.10
Accessory mechanical amusement machines used to display sexual activities or specific anatomical areas	C-3-C, C-4, C-5 (PAD) Districts	§ 2501.5
Accessory uses in C-5 (PAD) District not specifically permitted	C-5 (PAD) District	§ 761.5
Additions to one-family dwellings or flats	Any R District	§ 223

TYPE OF SPECIAL EXCEPTION	ZONE DISTRICT	SECTIONS IN WHICH THE CONDITIONS ARE SPECIFIED
Adult day treatment facility	R-1, R-2, and R-3 District	§ 205
Animal Boarding	Any C-2, C-3, C-4, USN, C-M or M District	§§ 721.7, 721.8, 735, 736, 802.21 and 822.14
Animal shelter	Any C-2, C-3, C-4 or USN District	§739
Athletic field operated by local community organization	Any R District	§ 209
Antenna for commercial TV or FM	Any R, SP, or CR District, W-1, W-2, or W-3 Districts	§§211, 514, 617, and 914
Antenna, other than commercial	Any R, SP, or CR District, W-1, W-2, or W-3 Districts	§§ 212, 515, 617, and 914
Art gallery	R-5 District	§ 361
ARTS Overlay District - substitution of bonus use for existing legitimate theater use	ARTS Overlay District	§ 1904.5
ARTS Overlay District - use and area requirements	ARTS Overlay District	§§ 1901.4 and 1906.1
Automobile sales or repair	CR District	§ 614
Automobile accessory sales	C-1 District	§ 710
Boathouse	W-0 District	§ 921
Bowling alley	CR, C-1, W-1, W-2, and W-3 Districts	§§ 609, 709, and 908
Building lot control	Any R District or within 25 feet of an R District	§ 2516
Building service trades, including plumber, electrician, exterminator, and air-conditioning mechanic	CR, W-1, W-2, and W-3 Districts	§§ 612 and 912
CAP Overlay District - uses	CAP Overlay District	§§ 1201.3 and 1202
Caretaker's Residence	W-0 District	§ 924
Carport - location	Any District	§ 2300.8

TYPE OF SPECIAL EXCEPTION	ZONE DISTRICT	SECTIONS IN WHICH THE CONDITIONS ARE SPECIFIED
CB/UT Overlay District - area requirements, tree removal, grading, and topographical change	CB/UT Overlay District	§§ 1568.3 and 1569
Child/elderly development center	Any R District	§ 205
Church programs	SP District	§ 517
Clerical and religious group residences	SP District	§ 516
Commercial adjuncts to hotel with less than 100 rooms or suites	R-5-B, R-5-C, R-5-D, and R-5-E Districts	§ 356
Community-based residential facility	Any R, SP, CR, C-1, or C-2 District, W-1, W-2, or W-3 Districts	§§ 218 - 221, 303 - 306, 335, 357 - 360, 513, 616, 711, 732, and 913
Community center building operated by local community organization	Any R District	§ 209
Community service center	R-4 and R-5 Districts	§§ 334 and 352
Convenience stores and personal services in apartment house	R-5 Districts	§ 354
District government use in former public school buildings.	R-1 District	§ 222
Electric substation	Any R, SP, or CR District, W-1, W-2, or W-3 Districts	§§ 207, 509, 608, and 907
Electronic Equipment Facility	C-3, C-4, USN, C-M, or M District	§§ 745, 756, 802.10 - 802.16, and 822.9 - 822.14
Excavation of clay, sand, or gravel	Any R or C District	§ 2505.3
Expansion of former public school buildings with District government uses, or other permitted uses.	R-1 District	§ 222
Extension of use, height, and bulk	Any District	§§ 107.8 and 2514.2
Fast food restaurant near Residence District	C-3-A District	§ 743.4
Floating home	W-0 District	§ 922.3 and §922.3

TYPE OF SPECIAL EXCEPTION	ZONE DISTRICT	SECTIONS IN WHICH THE CONDITIONS ARE SPECIFIED
FT Overlay District - setback, landscaping, and fencing	FT Overlay District	§ 1564
Gasoline service stations	C-1, C-2, C-3, and USN Districts	§§ 706, 726, and 743.1
Home occupation not specifically permitted or prohibited in § 203	R-1 District	§ 203.10
Hospital or clinic	CR, W-1, W-2, or W-3 Districts	§§ 606 and 906
Hotel or inn	SP District	§ 512
Intermediate materials recycling facility	C-M District	§ 802.3
Laboratory, research or testing	CR District	§ 613
Langdon Overlay - setback, landscaping, fencing, and parking requirements	LO Overlay District	§ 806.6
Laundry or dry cleaning establishment	C-2, C-3, C-4, C-5 (PAD), and USN District	§§ 729, 743.2(c), 753.1(b), and 761.2
Light manufacturing, processing, fabricating, or milling	CR, W-1, W-2, or W-3 Districts	§ 610 and 909
Loading berths - location and number	Downtown Urban Renewal Area and USN District	§ 2202.2
Loading berths - modification of access, maintenance, and operations standards	Any District	§ 2204.13
Marina	W-0 District	§ 922
Massage establishment	C-2, C-3, C-4, C-5 (PAD), USN, C-M, and M Districts	§§ 731, 743.3, 753.2, 761.2, 802.2, and 822.2
Mechanical parking garage	C-3 Districts	§ 743.1
Miscellaneous uses	CR or W Districts	§§ 618, 915 and 922
Motorcycle sales or repair	CR, C-2, C-3-A, and C-3-B Districts	§§ 614, 727, and 743.2
MW Overlay District - lot greater than 10,000 square feet	MW Overlay District	§ 1308.2

TYPE OF SPECIAL EXCEPTION	ZONE DISTRICT	SECTIONS IN WHICH THE CONDITIONS ARE SPECIFIED
Natural gas regulatory stations	Any R, SP, or CR District, W-1, W-2, or W-3 Districts	§§ 207, 509,608 and 907
Naval Observatory Precinct Overlay District - special exceptions	NO Overlay District	§ 1533
Neighborhood Commercial Overlay District - special exceptions	NC Overlay District	§ 1304
Nonconforming antenna - temporary replacement	Any District	§ 2001.12
Nonconforming use - change	Any District	§ 2003
Nonprofit organization use of existing residential building and land	Any R District	§ 217
Not-for-profit use in former public school buildings.	R-1 District	§ 222
Office building - construction, addition, or conversion	SP District	§ 508.1
Park operated by local community organization	Any R District	§ 209
Parking garage	R-5 and SP Districts	§§ 355 and 506
Parking garage on alley lot	R-4 and R-5 Districts	§§ 333 and 352
Parking lot	Any R or SP District	§§ 213 and 505
Parking lot on alley lot	R-4 and R-5 Districts	§§ 333 and 352
Parking lot standards	R-1, R-2, R-3, R-4, and R-5-A Districts and contiguous districts	§§ 2303.2 - 2303.5
Parking spaces - location and amount	Downtown Urban Renewal Area	§§ 2103.2 - 2103.6
Parking spaces - location of accessory spaces	Any District	§§ 214, 510, 708, 730, 743.2(d), 751.1(c), 761.2, 803.1, 824, 926.1 and 2116.5-2116.9

TYPE OF SPECIAL EXCEPTION	ZONE DISTRICT	SECTIONS IN WHICH THE CONDITIONS ARE SPECIFIED
Parking spaces - location, row dwellings	Any District	§ 2117.9(c)
Parking spaces - reduction or elimination for boathouses	W-0 District	§ 926.3
Parking spaces, nonresidential - reduction in required amount	Any District	§ 2108
Parking spaces, nonresidential - reduction in required amount outside Central Employment Area and with connection to Metrorail Station	Any District	§ 2107
Pet grooming establishment	Any C-2, C-3, C-4, USN, C-M, or M District	§§ 736, 802.25, and 822.20
Playground operated by local community organization	Any R District	§ 209
Prepared food shop with greater than eighteen seats for patrons	C-1, C-2-A	712
Private stable	Any R District	§ 208
Public recreation and community center	Any R, SP, CR, or W District	§§ 402.7, 403.3, 408.1, 531.2, 532.3, 538.1, 632.1, 634.4, 931.3, 932.4, 937.1, and 2001.13
Public school (not meeting the Requirements of Chapter 4).	Any R District	206
Public storage garage on alley lot	R-4 and R-5 Districts	§§ 333 and 352
Public utility pumping stations	Any R, SP, CR, or C District, USN, W-1, W-2, or W-3 Districts	§§ 207, 509, 608, 707, 728, 743.2(b), 753.1, 761.2, and 907
RC Overlay District - area and use restrictions	RC Overlay District	§ 1403
Rear yard requirements - waiver	C-3 or C-4 District	§ 774.2
Repair garage	C-2, C-3, and USN Districts	§§ 726.1 and 743.1

TYPE OF SPECIAL EXCEPTION	ZONE DISTRICT	SECTIONS IN WHICH THE CONDITIONS ARE SPECIFIED
Residential developments, new	R-5-A District	§ 353
Retail, service, arts and cultural uses as specified	W-0 District	§ 925
Roof structures - location, design, number, and all other regulated aspects	Any District	§§ 411.11, 537.1, 639.1, 777.1, 845.1, and 936.1
School - private school other than trade school	Any R District	§ 206
School - private school or trade school	W-1, W-2, or W-3 Districts	§ 912
School - residence for teachers and staff of private school	R-1, R-2, R-3, and R-4 Districts	§ 206
Sexually-oriented businesses	C-3, C-4, and C-5 (PAD) Districts	§§ 744, 754, and 761.2
Solid waste handling facility	C-M and M Districts	§§ 802.4 - 802.9 and 822.3 - 822.8
SSH Overlay District - nonresidential uses	SSH Overlay	§ 1553
Storage of wares and goods on alley lot	R-4 and R-5 Districts	§§ 333 and 352
Swimming pool operated by local community organization	Any R. District	§ 209
Telephone exchange	R4, R-5, SP, CR, and W-1, W-2, and W-3 Districts	§§ 332.1(b), 509, 608, and 907
TSP Overlay District - ground coverage and tree removal	TSP Overlay District	§ 1515
Veterinary boarding hospital	Any C-2, C-3, C-4, USN, C-M, or M District	§§ 738, 802.27, and 822.22
Warehouse use	CR, W-1, W-2, and W-3 Districts	§§ 611 and 910
Wholesale use	CR, W-1, W-2, and W-3 Districts	§§ 611 and 910
Yacht club	W-0 District	§ 923

Chapter 32, ADMINISTRATION AND ENFORCEMENT, § 3202, BUILDING PERMITS, Subsection 3202.3 is amended to authorize building permits to be issued for the construction of

structures in the USN District on air rights lots that are not record lots, so that the provision will read as follows:

- 3202.3 Except as provided in the building lot control regulations for Residence Districts in § 2516 and § 5 of An Act to amend an Act of Congress approved March 2, 1893, entitled “An Act to provide a permanent system of highways in that part of the District of Columbia lying outside of cities,” and for other purposes, approved June 28, 1898 (30 Stat. 519, 520, as amended; D.C. Official Code, 2001 Ed. § 9-101.05 (formerly codified at D.C. Code § 7-114 (1995 Repl.))), a building permit shall not be issued for the proposed erection, construction, or conversion of any principal structure, or for any addition to any principal structure, unless the land for the proposed erection, construction, or conversion has been divided so that each structure will be on a separate lot of record; except a building permit may be issued for:
- (a) Buildings and structures related to a fixed right-of-way mass transit system approved by the Council of the District of Columbia;
 - (b) Boathouse, yacht club, or marina that fronts on a public body of water, is otherwise surrounded by public park land, and is zoned W-0;
 - (c) Any combination of commercial occupancies separated in their entirety, erected, or maintained in a single ownership shall be considered as one (1) structure;
 - (d) Trapeze school and aerial performing arts center to be constructed pursuant to § 1804.7; and
 - (e) A structure in the USN District to be constructed on an air rights lot that is not a lot of record.

On March 14, 2011, upon the motion of Vice Chairman Schlater, as seconded by Commissioner Selfridge, the Zoning Commission **APPROVED** this Petition at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Konrad W. Schlater, Peter G. May, and Greg M. Selfridge to approve; Michael G. Turnbull to approve by absentee ballot).

On April 25, 2011, upon the motion of, as seconded by, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Konrad W. Schlater, Peter G. May, Greg M. Selfridge, and Michael G. Turnbull to approve).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on June 3, 2011.



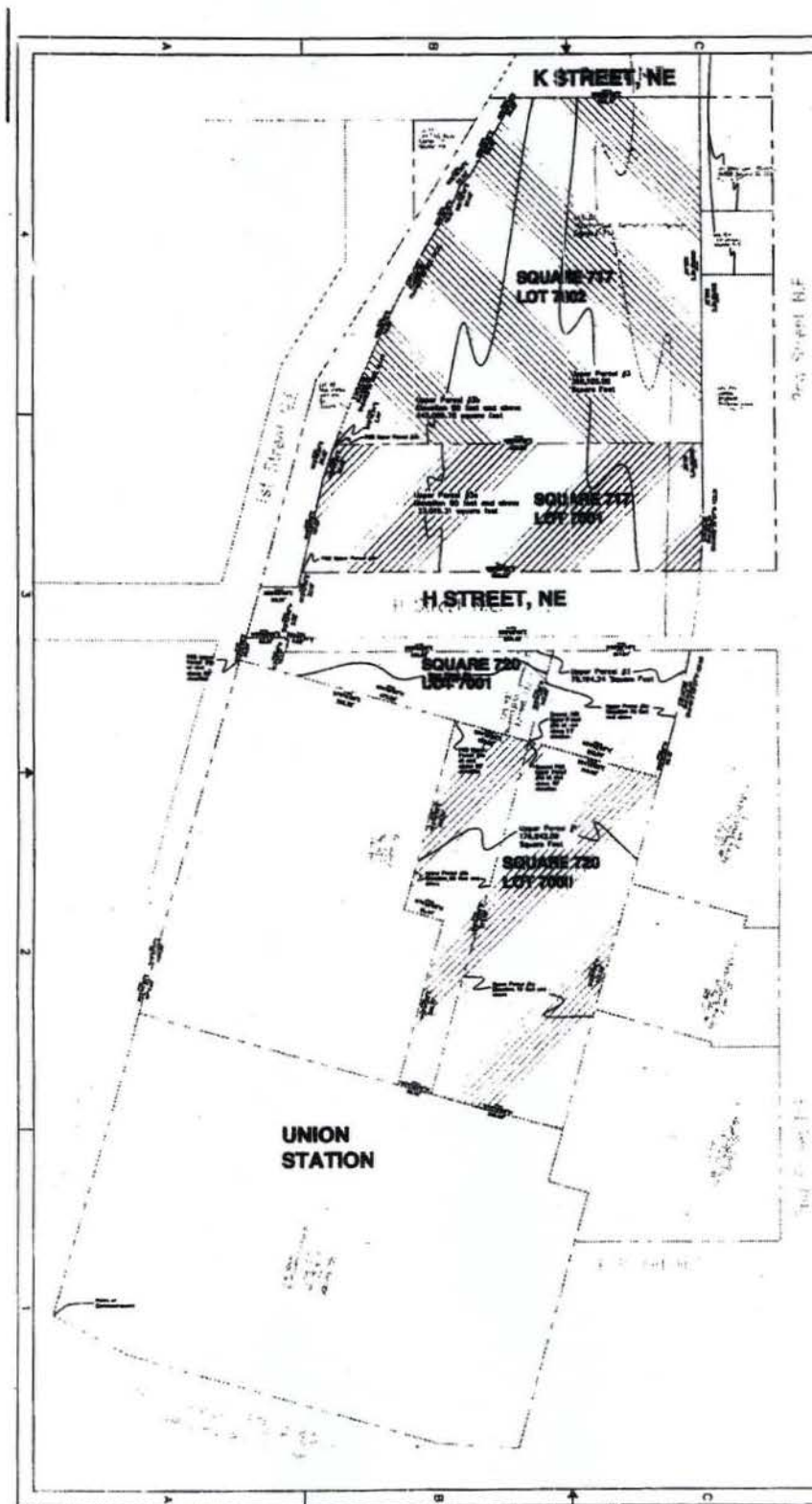
ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



JAMISON L. WEINBAUM
DIRECTOR
OFFICE OF ZONING

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PROPOSED RULEMAKING
AND
ZONING COMMISSION ORDER NO. 09-21
Z.C. Case No. 09-21
(Text and Map Amendments to Establish the Union Station North District)
April 25, 2011**

The full text of this Zoning Commission Order is published in the "Final Rulemaking" section of this edition of the *D.C. Register*.



GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



Z.C. CASE NO.: 09-21

As Secretary to the Commission, I hereby certify that on JUN 3 2011 copies of this Z.C. Order No. 09-21 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

- | | |
|--|---|
| 1. <i>D.C. Register</i> | 6. DDOT (Martin Parker) |
| 2. ANC 6C
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Washington, DC 20013 | 7. Melinda Bolling, Acting General Counsel
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1100 4 th Street, SW
Washington, DC 20024 |
| 3. Commissioner M. Tony Richardson
ANC/SMD 6C05
921 2 nd Street, NE
Washington, DC 20002 | 8. Office of the Attorney General (Alan Bergstein) |
| 4. Gottlieb Simon
ANC
1350 Pennsylvania Avenue, NW
Washington, DC 20004 | 9. Robert McKeon, Acting Director
for Real Property Taxes
D.C. Assessor's Office
1100 4 th Street, SW 5 th Floor
Washington, DC 20024 |
| 5. Councilmember Tommy Wells | |

ATTESTED BY: 
Sharon S. Schellin
Secretary to the Zoning Commission
Office of Zoning