

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



Z.C. CASE NO.: 09-21

FEB 23 2010

As Secretary to the Commission, I hereby certify that on _____ copies of this Z.C. Notice of Rescheduled Public Hearing were mailed first class, postage prepaid or sent by inter-office government mail to the following:

- | | |
|---|--|
| 1. D.C. Register | 8. Melinda Bolling, Acting General Counsel
DCRA
941 North Capitol Street, N.E.
Suite 9400
Washington, D.C. 20002 |
| 2. Karen Wirt, Chair
ANC 6C
P.O. Box 77876
Washington, DC 20013 | 9. Office of the Attorney General (Alan
Bergstein) |
| 3. Commissioner M. Tony Richardson
ANC/SMD 6C05
921 2nd Street NE
Washington, DC 20002 | 10. MLK Library (30 Copies) |
| 4. Gottlieb Simon
ANC
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004 | 11. Councilmember Vincent Gray |
| 5. Councilmember Tommy Wells | 12. Councilmember Michael Brown |
| 6. Office of Planning (Harriet Tregoning) | 13. Councilmember David Catania |
| 7. DDOT (Karina Ricks) | 14. Councilmember Phil Mendelson |
| | 15. Councilmember Kwame Brown |

ATTESTED BY:

Sharon S. Schellin
Secretary to the Zoning Commission
Office of Zoning

ZONING COMMISSION
District of Columbia

CASE NO. 09-21

EXHIBIT NO. 7

441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001

Telephone: (202) 727-6311

Facsimile: (202) 727-6072

E-Mail: dcoz@dc.gov

Web Site: www.dcoz.dc.gov

CASE NO. 09-21
EXHIBIT NO. 7

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF RESCHEDULED¹ PUBLIC HEARING**

TIME AND PLACE: Thursday, May 13, 2010, @ 6:30 p.m.
Office of Zoning Hearing Room
441 4th Street, N.W., Suite 220-South
Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 09-21 (Text and Map Amendment to Create and Implement the Union Station North (USN) District)

THIS CASE IS OF INTEREST TO ANC 6C

On December 8, 2009, the Office of Planning filed a memorandum that served as a petition requesting amendments to the Zoning Regulations. The proposed text and map amendments would permit and guide development of the air rights over the railroad tracks north of Union Station.

The Zoning Commission set down this case for a public hearing on December 14, 2009. The Office of Planning's memorandum served as its prehearing statement.

SUMMARY

The Office of Planning proposes to create a new stand-alone zone called Union Station North, or USN. USN would 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 would also establish a Zoning 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. The Office of Planning also proposes related text amendments to achieve the purposes of the USN zone and to properly administer applications submitted pursuant to the new zone. The proposed zone would only be applicable from the elevation of the air-rights lots and above. Most of the area of the air-rights lots begins at an elevation of 80 feet above sea level and a smaller percentage begins at 70 feet above sea level. The land below the air-rights lots would retain its C-M-3 and M zoning. The following summarizes some of the specific points of the new zone.

The following paragraphs have been provided by the Office of Planning.

Purposes of the New Zone

In addition to achieving the goals of the Comprehensive Plan, the main objective of guiding the USN zone is to reconnect the city from east to west. Development on the air-rights lots should take whatever steps possible to reconnect this part of the city. This sentiment is further

¹ This case was originally scheduled for a hearing on March 15, 2010.

recognized by other purposes of the zone that call for an active streetscape, a mix of uses and a walkable environment. Another important purpose of the USN zone is to ensure that new development relates positively to its surroundings. Development on the subject site should minimize impacts to other properties, including light, air, noise and odor impacts.

Union Station Platform

Two platforms will be built over the railroad tracks to support the buildings to be built above the tracks. One platform will be built south of H Street and one north of H Street. Collectively they are known as the Union Station Platform or platform.

Single Buildings for Zoning Purposes

Over a 14 acre site with only one public street – H Street – crossing it, there are likely to be building pads that do not front on a public street, although the platform that connects them would. The USN zone, therefore, would recognize all interconnected structures south of H Street as one building, and all interconnected structures north of H Street as one building, regardless of whether there is communication between the structures above the level of the platform. This would allow all “building units” to be considered to front on H Street.

Height

The USN zone proposes to measure height from the level of the H Street sidewalk in front of the buildings, in conformance with the Height Act. The maximum proposed height is 130 feet.

FAR and Mix of Uses

The USN zone provides for a maximum density of 6.5 FAR for any single building. The zone also puts a strong emphasis on a mix of uses, including residential. The Office of Planning proposes Zoning Commission review criteria that would promote a mix of uses, and a specific requirement for the phasing of residential uses during build out of properties in the USN zone.

Design Review

The proposed text amendment calls for Zoning Commission design review of any buildings, structures, parks or plazas in the USN zone. Design review applications could be a Stage 1, Stage 2, or Consolidated application, with the scope of those applications similar to their PUD counterparts, and with specific review criteria to guide evaluations. A Stage 1 application would examine the arrangement of building units on the site, the massing of building units, the mix of uses, the size and layout of streets and other transportation ways, and the functioning of parking and loading. A Stage 2 application would examine the outward appearance of building units, the design of landscape and hardscape areas, the functionality of transportation ways and the internal

layout of uses. A Consolidated application would examine all aspects of design using all the evaluative criteria. Applications could be for either a portion of the site or the entire subject property.

PROPOSED MAP AMENDMENT

Rezone from C-M-3 and M to USN the air rights lots known as Square 717, Lots 7001 and 7002 and Square 720, Lots 7000 and 7001.

PROPOSED TEXT AMENDMENT

Title 11 DCMR (Zoning) is proposed to be amended as follows:

Add a new Chapter 29, "Union Station North (USN) District"

CHAPTER 29 UNION STATION NORTH (USN) DISTRICT

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 described in the official records of the District Recorder of Deeds:

- (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 ("the platform"). Pursuant to §§ 2913 and 2914, some uses, including, but not limited to, parking, loading, mechanical, retail, office or residential may occur within the platform.

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 of H Street, N.E., between 1st and 2nd Streets, NE, 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;
- (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, and appropriate site layout and building design.

2903 THE UNION STATION PLATFORM

- 2903.1 The buildings to be erected within the USN will be supported by two platforms erected above the existing tracks and separated by H Street, N.E. (the "Platforms" or the "Union Station Platform").
- 2903.2 In addition to providing structural support, the Platforms may house mechanical equipment, parking areas, and non-residential, residential and retail uses permitted by §§ 2913 and 2914.
- 2903.3 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 structure.

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 other than through 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 130 feet.
- 2905.2 **The measurement of building height** may be taken from the elevation of the sidewalk on the H Street bridge at the middle of the front of the buildings, 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 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 5.5, except that until 0.5 FAR of residential uses have been developed, as evidenced by a certificate or certificates of occupancy, the maximum non-residential FAR for the entire USN District is 3.0 FAR.

2908.2 The minimum residential FAR may be apportioned between the building north of H Street and the building south of H Street, provided that the aggregate residential floor area is not decreased.

2909 COMPUTATION OF FAR

2909.1 Computation of the maximum FAR for each building shall be determined by multiplying 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 FAR for the entire USN shall be determined by multiplying 3.0 or 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 7001 and 7000 in Square 720.
- 2909.5 Lot area shall not include private rights-of-way that generally serve the principal entrances to building units. For the purposes of this section such private rights-of-way shall consist of the curb-to-curb width of the roadway plus 16 feet on each side.
- 2909.6 Notwithstanding § 2909.5, lot area shall include private rights-of-way that generally provide access to service, loading or automobile parking areas.
- 2909.7 Until the areas to be excluded from FAR computation are known:
- (a) Lot area for the purposes of determining the maximum FAR permitted for a single building by § 2907 shall be deemed to equal 85% of the total area of its lot as described in 2909.3 or 2909.4, as applicable; and
 - (b) Lot area for the purposes of determining the minimum residential use and maximum non-residential uses pursuant to § 2908 shall be deemed to equal 85% of the combined lot areas of the two lots described in §§ 2909.3 and 2909.4.
- 2909.8 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 a platform.

2910 BICYCLE PARKING

- 2910.1 Bicycle Parking shall be provided as follows:

Type of use	Indoor Spaces	Outdoor spaces
Residential	One (1) for every three (3) units	One (1) for every twenty (20) units, with a minimum of two (2)

Non-residential	One (1) for every 10,000 square feet of gross floor area, with a minimum of two (2)	One (1) for every 40,000 square feet of gross floor area, with a minimum of two (2)
Retail/service	One (1) for every 10,000 square feet of gross floor area, with a minimum of two (2)	One (1) for every 5,000 square feet of gross floor area, with a minimum of two (2)

- 2910.2 All bicycle parking areas 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 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 ft.²) 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 bicycle parking space.
- 2910.8 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 parking spaces required in the USN District.
- 2911.3 Any parking spaces provided shall be a minimum of eight feet (8 ft.) in width and sixteen feet (16 ft.) in length exclusive of access drives, aisles, ramps, columns and office and work areas.

2911.4 When parking spaces are so arranged that an aisle is required for accessibility or maneuvering space between rows of two (2) or more parking spaces, or between a row of two (2) or more parking spaces and the perimeter of the area devoted to parking spaces, the aisle shall have a clear width of not less than twenty feet (20 ft.) for ninety degree (90°) angle parking, and not less than sixteen feet (16 ft.) for angle parking that is sixty degrees (60°) or less as measured from the center line of the aisle.

2911.5 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 good 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 condition 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 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.

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 or space required to be devoted to fire control.

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

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

2916.4 Retail, service and arts uses on the ground floor of building units shall have a minimum slab to slab height of 14 feet.

2917 ZONING COMMISSION REVIEW

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 An application may request approval of one or more building units, structures or open spaces, or of an entire single building.

2917.3 An applicant may either request consideration of the application in two stages or through a consolidated review.

- 2917.4 A Stage 1 Review will examine the arrangement of building units on the site, the general massing and height of building units, the mix of uses, the location of transportation ways, as defined in § 2900.5, the size of streets, the location of open spaces, access to and from the platform, and how these aspects of the site design implement the goals of the USN District, in accordance with the Review Criteria of § 2920.
- 2917.5 A Stage 2 Review will examine for the outward appearance of building units, the design of landscape and hardscape, the functionality of transportation ways, the general location of uses, and how these aspects of the design and architecture implement the goals of the USN District, in accordance with the Review Criteria of § 2922.
- 2917.6 A Consolidated Review will examine all the aspects of design mentioned in §§ 2917.4 and 2917.5 of this subsection, in accordance with the review criteria of §§ 2920 and 2922.
- 2917.4 The Commission may only approve an application that is not inconsistent with the Comprehensive Plan, provides for a mix of uses, is acceptable in a majority of other applicable Review Criteria, generally furthers the purposes of the USN District, and complies with all other requirements of this chapter.

2918 AGENCY REVIEW

- 2918.1 The Office of Zoning shall refer the application to the Office of Planning, the Department of Transportation, Fire and Emergency Services, the Department of the Environment and any other relevant District agencies for review and comment.

2919 STAGE 1 SUBMITTAL REQUIREMENTS

- 2919.1 An applicant requesting approval of a Stage 1 Review Application shall provide:
- (a) A completed application form, as may be authorized from time-to-time by the Director of the Office of Zoning;
 - (b) A written description of the proposal, including which criteria are met and how;
 - (c) Site plans, elevations, renderings, photosimulations, aerial axonometric massing diagrams, or any other suitable materials necessary to describe the project;

- (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;
- (e) A comprehensive transportation assessment for the development under consideration, addressing pedestrian, bicycle, transit and automobile capacity and circulation;
- (f) The area and dimensions of each lot proposed for each building unit and the exact area of the application site;
- (g) 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;
- (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 unique character and problems of developing the projects.

2920 STAGE 1 REVIEW APPLICATIONS

2920.1 An applicant for a Stage 1 Review shall provide information demonstrating how the application meets the following criteria:

- (a) **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. A Stage 1 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.;
- (b) **Visual Relationship to Surroundings** – Provide a suitable 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, with particular attention paid to the eastern portion of the property north of Eye Street, N.E. The application should also generally indicate what types of materials would be used on

the portions of the exterior of the platform constructed pursuant to § 2917.2 that would be visible to the public;

- (c) **Transportation Hierarchy** – Prioritize the movement of pedestrians, bikes and transit, and provide reasonable accommodation for automobiles. The location of parking and loading access shall not unduly impact the movement of pedestrians and bicyclists;
- (d) **Division of Building Form** – Avoid monolithic buildings or the creation of excessively large building blocks. Building unit massing and orientation should reflect the pattern of other development in the District. Provide division between building units through the use of streets, sidewalks, paths, plazas and parks, with a main multi-modal access point to both buildings from H Street N.E.;
- (e) **Publicly Accessible Space** – Any public space provided such as parks or plazas shall be easily visible and accessible;
- (e) **Mix of Uses** – The application shall demonstrate how the proposal contributes to an overall mix of uses in the USN District;
- (f) **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; and
- (g) **Building Livability** – Mitigate vibration and noise caused by the movement of trains under residential buildings.

2920.2 Upon approval of a Stage 1 Review Application, the applicant may apply for a building permit to construct any portion of the platform related to that Stage 1 Review Application.

2920.3 An applicant must return to the Commission for review and approval of a Stage 2 Review Application or Consolidated Review Application prior to applying for a building permit or beginning construction for any other portion of the approved Stage 1 Review Application.

2921 STAGE 2 SUBMITTAL REQUIREMENTS

2921.1 An applicant requesting approval of a Stage 2 Review Application shall provide:

- (a) Information required in § 2919.1;

- (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; and
- (e) A list of environmental features and characteristics of the development.

2922 STAGE 2 REVIEW CRITERIA

2922.1 An applicant for a Stage 2 Review shall provide information demonstrating how the application meets the following criteria:

- (a) External connections are designed to provide adequate size, materials, lighting and signage to move users easily and safely;
- (b) A suitable visual relationship is proposed between building units and adjacent neighborhoods, Union Station and other historic landmarks, and the Federal precincts near the Capitol and the Supreme Court, with particular attention paid to the eastern portion of the property north of Eye Street, N.E.;
- (c) Public and publicly accessible areas such as sidewalks, parks and plazas are activated through the use of operational entrances to retail, office, residential and other uses;
- (d) Visual Façade Permeability is provided. 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, minimize, to the extent possible, unarticulated blank walls;
- (e) A high degree of environmental stewardship is demonstrated; Characteristics may include, but not be limited to the following:
 - (1) Onsite energy generation;
 - (2) Rainwater harvesting;

- (3) Green roofs, including green spaces on the upper surface of the platform;
 - (4) Other landscaping on the upper surface of the platform such as rainwater capturing tree boxes;
 - (5) Use of native species, drought tolerant species, adequate planting depth and efficient irrigation in landscaping;
 - (6) Use of efficient plumbing fixtures and fittings, enhanced insulation and cool roofing;
 - (7) Use of environmentally friendly products in construction and operation;
 - (8) Natural lighting, including large windows, light wells and skylights;
 - (9) Natural ventilation, including balconies, terraces, operable windows and vent shafts; and
 - (10) Minimizing construction waste.
- (f) Residential uses shall incorporate private open space such as balconies and terraces for individual units where practical and architecturally compatible;
 - (g) Public and private open spaces shall incorporate shaded areas and adequate seating capacity;
 - (h) Adequate light and air is provided to all building units in the USN District; and
 - (i) Convenient access is provided from any parking provided to the uses it is intended to serve.

2923 ASSOCIATED RELIEF

2923.1 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.

2923.2 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 purpose of establishing a mix of uses.

2923.2 The Zoning Commission may hear and decide any additional request for special exception or variance relief for the subject property.

2923.3 Request for relief shall be advertised, heard and decided together with the application for Zoning Commission review and approval.

2924 TIMEFRAME FOR APPROVAL

2924.1 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.

2925 MINOR MODIFICATIONS

2925.1 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.

2926 SCHEDULE OF FEES

2926.1 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.

OTHER AMENDMENTS TO THE ZONING REGULATIONS

- To indicate that the USN District is subject to Inclusionary Zoning and the bonus density granted pursuant to that requirement, amendments to Chapter 26 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

- 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, USN, CR, R-5-C, R-5-D, SP, W-2 or W-3- zone district shall devote the greater of 8% of the gross floor area being devoted to residential use or 50% of the bonus density utilized for inclusionary units.
- 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 100% of inclusionary units for eligible moderate-income households.
- To declare that applications pursuant to Chapter 29 would be contested cases, an amendment to § 3010.2(d) as follows:

3010.2(d) Applications for Zoning Commission review and approval pursuant to Chapters 16, ~~and 18~~ and 29 of this Title.
 - To clarify that applications pursuant to Chapter 29 should be scheduled for a hearing upon receipt by the Office of Zoning, an amendment to § 3011.1 as follows:

3011.1 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 applications for Zoning Commission review and approval pursuant to Chapters 16, ~~and 18~~ 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 § 1606 unless accompanied by a written report of the Office of Planning certifying that the application is compliant with the standards of that section.
 - To clarify that upon receipt by the Office of Zoning, an application pursuant to Chapter 29 should be referred to the Office of Planning, an amendment to § 3012.1 as follows:

3012.1 As soon as an application or petition is set down for public hearing, the matter shall be referred to the D.C. Office of Planning and any other public agencies that may be requested to provide information and assistance, depending on the nature of the case. As soon as an application requesting Zoning Commission review and approval pursuant to Chapters 16, ~~and 18~~ 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 all Chapter 18 applications and those application for approval pursuant to 11 DCMR § 1603; and
 - (b) The Capitol Police Board for those applications for approval pursuant to 11 DCMR § 1606.18.
- To declare that a building permit may be issued for a structure in the USN District, even if that structure is not on a record lot, an amendment to § 3202.3 as follows:

[Note: The following is the text from Z.C. Order No. 09-09, the Trapeze School.]

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. 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.

- To include the Union Station North (USN) Districts in the list of Zone Districts, an amendment to § 105.1 as follows:

(s) Union Station North (USN)

- To allow for parking spaces to be provided on different lots, an amendment to § 2116.1 as follows:

2116.1 Except as provided in §§214, 510, 708, 730, 743.2(d), 753.1(c), 761.2, 803.1, 926, 2116.5, ~~and 2117.9(c)~~ **and 2901.7**, all parking spaces shall be located on the same lot with the buildings or structures they are intended to serve.

- Chapter 31, § 3104.1 is amended by inserting the zone district designation “USN” into the chart appended to § 3104.1, so that the revised chart will read 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
Adult day treatment facility	R-1, R-2, and R-3 District	§205
Animal Boarding	Any C-2, C-3, C-4, <u>USN</u> , C-M or M District	§§ 721.7, 721.8, 735, 736, 802.21 and 822.14
Animal shelter	Any C-2, C-3, or C-4 <u>or USN</u> District	§739
Athletic field operated by local community organization	Any R District	§ 209

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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
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

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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, <u>USN</u> , 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
FT Overlay District - setback, landscaping, and fencing	FT Overlay District	§ 1564
Gasoline service stations	C-1, C-2, and C-3 , <u>and USN</u> Districts	§§ 706, 726, and 743.1
Home occupation not specifically permitted or prohibited in § 203	R-1 District	§ 203.10

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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, and C-5 (PAD), <u>and</u> <u>USN</u> 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 <u>and USN District</u>	§ 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), <u>USN</u> , 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
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

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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
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

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Parking spaces, nonresidential - reduction in required amount outside Central Employment Area and with connection to Metrorail Station	Any District	§ 2107
Playground operated by local community organization	Any R District	§ 209
Pet grooming establishment	Any C-2, C-3, C-4, <u>USN</u> , C-M, or M District	§§736, 802.25, and 822.20
Pet shop	Any C-2, C-3, C-4, <u>USN</u> , C-M, or M District	§§737, 802.26, and 822.21
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, <u>USN</u> , 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, and C-3, and <u>USN</u> Districts	§§ 726.1 and 743.1
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

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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), <u>and</u> <u>USN</u> 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, <u>USN</u> , 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

Proposed amendments to the Zoning Regulations and Map of the District of Columbia are authorized pursuant to the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01 *et seq.*)

The public hearing on this case will be conducted as a rulemaking in accordance with the provisions of § 3021. The Commission will impose time limits on testimony presented to it at the public hearing.

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All individuals, organizations, or associations wishing to testify in this case should file their intention to testify in writing. Written statements, in lieu of personal appearances or oral presentations, may be submitted for inclusion in the record.

Information should be forwarded to the Secretary of the Zoning Commission, Office of Zoning, Suite 200/210-S, 441 4th Street, N.W., Washington, D.C. 20001. Please include the number of the particular case and your daytime telephone number. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

ANTHONY J. HOOD, WILLIAM W. KEATING, III, KONRAD W. SCHLATER, PETER G. MAY, AND MICHAEL G. TURNBULL ——— ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY JAMISON L. WEINBAUM, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION.