

NOTICE OF PROPOSED RULEMAKING

Z.C. CASE NO. 23-27

Office of Planning

(Zoning Text and Map Amendments to Create the Navy Yard East Zone – NYE Zone; and to Zone the Unzoned Navy Yard East Site with IZ @ Square 955, Lots 804-809)

The Zoning Commission for the District of Columbia (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 (2018 Repl.), and pursuant to § 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2505(c) (2016 Repl.)), hereby gives notice of its intent to amend the Zoning Map to create and map a proposed new Navy Yard East (NYE) zone and to amend the following sections of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, Zoning Regulations of 2016, to which all references are made unless otherwise specified), with the proposed text at end of this notice.

The proposed text amendments would do the following to create a new NYE zone:

- Amend Subtitle A § 101, INTERPRETATION AND APPLICATION, to add the proposed new NYE zone to the list of mixed use zones;
- Amend Subtitle B, Chapter 318, RULES OF MEASUREMENT FOR REAR YARD, to reference the proposed new NYE zone;
- Amend Subtitle C, Chapter 10, INCLUSIONARY ZONING, to add references to the proposed new NYE zone to the Inclusionary Zoning (IZ) provisions;
- Amend Subtitle K to add a new Chapter 13, NAVY YARD EAST (NYE) ZONE, to add the proposed new NYE zone;
- Amend Subtitle W, Chapter 1, BOUNDARIES, to add a new § 125 describing the area where the new NYE zone would be applied; and
- Amend Subtitle X § 502, INCLUSIONARY ZONING PLUS, to add a reference to the proposed new NYE zone as exempt from IZ Plus.

Setdown

On December 4, 2023, the Office of Planning (OP) filed a report that served as a petition requesting amendments to the Zoning Regulations and Map (OP Report). (Exhibit [Ex.] 2) The area covered by the proposed text and map amendments is unzoned land owned by the United States Department of the Navy (Navy) and consists of approximately 15 acres (approximately 653,400 sq. ft.) in the southeast corner of the Washington Navy Yard, also known as the O Parcels (the Property).

At its December 14, 2023 public meeting, the Commission voted to set down the proposed text and map amendments for a public hearing as a rulemaking case. The OP Report served as the pre-hearing filing required by Subtitle Z § 501.

After the original petition was setdown on December 14, 2023, OP continued its collaboration with the Navy, the National Capital Planning Commission (NCPC), and the District of Columbia (District) to finalize the Washington Navy Yard Southeast Corner Master Plan (Master Plan), and to refine the zoning text to be consistent with the approved Master Plan and the Section 106 Programmatic Agreement.

On April 22, 2024, the Navy, NCPC, and the District entered into a Memorandum of Understanding (MOU) which outlines the Master Plan and the zoning process to ensure that all legal authorities are met, and that the Navy has a predictable process for updating the Master Plan and implementing development of the O Parcels through zoning.

On September 12, 2024, the Commission re-setdown the proposed text and map amendments originally proposed by OP to include amendments to the text based on the MOU. Primarily, the revisions to the originally proposed text amendments consist of the following:

- The proposed new NYE zone would not be subject to IZ Plus, as originally proposed. Instead, the proposed new zone would require an IZ set-aside of eight percent (8%) of gross floor area for residential rental dwelling units and an IZ set-aside of eight percent (8%) gross floor area for any residential penthouse habitable space. The MOU includes an additional seven percent (7%) rental IZ subject to Low Income Housing Tax Credits (LIHTC) and/or Housing Production Trust Fund (HPTF) funding; and eight percent (8%) of ownership gross floor area shall be set aside for Disabled Veterans outside of the IZ program;
- Require that any portion of a building exceeding one hundred ten feet (110 ft.) shall provide a 1:1 step back at one hundred ten feet (110 ft.) from the building lot line along Parsons Avenue, S.E.;
- Require a projection clearance of forty feet (40 ft.) minimum above which projections and open and unenclosed balconies may be a depth no more than fifteen feet (15 ft.);
- Require enclosed projections of no more than fifteen feet (15 ft.) deep for no more than fifty percent (50%) of a building façade;
- Add references to the Master Plan; and
- Other minor clarifications.

The revised amendments are submitted in the OP Supplemental Report and the accompanying MOU. (Ex. 2A, 4.) On December 2, 2024, OP filed a hearing report in support of the Petition (OP Hearing Report). (Ex. 11)

Notice

Pursuant to Subtitle Z § 502, the Office of Zoning (OZ) sent notice of the December 12, 2024 public hearing, on October 17, 2024, and published notice of the public hearing in the October 18, 2024, *District of Columbia Register* as well as on the calendar on OZ's website. (Ex. 7-9.)

Comments

Prior to the December 12, 2024 public hearing, the Commission received comments and written testimony in the record including several letters in support of the proposal and a letter in opposition from The Committee of 100. (Ex. 5, 13-16, 18, 19) The Committee of 100 raised the following issues regarding the proposal:

- The Petition's proposal to require an eight percent (8%) set-aside for IZ in the NYE zone is too low. Instead, The Committee of 100 urged the Commission to require an IZ set-aside of at least twenty percent (20%) in the new NYE zone. While the MOU contemplates an additional seven percent (7%) set-side for rental IZ subject to LIHTC and/or HPTF

funding, The Committee of 100 stated this is an illusory promise given funding constraints and would nevertheless be objectionable since it would concentrate affordable housing in a single building and would at most result in a total set-aside of fifteen percent (15%); and

- The new NYE zone misapplies the Height Act and would result in inappropriately tall buildings next to the Navy Yard National Historic Landmark District, where the tallest buildings range from twenty-five (25) to thirty-five (35) feet high. The Committee of 100 stated that the NYE zone's proposed maximum height of one hundred ten feet (110 ft.) to one hundred thirty feet (130 ft.) is excessive, and urged the Commission to limit heights in the new NYE zone to ninety feet (90 ft.) with step backs. The Committee of 100 also argued that the properties subject to the new NYE zone should have a frontage on O Street instead of 11th Street, which would result in a lower maximum height and setbacks that are more compatible with the National Historic Landmark District and proportionate to adjacent streets.

OP Reports

The OP Report and the OP Hearing Report (hereinafter, the OP Reports) concluded that the proposal would not be inconsistent with the Property's designation on the Future Land Use Map of the Comprehensive Plan as Federal or its designation on the Generalized Policy Map of the Comprehensive Plan as Federal Lands and within a Resilience Focus Area. The OP Reports also concluded that the proposal would not be inconsistent with the Comprehensive Plan, on balance, including when viewed through a racial equity lens, and would further policies of the Land Use, Transportation, Housing, Environmental Protection, Economic Development, Parks Recreation and Open Space, Urban Design, and Historic Preservation Elements, and the Lower Anacostia Waterfront and Near Southwest Area Element. The OP Reports included Disaggregated Race and Ethnicity data for the Lower Anacostia Waterfront and Near Southwest Planning Area showing population growth over the 2012-2016 and 2018-2022 time periods, resulting in demand for housing and services. OP concluded that the provision of housing units on the currently unzoned Property where housing is not permitted has the potential to increase the housing supply in the Planning Area for a variety of household sizes and income levels, including lower-income households, and alleviate housing costs burdens overall. The OP Reports noted that the proposal would not result in direct displacement as there are no residential uses or business uses on the Property. (Ex. 2, 11) The OP Hearing Report included a discussion of OP's community outreach and engagement regarding the proposal, which included public notices and announcements, community meetings, a dedicated website, and ANC Commissioner tours for ANCs 8F and 6B along with hosting six ANC meeting between the two ANCs. (Ex. 11)

The OP Reports also concluded that the proposal would further the Anacostia Waterfront Initiative goal to establish a continuous Riverwalk; and the Master Plan goal for future residential, office and commercial uses on the 15-acre Property with redevelopment of new buildings of between one hundred ten feet (110 ft.) to one hundred thirty feet (130 ft.) in height, noting that existing historic structures range in height between twenty-five (25) to fifty-five (55) feet. (Ex. 2, 11)

Public Hearing

At its December 12, 2024 public hearing, the Commission heard testimony from OP in support of the Petition. The Commission also heard testimony from The Committee of 100 in opposition to the Petition for the reasons summarized above.

In response to the issues raised by The Committee of 100, OP testified that a higher affordable housing set-aside should not apply to the new NYE zone because the site is a unique property owned by the US Navy but to be developed by a private developer. The property is subject to both federal planning and local zoning and will have, in conjunction with IZ, deeper affordable housing requirements as outlined in the MOU, including an eight percent (8%) set-aside for disabled veterans and a seven percent (7%) set-aside subject to LIHTC/HPTF funding. Furthermore, OP testified that the maximum heights specified for the new zone are in accordance with the Height Act. OP noted that O Street cannot be used to measure height as a frontage because it is a private street. Furthermore, the Zoning Administrator is the arbiter of the Height Act and has determined that the subject properties' frontage is properly on 11th Street.

“Great Weight” to the Recommendations of OP

The Commission must give “great weight” to the recommendations of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.)) and Subtitle Z § 504.6. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016))

The Commission finds persuasive OP’s recommendation that the Commission take proposed action to adopt the Petition, as revised to include text based on the MOU, and concurs in OP’s judgment.

“Great Weight” to the Written Report of the ANC

The Commission must give great weight to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.)) and Subtitle Z § 505.1. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)) The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted))

ANC 6B filed a written report at in response to the Petition, stating that at its regularly scheduled and properly noticed meeting on October 8, 2024, with a quorum present, the ANC voted 8-0-0 in support of the proposal. (Ex. 20) The ANC 6B report does not cite any issues and concerns.

ANC 8F did not submit a response to the Petition to date.

Proposed Action

At the December 12, 2024 public hearing, summarized above, the Commission questioned OP and The Committee of 100, including questions on the development standards/requirements and the design review criteria for the proposed new NYE zone.

At the close of the December 12, 2024 public hearing, the Commission voted to take **PROPOSED ACTION** to adopt the Petition, as revised by OP to include text based on the MOU, and to authorize the publication of a Notice of Proposed Rulemaking:

VOTE (December 12, 2024): 3-0-2 (Gwen Marcus Wright, Tammy Stidham, and Anthony J. Hood to **APPROVE**; Robert E. Miller and Joseph Imamura not present, not voting)

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the *District of Columbia Register*. Comments should include the Case No. and be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, through the Interactive Zoning Information System (IZIS) at <https://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Ms. Schellin may be contacted by telephone at (202) 727-6311 or by e-mail at Sharon.Schellin@dc.gov. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.

Final rulemaking action shall be taken not less than thirty (30) days from the date of publication of this notice of proposed rulemaking in the *District of Columbia Register*.

The complete record in the case can be viewed online at the Office of Zoning's Interactive Zoning Information System (IZIS), at <https://app.dcoz.dc.gov/Content/Search/Search.aspx>.

PROPOSED ZONING MAP AMENDMENT

The proposed amendments to the Zoning Map are as follows:

Square	Lot(s)	Rezone From	Rezone To
955	804, 805, 806, 807, 808, & 809	Unzoned	NYE

PROPOSED TEXT AMENDMENT

The proposed amendments to the text of the Zoning Regulations are as follows: Proposed changes to current Zoning Regulations is shown in **bold underline** text, and deletions from existing text are shown in ~~**bold strikethrough**~~ text, with the exception of the proposed new Subtitle K Chapter 13, which is all new text so is shown **without** the bold and underline for ease of reading.

I. CHANGES TO SUBTITLE A, AUTHORITY AND APPLICABILITY ARE PROPOSED AS FOLLOWS:

Subsection 101.10 of § 101, INTERPRETATION AND APPLICATION, of Chapter 1, INTRODUCTION TO TITLE 11, of Subtitle A, AUTHORITY AND APPLICABILITY, is

proposed to be amended by adding a new § 101.10(f) and renumbering §§ 101.10(f)-(k) to §§ 101.10(g)-(l) as follows:

101.10 The following zones are considered mixed-use zones, or special purpose zones:

...¹

(f) Navy Yard East (NYE) zones;

(fg) Neighborhood Mixed-Use (NMU) zones;

(gh) North Howard Road (NHR) zone;

(hi) Southeast Federal Center (SEFC) zones;

(ij) Saint Elizabeths East Campus (StE) zones;

(jk) Union Station North (USN) zones; and

(kl) Walter Reed (WR) zones.

II. CHANGES TO SUBTITLE B, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES ARE PROPOSED AS FOLLOWS:

Subsection 318.7 of § 318, RULES OF MEASUREMENT FOR REAR YARDS, of Chapter 3, GENERAL RULES OF MEASUREMENT, of Subtitle B, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES, is proposed to be amended as follows:

318.7 In the case of a corner lot in the MU-1, MU-2, MU-8, MU-9, MU-15, NMU-8B/H-H, ~~and~~ CG-3, **and NYE** zones, a court complying with the width requirements for a closed court as applicable for each zone may be provided in lieu of a rear yard. For the purposes of this section, the required court shall be provided above a horizontal plan beginning not more than twenty feet (20 ft.) above the curb grade opposite the center of the front of the building and the width of the court shall be computed for the entire height of court.

III. CHANGES TO SUBTITLE C, GENERAL RULES ARE PROPOSED AS FOLLOWS:

Subsection 1002.3 of § 1002, MODIFICATIONS OF DEVELOPMENT STANDARDS AND BONUSES TO INCENTIVIZE INCLUSIONARY ZONING, of Subtitle C, GENERAL RULES, is proposed to be amended as follows:

1002.3 Inclusionary Developments, except those located in the BF, HE, NHR, **NYE**, R, RF, SEFC, StE, and WR zones, may construct up to twenty percent (20%) more gross floor area than permitted as a matter of right (“bonus density”) as reflect in

¹ The use of this and other ellipses indicate that other provisions exist in the subsection being amended and that the amendment of the provisions does not signify an intent to repeal.

the zone-specific development standards and subject to all other zoning requirements (as may be modified by the zone) and the limitations established by the Height Act.

Subsection 1003.2 of § 1003, SET-ASIDE REQUIREMENTS, of Chapter 10, INCLUSIONARY ZONING, of Subtitle C, GENERAL RULES, is proposed to be amended as follows:

1003.2 Except as provided in Subtitle C § 1003.11 and Subtitle K § 1302.3, an Inclusionary Development other than an IZ Plus Inclusionary Development that employs Type I construction as classified in Chapter 6 of the District of Columbia Building Code (Title 12-A DCMR) to construct a majority of dwelling units, or which is located in a zone with a by-right height limit, exclusive of any bonus height, that is greater than eighty-five feet (85 ft.), shall set aside for Inclusionary Units the sum of the following:

IV. CHANGES TO SUBTITLE K, SPECIAL PURPOSE ZONES, ARE PROPOSED AS FOLLOWS:

A new Chapter 13, NAVY YARD EAST (NYE) ZONE, is proposed to be added to Subtitle K, SPECIAL PURPOSE ZONES, to read as follows (NOTE: as stated above, this text is not shown in bold and underlined text for ease of reading):

CHAPTER 13 – NAVY YARD EAST (NYE) ZONE

- 1300 GENERAL PROVISIONS
- 1301 DEVELOPMENT STANDARDS
- 1302 INCLUSIONARY ZONING
- 1303 VEHICLE PARKING
- 1304 BICYCLE PARKING
- 1305 LOADING
- 1306 WATERFRONT
- 1307 SUSTAINABILITY
- 1308 USE PERMISSIONS
- 1309 DESIGNATED FRONTAGE
- 1310 ZONING COMMISSION REVIEW OF BUILDINGS, STRUCTURES, AND USES
- 1311 RELIEF FROM REQUIRED DEVELOPMENT STANDARDS, USE PERMISSIONS, AND DESIGNATED FRONTAGE REQUIREMENTS FOR NYE ZONES

1300 GENERAL PROVISIONS (NYE)

1300.1 The Navy Yard East (NYE) zone is intended to be applied to approximately fourteen (14)-acres of land that is currently designated for “federal use” in the Comprehensive Plan for the National Capital, and which historically has been part of the Washington Navy Yard but is to be privately used and subject to zoning. The following squares and portions of squares in the southeast quadrant of the District of Columbia are intended to be included in the NYE zone: Square 955, Lots 804, 805, 806, 807, 808, and 809.

The purposes of the NYE zone are to:

- (a) Provide for development of the site in a manner that is consistent with the development guidelines for the Washington Navy Yard Southeast Corner Master Plan (WNY SE Master Plan), as reviewed by the U.S. Department of the Navy in accordance with the National Defense Authorization Act of Fiscal Year 2019 (115 Public Law 232, 132 Stat. 1636 (Aug. 13, 2018)) and approved by the National Capital Planning Commission in consultation with the Office of Planning. The WNY SE Master Plan can be found in the record in Z.C. Case No. 23-27;
- (b) Assure development of the area with a mixture of residential and commercial uses, and a suitable height, bulk and design of buildings consistent with the objectives of the Comprehensive Plan, the Anacostia Waterfront Initiative, the Near Southeast Urban Design Framework Plan, and the Southeast Boulevard Planning Study;
- (c) Provide for a height and density associated with increased affordable housing and the delivery of new housing;
- (d) Provide for vibrant and active continuous publicly accessible open space along the waterfront with frequent public access points;
- (e) Ensure the design and development of properties in a manner that is compatible with and appropriate for the historic context of which the NYE zone is a part and immediately adjacent to, including the National Historic Landmark (NHL) and National Register of Historic Places listed in the Navy Yard Historic District and the Navy Yard Eastern Extension Historic Eligible District;
- (f) Recognize that Buildings 68 and 70, the Marine Railway and Dry Dock (Structure 308), the remaining piers (Structures 301 and 302), and the associated bulkhead are contributing elements of the Navy Yard NHL Historic District;
- (g) Recognize that Building 166 is a contributing element of the National Register Eligible Navy Yard Eastern Extension Historic District;
- (h) Ensure that contributing elements of historic districts are treated consistently with the reviews conducted in accordance with the National Environmental Policy Act (NEPA) and § 106 of the National Historic Preservation Act;
- (i) Encourage a variety of visitor-related uses, such as retail, service, and entertainment;

- (j) Provide for the development along the Anacostia River and 11th Street SE as active, pedestrian-oriented frontages with active ground floor uses that preserve Anacostia River viewsheds;
- (k) Ensure development preserves views to the Anacostia River which align with the streets that pass through the Navy Yard East zoned land;
- (l) Ensure development of the area meets a high level of environmental performance and incorporates sustainability best practices; and
- (m) Ensure the use of climate-adaptive and resilient design for new development and infrastructure projects.

1300.3 Penthouses and rooftop structures shall be subject to the regulations of Subtitle C, Chapter 15 and the height and story limitations specified in this chapter.

1300.4 Development in the NYE zone shall be in accordance with the development standards found in this chapter.

1300.5 Where there are conflicts between this chapter and other chapters or subtitles of this title, the provisions of the NYE zone shall govern.

1301 DEVELOPMENT STANDARDS (NYE)

1301.1 The maximum permitted density in the NYE zone is 7.0 FAR. The Zoning Commission may, at its discretion, grant an additional 1.0 FAR, up to a maximum FAR of 8.0, if such additional 1.0 FAR is devoted solely to residential uses, which, for the purposes of this subsection, does not include hotel uses, subject to the applicant addressing to the satisfaction of the Zoning Commission the objectives and guidelines of this section and the standards of Subtitle K § 1310.3, as applicable.

1301.2 The maximum permitted building height, not including a penthouse or rooftop structure, in the NYE zone shall be the height as permitted under the Height Act, except that no additional height shall be allowed on Buildings 68, 70, and 123 and any portion of a building or structure that exceeds one-hundred and ten feet (110 ft.) in height shall provide a one-to-one (1:1) step-back from the building lot line along Parsons Avenue, S.E.

1301.3 The maximum permitted height of a penthouse or rooftop structure in the NYE zone shall be twenty feet (20 ft.); and the maximum number of stories within the penthouse shall be one (1), plus a mezzanine, except that a second story for penthouse mechanical space shall be permitted.

1301.4 The height and density limits of Subtitle K § 1301 shall serve as the maximum permitted under a planned unit development.

1301.5 The maximum permitted lot occupancy in the NYE zone shall be eighty percent (80%) for residential uses.

1301.6 No side yard is required for a principal building; however, any side yard provided on any portion of the principal building shall be at least two inches (2 in.) per one foot (1 ft.) of height, and no less than five feet (5 ft.).

1301.7 A minimum rear yard of two and one-half inches (2.5 in.) per one foot (1 ft.) of vertical distance from the mean finished grade at the middle of the rear of a structure to the highest point of the main roof or parapet wall, but not less than twelve feet (12 ft.) shall be provided, subject to the following conditions:

- (a) A horizontal plane may be established at twenty feet (20 ft.) above the mean finished grade at the middle of the rear of the structure for the purpose of measuring rear yards;
- (b) A rear yard is not required to be provided below a horizontal plane as described in Subtitle K §1301.7(a);
- (c) Where a lot abuts an alley, the rear yard may be measured from the center line of the alley to the rear wall of the building or other structure; and
- (d) Where a lot does not abut an alley, the rear yard shall be measured from the rear lot line to the rear wall of the building or other structure.

1301.8 In the case of a lot fronting on one (1) or more public or private streets, a court complying with the width requirements for a closed court may be provided in lieu of a rear yard. For the purposes of this section, the required court shall be provided above a horizontal plane beginning not more than twenty feet (20 ft.) above the curb grade opposite the center of the front of the building and the width of the court shall be computed for the entire height of the court.

1301.9 A court is not required in the NYE zone, but where it is provided, it shall have the following minimum dimensions:

Type of Structure	Minimum Width Open Court	Minimum Width Closed Court	Minimum Area Closed Court
Residential, more than 3 units	4 in./ft. of height of court; 10 ft. minimum	4 in./ft. of height of court; 15 ft. minimum	Twice the square of the required width of court dimension; 350 sq. ft. minimum
Non-Residential and Lodging	2.5 in./ft. of height of court; 6 ft. minimum	2.5 in./ft. of height of court; 12 ft. minimum	Twice the square of the required width of court dimension; 250 sq. ft. minimum

1301.10 The minimum required GAR for the NYE zone shall be 0.3.

1302 INCLUSIONARY ZONING (NYE)

1302.1 Inclusionary zoning development standards for the NYE zone are as specified in Subtitle C, Chapter 10, except as modified in this section.

1302.2 No bonus density, as made available in Subtitle C § 1002, shall be available in the NYE zone.

1302.3 In the NYE zone, the following gross floor area shall be set aside for IZ units:

- (a) Eight percent (8%) of the gross floor area dedicated to residential rental dwelling units, as defined in Subtitle B § 200.2, excluding residential for-sale use and penthouse habitable space; and
- (b) The equivalent of eight percent (8%) of the gross floor area of any residential penthouse habitable space.

1303 VEHICLE PARKING (NYE)

1303.1 Vehicle parking in accordance with the requirements Subtitle C, Chapter 7 shall be provided, except:

- (a) At least twenty percent (20%) of the total provided parking spaces, including those parking spaces in the existing parking garage and excluding any parking spaces within the NYE zone dedicated to Federal use (which shall not exceed eight hundred (800) parking spaces), shall have access to electric vehicle charging infrastructure;
- (b) At least five (5%) of the total provided parking spaces, including those spaces in the existing parking garage and excluding any parking spaces within the NYE zone dedicated to Federal use (which shall not exceed eight hundred (800) parking spaces), shall have access to electric vehicle charging stations;
- (c) The cumulative total of all parking spaces built within the NYE zone, including below-grade, surface, on-street, and above-grade structured parking, shall not exceed a total of one thousand five hundred fifty (1,550) parking spaces, inclusive of any spaces dedicated to Federal use within the NYE zone. Each application to the Department of Buildings shall provide an accounting for the total number of parking spaces within the NYE zone;
- (d) There shall be no minimum vehicle parking requirement in the NYE zone;
- (e) No building or structure in the NYE zone may provide more than double the parking requirement of Subtitle C § 701.5, as calculated without the parking reduction found in Subtitle C § 702.1, including below-grade, surface, on-street, and above-grade structured parking; and

- (f) Required parking spaces need not be located on the same lot as the building or buildings they are intended to serve but must be located on a lot within the NYE zone.

1304 BICYCLE PARKING (NYE)

1304.1 Bicycle parking in accordance with the requirements of Subtitle C, Chapter 8 shall be provided, except:

- (a) Twenty percent (20%) of the required long term bicycle spaces shall have access to electrical sources for charging electrical bikes;
- (b) A minimum of five percent (5%) of the required long term bicycle parking spaces shall be designed for larger sized or over-sized cargo/tandem bikes;
- (c) The number of long-term bicycle parking spaces required for residential, multiple dwelling unit, use shall be one (1) for each two and one-half (2.5) dwelling units; and
- (d) The bicycle parking reduction allowed in Subtitle C § 802.2 shall not apply in the NYE zone.

1305 LOADING (NYE)

1305.1 Loading in accordance with the requirements of Subtitle C, Chapter 9 shall be provided, except required loading berths and facilities need not be located on the same lot as the building or buildings they are intended to serve, but must be located on a lot within the NYE zone.

1306 WATERFRONT (NYE)

1306.1 The waterfront requirements shall apply to the NYE zone as specified in Subtitle C, Chapter 11, as modified by this chapter. Where there is a conflict between the provisions of Subtitle C, Chapter 11 and this chapter, the provision of this chapter shall govern.

1306.2 The seventy-five-foot (75 ft.) waterfront setback required under Subtitle C § 1102.1(a), shall be open to the sky or have a minimum clearance of forty feet (40 ft.), above which projections and open and unenclosed balconies, may project to a depth of no more than fifteen feet (15 ft.).

1306.3 Notwithstanding Subtitle C § 1102.1, enclosed projections of no more than fifteen feet (15 ft.) in depth for no more than fifty percent (50%) of the building façade width facing the waterfront shall be permitted to be constructed.

1306.5 Notwithstanding Subtitle C § 1102.1(e), for portion of the bulkhead linear frontage located west of the Admiral's Barge Slipway, the public pedestrian and bicycle trail

required under Subtitle C § 1102.1(e) may be reduced in width to account for existing or required security fencing owned or required by the US Federal Government, provided the remaining width of the pedestrian and bicycle trail is not less than eighteen feet (18 ft.) and provided further that any bridge or other crossing element over the Admiral's Barge Slipway or marine railway shall not be limited by Subtitle C § 1102.1(e).

1307 SUSTAINABILITY (NYE)

- 1307.1 Each building constructed or substantially improved shall earn a minimum certification at the LEED v4.1 Gold level or a more recent comparable standard and certification level thereof.
- 1307.2 Each building constructed or substantially improved shall achieve: (i) at least two (2) points under the LEED v4.1 "Renewable Energy" credit in addition to the certification requirement in Subtitle K § 1307.1, or (ii) compliance with the Energy Conservation Code, whichever would require a greater level of renewable energy.
- 1307.3 Each building constructed or substantially improved shall be designed to withstand future climate change impacts projected for the expected lifespan of the building, including sea level rise, increased precipitation, and increased heat exposure, as per the District's Resilient Design Guidelines.
- 1307.4 Each building shall, as part of the Design Review process be required pursuant to Section K § 1310, provide a sustainability and green building plan to be forwarded to the Department of Energy and Environment for review and comment which addresses issues such as building energy efficiency and renewable energy production, net-zero certification, stormwater management, climate resilience, and floodplain management.

1308 USE PERMISSIONS (NYE)

- 1308.1 The use permissions in this section include uses permitted as a matter of right, as a special exception, and uses not permitted.
- 1308.2 Use permissions for the NYE zone are as specified in Subtitle U, Chapter 5, Use Group F.
- 1308.3 Buildings, structures, and uses with frontage on the Designated Frontages of Subtitle K § 1309.1 shall provide specified ground floor uses in accordance with the requirements and provisions of Subtitle K § 1309.2.

1309 DESIGNATED FRONTAGE (NYE)

- 1309.1 For the purpose of this chapter, a "Designated Frontage" means the shoreline or bulkhead line along the Anacostia River waterfront.

1309.2 A building, structure, or use with frontage on a Designated Frontage shall devote seventy-five percent (75%) of its ground floor frontage, excluding any residential entrance, lobby, and support areas, along the Designated Frontage, except for space devoted to building entrances or required for fire control, to the following preferred use categories:

- (a) Arts, design, and creation;
- (b) Eating and drinking establishments;
- (c) Entertainment, assembly, and performing arts;
- (d) Medical care;
- (e) Retail;
- (f) Service, general or financial. provided a bank or financial institution shall not be located at the intersection of a street and the waterfront;
- (g) Animal care, sales, and boarding provided there is no overnight boarding of dogs except for convalescence at a veterinary hospital; and
- (h) Marine.

1309.3 Buildings and structures with frontage on a Designated Frontage must comply with the following design requirements:

- (a) The ground floor shall have a minimum clear floor-to-ceiling height of fourteen feet (14 ft.) for a continuous depth of at least thirty-six feet (36 ft.);
- (b) The ground story shall have at least fifty percent (50%) of the surface area facing a Designated Frontage, excluding any residential entrances, devoted to display windows or pedestrian entrances having clear low-emissivity glass, and ensure that the view through the display windows and pedestrian entrances is not blocked for at least ten feet (10 ft.) in from the building face. If located on a corner, wrap around the corner to a minimum depth of twenty-feet (20 ft.) on the side street;
- (c) Ground-floor pedestrian entrances, or areas where a future ground-floor entrance could be installed without structural changes, shall be located no more than an average distance of forty feet (40 ft.) apart on the façade facing the Designated Frontage, and shall be level with the sidewalk or street directly in front of the entrance; and
- (d) No direct vehicular garage or loading entrance or exit shall be permitted to a new building or structure along a Designated Frontage.

1310 ZONING COMMISSION REVIEW OF BUILDINGS, STRUCTURES, AND USES (NYE)

1310.1 The provisions of this section apply to properties within the NYE zone.

1310.2 With respect to those properties described in Subtitle K § 1310.1, all proposed uses, buildings, and structures, any proposed exterior renovation to any existing buildings or structures that would result in an alteration of the exterior design, and the waterfront park and any structures on or over the water shall be subject to review and approval by the Zoning Commission in accordance with Subtitle Z § 301 and the following provisions.

1310.3 In addition to proving that the proposed use, building, structure, waterfront park, or structures on or over the water meets the standards set forth in Subtitle X § 604 and the relevant provisions of this chapter, an applicant requesting approval under this section shall prove that the proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will:

- (a) Help achieve the objectives of the Navy Yard East defined in Subtitle K § 1300.1;
- (b) Help achieve the desired use mix, with the identified preferred uses specifically being residential, office, entertainment, retail, recreation, or service uses;
- (c) Provide publicly accessible open space and amenities along the waterfront;
- (d) Provide for safe and convenient movement to and through the site, including to the Anacostia River, and minimize conflict between vehicles, bicycles, and pedestrians;
- (e) Minimize unarticulated blank walls adjacent to public spaces through façade articulation;
- (f) Minimize detrimental impact on the environment: incorporate sustainability best practices, such as the provision of onsite renewable energy; achieve LEED or net-zero certification; reduce building life cycle impacts, especially embodied carbon; manage stormwater on site; incorporate future climate projection scenarios into building design; and design for the 100- and 500-year floodplains.
- (g) Promote safe and active streetscapes through building articulation, landscaping, and the provision of active ground level uses; and
- (h) The application shall include a view analysis that assesses openness of views and vistas, including views along and toward the waterfront and a minimum of two site sections through the building, including a minimum

of one section extending from the north property line through the building to the waterfront.

1310.4 Each application for design review under this section will be referred to the Office of Planning, DC State Historic Preservation Office, Department of Transportation, Department of Energy and Environment, and other District agencies deemed appropriate for review and comment.

1310.5 The Zoning Commission may hear and decide any additional requests for special exception or variance relief needed for the subject property. Such requests shall be advertised, heard, and decided together with the application for Zoning Commission review and approval.

1310.6 At the time of filing an application with the Zoning Commission, the applicant shall pay the filing fee specified in Subtitle Z, plus such fees as apply to any additional zoning relief requested.

1311 RELIEF FROM REQUIRED DEVELOPMENT STANDARDS, USE PERMISSIONS, AND DESIGNATED FRONTAGE REQUIREMENTS FOR NAVY YARD EAST (NYE) ZONES

1311.1 The Zoning Commission may grant relief from certain development standards of this chapter, Subtitle K §§1301.5 through 1301.10 and from the use and design standards of this chapter, Subtitle K §§1308 through 1309, subject to the standards of Subtitle X, Chapter 9, the specific standards of this section, and provided that the applicant demonstrates the special exception relief would result in a design that still complies with the purposes of this chapter.

1311.2 Requests for relief that do not comply with the applicable conditions or limitations for a special exception as set forth in Subtitle K § 1311.1 shall be processed as a variance.

1311.3 Relief from the rear yard requirements of Subtitle K § 1301.7 may be permitted if approved by the Zoning Commission as a special exception pursuant to the conditions of Subtitle K §1311.1, Subtitle X, Chapter 9, and subject to the following conditions:

- (a) No apartment window shall be located within forty feet (40 ft.) directly in front of another building;
- (b) No office window shall be located within thirty feet (30 ft.) directly in front of another office window, nor eighteen feet (18 ft.) in front of a blank wall;
- (c) In buildings that are not parallel to the adjacent buildings, the angle of sight lines and the distance of penetration of sight lines into habitable rooms be considered in determining distances between windows and appropriate yards; and

- (d) Provision shall be included for service functions, including parking and loading access and adequate loading areas.

1311.4 Requests for relief may be advertised, heard, and decided together with the application for Zoning Commission review and approval.

V. CHANGES TO SUBTITLE W, SPECIFIC ZONE BOUNDARIES, ARE PROPOSED AS FOLLOWS:

A new § 125, NAVY YARD EAST ZONE, is proposed to be added to Chapter 1, BOUNDARIES, of Subtitle W, SPECIFIC ZONE BOUNDARIES, to read as follows:

125 NAVY YARD EAST ZONE

125.1 The Navy Yard East (NYE) zone is to be applied to Square 955, Lots 804, 805, 806, 807, 808, and 809.

VI. CHANGES TO SUBTITLE X, GENERAL PROCEDURES, ARE PROPOSED AS FOLLOWS:

Subsection 502.2(b) of § 502, INCLUSIONARY ZONING PLUS, of Chapter 5, MAP AMENDMENTS, of Subtitle X, GENERAL PROCEDURES, is proposed to be amended as follows:

502.2 The requirements of this section shall not apply to a map amendment that:

...

- (b) Is to a BF, HE, NHR, NYE, SEFC, StE, USN, or WR zone;

...