

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



MEMORANDUM

To: Office of Documents and Administrative Issuance
From: Sharon S. Schellin *SS*
Secretary to the Zoning Commission
Date: February 28, 2008
Re: Publication for the Office of Zoning

Please publish the following in the *D.C. Register* on March 7, 2008:

1. Z.C. Notice of Proposed Rulemaking (Case No. 07-11).

Attachment

Office of
Documents and
Administrative
Issuances
2008 FEB 28 AM 11:42

ZONING COMMISSION
District of Columbia

CASE NO. 07-11
EXHIBIT NO. 27

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ZONING COMMISSION
District of Columbia
CASE NO.07-11
EXHIBIT NO.27

RULEMAKING TRANSMITTAL FORM

2008 FEB 28 AM

TYPE OF RULEMAKING ACTION: EMERGENCY RULES
 FINAL RULES PROPOSED RULES COMBINED

DATE AND TIME RECEIVED

AGENCY: OFFICE OF ZONING

Office of Documents use only

AGENCY REPRESENTATIVE: SHARON SCHELLIN

ADDRESS: 441 4th Street, N.W., Suite 210 South

TELEPHONE: (202) 727-0340

TITLE AND DESCRIPTION OF RULES: Map and text amendments to the Southeast Federal Center Overlay District, Chapter 18 of the Zoning Regulations, 11 DCMR.

If this rulemaking action will amend or repeal existing rules, give a complete citation to the rules being amended or repealed: Title 11 (Zoning) Sections 1803, 1804, and 1805 and the Zoning Map of the District of Columbia

FINAL RULES ONLY: Give the D.C. REGISTER citation and date of publication of the Notice of Proposed Rulemaking for these rules: DCR DATE:

COMPLETE CITATION to the statute, regulation, or other legal authority which specifically authorizes the issuance of the substance of these rules: Sections 1 and 3 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 798), D.C. Official Code §§ 6-641.01 and 6-641.03.

LEGAL CERTIFICATION: I certify that I have reviewed the attached rulemaking and, in my opinion, the substance of the text of the rules is legally sufficient.

DATE: FEBRUARY 27, 2008

SIGNED: *Alan Berger*

PHONE: (202) 442-9777

<input checked="" type="checkbox"/> FINAL	<input type="checkbox"/> CONDITIONAL
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NAME: PETER J. NICKLES

TITLE: INTERIM ATTORNEY GENERAL

PROMULGATOR: Name and title of the person legally authorized to adopt and promulgate these rules (or the name of the board or other body authorized to adopt rules by vote)

Zoning Commission For The District Of Columbia

Title:

COMPLETE CITATION to the statute, regulation, order, or other legal authority that specifically authorizes this person or agency to adopt and promulgate these rules. Sections 1 and 3 of the Zoning Act of 1938, approved June 20, 1938, (52 Stat. 797, 798), D.C. Official Code §§ 6-641.01 and 6-641.03.

SIGNATURE OF THE PERSON AUTHORIZED TO ADOPT RULES OR ATTEST TO THE ADOPTION OF RULES

DATE OF APPROVAL OF VOTE: 1-10-08

APPROVAL OF ATTEST: *Sharon J. Schellin*

Secretary to the Zoning

TITLE: Commission

PHONE: (202) 727-0340

Office of Documents use only:

THIS NOTICE PUBLISHED AT:

VOL:

DCR:

DATE:

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PROPOSED RULEMAKING**

Z.C. Case No. 07-11

(Text and Map Amendments – 11 DCMR - Southeast Federal Center Overlay District)

The Zoning Commission for the District of Columbia, pursuant to its authority under §§ 1 and 3 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 and 6-641.03), hereby gives notice of its intent to amend Chapter 18 of the Zoning Regulations, Title 11, DCMR. Chapter 18 sets forth the provisions of the Southeast Federal Center Overlay District (“SEFC”). At the time of the Overlay’s establishment in 2004, it was noted that amendments to its provisions would likely be necessary as actual development plans for the site were formed. These amendments reflect changes in, and clarifications of, the Overlay text necessary to implement those now-formed development plans.

The amendments also include amendments to the Zoning Map of the District of Columbia to adjust the boundary between the SEFC and the adjacent Navy Yard and the underlying zone boundary lines within the SEFC. The latter map changes are made in response to recommendations of the Historic Preservation Office to establish historic vistas within the SEFC along certain rights-of-way.

The Commission notes, and requests comments on, the proposal of two alternatives for the new text language of § 1804.3(a)(i). Both alternatives attempt to address the question of providing preferred uses along Tingey Street, S.E. In the text amendment language published in the Notice of Public Hearing, such preferred uses were required all along the length of the south side of Tingey Street, S.E., between its intersection with 4th Street, S.E. and its intersection with 5th Street, S.E., the next perpendicular street to the east. Due to flood plain issues and the consequent need to construct a flood wall in this area, a recommendation was made at the hearing to revise the text amendment language to concentrate the preferred use square footage at and near the corner of Tingey Street, S.E. and 4th Street, S.E.

The first alternative retains the language from the Notice of Public Hearing, which simply requires preferred uses along Tingey Street, S.E. The second alternative restricts the preferred use requirement to within approximately a 50-foot length of the southeast corner of Tingey Street, S.E. and 4th Street, S.E.

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

The following rulemaking action is proposed:

A. Amend the Zoning Map of the District of Columbia as follows:

1. The boundary lines of the SEFC/CR District located immediately west of the Navy Yard are revised as described and depicted in the metes and bounds description and plan in the application.

2. The boundary lines of the SEFC/R-5-E District are revised as described and depicted in the metes and bounds description and plan in the application.
 3. The boundary lines of the SEFC/R-5-D District are revised as described and depicted in the metes and bounds description and plan in the application.
 4. The boundary lines of the SEFC/W-0 District and of the Development Area are revised as described and depicted in the metes and bounds description and plan in the application.
- B. Chapter 18, SOUTHEAST FEDERAL CENTER OVERLAY DISTRICT, is amended as follows (new language is shown in **bold** and underlined, and deleted wording is shown in ~~strikethrough~~ lettering):

1. Section 1803 is amended as follows:

- a. By repealing §§ 1803.2(a) and 1803.2(d) as follows:

1803.2 (a) ~~Art gallery; [repealed]~~

...

1803.2(d) ~~Cabaret; [repealed]~~

- b. By amending § 1803.3 to read as follows:

1803.3(a) Any building or structure with frontage on M Street, S.E. ~~or New Jersey Avenue, S.E. or N Street, S.E.~~ shall provide preferred uses comprising a minimum of seventy-five (75%) of the frontage on M Street, S.E. or N Street, S.E. and a minimum of ~~fifty~~ seventy-five percent (~~50~~75%) of that portion of the gross floor area of the ground floor within a depth of fifty (50) feet from the exterior façade of the front of building, not including parking, parking access, mechanical and fire control rooms and other non-public spaces. This requirement shall not apply to (i) buildings directly south of the historic wall along M Street, S.E. between 4th Street, S.E. and the Washington Navy Yard, for so long as the wall remains or (ii) any addition to a building with frontage on M Street, S.E. or N Street, S.E. if the addition to such building has no frontage on such streets but, as allowed pursuant to § 1803.3(b) below, preferred uses may be provided on the ground floor level of such buildings;

1803.3(b) In addition to the locations in which preferred uses are required pursuant to §1803.3(a), pPreferred uses may be provided on the ground floor level of buildings ~~without frontage on M Street, S.E. or New Jersey Avenue, S.E. in other areas within the SEFC/CR District,~~ but are not required. If provided, ~~the~~ such preferred use area shall not be required to conform to the requirements of §§ 1803.3(a), (e), (f), and (g);

...

1803.3(e) Not less than fifty percent (50%) of the surface area of the street wall, including building entrances, of those ~~properties~~ building frontages described in §§ 1803.3(a) ~~and (b)~~ shall be devoted to doors or display windows having clear or low emissivity glass;

...

1803.3(g) The minimum floor-to-ceiling height for portions of the ground floor level devoted to preferred uses shall be ~~fifteen (15)~~ fourteen (14) feet; and

c. By amending § 1803.4 to read as follows:

1803.4 In accordance with the procedures outlined in § 1810, two or more lots, whether contiguous or non-contiguous and whether located in the same square or other squares, within the SEFC/CR District may be combined for the purpose of allocating residential and non-residential uses regardless of the normal limitation on floor area by uses on each lot, provided that the aggregate residential and non-residential floor area shall not exceed the matter-of-right maximum height or density of the underlying zone districts, as may have been modified by the Overlay.

d. By amending § 1803.13 to read as follows:

1803.13 In the SEFC/CR District, a ~~building occupied by both residential and non-residential uses shall be permitted 100% lot occupancy.~~ residential building which includes preferred uses in compliance with the requirements of § 1803.3(a), (e), (f), and (g), shall be permitted 100% lot occupancy for only the ground and second floors.

- e. By inserting new §§ 1803.14 and 1803.15 to read as follows:

1803.14 **A record lot may be created with respect to the parcel on which Building 167 is located, notwithstanding other requirements of this title. Any enlargements or additions to Building 167 shall comply with all requirements of this title.**

1803.15 **In the SEFC/CR District, the public space requirements of § 633 shall not be applicable.**

2. Section 1804 is amended as follows:

- a. By amending § 1804.2(f) to read as follows:

1804.2(f) All buildings and structures that abut the Open Space Area, as described in § 1805.4, whether or not a street intervenes **but excluding buildings and structures that abut the Development Area, including existing Building 160 and any additions thereto and any building or structure to be constructed immediately to the east of Building 160 (i.e., north of Water Street, S.E., west of 4th Street, S.E. east of Third St., S.E., and south of Tingey Street, S.E.).**

- b. By amending § 1804.3 to read as follows:

1804.3(a) ~~Any building or structure facing onto 4th Street, S.E. or the SEFC/W 0 District shall provide preferred uses comprising a minimum of seventy five percent (75%) of the frontage and a minimum of fifty percent (50%) of the gross floor area of the ground floor, not including parking, parking access, mechanical rooms, and other non public spaces; Preferred uses shall be provided in any building or structure facing:~~

(i) Tingey Street, S.E., and;

OR

(i) Tingey Street, S.E., west of 4th Street, S.E., and east of 4th Street, S.E., but in the latter case, and only along the southern side of Tingey Street, S.E., for a length of fifty (50) feet minimum as measured from the west exterior façade of any building or structure constructed on the

southeast corner of Tingey St., S.E. and 4th Street, S.E.,
and;

(ii) the SEFC/WO District.

Where required, preferred uses shall comprise a minimum of seventy-five (75%) of the frontage facing Tingey Street, S.E., or the SEFC/W-O District, and a minimum of seventy-five percent (75%) of the applicable portion of the gross floor area of the ground floor within a depth of fifty (50) feet from the exterior façade of the front of the building, not including parking, parking access, mechanical and fire control rooms, and other non-public spaces.

The requirement to provide preferred uses shall not apply to any addition to a building facing onto Tingey Street, S.E. or the SEFC/W-O District if the addition to the building has no frontage facing onto Tingey Street, S.E. or the SEFC/W-O District, but, as allowed pursuant to § 1804.3(b) below, preferred uses may be provided on the ground floor level of such addition.

For Building 160, notwithstanding the requirements noted above, the total amount of preferred use space shall be a minimum of 3,000 square feet of space facing Tingey Street, S.E. and a minimum of 6,000 square feet of space facing Water Street, S.E., for a total of at least 9,000 square feet.

1804.3(b) In addition to the locations in which preferred uses are required pursuant to §1804.3(a), Preferred uses may be provided on the ground floor level of buildings or structures that do not face 4th Street or the SEFC/W-O District in other areas within the SEFC/R-5-D and SEFC/R-5-E Districts, but are not required. If provided, the such preferred use area shall not be required to conform to the requirements of §§ 1804.3(a), (e), (f), and (g). If the bonus density authorized pursuant to § 1804.3(c) is used to provide non-required preferred uses, the preferred use area must be dedicated to preferred uses for the life of the building;

...

1804.3(e) Not less than fifty percent (50%) of the surface area of the street wall, including building entrances, of those ~~properties~~

building frontages dedicated to preferred uses described in § 1804.3(a) ~~and (b)~~ shall be devoted to doors or display windows having clear or low emissivity glass;

...

1804.3(g) The minimum floor-to-ceiling height for portions of the ground floor level devoted to preferred uses shall be ~~fifteen (15)~~ **fourteen (14)** feet.

c. By inserting a new § 1804.6 to read as follows:

1804.6 In the SEFC/R-5-D and SEFC/R-5-E Districts, a building which includes preferred uses in compliance with the requirements of §1804.3(a) shall be permitted 100% lot occupancy for only the ground and second floors.

3. Section 1805 is amended as follows:

a. By amending § 1805.3 to read as follows:

1805.3 The SEFC/W-0 Development Area consists of the northeastern portion of the SEFC/W-0 District, specifically the existing Building ~~173 171~~ and that portion of the SEFC/W-0 District located directly to the east of Building ~~173 171~~, north of a line extending east from the ~~southern facade elevation~~ of Building ~~173 171~~.

b. By amending § 1805.9 to read as follows:

1805.9 The gross floor area of existing ~~building Building 173 171~~ shall not count toward any FAR computation.

c. By amending § 1805.10 to read as follows:

1805.10 The minimum floor-to-ceiling height for the ground floor level of buildings in the SEFC/W-0 District shall be ~~fifteen (15)~~ **fourteen (14)** feet.

d. By inserting a new § 1805.12 to read as follows:

1805.12 Notwithstanding the requirements of §2517.1, two or more principal buildings or structures may be erected as a matter of right on a single subdivided lot within the

SEFC/W-0 District provided that such principal buildings or structures comply with all other requirements of § 2517.

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 D.C. Register. Comments should be filed with Sharon Schellin, Secretary of the Zoning Commission, Office of Zoning, 441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001. Copies of this proposed rulemaking may be obtained at cost by writing to the above address.