

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING

AND

Z.C. ORDER NO. 17-12

Z.C. Case No. 17-12

(Forest City SEFC, LLC – Text & Related Map Amendments – 11-K DCMR: Height & Density in the Southeast Federal Center Zones)

April 30, 2018

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 (2012 Rep1.), hereby amends Subtitle K, Chapter 2 (Southeast Federal Center Zones) of Title 11 (Zoning Regulations of 2016) of the District of Columbia Municipal Regulations (DCMR). The related amendments to the Zoning Map affect Parcels A, D, E, F, G, H, I, and K of the Southeast Federal Center which comprise the properties in the chart below. (the “Property”) within the SEFC Zone).

Parcel	Square	Lot(s)	Zone
A	743	94	SEFC-1A
F	743	94	SEFC-1A
G	743	94	SEFC-1A
H	744	807	SEFC-1B
I	744	807	SEFC-1B
K	770	40	SEFC-1B
D	771	811, 813, 814, 7000-7010	SEFC-1B
E	853	All (Also referred to in § 203.2 as Parcel E1)	SEFC-1B
	883	Portion bounded by M Street on the north, Isaac Hull Avenue on the east, and Tingey Street on the south	SEFC-1B

The Property consists of two tracts: the western tract is comprised of the parcels that are bounded by M Street, S.E., 1 Street, S.E., N Place, S.E., Canal Street, S.E., and New Jersey Avenue, S.E.; and the eastern tract is comprised of parcels that are bounded by M Street, S.E., 4th Street, S.E., the US DOT headquarters, Tingey Street, S.E., and the Navy Yard. The Property is located in the Mixed-Use High Density Residential/High Density Commercial land use category on the Future Land Use Map of the District of Columbia Comprehensive Plan.

Broadly, the amendments will eliminate the current combined lot development (“CLD”) “trading” scheme and instead identify which parcels will be developed with commercial office use and which parcels will be developed with a mix of residential and commercial uses.

To implement these changes, the property within Square 743 (Parcels A, F, and G of the SEFC Master Plan) is rezoned to the proposed SEFC-1A zone, which will permit a 6.0 floor area ratio (“FAR”) as a matter of right for any permitted use (including commercial office), and permit an additional 1.0 FAR for any permitted use, with Commission design review. The property within Square 743 known as “Parcel A” will be permitted to achieve 130 feet in height as a matter of right; Parcels F and G will be permitted to achieve 110 feet in height as a matter of right and 130 feet with design review, if permitted by the Height Act.

The remaining properties that are the subject of this petition are rezoned to the proposed SEFC-1B zone. The SEFC-1B zone is functionally the same as the current SEFC-1 zone, but eliminates the use of CLDs. The SEFC-1B zone will permit a density of 6.0 FAR as a matter of right, with a maximum of 3.0 FAR for nonresidential uses. An additional 1.0 FAR (for residential use only) is permitted with design review. The SEFC-1B zone will permit a height of 110 feet as a matter of right; a height of 130 feet will be permitted on Parcel H with design review, if permitted by the Height Act.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on March 23, 2018, at 65 DCR 003004. In response, the Commission received no comments.

The Commission therefore took final action at a public meeting on April 30, 2018 to adopt the map and text amendments as proposed.

The Zoning Map of the District of Columbia is amended as follows; with the relevant parcel or parcels indicated after the property to which each relates:

1. Square 743, Lot 94 (Parcels A, F, G) is rezoned from SEFC-1 to SEFC-1A.
2. Square 744, Lot 807 (Parcels H and I); Square 770, Lot 40 (Parcel K); Square 771, Lots 811, 813, 814, 7000-7010 (Parcel D); Square 770, Lot 40 (Parcel K); and all of Square 853 and the portion of Square 883 bounded by M Street on the north, Isaac Hull Avenue on the east, and Tingey Street on the south (Parcel E) are rezoned from SEFC-1 to SEFC-1B.

The following amendments to Title 11 DCMR are adopted:

Title 11-K DCMR, SPECIAL PURPOSE ZONES, is amended as follows:

Chapter 2, SOUTHEAST FEDERAL CENTER ZONES – SEFC-1 THROUGH SEFC-4, is amended as follows:

Subsection 200.3 of § 200, GENERAL PROVISIONS (SEFC), is amended to read as follows:

200.3

The SEFC-1 zones provide for high-density mixed-use development with ground floor retail, with bonus density and height for development proximate to the Navy Yard Metrorail Station and the proposed 1½ Street, and with review of the relationship of new buildings to the M Street, S.E. corridor and the adjacent Washington Navy Yard. The SEFC-1 zones consist of the SEFC-1-A zone, which permits high-density commercial or residential use with ground floor retail on parcels A, F, and G near the Navy Yard Metrorail Station entrance, and the SEFC-1-B zone, which promotes a mix of high-density residential and medium-density commercial development with ground floor retail on parcels D, E, K, H, and I. The Property descriptions and zone district for each parcel is as follows:

Parcel	Square	Lot(s)	Zone
A	743	94	SEFC-1A
F	743	94	SEFC-1A
G	743	94	SEFC-1A
H	744	807	SEFC-1B
I	744	807	SEFC-1B
K	770	40	SEFC-1B
D	771	811, 813, 814, 7000-7010	SEFC-1B
E	853	All (Also referred to in § 203.2 as Parcel E1)	SEFC-1B
	883	Portion bounded by M Street on the north, Isaac Hull Avenue on the east, and Tingey Street on the south	SEFC-1B

Subsection 201.1 of § 201, DEVELOPMENT STANDARDS (SEFC-1), is amended to read as follows:

201.1 The development standards in Subtitle K §§ 202 through 210 control the bulk of structures in the SEFC-1 zones.

§ 202, DENSITY – FLOOR AREA RATIO (FAR) (SEFC-1), is amended as follows:

Subsection 202.1 is amended to read as follows:

202.1 The maximum permitted floor area ratio (FAR) for buildings in the SEFC-1-A zone (i.e. Parcels A, F, and G) shall be 6.0, except that an additional density of up to 1.0 FAR is permitted, if reviewed and approved by the Zoning Commission pursuant to the standards and procedures of Subtitle K §§ 237.4 and 241; provided that:

- (a) To the extent that the approved additional FAR is devoted to residential uses, a minimum of eight percent (8%) of the additional residential density utilized shall be devoted to three (3) bedroom units that:
 - (i) May be located anywhere within the residential building;
 - (ii) Shall be set aside for households earning 50% or less of the Median Family Income for a term of not less than thirty years beginning on the date that certificate of occupancy is issued; and
 - (iii) May also serve as units that are set aside as affordable units pursuant to the terms of any land disposition or other agreement with the District of Columbia that mandates the provision of affordable housing; and
- (b) The reduction or elimination of the requirements of paragraph (a) may be permitted by the Commission upon a showing by the applicant that exceptional circumstances affecting the property make compliance with this requirement difficult or impossible.

Subsection 202.2 is amended by replacing its existing text, which provided for combined lot developments, with the following:

202.2 The maximum permitted FAR for buildings in the SEFC-1-B zone (i.e. Parcels D, E, H, I, and K) shall be 6.0 with a maximum of 3.0 FAR for non-residential uses, except an additional density of up to 1.0 FAR is permitted on Parcels H or I if reviewed and approved by the Zoning Commission, pursuant to the standards and procedures of Subtitle K §§ 237.4 and 241; provided that:

- (a) The additional density granted is devoted solely to residential uses, which for the purposes of this paragraph does not include a hotel; and
- (b) A minimum of eight percent (8%) of the additional density utilized is devoted to three (3) bedroom units, that:
 - (i) May be located anywhere within the residential building;
 - (ii) Shall be set aside for households earning 50% or less of the Median Family Income for a term of not less than thirty years beginning on the date that certificate of occupancy is issued; and
 - (iii) May also serve as units that are set aside as affordable units pursuant to the terms of any land disposition or other agreement with the District of Columbia that mandates the provision of affordable housing; and

- (c) The reduction or elimination of the requirements of paragraph (b) may be permitted by the Commission upon a showing by the applicant that exceptional circumstances affecting the property make compliance with this requirement difficult or impossible.

Section 203, HEIGHT (SEFC-1), is amended to read as follows:

203 HEIGHT (SEFC-1)

203.1 The maximum permitted building height, not including the penthouse, in the SEFC-1 zones shall be one hundred and ten feet (110 ft.), except that:

- (a) The maximum permitted building height for Parcel A shall be one hundred thirty feet (130 ft.); and
- (b) An additional twenty feet (20 ft.) of building height is permitted in Parcels F, G, and H if reviewed and approved by the Zoning Commission pursuant to the standards and procedures of Subtitle K §§ 237.4 and 241.

203.2 Sites fronting on M Street, S.E., east of 4th Street, S.E., are restricted to a height of ninety feet (90 ft.) except that:

- (a) For Parcels D and E1, an additional twenty feet (20 ft.) of building height is permitted if reviewed and approved by the Zoning Commission pursuant to paragraph (c) of this subsection and the procedures of Subtitle K § 241;
- (b) For the remaining portions of Parcel E (i.e. excluding Parcel E1), an additional twenty feet (20 ft.) of building height is permitted only for a building that will be occupied by a federal use as a primary use, if such height is reviewed and approved by the Zoning Commission pursuant to paragraph (c) of this subsection and the procedures of Subtitle K § 241; and
- (c) For the purposes of the paragraph (a) and (b) reviews, the Zoning Commission shall consider the relationship of the new building to the Navy Yard and to the east and the report and consider recommendations of the United States Navy submitted pursuant to Subtitle K § 242.3. The Zoning Commission may require graduated height and/or design features because of the building's proximity to the Navy Yard.

203.3 DELETED

203.4 The maximum permitted height of a penthouse 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.

Subsection 204.1 of § 204, LOT OCCUPANCY (SEFC-1), is amended to read as follows:

204.1 The maximum permitted lot occupancy in the SEFC-1 zones shall be one hundred percent (100%) for non-residential uses and seventy-five percent (75%) for residential uses.

Subsections 205.1 and 205.2 of § 205, FRONT SETBACK (SEFC-1), are amended to read as follows:

205.1 A front setback of fifteen feet (15 ft.) minimum for the entire height and frontage of each new building along M Street, S.E., measured from the face of the adjacent curb along M Street, S.E., shall be required in the SEFC-1 zones.

205.2 A front setback of twenty feet (20 ft.) minimum for the entire height and frontage of each new building along the east side of 4th Street, S.E., measured from the face of the adjacent curb along 4th Street, S.E., shall be required in the SEFC-1 zones.

Subsection 206.1 of § 206, REAR YARD (SEFC-1), is amended to read as follows:

206.1 A rear yard of two and one-half inches (2.5 in.) per one foot (1 ft.) of height or a minimum of twelve feet (12 ft.) shall be provided for each structure located in the SEFC-1 zones.

Subsection 209.1 of § 209, GREEN AREA RATIO (SEFC-1) is amended to read as follows:

209.1 A minimum green area ratio (GAR) of .20 shall be required in the SEFC-1 zones.

Paragraph (a) of § 237.4 of § 237, USE PERMISSIONS (SEFC-1), is amended to read as follows:

237.4 Within the SEFC-1 zones, the following buildings, structures, and uses are permitted only if reviewed and approved by the Zoning Commission, in accordance with the standards specified in Subtitle K § 241 and procedures specified in Subtitle K § 242:

(a) All buildings and structures that have frontage along M Street, S.E. or for which the Zoning Commission considers a request for the additional density or height authorized by Subtitle K §§ 202 or 203; subject also to the applicant proving that the architectural design, site plan, landscaping, and sidewalk treatment of the proposed building:

(1) Are of superior quality;

- (2) For buildings on Parcel A, accommodate the design of the public entrance to the Navy Yard Metrorail Station on Parcel A. The applicant shall demonstrate proactive engagement with the Washington Metrorail Area Transit Authority (WMATA) in the planning and design of Parcel A as a part of the above design review as set forth below:
 - (A) If the applicant moves forward with the design of Parcel A before WMATA is ready to construct the third entrance the applicant shall demonstrate that it has coordinated with WMATA to determine how to ensure that the design of Parcel A accommodates the planned entrance; and¹
 - (B) If WMATA moves forward with the construction of the third entrance before the applicant is ready to develop Parcel A, the applicant shall demonstrate that it has coordinated with WMATA to integrate the entrance into the design of Parcel A;
- (3) Ensure the provision of 1 1/2 Street, S.E. and N Street, S/E. as open and uncovered multimodal circulation routes; and
- (4) Provide three (3) bedroom dwelling units as required pursuant to Subtitle K § 202.1.;

...

§ 240, COMBINED LOT DEVELOPMENT PROCEDURES (SEFC-1 AND SEFC-4), is repealed:

240 REPEALED

Subsection 241.2 of § 241, ZONING COMMISSION REVIEW STANDARDS (SEFC), is amended by adding a new paragraph (h) as follows:

¹ The Office of the Attorney General included this revision to subparagraph (2)(A) to reflect the wording of the provision as it appeared at 11 DCMR § 1803.8(a)(1) of the Zoning Regulations of 1958 as of the date of its repeal and replacement with 11-K DCMR 237.4(a)(2)(A). Subparagraph 1803.8 (a)(1) read:

- (a) Accommodates the design of a public entrance to the Navy Yard Metrorail Station on Parcel A. The applicant shall demonstrate proactive engagement with the Washington Metrorail Area Transit Authority (WMATA) in the planning and design of Parcel A as a part of the above design review as set forth below:
 - (1) If the applicant moves forward with the design of Parcel A before WMATA is ready to construct the third entrance, the applicant shall demonstrate that it has coordinated with WMATA to determine how to ensure that the design of Parcel A accommodates the planned entrance; and ...

241.2 In evaluating the application, the Zoning Commission also may consider:

- (a) Compatibility with buildings in the surrounding area through overall massing, siting, details, and landscaping;
- ...
- (g) For development within or adjacent to the SEFC-4 zone, the Zoning Commission may consider whether the project is consistent with the following goals:
 - (1) Providing a wide variety of active and passive recreational uses;
 - (2) Encouraging uses that open to, overlook, and benefit the waterfront park; and
 - (3) Utilizing siting and design of buildings and uses to improve the natural ecology, to illustrate the importance of natural systems, and/or to interpret the historically important maritime context of the site; and
- (h) For development on Parcel E, the Zoning Commission may consider the impact of the proposed development on the Navy Yard, including the report and recommendations of the United States Navy made pursuant to Subtitle K § 242.3.

§ 242, ZONING COMMISSION REVIEW PROCEDURES (SEFC), is amended by adding a new § 242.3 to read as follows:

242.3 At the time of filing an application with the Zoning Commission for design review of development located on Parcel E, any such application shall be referred by the Office of Zoning to the United States Navy for review and report, and shall specifically request an assessment of the impact of the proposed development on the security and operations of the Washington Navy Yard, as well as recommendations for specific measures to be applied to the development and operation of the proposed project that is the subject of the application.

Title 11-Z DCMR, ZONING COMMISSION RULES OF PRACTICE AND PROCEDURE, is amended as follows:

Chapter 4, PRE-HEARING AND HEARING PROCEDURES: CONTESTED CASES, is amended as follows:

Subsection 405.2 of § 405, REFERRALS TO AND REPORTS OF PUBLIC AGENCIES, is amended to read as follows:

405.2 As to those applications for which set down is not required, as soon as an application is accepted for filing by the Director, a copy of the application shall be referred to the Office of Planning and other appropriate agencies for review and comment. A copy shall also be sent for review and comment to:

...


- (d) The United States Navy for those applications for approval of development of Parcel E pursuant to Subtitle K § 203.2.

On April 30, 2018, upon the motion of Commissioner Shapiro, as seconded by Vice Chairman Miller, the Zoning Commission took **FINAL ACTION** to **APPROVE** the application at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro and Michael G. Turnbull to approve; Peter G. May to approve by absentee ballot).


In accordance with the provisions of 11 DCMR Z § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is on July 6, 2018.

BY THE ORDER OF THE D.C. ZONING COMMISSION

A majority of the Commission members approved the issuance of this Order.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING

GOVERNMENT OF THE DISTRICT OF COLUMBIA
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The full text of this Zoning Commission Order is published in the “Final Rulemaking” section of this edition of the *D.C. Register*.