

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
AND
Z.C. ORDER NO. 04-05
Z.C. Case No. 04-05
(Text and Map Amendments – 11 DCMR)
(Text Amendment – provisions of New Hill East District)
(Map Amendment – to map new Hill East District)
April 13, 2009

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

The text amendments add a new Chapter 28 to the Zoning Regulations, establishing a new zone district, entitled the “Hill East (HE) District.” The map amendments map the HE District over the area identified on the records of the District of Columbia Surveyor as Federal Reservation 13.

A Notice of Proposed Rulemaking was published in the *D.C. Register* (“DCR”) on February 27, 2009, at 56 DCR 1854. The Commission took final action to adopt the amendments at a public meeting on April 13, 2009. This final rulemaking is effective upon publication in the *D.C. Register*.

I. EXISTING REGULATIONS

The land area comprising Federal Reservation 13 was unzoned, but it was recently transferred to the ownership of the District of Columbia, and is now subject to zoning. The HE District has been specially crafted to be mapped over what was Reservation 13 in order to create a reasonable, integrated zoning scheme for the area based on the concept of a form-based code.

II. BACKGROUND OF TEXT AND MAP AMENDMENTS

The text amendments set forth herein establish an entirely new zone district – the HE District – based on the relatively new concept of a form-based code. A form-based code regulates uses, but the bulk of such a code is design regulation. Along with regulating uses for compatibility within a zone, a form-based code attempts to establish a harmonious “look” within a zone district or subdistrict through the use of specific design standards regulating building aspects such as vertical and horizontal articulation, setbacks, and appropriate placement of windows and doors.

The map amendments will map the new HE District over former Federal Reservation 13. Reservation 13 presents a 67-acre “blank slate” of previously unzoned land on which to impose the new form-based HE District.

Historic Context

Public Reservation 13 is identifiable in some of the earliest plans for Washington, D.C. The original L’Enfant Plan of 1791 shows the Reservation set apart from the traditional street grid of the city. For more than 150 years, the 67-acre site has been an isolated campus, separated from the neighborhood it adjoins and separating this neighborhood from the Anacostia Waterfront.

The tract has contained public health facilities since 1846, when it became the location of the Washington Asylum, the city’s hospital for indigent patients. In later years, it housed a smallpox hospital, a quarantine station, and a crematory. Most of the buildings on the site were constructed in the 1930s and 1940s, and some of the site’s earlier buildings are still extant. One of them, Anne Archbold Hall, has been designated a historic landmark. In 1953, D.C. General Hospital was built on the tract and the D.C. Jail was built in 1976, replacing an old jail dating to the 1870s. Both of these buildings still exist, but D.C. General no longer functions as a hospital.

Geographic Context

Former Reservation 13 is located between the eastern edge of the Capitol Hill neighborhood commonly known as Hill East, and the western shore of the Anacostia River. Generally, the site is bounded on the north by Independence Avenue, the D.C. Armory, and Robert F. Kennedy Memorial Stadium (“RFK”), on the east by National Park Service (“NPS”) property and the Anacostia River, on the south by Congressional Cemetery, and on the west by 19th Street, S.E. and the existing Hill East neighborhood.

The areas outside the perimeter of the Reservation 13 site are characterized by large, stand-alone buildings, such as the D.C. Armory and RFK Stadium, which sit on vast sites adjacent to large parking lots. Located just east of the subject site is a D.C. Water and Sewer Authority (“WASA”) Pump Station and swirl concentrator. An existing traffic lane passes along the River’s edge and is used primarily for access to the RFK parking lots.

To the west of the subject site, just across 19th Street, is the Hill East neighborhood, an R-4 zoned, relatively low-density residential neighborhood. The neighborhood is comprised mostly of row dwellings and gridded streets of the historic L'Enfant Plan.

The Reservation 13 tract is located at the edge of the original L'Enfant Plan for the city and two of the diagonal streets of the earliest city plans terminate on the site: Potomac Avenue and Massachusetts Avenue. Three local streets run through the site in an east-west direction: Burke Street is the northernmost, C Street is south of Burke Street, and C Place is southernmost. Running north-south through the site are 20th and 21st Streets. One-block sections of both 20th and 21st Streets within the site are denominated 20th Place and 21st Place, respectively. The property extends to the Anacostia River, but the last street running north-south closest to the River is Water Street. Between Water Street and the River is NPS land which will be retained in NPS ownership and is proposed to be a waterfront park with bicycle and pedestrian paths.

Two major thoroughfares provide access into the site: Independence Avenue along its northern edge and Massachusetts Avenue, which runs diagonally through the southern portion of the site. The Stadium Armory Metro Station is located near the center of the western boundary of the property at the intersection of 19th and C Streets.

The Reservation 13 parcel presents itself disjointedly as a vast area of large, seemingly unrelated buildings associated only by their proximity and former use. The site contains the former D.C. General Hospital buildings (closed in 2001) and the D.C. Department of Corrections (D.C. Jail). The Court Supervisor and Offender Supervision Agency ("CSOSA") and the D.C. Medical Examiner's office are currently housed in some of the former hospital buildings. St. Coletta School is located in the northeast corner of the tract, at the intersection of 19th Street and Independence Avenue. Surface parking lots are scattered throughout the property.

The NPS land bordering the Anacostia River and constituting the eastern edge of the tract is currently underutilized. Therefore, the natural beauty of its waterside setting cannot be properly accessed or appreciated.

Creation of Master Plan

Because Reservation 13 presented such a large area of unzoned, largely vacant land, a Master Plan was created to guide its redevelopment. Creation of the Master Plan involved extensive community input and participation. Participants represented a broad range of stakeholders, including immediate neighbors of the site living on Massachusetts Avenue, Bay and Burke Streets, and other parts of the Hill East and Capitol Hill neighborhoods, District agencies, and NCPC.

The Master Plan provides a general land use framework and vision for the redevelopment of Reservation 13 to accommodate important public services and neighborhood needs. The Master Plan retains the D.C. Jail and other institutional uses and identifies approximately 40 acres for redevelopment. New facilities for health care and recreation are envisioned, along with new housing, offices, retail, and institutional uses. Key urban design features include extension of the Capitol Hill street grid into the site, new parks, and new access to the waterfront, including a great meadow overlooking the shoreline. Other notable elements of the plan include the extension of Massachusetts Avenue to the Anacostia River and a village square at the Stadium-Armory Metrorail station. The development program identifies a mixed-use site with both housing units and non-residential space. The Master Plan was approved by the Council of the District of Columbia on October 15, 2002 and serves as supplemental guidance to the Comprehensive Plan for the National Capital ("Plan").

It is not clear whether the Council's approval of the Master Plan created or named the proposed streets within Reservation 13. Amendments to the highway plan are approved by both the Council and NCPC. The Council has the exclusive authority to name public streets, while both the Council and the Mayor may open streets to conform to the Highway Plan or open minor streets if the public interest would be best served by the action. The Commission nevertheless assumed that the proposed streets identified in the Master Plan have been or eventually will be established.

Decision to Use Form-Based Code

Initially, to implement the Master Plan, the Office of Planning ("OP") recommended a number of base zone designations with additional development standards in an overlay zone that would allow the uses, massing, and heights proposed in the Master Plan. The Reservation 13 Steering Committee and the Hill East community expressed concerns that the base zones proposed did not adequately capture the type of development envisioned by the Master Plan and the changes allowed by the proposed overlay zone were "burdensome" and, in effect, completely changed the base zoning. OP agreed with these observations and committed to researching and drafting a "form-based code."

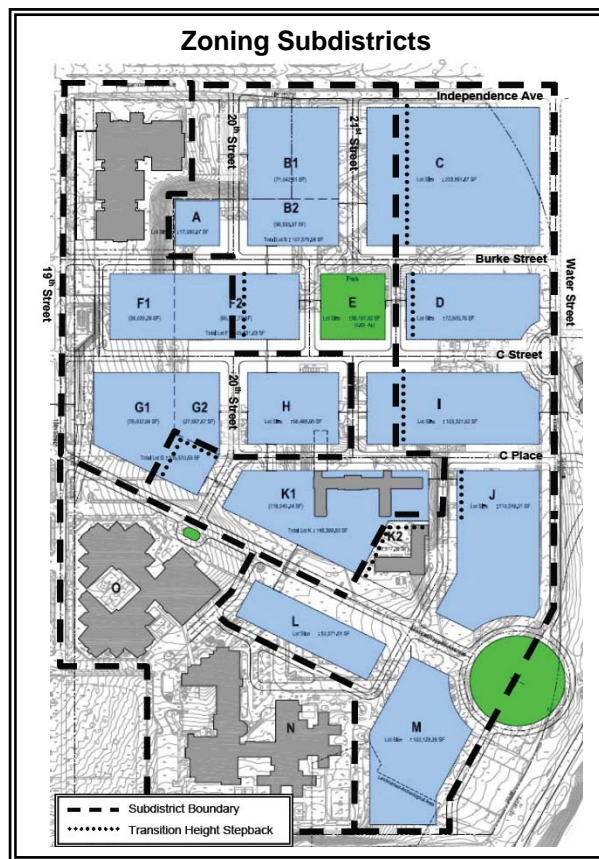
The form-based code approach was outlined in the initial Commission set down of Case No. 04-05 on March 8, 2004. Form-based codes are zoning regulations that emphasize the physical form of the built environment. Form-based codes regulate the key aspects of urban form, such as the height of buildings, how close structures are to the street, and placement of windows and doors on walls facing streets and other public spaces. Form-based codes are different from design guidelines in the sense that they are less about the architectural style of buildings and more about providing clear, concise and objective rules that provide predictability for both the developer and the community. These codes are highly prescriptive and require build-to lines and façade treatments that are based on a street frontage typology of primary and secondary streets.

III. SUMMARY OF TEXT AND MAP AMENDMENTS

The vision for Reservation 13 is to redevelop the tract as the Hill East Waterfront – a mixed-use, mixed-income neighborhood that extends Capitol Hill to the riverfront parks, and in the process, transforms the land encompassed within Reservation 13 from an isolated campus to a vibrant, lively district. Institutional superblocks will be replaced by the continuation of the Hill East neighborhood street grid down to the proposed river parks. Massachusetts Avenue, one of Washington’s grand boulevards, will be extended and is proposed to end in a ceremonial circle at the waterfront. This area is envisioned to become an active city neighborhood with approximately five million square feet of gross building area, resulting in approximately 3,000 new dwelling units, two million square feet of health care, institutional, and office uses, and about 100,000 square feet of retail space.

The HE District also includes a centrally-located parkland area and a park-like circular area at the eastern terminus of Massachusetts Avenue appropriate for a monument. Just to the east of Water Street will stretch a relatively undeveloped area of riverfront parkland, which belongs to, and will be maintained by, the National Park Service.

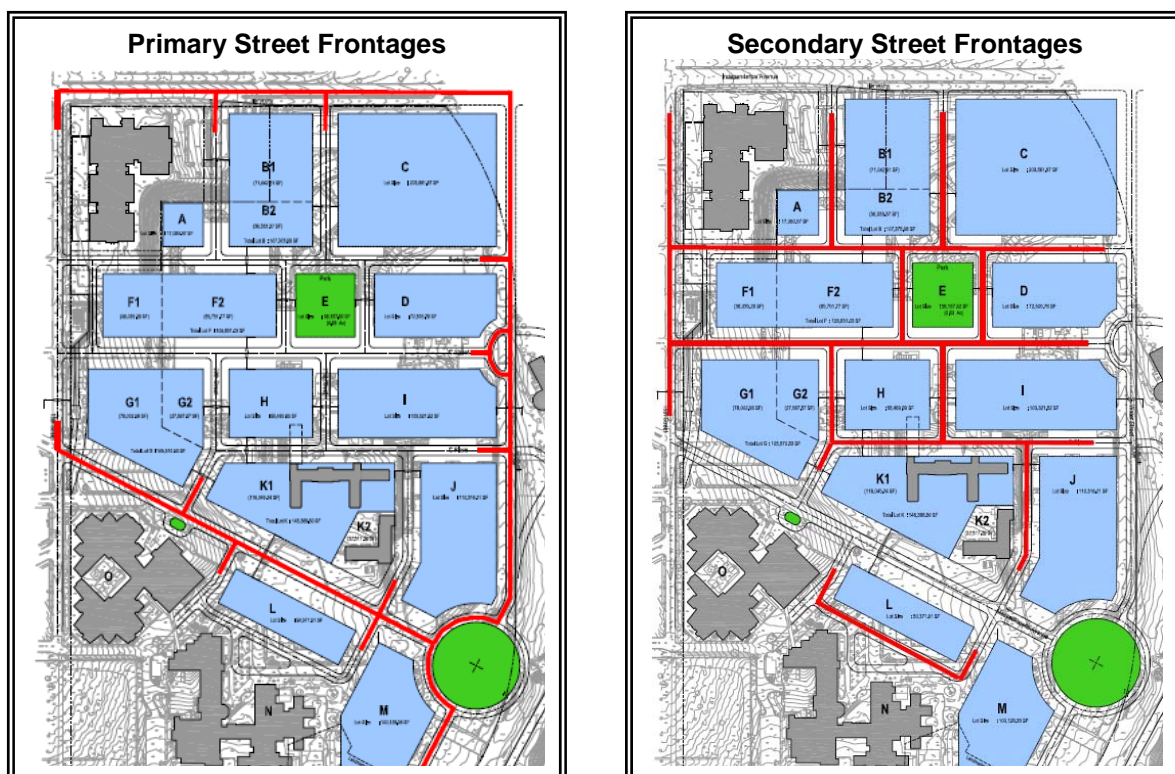
The proposed HE District is a stand-alone zone. One of its key concepts is the gradual increase in permitted maximum building heights from west to east. The lowest buildings will be along 19th Street, to provide a transition from the lower scale Hill East neighborhood west of 19th Street, with the permitted building height increasing as the land slopes down toward the riverfront. The tallest buildings will be located along Massachusetts Avenue and Water Street. The slope of the site minimizes the visual impact of the taller buildings on the adjacent Hill East neighborhood. To achieve the height transitions, the HE District has four subdistricts with different density and building height standards – three for the new development and one for the existing correctional facilities. Further, to avoid uneven building height transitions, upper-floor setbacks will be required of buildings along certain portions of the subdistrict interfaces.



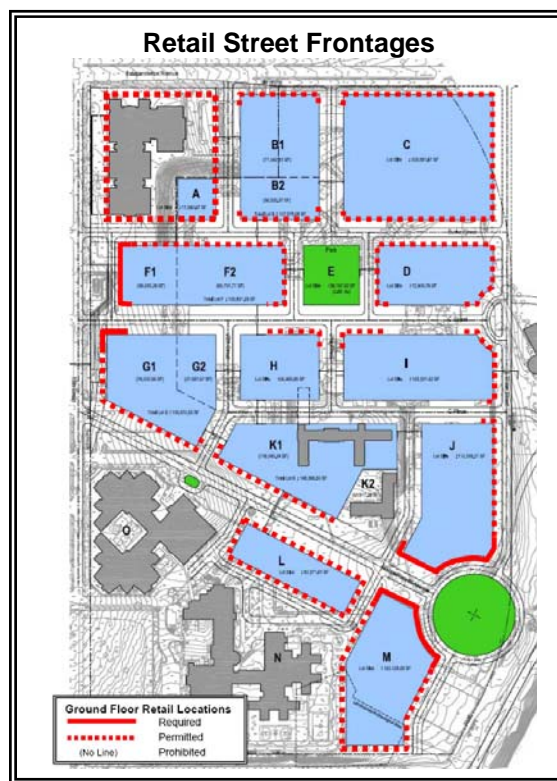
The subdistricts are denominated HE-1, HE-2, HE-3, and HE-4. The first three are roughly parallel north-south-oriented swaths of land. HE-1 has the lowest permitted lot occupancy,

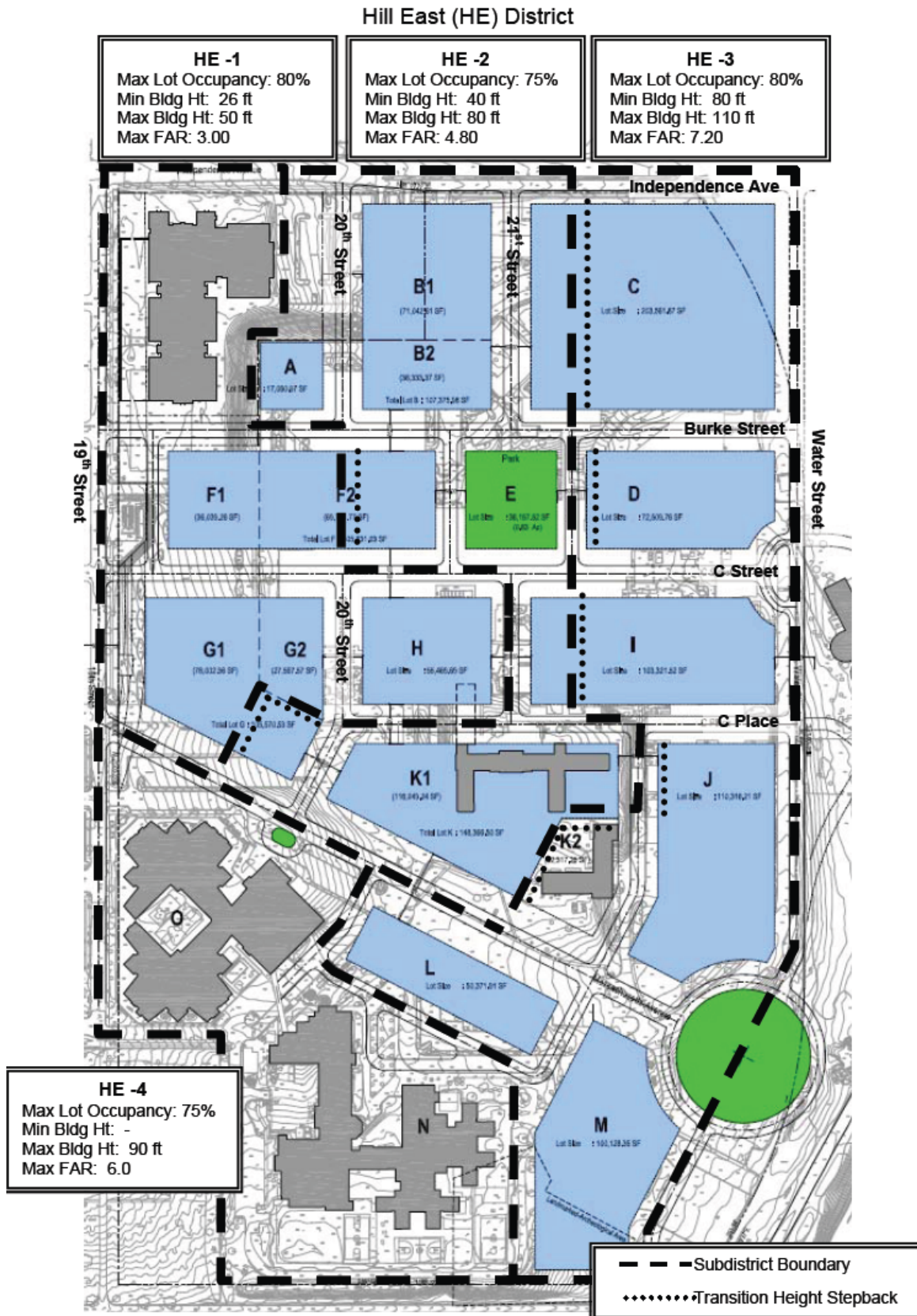
building height, and density and is bounded by 19th Street to the west, Independence Avenue to the north, and mostly Massachusetts Avenue to the south. HE-2 runs down the center of the HE District, allows a medium-density and height, and is also bounded to the north and south by Independence and Massachusetts Avenues, respectively. HE-3 is bounded to the west by Water Street and the waterfront parkland along the Anacostia River. It permits the highest densities and building height in the HE District and is bounded on the north by Independence Avenue, but continues south of Massachusetts Avenue to encompass two parcels of land abutting the southern edge of Massachusetts Avenue and the proposed Monument Circle. The last subdistrict, HE-4, contains the existing correctional facilities, allows a relatively high-density and building height, and is located completely south of Massachusetts Avenue.

A second key feature of the HE District is a detailed set of building design standards that encompass the concepts of a form-based code. The purpose of these standards is to regulate the building form, especially as it relates to the street. The standards are based on two types of street frontages – primary and secondary streets. The primary streets are the major commercial streets at the perimeter of the HE District. Along primary streets, such as Massachusetts Avenue, required building lines will ensure buildings create a continuous streetwall with additional requirements for active ground floor uses, building entrance spacing, ground floor windows, and façade articulation to create an active and interesting pedestrian environment. The standards have been relaxed for secondary streets, which are mostly internal to the site, to allow for a more residential character, with more opportunity for front setbacks and landscaping. Parking and loading access points are prohibited along both primary and secondary streets, and are confined to alleys, with underground parking encouraged.



The other major feature of the HE District is the location of ground floor retail uses. In order to create attractive and unique “places,” ensuring that people will come to the site, ground floor retail uses have been required in key locations, such as facing the Metro station and anchoring the foot of Massachusetts Avenue. In certain locations along primary streets, and facing the park, retail uses are permitted, but not mandated. At the same time, there are other parts of the site that are to be more residential in character where ground floor retail uses are prohibited.





IV. RELATIONSHIP TO THE COMPREHENSIVE PLAN

The new Comprehensive Plan, adopted in December 2006, outlines many policies and actions for development of the Reservation 13 site. The proposed text and map amendments foster many policies in the Citywide Elements of the Plan as well as the Capitol Hill Element.

The HE District provisions implement §§ 2.3 and 2.4 of the Plan's Framework Element. As required by § 2.3, the HE District will be developed as an extension of the Hill East neighborhood. The street pattern reflects the legacy of the L'Enfant Plan through the extension of Massachusetts Avenue as a grand boulevard through the site and to the waterfront. The grid street pattern will also be extended through the site to the greatest extent possible.

Section 2.4 identifies Reservation 13 as a "Land Use Change Area" where new facilities as well as adaptive reuse of existing structures are encouraged. These areas are also slated to contain exemplary site and architectural design which do not negatively impact adjacent neighborhoods. The map and text amendments creating the HE District promote achievement of these standards.

Section 2.4.2 of the Framework Element sets forth broad categories of land uses. The HE District includes many of these categories, including moderate-, medium-, and high-density residential areas, moderate- and medium-density commercial areas, and institutional areas.

Reservation 13 is identified by the Land Use Element of the Plan as one of 10 large sites within the City. LU-1.2 (Large Sites and the City Fabric). The HE District fosters at least six policies set forth in this Element: Policy LU-1.2.1 (Reuse of Large Publicly Owned Sites), LU-1.2.2 (Mix of Uses on Large Sites), LU-1.2.4 (New Methods of Land Regulation), LU-1.2.5 (Public Benefit Uses on Large Sites), LU-1.2.6 (New Neighborhoods and the Urban Fabric), and LU-1.2.7 (Protecting Existing Assets on Large Sites). The text and map amendments creating the HE District implement the specifications of all these policies, including, for example, providing new parks and enhancing waterfront access (LU-1.2.1), creating new, but compatible, mixed-uses based on a form-based code (LU-1.2.2 & LU-1.2.4), and redeveloping and integrating new neighborhoods into old, while protecting existing historic assets (LU-1.2.6 & LU-1.2.7).

The HE District also furthers several more specific Elements of the Plan. In the Transportation Element, Policies T-1.1.3 (Content-Sensitive Transportation) and T-1.1.4 (Transit-Oriented Development) are met by the HE District street grid, street-facing building design standards, appropriately-scaled development around the Stadium/Armory Metro Station, and other aspects of the new HE District provisions.

The HE District will provide a range of housing types in response to Policy H-1.1.3 (Balanced Growth) of the Plan's Housing Element. The HE District also provides for a mix of uses, including parks and recreational opportunities, in furtherance of both Policy ED-1.1.5 (Use of

Large Sites) of the Economic Development Element and Policy PROS-1.4.3 (Parks on Large Sites) of the Parks, Recreation, and Open Space Element.

At least seven policies of the Plan's Urban Design Element are specifically implemented by the HE District provisions. The HE District will feature neighborhood centers, transitions in building heights and densities, and strong architectural character, ensured by the design standards in the text amendment. *See*, Policies UD-2.2.3 (Neighborhood Centers), UD-2.2.4 (Transitions in Building Intensity) and UD-2.2.2 (Areas of Strong Architectural Character), respectively. The HE District design standards also work to maintain continuous façade lines along streets and the creation of attractive facades with building articulation and appropriate placement of windows and doors. *See*, Policies UD-2.2.6 (Maintaining Façade Lines) and UD-2.2.5 (Creating Attractive Facades), respectively.

The HE District provisions also further parking policies of the Urban Design Element. The provisions restrict surface parking lots and require separation of parking structures from the street by active uses. *See*, Policies UD-2.2.10 (Surface Parking) and UD-2.2.11 (Parking Structures).

The Capitol Hill Area Element of the Plan contains one section devoted to the development of the Reservation 13 site. This section's policies provided specific guidance in the drafting of the HE District provisions, which meet and enhance all these policies, including Policies CH-2.4.1 (Redevelopment of Public Reservation 13), CH-2.4.2 (Reservation as an Extension of Hill East), CH-2.4.3 (Reservation 13 Parkland), CH-2.4.4 (Stadium/Armory Metro Station), CH-2.4.5 (Reservation 13 Building Heights), and Action CH-2.4-A (Hill East/Reservation 13 Master Plan).

V. FIRST SET DOWN PROCEEDING

At its public meeting on March 8, 2004, the Commission set down Case No. 04-05. At that time, however, immediate further action on the case was delayed pending federal legislation to transfer the site to District ownership. As the federal process continued, so did the community outreach and fine-tuning of the text and map amendments for the HE District.

During the March 8, 2004 meeting, the Commissioners provided some preliminary comments to OP about their concerns with the Hill East text amendment. One Commissioner expressed concerns with the maximum 110 foot height permitted for buildings closest to the Anacostia River. This concern is mitigated by the fact that these buildings are significantly set back and separated from the water's edge by a waterfront park, which provides a green space along the waterfront. Also, the height of the buildings will appear less than that permitted because of the downward slope of the ground as it runs toward the river.

Another Commissioner expressed approval of the continuation of the existing Capitol Hill street grid through the HE District, but simultaneously noted with disapproval that this street grid was, at several places, interrupted. He also suggested that the buildings to be built facing the community park should be designated for architecturally significant façade treatments.

At the March 8, 2004 meeting, the Commission called for a public round table to be held on the general structure and use of form-based codes before a public hearing on Case No. 04-05 would be scheduled. Information presented at the round table would edify the Commission as to how these codes work and help inform the language of the text amendment.

VI. PUBLIC ROUND TABLE

On March 24, 2005, the Commission presided over a public round table on the content and implementation of form-based codes. At the round table, OP introduced several architects and planners who had drafted and implemented form-based codes in other areas of the country, and who testified to their structure and usefulness. These experts explained that the results of a form-based code are essentially the structural, design, and use features already present in the world's great cities, such as Paris and Rome. Form-based codes are prescriptive, not prohibitive, and attempt to define and create a coherent vision for the public realm. The main goal of this vision is that a neighborhood be pedestrian-friendly, with a defined street edge made by compatibly-designed buildings housing many varied mixed-uses.

Other than the experts, all of whom spoke in support of form-based codes, representatives of the D.C. Department of Transportation ("DDOT"), the Capitol Hill Restoration Society ("CHRS"), the Committee of 100, and one individual Advisory Neighborhood Commissioner, speaking on his own behalf, all testified at the round table. These individuals were all generally in favor of using a form-based code, but they each also had comments or caveats concerning form-based codes to bring to the Commission's attention. One individual testified briefly against the use of a form-based code.

VII. SECOND SET DOWN PROCEEDING

At its June 11, 2007 public meeting, the Commission decided, for a second time, to set down for a public hearing Case No. 04-05, the text and map amendments for the former Reservation 13. At the June 11th meeting, OP explained again, in some detail, the substance of the text amendment creating and establishing the HE District. Several of the Commissioners had questions or concerns, most of which were addressed by OP at the time, and/or which led to changes in the language of the text amendment. The pre-set down discussion included topics such as whether a 12-foot setback on subdistrict boundaries was sufficient, whether the street widths and building heights, taken together, complied with the Height Act, and whether roofline expression and embellishment were adequately covered in the design guidelines, as well as several specific word changes requested by the Commission. OP worked with the Office of the

Attorney General to refine the Hill East concepts and language, incorporating the Commissioner's requests and suggestions.

VIII. PUBLIC HEARING

The Commission scheduled a public hearing on Case No. 04-05 for May 5, 2008. Advisory Neighborhood Commission ("ANC") 6B requested that the May 5th hearing be continued until a later date to enable the ANC to clarify and work out some last concerns with OP. The CHRS concurred in the continuance request, and the Commission, after also expressing some further concerns with the text, continued the hearing until June 30, 2008, on which date it was held and completed. At the beginning of the May 5th hearing, the Commission had granted OP a posting waiver, so the Commission directed OP to re-post the site until the June 30th hearing date.

At the June 30, 2008 hearing, OP and the architects with whom it worked on the HE District laid out the basic framework of the new regulations as done at the earlier set down proceedings, but also addressed the concerns expressed by the Commission members on May 5, 2008. OP also addressed its most recent discussions with the ANC and the resolution of the last then-pending issues, for example, the agreement reached concerning Commission design review, as well as the Commission's handling of variance and special exception relief requests, to ensure consistency with the design guidelines of the new HE District.

The Real Estate Advisor to the Deputy Mayor for Economic Development testified and specifically answered a question asked by the Commissioners on May 5, 2008. He explained that the increase in the projected number of dwelling units within the HE District, from approximately 800 to approximately 3,000, was due to the change in use of "Parcel C." Parcel C had originally been designated to contain a hospital complex, but this had been changed and Parcel C was now to be wholly or partially residential.

ANC 6B, the CHRS, and the Hill East Waterfront Action Network all testified in support of the new HE District, with some minor reservations. One individual also testified in support. There was no opposition.

IX. GREAT WEIGHT

The Commission is required under D.C. Official Code § 1-309.10(d)(3)(A) (2001) to give great weight to issues and concerns raised in the affected ANC's written recommendation. ANC 6B has been an active participant in the long process to create a new community on the Reservation 13 site and has worked closely with OP throughout this process. Its ideas and concerns have been considered each step of the way. The Commission has carefully considered the ANC's earlier concerns, such as the "canyonization" of streets moving from 19th Street toward Water Street, the densities permitted within the subdistricts, the mix and location of retail uses, and the claimed lack of specific design criteria blending the project to existing neighborhoods. All of

these issues have been worked through and refined and the Commission concludes that they are adequately presented and resolved in the text amendment.

As of the date of the public hearing, ANC 6B shared with CHRS and the Hill East Waterfront Action Network three discrete issues which still concerned them. The first was the height of the buildings closest to the river. This issue had been addressed several times and was clearly addressed again by OP at Proposed Action on September 8, 2008. On that date, OP explained that it was never OP's intention to keep the skyline of the new HE District level with the height of the existing row dwellings west of 19th Street. OP further explained that it was always the intention to take advantage of the topography's sloping toward the river and that the river is more than 40 feet below the lowest point on the site. The Commission has heard much testimony on this issue and after giving it due consideration, determines that the height of the buildings closest to the river is appropriate, particularly with the downward gradient of the land toward the river.

The ANC's second issue was a desire for a two-tiered approach to building setbacks at the HE-2/HE-3 subdistrict interface. The ANC desired that buildings at this interface be set back at both the 50-foot level and the 80-foot level, as opposed to only at the 80-foot level, as prescribed by the regulations. The ANC argued that the two-tiered approach achieved its goal of concentrating the highest part of the buildings in the center of their square. OP also squarely addressed this second issue at proposed action and stated three reasons for disagreeing with the two-tiered setback approach: (i) it significantly impacts the development potential of the site; (ii) it limits architectural flexibility; and (iii) it is unnecessary to protect viewsheds, as they are experienced at the ground level, and not at the 50- or 80-foot level. The Commission heard this concern, but agrees with OP and finds that the single setback is sufficient from a design standpoint, and more efficient from a standpoint of practicality.

The last concern of the ANC and the neighborhood groups was that there be a mix of housing types, including a sufficient land area devoted to one-family dwellings, to avoid a site saturated with large condominium buildings. Decisions as to housing mix have not yet been made and a representative from the Office of the Deputy Mayor for Economic Development explained that the issue of housing mix would be handled when the D.C. government put out to developers "Requests for Expressed Interest." At that point in time, the ANC and other stakeholders could express their views.

The ANC's overall recommendation with respect to the text and map amendments was in support, and with this recommendation, the Commission concurs.

X. PROPOSED ACTION

The Commission took proposed action at a properly-noticed public meeting on September 8, 2008. Working through each section of the proposed regulatory language, the Commission made further refinements to the proposal. Specific language changes were made to clarify the text,

such as omitting a reference to an “overnight stay” for a matter-of-right clinic use. More general changes were also made, such as eliminating the provision allowing for a PUD in the HE District. Several design provisions were also changed or eliminated as being too restrictive of architectural creativity. For example, a provision mandating “distinctive roof forms” was eliminated, and a provision listing the types of façade materials desired was changed instead to a short list of prohibited low-grade finishing materials.

After completing its section-by-section review and discussion of the proposed text amendment, the Commission took proposed action to approve the text and map amendments.

The Notice of Proposed Rulemaking was published in the *D.C. Register* on February 27, 2009 at 56 DCR 1854, for a 30-day notice and comment period.

The proposed rulemaking was referred to NCPC under the terms of § 492 of the District of Columbia Charter. NCPC, through a delegated action dated October 7, 2008, found that the proposed text and map amendments would not adversely affect the identified federal interests, nor be inconsistent with the Comprehensive Plan.

The Office of the Attorney General has determined that this rulemaking meets its standards of legal sufficiency.

XI. FINAL ACTION

At its properly noticed April 13, 2009 meeting, the Commission approved the proposed text amendments. No comments had been received on the Notice of Proposed Rulemaking and no changes were made by the Commission to the text published therein.

Based on all the above, the Commission finds that the proposed amendments to the Zoning Map and Zoning Regulations are in the best interests of the District of Columbia, and are consistent with the purpose of the Zoning Regulations and the Zoning Act.

In consideration of the reasons set forth herein, the Zoning Commission hereby **APPROVES** the following map and text amendments to the Zoning Map and Zoning Regulations, Title 11, DCMR.

Map Amendment

- A. The Zoning Map of the District of Columbia is amended as follows (references to a street or a square refer to proposed streets and squares as depicted on Map A attached to the Office of Planning report dated June 1, 2007, filed in Zoning Commission Case Number 04-05, which may be viewed at the D.C. Office of Zoning, 441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001).

1. Rezone from unzoned to HE-1 all properties with frontage onto 19th Street, between Independence Avenue and Massachusetts Avenue.
2. Rezone from unzoned to HE-2 all properties with frontage onto squares with frontage on 20th Street, and with the exception of parcel H, those properties with frontage onto squares with frontage on 21st Street.
3. Rezone from unzoned to HE-3 all properties with frontage onto squares with frontage on Water Street.
4. Rezone from unzoned to HE-4 all property within squares N and O.

Any streets referenced are located or will be located in the Southeast quadrant.

Text Amendment

B. Title 11 DCMR (Zoning) is as follows:

1. Add a new Chapter 28, "Hill East (HE) District."

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CHAPTER 28 HILL EAST (HE) DISTRICT

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2800 GENERAL PROVISIONS AND PURPOSES

- 2800.1 The Hill East (HE) District is applied to Federal Reservation 13, which is designated for mixed use development on the Future Land use Map of the Comprehensive Plan and the Reservation 13 Hill East Waterfront Master Plan, as approved by the Council of the District of Columbia on October 15, 2002, and is the subject of the Hill East Waterfront Design Guidelines, June 2008.
- 2800.2 Any reference to a street or a square refers to proposed streets and squares as depicted in Map A attached to the Office of Planning report dated June 1, 2007, filed in Zoning Commission Case Number 04-05, which may be viewed at the D.C. Office of Zoning.
- 2800.3 Any reference to a street shall be deemed to include a reference to the Southeast (S.E.) quadrant.
- 2800.4 For the purposes of this chapter the terms:
- (a) “Primary street” shall mean Independence Avenue, Massachusetts Avenue, and Water Street; and
 - (b) “Secondary street” shall refer to 19th Street, 20th Street, 21st Street, Burke Street, C Street, and C Place.
- 2800.5 The boundaries of the HE District correspond to Federal Reservation 13, which is bounded by Independence Avenue on the north, 19th Street on the west, Water Street on the east, and the Congressional Cemetery on the south.
- 2800.6 The HE District is divided into the following four subdistricts for the purpose of lot occupancy, floor area ratio (“FAR”) and building height:
- (a) HE-1 (19th Street) Subdistrict, which includes squares with frontage onto 19th Street, between Independence Avenue and Massachusetts Avenue);
 - (b) HE-2 (20th Street) Subdistrict, which includes squares with frontage on 20th Street;
 - (c) HE-3 (Water Street) Subdistrict, which includes squares with frontage on Water Street; and
 - (d) HE-4 (Corrections) Subdistrict, which includes squares N and O.

2800.7 The purposes of the Hill East District are to:

- (a) Connect and integrate Reservation 13 with adjacent neighborhoods, and the new waterfront park along the Anacostia River;
- (b) Utilize the site to meet a diversity of public needs, including health care, education, employment, government services and administration, retail, recreation and housing;
- (c) Extend the existing pattern of local streets to and through the site to create simple, well-organized city blocks and appropriately-scaled development;
- (d) Maintain a human-scale of building heights that match existing neighborhood buildings and increase in height as the site slopes downward to the Anacostia waterfront;
- (e) Connect the Hill East neighborhood and the city at large to the waterfront via tree-lined public streets, recreational trails, and increased access to waterfront parklands;
- (f) Demonstrate environmental stewardship through environmentally-sensitive design, ample open spaces, and a waterfront park that serve as public amenities and benefit the neighborhood and the city;
- (g) Promote the use of mass transit by introducing new uses near Metro stations, and create an environment where the pedestrian, bicycle, and auto are all welcome, complementary, and unobtrusive, reducing the impact of traffic on adjacent neighborhood streets;
- (h) Limit the Central Detention Facility and the Correction Treatment Facility to areas south of Massachusetts Avenue; and
- (i) Create attractive “places” of unique and complementary character including:
 - i. A new, vital neighborhood center around the Metro station at C and 19th Streets that serves the unmet neighborhood commercial needs of the community and extends to the waterfront with a new residential district;
 - ii. Massachusetts Avenue as a grand Washington ‘boulevard’ in the tradition of the L’Enfant plan;
 - iii. A district for city-wide uses and services, such as health care, education, and recreation along Independence Avenue; and

- iv. A grand public waterfront park incorporating monumental places and quiet natural retreats accessed by a meandering park drive set back from the Anacostia River.

2800.8 The Hill East District shall constitute the Zoning Regulations for the geographic area referred to in § 2800.1. Where there are conflicts between this chapter and other parts of the Zoning Regulations, the provisions of the Hill East District shall govern.

2800.9 Unless specifically exempted, the requirements of the HE District shall apply to all new buildings and to all other buildings where any additions, alterations, or repairs within any 12-month period exceed 100 percent of the assessed value of the building as set forth in the records of the Office of Tax and Revenue as of the date of a building permit application, provided:

- (a) The cost basis for alterations or additions to an existing building shall be the amount indicated by the applicant on the application for a building permit; and
- (b) In the case of an addition, the requirements and incentives of this Chapter apply only to the addition.

2801 ZONING COMMISSION REVIEW

2801.1 The Zoning Commission shall review the design of all new buildings, or additions to existing buildings for consistency with the design guidelines set forth at §§ 2812 through 2814 and with the general purposes of the HE District as stated in § 2800.7 of this Chapter.

2801.2 For good cause shown, the Zoning Commission, in its discretion, may waive one or more of the design standards set forth in §§ 2812 through 2814.

2801.3 The Commission may hear and decide any additional requests for special exception or variance relief needed for the subject property, including the special exceptions provided for in this Chapter. Such requests shall be advertised, heard, and decided together with the application for Zoning Commission review and approval.

2801.4 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.

2801 USES AS A MATTER OF RIGHT

2802.1 The following uses shall be permitted as a matter of right in the HE District, provided that no use may be located on a site that has not been designated for that use by the Master Plan:

- (a) Residential dwellings, including row dwellings, flats, and multiple dwellings;
- (b) Retail sales and services involving the sale, lease, or servicing of new or used products to the general public, or which provide personal services or entertainment, or provide product repair or services for consumer and business goods;
- (c) Private club, restaurant, fast food restaurant, or food delivery service; provided, a fast food restaurant or food delivery service shall not include a drive-through;
- (d) Church or other place of worship;
- (e) Office;
- (f) Clinic;
- (g) Government offices and facilities,
- (h) Public recreation and community center;
- (i) Public school;
- (j) Police Department Local Facility;
- (k) Fire Station;
- (l) Park or open space;
- (m) Library, public or private;
- (n) Museum;
- (o) Hotel or inn;
- (p) Child/elderly development center;

- (q) Community-based residential facility to be occupied persons with a handicap plus resident supervisors, as permitted by right in residence and commercial districts pursuant to 11 DCMR §§ 201.1 (o) and 330.5 (i)
- (r) Community-based residential facility not described in subparagraph (o), subject to the following limitations:
 - i. Youth residential care home, community residence facility, or health care facility for not more than 6 persons, not including resident supervisors or staff and their families.
 - ii. Youth residential care home or community residence facility for 7 to 15 persons, not including resident supervisors or staff and their families; provided that there shall be no property containing an existing community-based residential facility for 7 or more persons either in the same Square or within a radius of 500 feet from any portion of the subject property; and
 - iii. Emergency shelter for not more than 4 persons, not including resident supervisors or staff and their families.
- (s) Adult day treatment facility; and
- (t) Antenna, subject to the standards and procedures that apply to the particular class of antenna pursuant to Chapter 27 of this Title.

2803 SPECIAL EXCEPTIONS – SPECIFIC USES PERMITTED

- 2803.1 The uses identified in this section shall be permitted in the HE District as a special exception if approved by the Zoning Commission pursuant to the general standard of § 3104, the criteria set forth in § 2804.2 and such specific conditions as are stated below.
- 2803.2 Hospitals, provided:
- (a) The hospital use will be located only on Square B and/or C;
 - (b) Need of the facility is demonstrated through a Certificate of Need, including a review and report by the Department of Human Services on the need for the facility and on the ability of the specific design of the facility to meet that need; and
 - (c) There is a detailed plan for the facility and accessory buildings, showing the location, height, and bulk of all improvements, including but not limited to buildings, parking and loading facilities, screening, signs, capacities of the various facilities, and public utility facilities.

- 2803.3 Health care facility that meets the definition for, and is licensed as, a skilled care facility or intermediate nursing care facility under the Health Care Facilities and Community Residence Regulations.
- 2803.4 Community service center to accommodate organizations created for the purpose of improving the social or economic well-being of the residents of the area in which the center is proposed to be located, which may include, but not be limited to, centers for job training, family counseling, consumer cooperatives, and such other facilities as are similar in nature and purpose, provided that the community service center shall not be organized for profit, and no part of its net income shall inure to the benefit of any private shareholder or individual.
- 2803.5 Private school, public or private college, or university provided:
- (a) The use shall be located only on Squares A, B, C, and/or K and subject to the height, floor area ration and lot occupancy standards of each respective square;
 - (b) A private school use, including residences for teachers and/or staff of a private school, subject to the standards and requirements of § 206; and
 - (c) A college or university use, including a college or university hospital, dormitory, fraternity, or sorority house, proposed to be located on the campus of a college or university, subject to the standards and requirements of §§ 210.2 and 210.4 through 210.9
- 2803.6 Community-based residential facility not described in § 2802.1 (o) and which falls within one of the following categories:
- (a) Youth residential care home or community residence facility for nine to 15 persons, not including resident supervisors or staff and their families, subject to the standards and requirements of § 303;
 - (b) Emergency shelter for five to 15 persons, not including resident supervisors or staff and their families, subject to the standards and requirements of § 305; and
 - (c) Youth rehabilitation home, adult rehabilitation home, or substance abusers' home for one to 15 persons, not including resident supervisors or staff and their families, subject to the standards and requirements of § 306.
- 2803.7 Additions to or the replacement of the Central Detention Facility and the Correction Treatment Facility, provided:
- (a) Any addition or replacement to the facilities shall be located only on Squares N and O; and

- (b) The application for Zoning Commission approval shall include a detailed plan for the facilities and accessory facilities, showing the location, height, and bulk of all improvements, including but not limited to buildings, parking and loading facilities, screening, signs, and utility facilities.
- 2803.8 Basic utilities and supporting infrastructure facilities, such as an electrical substation, natural gas regulator station, pump station, telephone exchange, or any co-generation facility, subject to such setbacks and screening requirements as the Commission deems necessary for protection of the surrounding neighborhood.
- 2803.9 Antennas, subject to the standards and procedures that apply to the particular class of antenna in Chapter 27 of this Title.
- 2803.10 Above grade parking structures, provided:
 - (a) Structures shall not directly front onto a primary or secondary street;
 - (b) Preferred uses, as defined in § 2811.1, shall occupy the ground floor to a minimum depth of thirty (30) feet to separate parking areas from the primary or secondary street; and
 - (c) Upper floors shall be separated from a primary or secondary street by commercial or residential uses.
- 2803.11 New or expanded at-grade surface parking lots accessory to an existing use or building for a period of five (5) years which may be renewed a maximum of two (2) times.
- 2803.12 Fast Food Establishment and Fast Food Delivery Services, provided:
 - (a) The use shall not include a drive-through;
 - (b) The use shall be designed and operated so as not to become objectionable to neighboring properties because of noise, sounds, odors, lights, hours of operation, or other conditions;
 - (c) There shall be adequate facilities to allow deliveries to be made and trash to be collected without obstructing public rights-of-way or unreasonably obstructing parking spaces, aisles, or driveways on the site; and
 - (d) The Commission may impose conditions pertaining to design, screening, lighting, soundproofing, off-street parking spaces, signs, method and hours of

trash collection, or any other matter necessary to protect adjacent or nearby property.

- 2803.13 Other principal uses that are not permitted by § 2802, but not prohibited by § 2805 shall be permitted in the HE District as a special exception provided the Commission considers that the use is appropriate in furthering the purposes of the HE District.

2804 SPECIAL EXCEPTIONS – GENERAL PROVISIONS

- 2804.1 In addition to the general standard set forth in § 3104, and any specific conditions set forth in § 2803, an applicant for a special exception within the HE District shall demonstrate compliance with § 2804.2.

- 2804.2 For all proposed uses, the applicant must demonstrate:

- (a) Parking and traffic conditions associated with the operation of a proposed use shall not adversely affect adjacent or nearby uses;
- (b) Noise associated with the operation of a proposed use shall not adversely affect adjacent or nearby uses;
- (c) The proposed building will comply with the applicable ground floor use and design requirements of §§ 2811 through 2814;
- (d) The building's architectural design will enhance the urban design features of the immediate vicinity in which it is located; and
- (e) Vehicular access and egress will be located and designed so as to encourage safe and efficient pedestrian movement, minimize conflict with principal pedestrian ways, function efficiently, and create no dangerous or otherwise objectionable traffic conditions.

- 2804.3 The D.C. Office of Planning shall refer applications for special exceptions filed pursuant to this section to the D.C. Department of Transportation and shall submit a report for each such application addressing:

- (a) Whether the proposed use furthers the purposes of the HE District;
- (b) The relationship of the proposed use to other planning considerations for the area and the District of Columbia as a whole, including the plans, programs, and policies of other departments and agencies of the District government;
- (c) The impact of the proposed use on neighboring properties; and

(d) Any other matters that are within the Office of Planning's jurisdiction.

2804.5 The Commission may impose requirements pertaining to design, appearance, signs, massing, landscaping, and other such requirements as it deems necessary to protect neighboring property and to achieve the purposes of the HE District.

2805 PROHIBITED USES

2805.1 The following uses are prohibited within the HE District as both principal and accessory uses, unless otherwise noted:

- (a) At-grade surface parking lots, except as provided in § 2803.11.
- (b) Vehicle sales;
- (c) Vehicle repair and servicing, including full-serve and mini-serve gas stations, unattended key card stations, car washes, quick lubrication services, and vehicle emission test sites;
- (d) Any industrial use first permitted in an M District;
- (e) Sexually-oriented business establishment;
- (f) Any establishment that has as its principal use the administration of massages;
- (g) Self-service storage establishment that provides separate storage areas for individual or business uses; and
- (h) Drive-through establishment (any establishment where goods are sold/rented or services rendered, directly to occupants of motor vehicles while in the vehicles).

2806 ACCESSORY USES

2806.1 Except as prohibited by § 2805, accessory uses (including parking, but not at-grade accessory surface parking lots) buildings, or structures customarily incidental and subordinate to the principal uses permitted in § 2802 shall be permitted in the HE District as a matter of right subject to the limitations in Chapter 25 of this Title.

2807 INCLUSIONARY HOUSING REQUIREMENTS

2807.1 Development that is subject to the Inclusionary Zoning Program set forth in Chapter 26 shall be constructed according to the provisions set forth in § 2808, notwithstanding any bonus they may be granted by Chapter 26.

2808 BULK AND DENSITY

2808.1 Except as provided in § 2808.4, the maximum permitted lot occupancy, building height, floor area ratio, and number of stories in an HE Subdistrict shall be as set forth in the following table:

HE Subdistrict	Maximum Lot Occupancy	Building Height		Maximum FAR	Maximum No. of Stories
		Min.	Max.		
HE-1 (19 th St)	80%	26 ft	50 ft	3.0	4
HE-2 (20 th St)	75%	40 ft	80 ft	4.8	7
HE-3 (Water St)	80%	80 ft	110 ft	7.2	10
HE-4 (Corrections)	75%	-	90 ft	6.0	8
Square E (Park)	20%	-	26 ft	0.2	-

2808.2 The following FAR limitations on non-residential uses apply within the HE District, but only in the Squares listed below:

Square	Maximum Non-residential FAR
F	0.8
G	1.0
H	0.5
I	3.0

2808.3 Building height shall be measured from the lowest curb level along a street frontage abutting the lot.

2808.4 A hospital located in the HE-2 subdistrict may exceed eighty (80) feet in height, to a maximum of one hundred ten (110) feet, if approved as a special exception by the Zoning Commission pursuant to § 2803.2.

2808.5 Buildings or structures that abut the HE-1 subdistrict shall provide a 12-foot setback from the subdistrict boundary line for any part of the building or structure that exceeds 50 feet in height.

2808.6 Buildings or structures that abut the HE-2 subdistrict, or have street frontage on Burke Street, C Street, C Place, or Massachusetts Avenue, shall provide a 12-foot setback for any part of the building that exceeds 80 feet.

2808.7 Architectural embellishments, such as spires, towers, domes, pinnacles or minarets; penthouses over elevator shafts, ventilator shafts; antennas, chimneys, smokestacks, or fire sprinkler tanks may be erected to a height in excess of that which this section otherwise authorizes, pursuant to the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Official Code §§ 6-601.01 to 6.601.09 (2001)).

2808.8 The portion of Square A devoted to St. Coletta's School shall be subject to Zoning Commission Order 03-21.

2809 ROOF STRUCTURES

2809.1 The provisions of §§ 411 and 400.7 shall apply to roof structures in the HE District.

2809.2 The gross floor area of roof structures permitted under this section shall not be counted in determining the amount of off-street parking that is required by Chapter 21.

2810 YARDS AND LOT SIZE

2810.1 No side yard shall be required. If a side yard is provided, its minimum width shall be eight feet.

2810.2 Except as provided in § 2810.3, no rear yard shall be required for wholly non-residential buildings.

2810.3 Notwithstanding § 2801.2, a an entirely non-residential building shall have a rear yard if:

- (a) The building's rear wall faces a wall of a residential building;
- (b) The distance between the rear wall of the non-residential building and a wall of the residential buildings is 40 feet or less; and
- (c) A window located on the non-residential building's rear wall would afford a direct view into the interior of the residential building through one or more of the latter's windows.

2810.4 The rear yard required by § 2810 shall have a depth equal to the distance between the rear wall of the non-residential building and the facing wall of the residential building.

2810.5 All residential buildings shall provide a rear yard in accordance with either § 2810.6 or § 2810.7

- 2810.6 When the residential portion of a building begins at or below grade, the building shall provide a rear yard with a minimum depth of three inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof, but not less than twelve (12) feet.
- 2810.7 When the residential portion of a building begins above grade, the building shall provide a rear yard with a minimum depth of three (3) inches per foot of vertical distance from the horizontal plane at which the residential use begins to the highest point of the main roof, but not less than twelve (12) feet. The rear yard shall be provided at and above the horizontal plane at which residential use begins.
- 2810.8 The minimum lot area for row dwellings shall be 1,800 square feet with a minimum lot width of 18 feet.

2811 GROUND FLOOR USE – WHERE REQUIRED AND PERMITTED

- 2811.1 For the purposes of the HE District, the term “preferred uses” shall mean retail, entertainment, cultural, or commercial uses.
- 2811.2 The following locations are required to devote not less than sixty-five (65) percent of the ground floor frontage to preferred uses and main building entrances, or lobbies to office and residential uses, and shall comply with the design requirements of §§ 2812 through 2814:
- (a) The west face of Square F (19th Street frontage);
 - (b) The northwest corner of Square G;
 - (c) The southeast corner of Square J at Massachusetts Avenue and Water Street, facing the monumental circle;
 - (d) The northeast corner of Square M at Massachusetts Avenue and Water Street, facing the monumental circle; and
 - (e) All Independence Avenue and Massachusetts Avenue frontages;
- 2811.3 The following locations are permitted to have ground floor preferred uses, provided that the building shall be constructed so that not less than sixty-five (65) percent of the ground floor frontage will be devoted to preferred uses and main building entrances, or lobbies to office and residential uses and shall comply with the design requirements of §§ 2812 through 2814:
- (a) All frontages on 19th Street;

- (b) All frontages on Burke Street;
- (c) The C Street frontage of Square H, facing the park in Square E, for a maximum length of 200 feet from Square H's northeast corner at the intersection of C Street and 21st Street;
- (d) The 21st Street frontage of Square D;
- (e) The southeast corner of Square D, which faces the intersection of C Street and Water Street;
- (f) The northeast corner of Square I, which faces the intersection of C Street and Water Street; and
- (g) All frontages on Water Street.

2812 GROUND FLOOR PREFERRED USES – DESIGN STANDARDS

- 2812.1 Wherever preferred uses, as defined in §2811.1, are required or allowed pursuant to §§ 2811.2 and 2811.3, such ground floor preferred uses shall:
- (a) If located on a corner, wrap around the corner to a minimum depth of 20 feet on the side street;
 - (b) Occupy the ground floor to a minimum depth of 30 feet;
 - (c) Have a minimum clear floor-to-ceiling height of fourteen (14) feet, measured from the finished grade, for the area of the ground floor dedicated to preferred uses;
 - (d) The street-facing facades of buildings on primary streets shall devote not less than seventy-five (75) percent per individual use or fifty (50) percent of the length and fifty (50) percent of the surface area of the street wall at the ground level to windows associated with preferred uses or windows associated with main building entrances; and
 - (e) The street-facing facades of mixed-use or non-residential buildings on secondary streets shall devote not less than seventy-five (75) percent per individual use or thirty (30) percent of the length and thirty (30) percent of the surface area of the street wall at the ground level to windows associated with preferred uses or windows associated with main building entrances.

- 2812.2 The windows required by § 2812.1(d) shall have clear or clear/low emissivity glass allowing transparency to a depth of twenty (20) feet into the preferred ground level space with bottom sills no more than four (4) feet above the adjacent sidewalk grade.
- 2812.3 Such windows must allow views from within the building to the street.

2813 DESIGN REQUIREMENTS - ALL LOCATIONS

- 2813.1 The provisions of this section establish the design requirements for all buildings and structures located in the HE District.
- 2813.2 Except as provided in § 2814.2, the front of a building or structure shall extend to the property line(s) abutting the street right-of-way for not less than ninety (90) percent of the property line and to a height of not less than twenty-five (25) feet.
- 2813.3 Whatever portion of the front of a building or structure that does not extend to the property line(s) pursuant to § 2813.2 must extend to within 25 feet of the front property line and to a height of not less than twenty-five (25) feet.
- 2813.4 Awnings, canopies, bay windows, and balconies may extend forward of the required building line to the extent permitted by any other regulations.
- 2813.5 For every fifty (50) feet of uninterrupted building façade length, the building shall incorporate modulated and articulated building wall planes through the use of projections, recesses and reveals expressing structural bays, changes in color graphical patterns, texture, or changes in building material of the façade.
- 2813.6 The articulation shall have a minimum change of plane of six (6) inches.
- 2813.7 Façade articulation of less than two (2) feet in depth shall qualify to meet the street frontage required building line standards of §§ 2813.2 and 2813.3.
- 2813.8 Any single articulation feature shall not exceed sixty (60) percent of the building façade width.
- 2813.9 Buildings with ground floor retail shall incorporate vertical elements to create a series of storefront-type bays with entrances that are no more than 50 feet apart.
- 2813.10 Security grilles shall have no less than seventy (70) percent transparency.
- 2813.11 Street-facing facades shall not have blank walls (without doors or windows) greater than 10 feet in length.

- 2813.12 Each use within a building shall have an individual public entrance that is clearly defined and directly accessible from the public sidewalk.
- 2813.13 Exterior display of goods and exterior storage between the building line and the front lot line is prohibited. Outdoor seating for restaurants and pedestrian-oriented accessory uses, such as flower, food, or drink stands, or other appropriate vendors are permitted to the extent consistent with other District laws.
- 2813.14 Windows shall cover the following minimum area of street-facing facades above the ground floor level.

Location	Minimum Percentage	
	Non-Residential	Residential
Primary Street	35%	20%
Secondary Street	40%	20%

- 2813.15 Buildings and structures should clearly articulate a base, middle, and top, except for row dwellings and flats.
- 2813.16 High quality, durable materials which enhance the building and convey permanence shall be required.
- 2813.17 The use of synthetic stucco, vinyl siding, and/or other low-grade exterior finishes is prohibited.

2814 DESIGN REQUIREMENTS FOR BUILDINGS LOCATED ON PRIMARY STREETS

- 2814.1 The provisions of this section set forth standards for buildings and structures with frontage(s) on a primary street.
- 2814.2 Notwithstanding §§ 2813.2 and 2813.3, the fronts of buildings located at street intersections shall be constructed to the property lines abutting each intersecting street, without any setback, for a minimum of fifty (50) feet from the intersection, along each street frontage.
- 2814.3 The corner of the building at the intersection of two primary streets or a primary and secondary street shall incorporate articulation such, as but not limited to, being angled, curved, or chamfered to emphasize the corner.
- 2814.4 The distance from the corner shall not exceed 20 feet, measured from the corner of the lot to the end of the angled or curved wall segment.

- 2814.5 Entrances into a building shall be no more than fifty (50) feet apart and recessed no more than six (6) feet deep or ten (10) feet wide.
- 2814.6 Buildings shall incorporate vertical elements in the street-facing façade to create a series of storefront-type bays where preferred uses are present.
- 2814.7 Residential buildings shall have at least one primary entrance directly accessible from the public sidewalk.
- 2814.8 Instead of the windows required by § 2812.1(d), on primary streets, artwork and displays relating to activities occurring within the building shall be permitted as a special exception if approved by the Zoning Commission pursuant to § 3104, provided the applicant demonstrates that:
- (a) The building has more than 50 percent of its ground level space in storage, parking, or loading areas, or in uses which by their nature are not conducive to windows (such as theaters); and
 - (b) The artwork or displays are consistent with the objective of providing a pleasant, rich, and diverse pedestrian experience.

2815 PARKING, LOADING, AND VEHICLE ACCESS

- 2815.1 Parking for residential uses shall be provided as prescribed in Chapter 21 for the R-5-B Residence zone district.
- 2815.2 Parking for non-residential uses shall be as prescribed in Chapter 21 for the CR Mixed-Use zone district.
- 2815.3 Loading for residential uses shall be as prescribed in Chapter 22 for the R-5-B Residence zone district.
- 2815.4 Loading for non-residential uses shall be as prescribed in Chapter 22 for the CR Mixed-Use zone district.
- 2815.5 Loading berths shall not front onto a primary or secondary street.
- 2815.6 No driveway or garage entrance providing access to parking or loading areas shall be permitted from a primary or secondary street.
- 2815.7 Driveways or garage entrances shall not be located closer than forty feet (40 ft.) from the intersection of an alley and secondary street as measured from the intersection of the curb lines extended.

- 2815.8 A garage shall be set back at least twelve feet (12 ft.) from the center line of an alley.
- 2815.9 Exceptions from the prohibitions and limitations of this Section (except those that pertain to use) shall be permitted if approved by the Zoning Commission pursuant to § 3104, provided the applicant demonstrates that:
- (a) There is no practical alternative means of serving the parking, loading, or drop-off needs of the building to be served by the proposed driveway or garage entrance;
 - (b) The driveway or garage entrance will not impede the flow of pedestrian traffic; and
 - (c) The driveway or garage entrance is not inconsistent with the DDOT landscape plans for the public rights of way in the Hill East Waterfront area, to the extent that such plans exist at the time of the special exception application.
2. Chapter 30, ZONING COMMISSION PROCEDURES, is amended as follows (new language shown in **bold** and underlined text, deleted text is shown in ~~strikethrough~~)
- (a) Subparagraph 3010.2 (d) is amended to read as follows:
 - (d) Applications for Zoning Commission review and approval pursuant to Chapters 16, ~~and 18,~~ **and 28** of this Title as well as § 1709.21.
 - (b) The first sentence of §3011.1 is amended to read 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 the applications for Zoning Commission review and approval filed pursuant to Chapters 16, ~~and 18,~~ **and 28** of this Title, which are deemed complete by the Director, shall be immediately scheduled for hearing consistent with the notice provisions of this chapter. ...
 - (c) Subsection 3012.1 is amended to read as follows:

3012.1 **As to those applications or petitions for which set down is required,** as soon as an application or petition is set down for a public

hearing, the matter shall be referred to the D.C. Office of Planning and any other public agencies that may be requested to provide information and assistance, depending on the nature of the case. **As to those applications for which set down is not required pursuant to § 3011.1,** as soon as an application requesting Zoning Commission review and approval pursuant to Chapters 16, ~~and 18,~~ **and 28** 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 applications for approval pursuant to 11 DCMR §§ 1610.1 (a) and (d); ~~and~~
- (b) The Capitol Police Board for those applications for approval pursuant to 11 DCMR § 1612.18; **and**
- (c) **The District Department of Transportation for those applications for special exception approval pursuant to § 2803.**

- (d) Subsection 3015.4 is amended to read as follows:

3015.4 When a Zoning Map amendment, planned unit development, air space development, or Zoning Commission review and approval pursuant to Chapters 16, ~~and 18,~~ **and 28** of this Title is requested by a property owner for the property owned, the applicant shall give additional notice of the public hearing by posting the property with notice of hearing at least forty (40) days in advance of the hearing.

- (e) Subsection 3022.1 is amended to read as follows:

3022.1 The procedures set forth in D.C. Official Code § 2-509 (2001), and this section shall apply to applications for a change in the Zoning Map pursuant to § 102 and to applications for planned unit developments, air space developments, and similar plan review activities of the Commission, including those required by Chapters 16, and 18, **and 28** of this Title as well as § 1709.21. except as otherwise provided in § 3010.7.

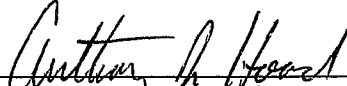
(f) Subsection 3027.4 is amended to read as follows:

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


On September 8, 2008, upon the motion of Chairman Hood, as seconded by Commissioner Etherly, the Zoning Commission **APPROVED** the proposed text and map amendments at its public meeting by a vote of 4-0-1 (Anthony J. Hood, Curtis L. Etherly, Jr., Peter G. May, and Michael G. Turnbull to approve; Gregory N. Jeffries, not having participated, not voting).

On April 13, 2009, on a motion made by Chairman Hood, as seconded by Commissioner Turnbull, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of 3-0-2 (Anthony J. Hood, Peter G. May, and Michael G. Turnbull to adopt; Gregory N. Jeffries and William W. Keating, III, not having participated, not voting).

In accordance with the provisions of 11 DCMR § 3028.9, this Order shall become effective upon publication in the *D.C. Register*; that is, on August 7, 2009.



ANTHONY J. HOOD
Chairman
Zoning Commission



RICHARD S. NERO, JR.
Acting Director
Office of Zoning

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

AND

Z.C. ORDER NO. 04-05

Z.C. Case No. 04-05

(Text and Map Amendments – 11 DCMR)

(Text Amendment – provisions of New Hill East District)

(Map Amendment – to map new Hill East District)

April 13, 2009

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Office of Zoning



Z.C. CASE NO.: 04-05

AUG - 6 2009

As Secretary to the Commission, I hereby certify that on _____ copies of this Z.C. Notice of Final Rulemaking & Order No. 04-05 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

1. *D.C. Register*
2. David Garrison, Chair
ANC 6B
921 Pennsylvania Avenue, SE
Washington, DC
3. Gottlieb Simon – ANC
4. Commissioner David Garrison
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Washington, DC 20003
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6B02
649 C Street SE, #401
Washington, DC 20003
6. Commissioner Julie Olson
6B03
320 G Street SE
Washington, DC 20003
7. Commissioner Kirsten Oldenburg
6B04
423 12th Street SE
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8. Commissioner Kenan Jarboe
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911 East Capitol Street SE
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9. Commissioner Wilbert Hill
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1343 Ives Place SE
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11. Commissioner Neil Glick
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1515 Massachusetts Ave. SE
Washington, DC 20003
12. Commissioner Michael Patterson
6B09
1512 Pennsylvania Avenue SE
Washington, DC 20003
13. Commissioner Francis Campbell
6B10
1805 Burke Street SE
Washington, DC 20003
14. Councilmember Tommy Wells
15. Councilmember Michael Brown
16. Councilmember David Catania
17. Councilmember Phil Mendelson
18. Councilmember Kwame Brown
19. Office of Planning (Harriet Tregoning)
20. DDOT (Karina Ricks)
21. General Counsel - DCRA
941 North Capitol Street, N.E.
Suite 9400
Washington, D.C. 20002
22. Office of the Attorney General
(Alan Bergstein)

ATTESTED BY:

Sharon S. Schellin

**Secretary to the Zoning Commission
Office of Zoning**