

THE OFFICE OF CONTRACTING AND PROCUREMENT

NOTICE OF FINAL RULEMAKING

The Chief Procurement Officer of the District of Columbia, pursuant to authority granted by 23 U.S.C. §101, 23 CFR §636, sections 202 and 204 of the District of Columbia Procurement Practices Act of 1985 (“PPA”), effective February 21, 1986, D.C. Law 6-85, D.C. Official Code §§ 2-302.02 and 2-302.04 (2001), and Mayor’s Order 2002-207 (dated December 18, 2002), hereby gives notice of the adoption of the following rules to amend Chapter 16 of Title 27 of the District of Columbia Municipal Regulations (Contracts and Procurements). The rulemaking adds a section of Chapter 16 concerning solicitations for design and construction of the 11th Street Bridge utilizing a two-step procurement process. The purpose of this two-step process will be to select a contractor whose offer will provide the best value to the District. Similar rulemaking was recently proposed concerning solicitations for design, development, construction and management of the Anacostia Gateway Government Center.

In the first step, prospective contractors will be evaluated based on statements of their qualifications to perform the design and construction in order to enable the District to determine whether or not they are qualified to respond to a request for competitive sealed proposals (“RFP”) to be issued subsequently under Chapter 16. The District’s request for qualifications (“RFQ”) serves to maximize competition and dialogue between the District and contractor community as well as to facilitate determination of the design and timing of the project and corresponding issuance of the RFP. The District may also award a stipend to certain unsuccessful offerors that have submitted responsive proposals complying with the conditions of the RFP.

The 11th Street Bridge Design-Build project will replace the existing structurally obsolete bridges across the Anacostia River. New ramps east of the river will connect both directions of the Anacostia Freeway with the cross-river bridges. This will eliminate the need for freeway traffic to cut through neighborhood streets and return to the freeway. Separate bridges for arterial traffic and freeway traffic will also eliminate the dangerous merging and weaving maneuvers that are currently required when local traffic is forced to use the freeway to cross the river. The project was authorized in 2006 and an environmental impact statement was recently completed.

The proposed rulemaking was published in the *D.C. Register* at 55 DCR 10180 (October 3, 2008). No changes have been made to the rulemaking as originally proposed.

The Council of the District of Columbia approved this rulemaking on April 4, 2009 by PR 18-48, pursuant to section 205(b) of the PPA (D.C. Official Code § 2-302.05(b)).

The rulemaking will become effective upon publication in the *D.C. Register*.

CHAPTER 16

PROCUREMENT BY COMPETITIVE SEALED PROPOSALS

Chapter 16 is amended by adding a new section 1631 to read as follows:

1631 SOLICITATIONS FOR DESIGN AND CONSTRUCTION OF THE 11TH STREET BRIDGE PROJECT

1631.1 Notwithstanding the provisions of § 1602, the purpose of this section is to adopt a two-step procurement method to be used for procurement of a contractor to design and construct the proposed 11th Street Bridge. The first step will be a request for qualifications (RFQ) to enable the contracting officer to determine which prospective contractors are qualified to receive requests for proposals (RFP's) and submit responses to the RFP's, based on financial and professional responsibility criteria established by the contracting officer for pre-qualification of a prospective contractor to design and construct the 11th Street Bridge.

1631.2 The District shall conduct the two-step selection process as follows:

- (a) The first step consists of a request issued by the Office of Contracting and Procurement (OCP) for qualifications from a firm or combination of firms that has expertise, ability and entrepreneurship (i) who possess the expertise to assemble the labor and capital necessary for the completion of the design and construction of the bridge (as described by the District), (ii) to manage all components of the design and construction of a project of this size, (iii) to construct and complete the proposed project in a timely manner while serving the District's stated policy objectives; and
- (b) The second step of the two-step process involves the submission of proposals in response to an RFP issued by OCP to up to five offerors determined to be the most qualified in the first step. The only offerors who may submit proposals in response to the RFP in the second step are those offerors that (i) responded to the RFQ, and (ii) were determined to be the most qualified by the contracting officer.

1631.3 The contracting officer shall give public notice of the RFQ for design-build of the 11th Street Bridge project in accordance with Chapter 13.

1631.4 The contracting officer shall utilize the two-step process set forth in section 1631.2 above on forms prescribed by the Director.

1631.5 The first step of the process shall consist of an RFQ inviting interested prospective contractors to respond in writing with a statement of their qualifications to perform the required services, including financial and professional responsibility information. The RFQ shall provide, at a minimum:

- (a) A detailed description of the proposed project site and the project;
- (b) The District's intent of the project and the design;

- (c) The selection process, schedule and criteria to be used by the District in determining which prospective contractors are qualified;
- (d) Submission requirements and evaluation criteria that will be used to determine whether each prospective contractor is qualified; and
- (e) A statement that only proposals from up to five offerors determined most qualified in the first step pursuant to subparagraphs (c) and (d) above will be selected to submit proposals in the second step.

1631.6 The contracting officer may conduct oral or written discussions with all prospective contractors who submitted responses to the RFQ.

1631.7 The contracting officer may provide the information submitted by all prospective contractors in response to the RFQ to an evaluation panel who may recommend to the contracting officer, based upon their analysis of the information according to the criteria set forth in the RFQ, whether or not the prospective contractor is among the up to five most qualified to proceed to the second step.

1631.8 The contracting officer shall determine the financial and professional responsibility of each prospective contractor that responds to the RFQ, and whether the prospective contractor is among the up to five most qualified to proceed to the second step.

1631.9 The second step of the selection process shall follow the competitive sealed proposal procedures consistent with the requirements of this chapter, except as follows:

- (a) The contracting officer shall issue an RFP only to up to five of the top-ranked offerors who have been determined most qualified in the first step;
- (b) The contracting officer shall ensure that an independent cost/benefit analysis of each proposal be completed; and
- (c) The RFP shall not be advertised in newspapers or publicly posted.

1631.10 The contracting officer, in his discretion, may pay a stipend to up to four unsuccessful offerors that have submitted responsive proposals complying with the conditions of the RFP to compensate them for a portion of their proposal development costs and to encourage competition. The contracting officer shall determine the amount of the stipend(s). If an unsuccessful offeror accepts a stipend, the District shall be authorized to retain the right to use ideas and information from the design documents and technical drawings in its proposal.

D.C. DEPARTMENT OF HUMAN RESOURCES**NOTICE OF FINAL RULEMAKING**

The Director of the D.C. Department of Human Resources, with the concurrence of the City Administrator, pursuant to Mayor's Order 2008-92, dated June 26, 2008; and in accordance with the provisions of section 801 (a) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-608.01 (a)) (2006 Repl. and 2008 Supp.); hereby gives notice that final rulemaking action was taken to adopt the following rules. **These rules amend section 807.1 of Chapter 8, Career Service, of Title 6 of the District of Columbia Municipal Regulations (DCMR), to remove the age requirements for original (new) firefighter appointments and reinstatements to firefighter positions in the Fire & Emergency Medical Services Department (FEMSD); and corrects a typographical error (non-substantive change) in subsection 807.1 (b).** No comments were received and no changes were made to the Notice of Proposed Rulemaking published on June 26, 2009 (56 DCR 005066). Final rulemaking action was taken on July 31, 2009.

CHAPTER 8**CAREER SERVICE**

Chapter 8, Career Service, of Title 6 of the District of Columbia Municipal Regulations, is amended as follows:

Subsections 807.1 (b) and (c) are amended to read as follows:

- 807.1 (b) For initial appointment to a firefighter/EMT or firefighter/paramedic position in the Fire and Emergency Medical Services Department (FEMSD), an applicant shall have reached his or her nineteenth (19th) birthday as of the date of application. There shall be no maximum age limit for appointment to a firefighter/EMT or firefighter/paramedic position in the FEMSD, as long as the applicant is found otherwise qualified and successfully passes a medical examination and any other examinations, background investigations or tests required by the FEMSD of candidates for employment;
- (c) There shall be no age limit for reinstatement to a rank no higher than the rank last held by a former firefighter/EMT or firefighter/paramedic of the FEMSD, provided that the applicant for reinstatement meets the following requirements:
- (1) The applicant submits his or her request for reinstatement in writing to the Fire EMS Chief and the request is approved;
 - (2) The applicant successfully passes a background investigation; and

- (3) The applicant is found to be otherwise qualified and successfully passes a medical examination and any other examinations or tests required by the FEMSD of any incumbent employee, except that no former member shall be required to take the entry-level written examination again.

D.C. DEPARTMENT OF HUMAN RESOURCES**NOTICE OF FINAL RULEMAKING**

The Director, D.C. Department of Human Resources, with the concurrence of the City Administrator, pursuant to Mayor's Order 2008-92, dated June 26, 2008, and in accordance with sections 1351 through 1353 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979, (D.C. Law 2-139; D.C. Official Code § 1-613.51 *et seq.*) (2006 Repl.), hereby gives notice that final rulemaking action was taken to adopt the following rules. **These rules amend Chapter 14, Performance Management, of Title 6 of the District of Columbia Municipal Regulations (DCMR), in its entirety.** While a Notice of Proposed Rulemaking was published in the *D.C. Register* on January 30, 2009 (56 DCR 001046), comments were received during the 30-day public comment period. Based on the comments received, the rules were revised and another Notice of Proposed Rulemaking was published on June 26, 2009 (56 DCR 005068). No comments were received and no changes were made to the Notice of Proposed Rulemaking published on June 26, 2009. Final rulemaking action was taken on July 31, 2009.

CHAPTER 14**PERFORMANCE MANAGEMENT**

Chapter 14 of the D.C. Personnel Regulations is amended to read as follows:

1400 APPLICABILITY

1400.1 The provisions of this chapter apply to all of the following:

- (a) Employees in the Career Service under the authority of sections 801 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-608.01) (2006 Repl.);
- (b) Uniformed members of the Metropolitan Police Department at the ranks of Lieutenant, Captain, Inspector, Commander, and Assistant Chief; and uniformed members of the Fire and Emergency Medical Services Department in the positions of Deputy Fire Chief, Battalion Fire Chief, Assistant Fire Chief (Operations), and Assistant Fire Chief (Services);
- (c) Employees in the Excepted Service appointed under the authority of section 903 of the CMPA (D.C. Official Code § 609.03) (2006 Repl.);
- (d) Employees in the Excepted Service appointed as Capital City Fellows, as specified in section 1419 of this chapter;

- (e) Employees in the Management Supervisory Service appointed under the authority of sections 951 through 958 of the CMPA (D.C. Official Code §§ 1-609.51 through 1-609.58) (2006 Repl.), except for the provisions of section 1414 of this chapter;
- (f) Employees in the Legal Service appointed under the authority of sections 851 through 863 of the CMPA (D.C. Official Code §§ 1-608.51 through 1-608.62) (2006 Repl.) as supervisory attorneys in the Office of the Attorney General for the District of Columbia, non-supervisory attorneys who report directly to either the Attorney General for the District of Columbia or the Principal Deputy Attorney General, subordinate agency General Counsel, and other subordinate agency supervisory attorneys in the Legal Service.

1401 EXCLUSIONS

- 1401.1 The provisions of this chapter shall not apply to the following employees:
- (a) Uniformed members of the Metropolitan Police Department at the ranks of Officer, Master Patrol Officer, Detective, Investigator, and Sergeant, who continue to be covered under the performance evaluation system in effect as of the effective date of these regulations;
 - (b) Uniformed members of the Fire and Emergency Medical Services Department in positions other than those listed in 1400.1 (b); and
 - (c) Unionized employees in the Legal Service.

1402 PURPOSE

- 1402.1 The purpose of this chapter is to set forth the rules for the District government's performance management program.
- 1402.2 Performance management integrates the processes District government agencies use to do all of the following:
- (a) Communicate and clarify organizational and individual work goals to all employees;
 - (b) Identify individual and, where applicable, team responsibilities and accountability for accomplishing work unit, agency, and organizational goals;
 - (c) Identify and address developmental needs for individuals and, where applicable, teams;
 - (d) Provide feedback to employees about performance expectations and work accountability;
 - (e) Assess and improve individual, team, and organizational performance;

- (f) Use appropriate measures of performance as the basis for recognizing and rewarding accomplishments; and
- (g) Use the results of the annual performance evaluation as a basis for appropriate human resources' actions, including training, promotion, demotion, administrative action, or other types of human resources' actions.

1402.3 The performance management program implemented by this chapter shall accomplish all of the following:

- (a) Create and set forth work expectations in relation to the strategic goals of a work unit, an agency and, where applicable, the District government as a whole;
- (b) Hold supervisors and employees accountable for performance, which shall include a direct relationship between the performance evaluation received pursuant to this chapter and the receipt of any periodic salary increases (including salary increases on both step and merit-based salary plans);
- (c) Objectively evaluate employees' work performance based on criteria that have been made known to the employees prior to the performance evaluation;
- (d) Improve employee performance through developmental plan and continuous employee skill development;
- (e) Recognize employees' accomplishments and identify employees' deficiencies so that appropriate rewards or assistance can be provided; and
- (f) Tie employee performance to work unit, agency, and where applicable, District government-wide outcomes.

1403 PERFORMANCE MANAGEMENT PERIOD

1403.1 Except as provided in section 1419 of this chapter, the performance management period for all covered employees shall be from the beginning of each fiscal year (October 1st) to the end of the fiscal year (September 30th).

1404 PERFORMANCE PLANS

1404.1 A Performance Plan shall set forth the performance expectations and development objectives that each covered employee is expected to accomplish during the performance management period.

1404.2 Only the Director, D.C. Department of Human Resources (or designee), or independent personnel authority, as applicable, may approve an agency's request for an extension of the annual Performance Plan submittal period.

- 1404.3 Except as otherwise provided in this chapter, each supervisor shall complete a Performance Plan outlining what is expected of each covered employee, as follows:
- (a) Within thirty (30) days of the beginning of each performance management period;
 - (b) Within thirty (30) days of the date an employee is promoted, appointed, transferred, reassigned, or demoted to a new position or a position with significantly different duties and responsibilities;
 - (c) Within thirty (30) days of the date an employee is officially detailed when the detail is for a period of more than ninety (90) days;
 - (d) An employee who has been reassigned to a position with different duties and responsibilities within ninety (90) days of the end of the performance management period shall receive a Performance Plan for the following fiscal year within thirty (30) days of commencing the duties of the position to which reassigned; or
 - (e) An employee who has been promoted or demoted during the ninety (90) days prior to the end of the performance management period shall receive a Performance Plan for the following fiscal year within thirty (30) days of commencing the duties of the new position.
- 1404.4 A Performance Plan shall include all of the following:
- (a) Competencies;
 - (b) S.M.A.R.T (*Specific, Measurable, Attainable, Realistic, Time-Related*) Goals; and
 - (c) An Individual Development Plan.
- 1404.5 Modifications to the Performance Plan can only be made up to June 30th (ninety (90) calendar days before the end of the performance management period).

1405 COMPETENCIES

- 1405.1 Competencies are a type of performance expectation that consists of the critical knowledge, abilities, skills, and personal characteristics necessary for satisfactory performance in a particular position. Competencies are linked to the specific duties performed in a particular work unit, but focus strongly on each employee individually.
- 1405.2 At the beginning of each performance management period, a supervisor or a reviewer, in the absence of the supervisor, shall discuss with the employee how each

- competency relates to the employee's job. At the end of the performance management period, the supervisor or a reviewer, in the absence of the supervisor, shall evaluate each competency based on the employee's performance during the period.
- 1405.3 There are five (5) core competencies for all employees covered by this chapter:
- (a) Accountability;
 - (b) Communication;
 - (c) Customer Service;
 - (d) Goal Attainment; and
 - (e) Job Knowledge.
- 1405.4 There are three (3) additional core competencies applicable to supervisors:
- (a) Leadership;
 - (b) Management of Others; and
 - (c) Operational and Strategic Planning.
- 1405.5 The supervisor may choose up to three (3) additional competencies, or develop an additional three (3) competencies in collaboration with the employee. The recommended additional competencies include but are not limited to the following:
- (a) Flexibility/Adaptability;
 - (b) Initiative;
 - (c) Innovation;
 - (d) Mechanical Ability;
 - (e) Negotiation;
 - (f) Problem Solving;
 - (g) Productivity;
 - (h) Teamwork;
 - (i) Technical Ability; and
 - (j) Use of Technology;

1406 S.M.A.R.T GOALS

- 1406.1 S.M.A.R.T Goals are a type of performance expectation that consists of goals that are “Specific, Measurable, Attainable, Realistic, and Time-Related.” A Performance Plan shall include at least three (3) and not more than five (5) S.M.A.R.T Goals.
- 1406.2 The use of S.M.A.R.T Goals may augment the use of performance standards for agencies to document performance objectives for employees. Wherever possible, and as applicable, agencies should incorporate the text normally found in performance standards in the employee’s S.M.A.R.T Goals.
- 1406.3 S.M.A.R.T Goals set in the Performance Plan shall be weighted, with the sum of all goal weightings equal to one hundred percent (100%).
- 1406.4 S.M.A.R.T Goals set in the performance plan shall include a timeframe for the accomplishment of each goal.
- 1406.5 At the beginning of each performance management period, a supervisor or the reviewer, in the absence of the supervisor, shall discuss with the employee how each S.M.A.R.T Goal relates to the employee’s job. At the end of a performance management period, the supervisor or the reviewer, in the absence of the supervisor, shall evaluate each S.M.A.R.T Goal based on the employee’s performance during the period.

1407 INDIVIDUAL DEVELOPMENT PLAN

- 1407.1 At the beginning of the performance management period, a supervisor, or the reviewer in the absence of the supervisor, shall prepare an Individual Development Plan for an employee, identifying areas for growth and development. The Individual Development Plan shall be prepared in collaboration with the employee. The Individual Performance Plan shall include at least one (1) and no more than three (3) objectives.
- 1407.2 Each Individual Development Plan is for developmental purposes only, and shall not be part of the evaluation at the end of the performance management period.
- 1407.3 Each Individual Development Plan may include but is not limited to the following objectives:
- (a) Specific objectives designed to improve the knowledge, skills, and abilities of the employee;
 - (b) Specific objectives for areas of ongoing professional development; or
 - (c) Objectives that address areas in which the employee received a review of “Marginal Performer” or below during the preceding review year.

1407.4 Each Individual Development Plan shall include a timeframe for the accomplishment of each objective.

1408 MID-YEAR PROGRESS DISCUSSION

1408.1 Each employee entitled to an annual performance evaluation under section 1409 of this chapter may participate in a mid-year progress discussion no less than three (3) months prior to the end of the performance management period. When used, the mid-year progress discussion is initiated by the employee's immediate supervisor or the reviewer, in the absence of the immediate supervisor; and serves as a mechanism for providing feedback to an employee and identifying areas that need improvement.

1408.2 The mid-year progress discussion shall be mandatory in the case of probationary employees. The mid-year progress discussion shall not impinge on a recommendation to terminate the probationary employee during his or her probationary period.

1408.3 An annual performance evaluation shall not be based solely on a mid-year progress discussion. An employee's performance during the entire review period must be used to determine how well the employee performed each performance expectation and the overall performance rating.

1409 PERFORMANCE IMPROVEMENT PLAN

1409.1 A Performance Improvement Plan (PIP) is a performance management tool designed to offer the employee placed on it an opportunity to demonstrate improvement in his or her performance.

1409.2 The provisions of this section shall apply only to Career Service (Permanent) employees and Term employees, who have completed the probationary period. Career Service probationary employees and employees described in subsection 1400.1 (b) through (f) of this chapter shall not be subject to a PIP.

1409.3 A supervisor or, in the absence of that individual, the reviewer, shall complete a PIP when an employee performance has been observed by the supervisor as being deficient. The last date on which a PIP may be issued is June 30 of each year.

1409.4 A PIP shall last a minimum of thirty (30) calendar days, and shall not exceed ninety (90) calendar days.

1409.5 A PIP shall:

- (a) Identify specific performance areas in which an employee is deficient; and
- (b) Provide concrete, measurable action steps which the employee needs to take to improve his or her performance in those areas.

- 1409.6 Within ten (10) calendar days of completion of the PIP period, the employee's immediate supervisor or, in the absence of that individual, the reviewer, shall make a determination as to whether the employee has met the requirements of the PIP. A written decision regarding the determination will be issued to the employee by the employee's supervisor or, in the absence of that individual, the reviewer. The written decision shall include the option or reassignment, reduction in grade, or removal.
- 1409.7 Failure on the part of the supervisor or reviewer to issue a written decision within the specified time period will result in the employee's performance having met the PIP requirements.
- 1409.8 Any reduction in grade or termination action as specified in section 1409.5 (a) of this section taken against a Career Service permanent employee shall be taken pursuant to Chapter 16 of these regulations.
- 1409.9 Any reduction in grade or termination action as specified in section 1409.6 of this section taken against a Legal Service employee as described in section 1400.1 (f) of this chapter who is not "at-will" shall be taken pursuant to Chapter 36 of these regulations.
- 1409.10 The Chief of Police may elect not to use a PIP for officials above the rank of Captain.

1410 ELIGIBILITY TO RECEIVE AN ANNUAL PERFORMANCE EVALUATION

- 1410.1 In order to be eligible to receive an annual performance evaluation, a Performance Plan shall be in place for at least ninety (90) calendar days prior to conducting an annual performance evaluation based on that performance plan at the end of the performance management period.
- 1410.2 An employee who has been reassigned, promoted or demoted during the ninety (90) days prior to the end of the performance management period shall receive a performance evaluation for that period.
- 1410.3 The performance evaluation pursuant to section 1410.2 of this section shall be issued by the employee's previous supervisor as specified in those sections.
- 1410.4 An employee who was reinstated or restored to duty during the ninety (90) days prior to the end of the performance management period shall be rated at the end of the next performance management period.
- 1410.5 An employee who transfers to an agency under the Mayor's personnel authority from an independent personnel authority, or who is newly appointed during the ninety (90) days prior to the end of the performance management period, shall be rated at the end of the next performance management period.

1410.6 An employee reinstated, restored, newly appointed, or transferred shall automatically be considered as having been assigned a rating of Valued Performer, which shall remain the official rating of record until such time as replaced by another official rating.

1411 ANNUAL PERFORMANCE EVALUATION

1411.1 An annual Performance Evaluation shall be issued to each eligible employee within three months of the end of the performance management period, the exact date of which will be established by the appropriate personnel authority.

1411.2 The annual Performance Evaluation shall be based on the employee's Performance Plan for that performance management period.

1411.3 Except as provided in section 1411.5 of this section, each employee entitled to be rated under section 1410 of this chapter shall be rated, based on his or her position of record, by his or her immediate supervisor or the reviewer, in the absence of the supervisor. In the absence of both the immediate supervisor and the reviewer, the agency head shall designate a higher-level official to complete the Performance Evaluation. In the absence of an electronic official performance evaluation, the employee's performance shall be deemed to be at the "Valued Performer" level.

1411.4 A supervisor leaving his or her position at any time within the last ninety (90) calendar days of the performance management period shall conduct a Performance Evaluation for each employee covered by this chapter prior to his or her departure.

1411.5 An employee serving on detail for more than ninety (90) days at the end of the performance management period shall be rated by the employee's immediate supervisor of the position to which detailed, with input from the supervisor of the employee's position of record.

1411.6 An agency may use multi-source feedback as an evaluation tool consistent with procedures and guidelines established by the appropriate personnel authority.

1411.7 In instances where employees perform shift work and/or have multiple supervisors during the year, then input and/or completion of the employee's performance evaluation shall be provided by the appropriate supervisor(s),

1411.8 When an employee is evaluated on performance in his or her position of record in accordance with section 1411.3 of this section, appropriate consideration shall be given to work performed outside the position of record.

1411.9 Except when the agency head is the rating official, a Performance Evaluation issued by a rating official shall be subject to the review and approval of a reviewer prior to the supervisor's year-end discussion with an employee.

- 1411.10 The annual Performance Evaluation for an employee who is on approved extended leave at the end of the performance management period (during the period in which performance evaluations are finalized) shall be postponed until the employee returns to his or her official position of record.
- 1411.11 A signature on the annual Performance Evaluation is considered official when submitted electronically using an electronic system used to facilitate the performance planning and evaluation process outlined in this chapter.
- 1411.12 The personnel authority may approve an agency's request for an extension of the annual Performance Evaluation submittal period, consistent with 1411.1

1412 SELF-EVALUATION

- 1412.1 At his or her discretion, each employee eligible to receive an evaluation may submit a self-evaluation to his or her supervisor as input into the performance evaluation process.

1413 PERFORMANCE RATINGS

- 1413.1 An overall performance rating shall be a culmination of the ratings assigned to each performance expectation. The overall performance rating indicates the level of an employee's actual performance of assigned competencies and S.M.A.R.T Goals during the performance management period.
- 1413.2 The overall performance rating shall be derived from the score on competencies for fifty percent (50%); and S.M.A.R.T Goals for fifty percent (50%).
- 1413.3 The rating levels for the performance management program shall be as follows:
- (a) *Level 5, Role Model* – Performance serves as a benchmark for other employees in the workplace. Regarded by colleagues as a person with great depth and breadth of knowledge in area of expertise, ideas and is willing to share it with others. Contributions, initiatives, and productivity reflect the highest degree of performance.
 - (b) *Level 4, Highly Effective Performer* – Performance consistently exceeds expectations in most areas and meets expectations in all other areas. Consistently adds value to the work of the agency. Demonstrates willingness to offer sound recommendations for improvement and is involved in the implementation of them.
 - (c) *Level 3, Valued Performer* – Performance expectations consistently meet and may occasionally exceed expectations, and therefore, meets the minimum requirements of the position. Contributions are essential to ensuring that agency goals are met.

- (d) *Level 2, Marginal Performer*— Performance of most expectations needs improvement. Adequate performance of the expectations for the position requires further development of skills. Potential to improve is evident and demonstrates a willingness to improve skills.

Level 1, Inadequate Performer – Performance of expectations is consistently inadequate, and therefore fails to meet the minimum requirements of the position. Potential to improve is not evident. .

1414 SALARY INCREASES

- 1414.1 An annual overall performance rating of *Valued Performer* or higher shall constitute performance at an acceptable level of competence for purposes of eligibility for a periodic step increase or a merit-based salary increase (for employees paid from open range salary schedules), as applicable, under Chapter 11 of these regulations.
- 1414.2 Each time an employee fails to receive a rating of *Valued Performer* or higher shall result in the due date for the next scheduled periodic step increase or merit-based salary increase being delayed for an additional year.

1415 REQUESTS FOR REVIEW FROM CAREER SERVICE EMPLOYEES

- 1415.1 Career Service employees in subordinate agencies may request a review of the overall performance rating within fifteen (15) calendar days of receipt of the rating.
- 1415.2 An employee's request for review will be handled at the agency level. Subordinate agencies must establish an internal Reconsideration and Resolution Committee to review overall performance ratings of *Inadequate Performer* (Level 1). An agency may also review overall ratings of *Marginal Performer* (Level 2), *Valued Performer* (Level 3), and *Highly Effective Performer* (Level 4).
- 1415.3 The appropriate personnel authority will serve in an impartial advisory capacity in the disposition of performance rating review cases that deal with an overall rating on *Inadequate Performer* (Level 1).
- 1415.4 An employee must submit the request for review is to the subordinate agency head (or designee), within fifteen (15) calendar days of receipt of the official performance rating.
- 1415.5 Upon receipt of a request for review, the subordinate agency head (or designee) shall take either of the following actions:
- (a) Dismiss the employee's request for review on technical grounds (i.e., procedural or regulatory violation) and sustain the performance rating of *Inadequate Performer*; or

- (b) Accept the employee's request for review, and refer the request to the appropriate parties within the agency for resolution with employee and the employee's supervisor or, in the absence of the supervisor the reviewer.

1415.6 Independent personnel authorities may establish a review process for its employees.

1416 REQUESTS FOR REVIEW FROM LEGAL SERVICE, EXCEPTED SERVICE, AND MANAGEMENT SUPERVISORY SERVICE EMPLOYEES

1416.1 A Legal Service, Excepted Service, or Management Supervisory Service employee who has received an official performance evaluation of *Inadequate Performer* may request a review of the evaluation within fifteen (15) calendar days of receipt of the evaluation. The request for review of the evaluation shall be submitted to the agency head (or designee).

1416.2 An employee's request for review of an annual overall performance rating under this section shall be in writing, and shall be submitted in accordance with procedures issued by the personnel authority.

1416.3 Any review conducted under this section shall consist of a review of the record. The burden of proof shall rest with the employee.

1416.4 The reviewer must process the employee's request and issue a written final decision to the employee within twenty (20) calendar days of receipt of the request. The final decision issued by the reviewer will either:

- (a) Sustain the rating; or
- (b) Reverse the rating to increase it.

1416.5 Requests for review submitted by Legal Service, Excepted Service and Management Supervisory Service employees shall not be subject to any further administrative review beyond the review conducted by the employing agency in accordance with this section.

1417 REQUESTS FOR REVIEW FROM METROPOLITAN POLICE DEPARTMENT EMPLOYEES

1417.1 The rating appeal rights of Metropolitan Police Department employees shall be in accordance with procedures developed by the Chief of Police.

1418 PROBATIONARY EMPLOYEE

1418.1 An employee serving a probationary period shall be subject to the performance management program established by this chapter. A Performance Plan shall be

provided to each probationary employee, on which the probationer shall be evaluated.

- 1418.2 An acceptable performance rating during a probationary period in and of itself does not constitute passing of the probationary period or automatic movement to a permanent status.
- 1418.3 Neither the mid-year progress discussion nor the annual performance evaluation received by the probationary employee is appealable.

1419 CAPITAL CITY FELLOWS

- 1419.1 A Performance Plan as described in section 1404 of this chapter shall be completed for each Capital City Fellow, not later than thirty (30) calendar days after the beginning of each six-month (6-month) placement. Each Performance Plan shall outline what is expected from the Capital City Fellow.
- 1419.2 The goals for each six-month (6-month) placement shall be weighted, with the sum of all goal weightings equal to one hundred percent (100%) for each rating. Goals shall be set as follows:
- (a) Twenty five (25%) of the overall goals assigned to program-related activities and participation, to be set by the Director, D.C. Department of Human Resources (or designee); and
 - (b) Seventy five percent (75%) of the overall goals assigned to on-site performance, to be set by each agency supervisor to whom the Capital City Fellow is assigned.
- 1419.3 The performance of each Capital City Fellow shall be evaluated at the end of each six-month (6-month) placement as specified in this section, for a total of four (4) individual performance ratings during the two-year (2-year) program.
- 1419.4 Each Capital City Fellow may, at his or her discretion, submit a self-evaluation as input into the annual performance evaluation process.
- 1419.5 A rating of *Valued Performer* or higher shall constitute performance at an acceptable level of competence for purposes of salary adjustment.
- 1419.6 The provisions in section 1416 of this chapter shall apply to Capital City Fellows.
- 1419.7 Capital City Fellows' annual performance evaluations are not appealable.

1499 DEFINITIONS

When used in this chapter, the following terms shall have the meaning ascribed:

Annual performance evaluation – a process for determining how well an individual employee has performed the performance expectations established in the performance plan for the review period.

Competency – a type of performance expectation that consists of the critical knowledge, abilities, skills and personal characteristics necessary for satisfactory performance. They are linked to the specific duties performed in a particular work unit but focus strongly on the individual employee.

Electronic signature – a technologically neutral term indicating various methods of signing an electronic message that: (a) identifies and authenticates a particular person as a source of the electronic message; and (b) indicates such person’s approval of the information contained in the electronic message. Examples of electronic signature include: Personal Information Numbers or “PINs,” user identifications and passwords, digital signatures, and hardware and biometric tokens.

Individual development plan (IDP) – a development tool that identifies training and learning activities that will help an employee enhance the knowledge, skills, and abilities needed to perform work duties and prepare the employee for future career advancement.

Mid-year progress discussion – a formal meeting between a supervisor and employee to discuss the employee’s performance and development at the midpoint of the review period.

Multi-source feedback – a tool used to assess employee performance that involves several sources (i.e., peers, employees, supervisors, customers) that have reliable information of an employee services or work products. This is commonly known as “*360 degree feedback*.”

Performance expectations – S.M.A.R.T. goals and competencies that describe what and how work is to be performed. Performance expectations are established by the supervisor and employee at the beginning of a review period.

Performance improvement plan (PIP) – A performance management tool designed to offer the employee an opportunity to demonstrate improvement in his or her performance.

Performance management – the systematic process by which an agency involves its employees, as individuals and members of a group, to ensure the accomplishment of agency mission and goals.

Performance management period – the length of time covering the performance planning and evaluation process. It goes from the beginning to the end of the fiscal year.

Performance plan – the formalized process of identifying and communicating the organizational, work unit, and individual goals expected of the employee. The Performance Plan consists of the following: Competencies, S.M.A.R.T Goals, and an Individual Development Plan.

Performance rating – the value assigned to each performance expectation and the employee’s overall performance based on a supervisor’s or, in the absence of the supervisor the reviewer’s, assessment of an employee’s performance during the review period.

Rating official – the final rating authority in the annual performance evaluation process, who is either the employee’s supervisor, or, in the absence of the supervisor the reviewer.

Request for review – the process in which an employee requests a formal review of the overall performance rating received during the review period.

Reviewer – a supervisor, agency head, or agency head designee responsible for reviewing and approving the annual performance evaluation completed by a rating official.

Self-evaluation – the process in which the employee provides a self-assessment of the employee’s performance based on the established performance expectations during the review period.

S.M.A.R.T. goals – a type of performance expectation that consists of goals that are *Specific, Measurable, Attainable, Realistic, and Time-Related*.

Supervisor – an individual having the authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust employee grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. For the purposes of this policy, “supervisor” also means “manager”.

DEPARTMENT OF PUBLIC WORKS

NOTICE OF FINAL RULEMAKING

The Director, D.C. Department of Public Works, pursuant to the authority set forth in section 2(c) of the District of Columbia Solid Waste Disposal Act of 1989, effective July 25, 1989 (D.C. Law 8-16; 36 DCR 4155), as amended by section 6012 of the "Solid Waste Disposal Cost Recovery Act of 2007", effective September 18, 2007 (D.C. Law 17-20) and the Solid Waste Disposal Fee Amendment Act of 2008, effective March 21, 2009 (D.C. Law 17-322), and Mayor's Order 2005-123, dated August 29, 2005, hereby gives notice of the adoption of the following rules to amend Chapter 7 of Title 21 DCMR, "Water and Sanitation" by amending the fees for the disposal of solid waste at the District's waste-handling facilities.

No comments were received concerning the proposed rulemaking. No changes were made to the proposed rules (other than correction of a typographical error), which were published with the Notice of Emergency and Proposed Rulemaking in the *D.C. Register* on June 19, 2009, at 56 DCR 4874. These final rules will be effective upon publication of this notice in the *Register*.

Chapter 7 of Title 21, DCMR, is amended as follows:

Subsection 720.5 is amended to read as follows:

720.5 Beginning on June 15, 2009, the applicable fees for the disposal of construction and demolition debris at the waste-handling facilities shall be seventy-five dollars and twelve cents (\$ 75.12) for each ton disposed; Provided, that a minimum fee of thirty seven dollars and fifty six cents (\$ 37.56) shall be imposed on each load weighing one thousand pounds (1,000 lbs.) or less.

Subsection 720.8 is amended to read as follows:

720.8 Beginning on June 15, 2009, the applicable fees for the disposal of each ton of solid waste at the waste-handling facilities, excluding those wastes specified in §§ 720.5, 720.6, and 720.7, shall be fifty three dollars and thirty five cents (\$ 53.35) for each ton disposed; provided, that a minimum fee of twenty six dollars and sixty eight cents (\$ 26.68) shall be imposed on each load weighing one-thousand pounds (1,000 lbs.) or less.

WASHINGTON CONVENTION CENTER AUTHORITY

NOTICE OF FINAL RULEMAKING

The Board of Directors of the Washington Convention Center Authority (“Authority”), pursuant to section 203 of the Washington Convention Center Authority Act of 1994, D.C. Law 10-188, D.C. Code § 10-1201.03 as amended, hereby gives notice of its adoption, on March 5, 2009, of the following amendments to Chapters 1 and 3 of Title 19 of the District of Columbia Municipal Regulations. No comments have been received and no changes have been made to the text of the proposed rulemaking published on April 24, 2009 at 56 DCR 3189-3190.

This rulemaking shall take effect immediately upon publication in the *District of Columbia Register*.

Chapter 1 of Title 19 of the District of Columbia Municipal Regulations is amended as follows:

CHAPTER 1. WASHINGTON CONVENTION CENTER AUTHORITY: BY LAWS

* * *

114. Approval of Certain Contracts.

114.1 Before the Authority awards any contract that requires the approval of the District of Columbia Council in accordance with D.C. Code § 2-301.05a, and prior to the submission of any such contract to the Council, the Board shall first approve the contract by a resolution passed by a majority of the Members.

* * *

Chapter 3 of Title 19 of the District of Columbia Municipal Regulations is amended as follows:

**CHAPTER 3. WASHINGTON CONVENTION CENTER AUTHORITY:
PROCUREMENT**

300. General Requirements: Procurement Authority.

* * *

300.7 No contract requiring the submission to, and approval by, the District of Columbia Council in accordance with D.C. Code § 2-301.05a shall be awarded unless first approved by a majority of the Board by resolution prior to submission to the Council.

**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.

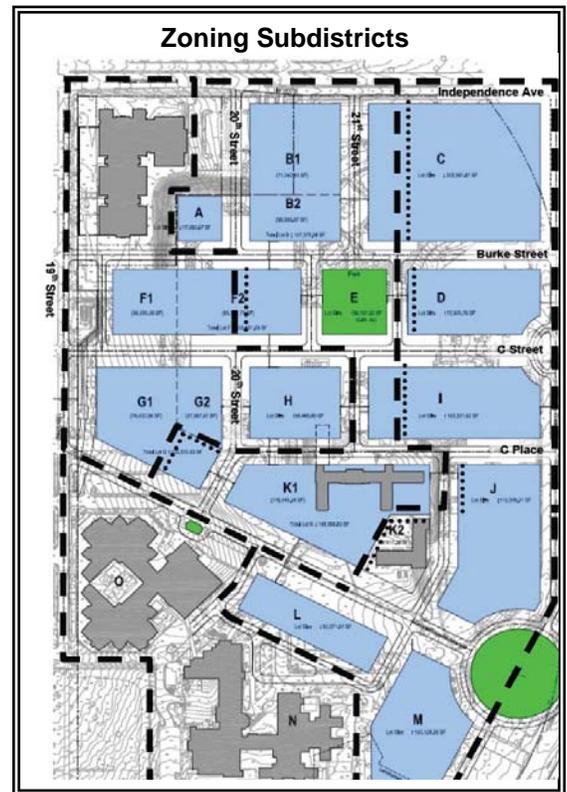
Decision to Use Form-Based Code

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.



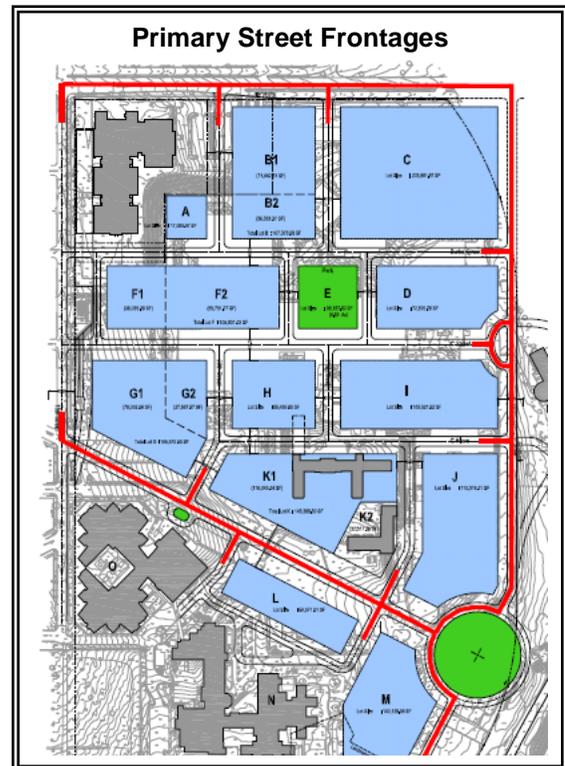
The HE District also includes a centrally-located parkland area and a park-like circular area at the eastern terminus of Massachusetts Avenue appropriate for a monument. Just to the east of Water Street will stretch a relatively undeveloped area of riverfront parkland, which belongs to, and will be maintained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

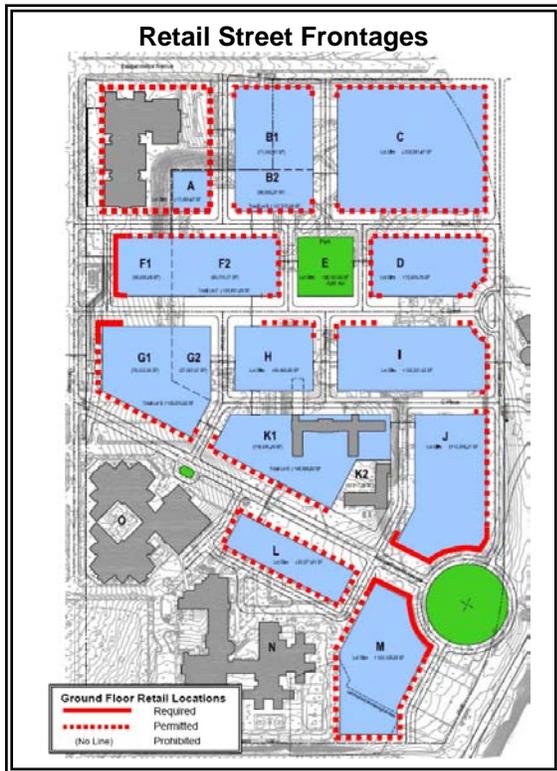
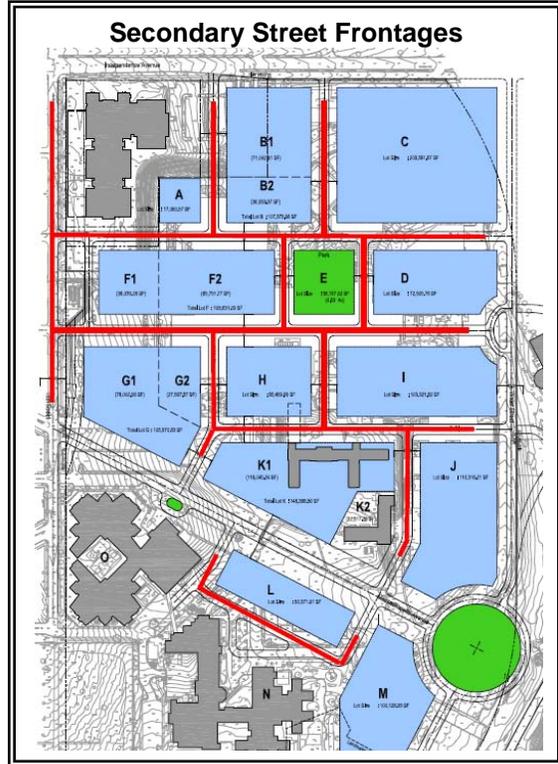
A second key feature of the HE District is a detailed set of building design standards that encompass the concepts of a form-based code. The purpose of these standards is to regulate the building form, especially as it relates to the street. The standards are based on two types of street frontages – 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,

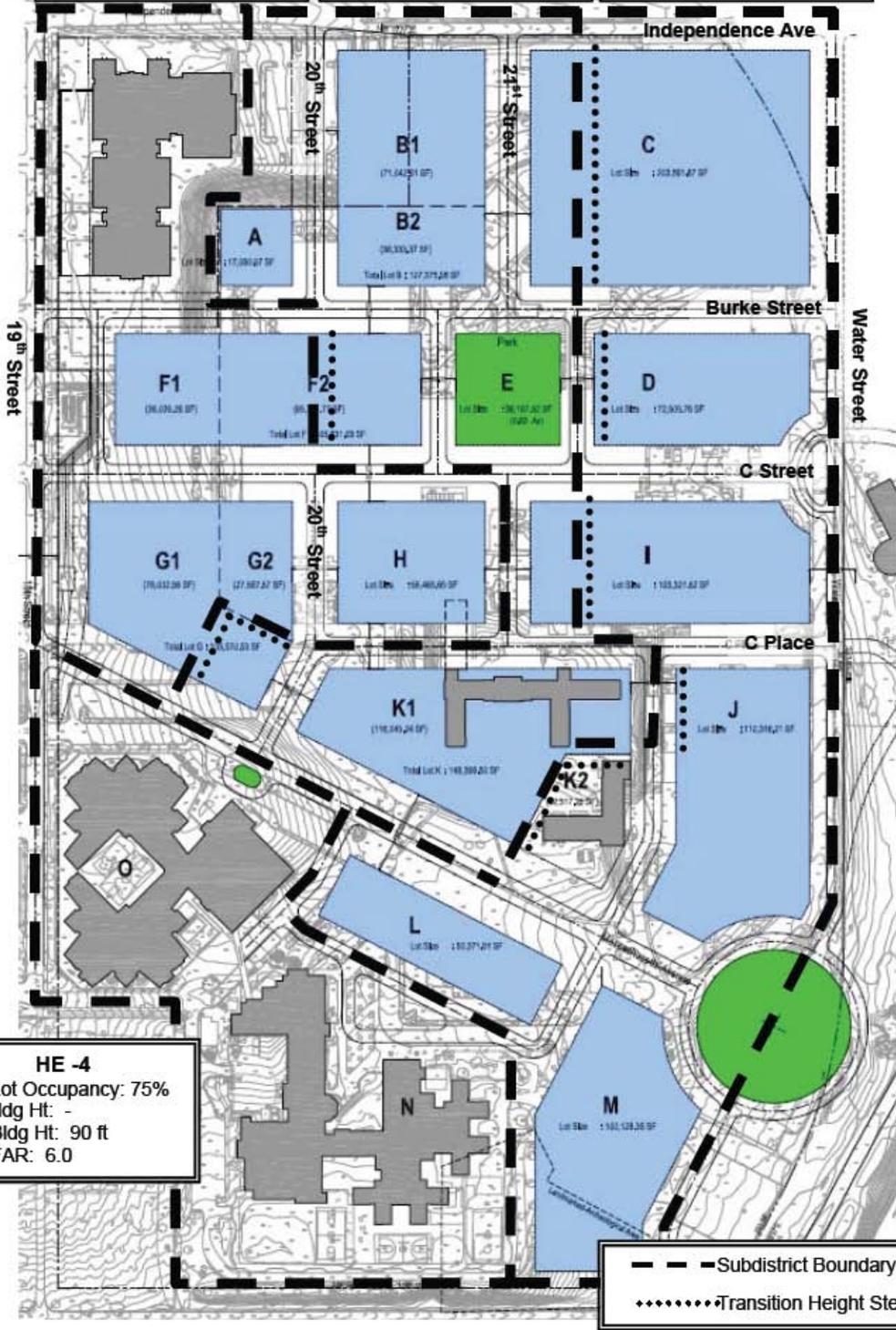
such as facing the Metro station

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.



Hill East (HE) District

HE -1 Max Lot Occupancy: 80% Min Bldg Ht: 26 ft Max Bldg Ht: 50 ft Max FAR: 3.00	HE -2 Max Lot Occupancy: 75% Min Bldg Ht: 40 ft Max Bldg Ht: 80 ft Max FAR: 4.80	HE -3 Max Lot Occupancy: 80% Min Bldg Ht: 80 ft Max Bldg Ht: 110 ft Max FAR: 7.20
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HE -4 Max Lot Occupancy: 75% Min Bldg Ht: - Max Bldg Ht: 90 ft Max FAR: 6.0
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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%
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- 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.

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

AND

Z.C. ORDER NO. 09-07

Z.C. Case No. 09-07

(Map Amendment - 11 DCMR)

(Map Amendment @ Square 2210, Lot 803 – 2269 Cathedral Avenue, N.W.)

July 27, 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); having held a public hearing as required by § 3 of the Act (D.C. Official Code § 6-641.03); and having referred the proposed amendments to the National Capital Planning Commission 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 Map incorporated into the Zoning Regulations (Title 11 DCMR).

The map amendment designates Lot 803 in Square 2210, known as 2269 Cathedral Avenue, N.W. in the R-4 Zone District.

The Commission takes this action because the subject property, though privately owned, is not now, and has not been since the inception of zoning in the District, included in any zone district. A one-family dwelling was constructed on the property in 1910 and the property has been in use as a one-family dwelling since that time.

A Notice of Proposed Rulemaking was published in the *D.C. Register* (“*DCR*”) on June 26, 2009, at 56 *DCR* 5140. The Commission took final action to adopt the amendments at a public meeting on July 27, 2009. This final rulemaking is effective upon publication in the *D.C. Register*.

Relationship to the Comprehensive Plan

The amendments would not be inconsistent with the District Elements of the Comprehensive Plan for the National Capital: (“Comprehensive Plan”), adopted through the Comprehensive Plan Amendment Act of 2006, effective March 8, 2007 (D.C. Law 16-300).

While the Comprehensive Plan’s Future Land Use Map designates the subject property for Parks, Recreation and Open Space, this designation is clearly an oversight given that the property has been privately owned and in use as a private residence for approximately 100 years.

The District of Columbia Office of Planning (“OP”) stated in its report to the Commission that it will recommend updating the designation of the Future Land Use Map to correct the oversight, and that it would suggest a designation of Moderate-Density Residential. OP further stated that the R-4 Zone District is consistent with the Moderate-Density Residential designation, and with other principals and policies of the Comprehensive Plan.

Set Down Proceeding and Public Hearing

The Commission set down the case for a public hearing at its April 27, 2009 public meeting. The Commission held a public hearing on June 18, 2009.

Great Weight Given to ANC Issues and Concerns

The Commission is required under D.C. Official Code § 1-309.10(d) to give great weight to issues and concerns raised in the affected ANC's written recommendation. No written recommendation was submitted in this case.

Proposed Action

The Commission took proposed action at the conclusion of the hearing held on June 18, 2009. The Notice of Proposed Rulemaking was published in the *D.C. Register* on June 26, 2009, at 56 DCR 5140, for a 30-day notice and comment period. No comments were received.

The proposed rulemaking was referred to the National Capital Planning Commission ("NCPC") under the terms of § 492 of the District of Columbia Charter. NCPC, through a delegated action dated July 2, 2009, found that the proposed text amendments would not adversely affect the identified federal interests, not be inconsistent with the Comprehensive Plan for the National Capital.

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

Final Action

At its properly noticed July 27, 2009 public meeting, the Commission took final action to approve the proposed text amendments.

Based on the above, the Commission finds that the proposed amendments to the Zoning Regulations are in the best interests of the District of Columbia, 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 amendments to the Zoning Map incorporated into the Zoning Regulations, Title 11 DCMR:

Lot 803 in Square 2210, known as 2269 Cathedral Avenue, N.W., is hereby amended from unzoned to the R-4 Zone District.

On June 18, 2009, upon motion of Commissioner May, as seconded by Commissioner Turnbull, the Zoning Commission **APPROVED** the petition at the end of the hearing on this case by a vote of **4-0-1** (Anthony J. Hood, Konrad W. Schlater, Peter G. May, and Michael G. Turnbull to

approve; William W. Keating, III, not present, not voting).

On July 27, 2009, upon motion of Chairman Hood, as seconded by Commissioner May, the Zoning Commission **ADOPTED** the Order at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Konrad W. Schlater, Peter G. May, and Michael G. Turnbull to adopt; 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.

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., April 1, 2009

Plat for Building Permit of: SQUARE 2210 LOT 803

Scale: 1 inch = 20 feet

Recorded Per Deed

Receipt No. 01988

Furnished to: MARGARET G. UPTON

I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly platted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and platted and agree with plans accompanying the application; that the foundation plans as shown hereon is drawn, and dimensioned accurately to the same scale as the property lines shown on this plat; and that by reason of the proposed improvements to be erected as shown hereon the size of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation; and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that this area has been correctly drawn and dimensioned hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or flats, or in excess of 12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private restricted property.)

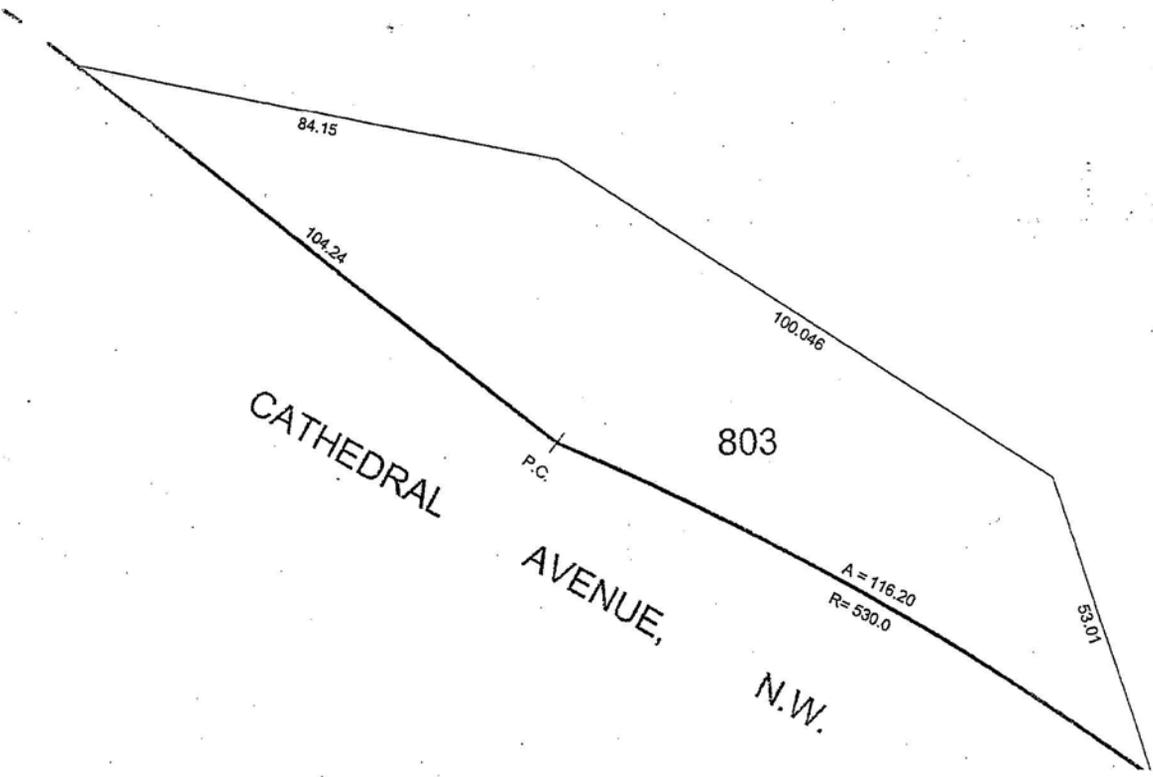
[Signature]
Surveyor, D.C.

Date: _____

By: A.S. *[Signature]*

(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.



2009 APR 10 PM 1:46

AM. O. MET. OF ZONING

April 3, 2009

I certify and attest that the official records of the Zoning Commission for the District of Columbia indicates that, Lot 803, in Square 2210 is "Un-zoned."

[Signature]
RICHARD S. NERO, JR.
Acting Director, Office of Zoning