

# Government of the District of Columbia

OFFICE OF ZONING



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**ZONING COMMISSION ORDER NO. 901**  
**Case No. 98-11**  
**(Map Amendment – Eighth Street Overlay District)**  
**June 22, 1999**

The Zoning Commission for the District of Columbia initiated this case in response to a report and recommendation from the Office of Planning (OP) concerning amending the text of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning, and amending the Zoning Map of the District of Columbia. Amendments to the text of the Zoning Regulations and the Zoning Map are authorized pursuant to the Zoning Act [Act of June 20, 1938, 52 Stat. 797, as amended, D.C. Code § 5-413 (1981)].

The OP report and recommendation was submitted on March 8, 1999, in response to a Zoning Commission request for further study and recommendation as to the appropriateness of an overlay in the Eighth Street area just north of the Navy Yard. The Commission's request was made during its regular public meeting on June 9, 1997 in which it took proposed action on Case No. 96-12Z, the Zoning Consistency Project, based on the 1994 Comprehensive Plan amendments. This project recommended that six areas of the city be rezoned because of their inconsistency with the Comprehensive Plan.

The subject area is a small commercial precinct just south of the Southeast Freeway, north of M Street, east of 7<sup>th</sup> Street and west of 9<sup>th</sup> Street, S.E. It consists of squares 906, 907, 929 and 930 which contain a mix of commercial, residential, and industrial uses. The area is currently zoned C-M-1, a classification that is primarily industrial but allows commercial uses. The area was advertised for rezoning to C-2-A in Case No. 96-12Z, thereby allowing for greater overlay of commercial use.

During the public hearing on Case No. 96-12Z, Advisory Neighborhood Commission 6B testified in support of the initial OP recommended zoning changes. However, at its May 13, 1997 meeting, the ANC voted to support the lower building heights proposed by area community organizations. The Capitol Hill Association of Merchants and Professionals (CHAMPS) and the Capitol Hill Restoration Society (CHRS) testified as to their opposition to the proposed zoning changes in the subject area. Their reasons for opposition included:

- 1) Current uses will prosper when a large number of Navy personnel are relocated to the Navy Yard;
- 2) The old building at the entrance to the Navy Yard would be overwhelmed by high-rise construction across M Street in the four squares subject of the proposal;

- 3) The subject squares are too small to be separated into residential and commercial portions;
- 4) The subject area is not well-suited for residential uses only;
- 5) Increasing the allowable height from 40 to 65 feet would dwarf the existing buildings at the Navy Yard directly across M Street to the south;
- 6) The changes would separate the subject area from the portion of 8<sup>th</sup> Street north of the freeway that is within the boundaries of the Capitol Hill Historic District; and
- 7) The changes would reduce the amount of commercial development allowed in the subject area without a concomitant expansion of residential development.

As a result of the hearing process for Case No. 96-12Z, several sets of objectives were developed by OP regarding the four block area. The objectives included:

1. Establish better consistency with the Comprehensive Plan Generalized Land Use Map;
2. Provide sufficient commercial FAR potential to provide opportunity sites for spin-off office development and increased retail services;
3. Establish height restrictions which are sensitive to the existing built context to the north and south; and
4. Recognize that while the existing residential use in the area is consistent with the Comprehensive Plan, it should not be encouraged to expand at the expense of commercial development.

To meet these objectives, OP revised its rezoning recommendations so as to provide for a mixed-use zone with a commercial FAR that is closer to that permitted under the existing C-M-1 zoning and a variance from the Neighborhood Commercial Overlay (NC) zone to be applied to this area to restrict its height and to establish additional controls which will guide commercial development in the precinct adjoining Capitol Hill and the Navy Yard.

On March 29, 1999, the Commission conducted a public hearing on the revised OP proposed zoning changes to the subject area submitted March 8. In that hearing, Mr. Wolf, the Chair of the City Planning Committee of the Capitol Hill Restoration Society, proposed some alterations to the revised proposal, including further restrictions on fast food restaurants and an increase in the number of designated landmarks, but was otherwise in support of the OP proposal. Margot Kelley, from the Barracks Row Business Alliance, shared Mr. Wolf's overall support for the revised proposal as well as his concern about fast food in the area. The record was kept open until May 3, 1999.

At its May 10, 1999 meeting, the Zoning Commission took proposed action on the OP proposed zoning changes submitted on May 5. The changes were identical to those proposed at the March 29 hearing. The proposed rulemaking was published in the D.C. Register on July 16, 1999, for a 30 day comment period. The Notice of Proposed Rulemaking was referred to the National Capital Planning Commission (NCPC), to the Zoning Administrator (ZA) and to the Office of Planning (OP) for comments on June 21, 1999. No comments were received from ZA, OP, or the public.

The NCPC by delegated action of its Executive Director dated September 10, 1999 indicated that the proposed amendments would not affect the federal establishment or other federal interests, nor be inconsistent with the Comprehensive Plan for the National Capital.

The Zoning Commission believes that the text and map amendments included herein will provide height, bulk and commercial uses appropriate for this location directly across M Street from the Navy Yard. This action will also eliminate a number of inconsistencies between existing zoning and the Comprehensive Plan.

The Commission further believes that its decision to approve the text and map amendments set forth in this order is in the best interests of the District of Columbia, is consistent with the intent and purpose of the Zoning Map, and the Zoning Act, and the Zoning Regulations, and is not inconsistent with the Comprehensive Plan for the National Capital.

The overlay provisions for Eighth Street, S.E., will become a new section of Chapter 13, Neighborhood Commercial Overlay District (NC), of the Zoning Regulations. The NC zone has general purposes and provisions that apply to all locations mapped NC, plus additional specific provisions tailored to each individual commercial precinct mapped NC. The existing NC commercial precincts are: Cleveland Park (CP), Section 1306; Woodley Park (WP), Section 1307; and Macomb-Wisconsin (MW), Section 1308. The Eighth Street (ES) provisions would thus be placed in a new Section 1309, and would be advertised in conjunction with the rezoning of squares 906, 907, 929, 930 from C-M-1 to C-3-A.

In consideration of the reasons set forth herein, the Zoning Commission for the District of Columbia hereby ORDERS the following amendments to Chapter 13 of the Zoning Regulations:

Title 11, Chapter 13, is amended to add a new section 1309 to read as follows:

1309 EIGHTH STREET SOUTHEAST NEIGHBORHOOD COMMERCIAL OVERLAY DISTRICT

1309.1 The Eighth Street Southeast ("ES") Overlay District is applied to a compact geographic area along Eighth Street, S.E., near the entrance to the Navy Yard north, comprising those properties zoned C-3-A in squares 906, 907, 929, and 930.

1309.2 In addition to the purposes that are set forth in Section 1300 of this chapter, the purposes of the ES Overlay District are as follows:

- (a) To encourage and allow new business and office development in close proximity to the Navy Yard, with emphasis on firms that will conduct business with the Navy, as well as neighborhood-serving retail and service businesses;
- (b) To allow and encourage medium density commercial development, in the interest of securing economic development, while restricting building

heights to a low level so as to respect the historic scale of buildings and the entrance to the adjacent Navy Yard; and

- (c) To provide for safe and efficient pedestrian movement by reducing conflicts between pedestrian and vehicular traffic, so as to improve access to retail and other businesses in the area.

1309.3 For the purposes of § 1302 of this chapter, the designated use area shall include any lot within the ES Overlay District that fronts on Eighth Street, L Street, M Street or Potomac Avenue, S.E.

1309.4 For purposes of § 1302.5 of this chapter restaurants, fast food restaurants, delicatessens, carry-outs, and similar eating or drinking establishments shall be subject to the following limitations: These uses shall occupy no more than fifty percent (50%) of the linear street frontage with in the Eighth Street Overlay District, as measured along the lots that face designated roadways in the Eighth Street Overlay District of which up to half (1/2) of the fifty percent (50%) of the linear street frontage shall only be occupied by fast food restaurants.

1309.5 For purposes of § 1303.2 of this chapter, the designated roadways within the ES Overlay District shall be Eighth Street, M Street and Potomac Avenue.

1309.6 The maximum permitted height for any building or structure in the ES Overlay District shall be forty-five feet (45 ft.).


1309.7 The maximum permitted gross floor area for permitted commercial and residential uses in the SE Overlay District shall be 3.0 FAR.

Vote of the Zoning Commission taken at its public meeting on May 10, 1999: 3-0 (Angel F. Clarens, Anthony J. Hood and, Jerrily R. Kress to approve; John G. Parsons and Herbert M. Franklin, not voting, not having participated in the case).

This Order was adopted by the Zoning Commission, at its public meeting on September 30, 1999, by a vote of 4-0: (Franklin, Parsons, Clarens and Hood to **ADOPT** Z.C. Order No. 901 with revisions)

In accordance with the provisions of 11 DCMR 3028, this Order is final and effective upon publication in the D.C. Register, that is on **OCT 15 1999**

  
**ANGEL F. CLARENS**  
Chairman  
Zoning Commission

  
**JERRILY R. KRESS, FAIA**  
Director  
Office of Zoning