

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



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

Z.C. ORDER NO. 12-08

Z.C. Case No. 12-08

(Text and Map Amendments – 11 DCMR)

(To Create and Implement the Saint Elizabeths East (StE) District for the Saint Elizabeths East Campus)

January 28, 2013

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01 (2008 Repl.)), hereby gives notice of the adoption of the following amendments to the Zoning Map and to the text of the Zoning Regulations (DCMR Title 11). The text and map amendments permit and guide development of Saint Elizabeths East Campus. The amendments add a new chapter 33 and make conforming amendments to §§ 2101, 2602, 2603, and 2604.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on December 21, 2012 at 59 DCR 14971. As will be explained below, the only difference between the rules as proposed and as adopted is that the reference to the StE District has been moved from existing § 2603.4 to § 2604.3. The amendments shall become effective upon the publication of this notice in the *D.C. Register*.

Description of amendments

In addition to achieving the goals of the Comprehensive Plan and the Saint Elizabeths East Redevelopment Framework Plan, the StE District will provide for a broad mix of uses, including residential, commercial, hospitality, educational and civic uses consistent with the Saint Elizabeths East Master Plan and Design Guidelines. The purposes of the StE District are to reinvigorate the campus as an important neighborhood center with historic resources preserved and adaptively reused and the unique and historic identity of the campus being enhanced by new development.

The new Saint Elizabeths East (StE) District will have nineteen (19) subdistricts, StE-1 through StE-19. Each StE subdistrict will have its own bulk and design provisions, including height, density, lot occupancy, and street frontage requirements for unique conditions associated with the historic nature and architecture of the campus. New parking spaces on the campus will be limited to four thousand eight hundred (4,800) spaces, which will be monitored through each

building permit granted. Most of the uses within the StE District will be as a matter-of-right except for a few which will be permitted by special exception or are prohibited.

Building heights range from zero (0) to nine (9) stories with the tallest buildings away from the historic buildings. The proposed building heights address the context of existing to new buildings and allow heights to transition down to adjacent historic buildings. New § 3306.7 through 3306.9 control building massing on StE-6, StE-13, StE-16, StE-17, and StE-18 by requiring step-backs for buildings on StE-17 and StE-18 which abut Alabama Avenue and on StE-6, StE-13, and StE-16, adjacent to the ravine.

To ensure that the overall development maintains the mix of uses envisioned across the campus, a portion of the overall FAR within seven (7) of the subdistricts is required to be dedicated to residential use. Residential uses are described in proposed § 3303.1(x). To provide further flexibility, residential use can be transferred to properties located in other specified subdistricts through a combined lot mechanism, provided the maximum total density and height for the receiving subdistrict remains as specified for that subdistrict. The transfer of required residential use between subdistricts will be effectuated through a declaration of covenants between the owners of sending and the receiving lots and administered in accordance with proposed § 3307.

Development on the site will have the flexibility to provide below-grade, surface, or above-grade structured parking. Within the StE-7, 15, and 17 subdistricts, additional FAR for above-grade structured parking is provided. Any of the additional FAR that is not used for above-grade parking may be utilized for any other use permitted within that subdistrict, but may not be transferred through the combined lot process. Consistent with the Master Plan, the proposed regulations would impose a district-wide cap of four thousand eight hundred (4,800) new below-grade, surface, or above-grade parking spaces which can only be exceeded through a special exception granted by the Board of Zoning Adjustment. To allow for flexibility in location, timing, shared parking, and response to the market, parking minimums or maximums are not established on individual parcels, and are not required to be on the same lot as the use they serve.

As a convenience to the public, the Commission has included at the end of this notice a map that general depicts the location of the nineteen (19) proposed subdistricts. Actual metes and bounds description of each subdistrict are stated as part of the map amendment that follows.

Procedures Leading to Adoption of Amendments

On June 29, 2012, the Office of Planning (OP) submitted a memorandum that served as a petition requesting text and map amendments to create and implement the Saint Elizabeths East (StE) District. The Commission voted to set down the amendments for hearing at its July 9, 2012 public meeting. Prior to advertisement, additional conforming amendments were added after consultation with the Office of the Attorney General. OP's Final Report dated October 5, 2012 included an attachment that set forth the revised text as included in the Notice of Public Hearing.

A public hearing was held and completed on October 18, 2012 and the record was left open for additional information from OP and the District Department of Transportation (DDOT) as well and the written report from Advisory Neighborhood Commission (ANC) 8C.

Through a letter dated October 30, 2012, the Chair of ANC 8C advised the Commission that at a meeting held October 3, 2012 and with a quorum present, the ANC voted unanimously. Although the letter did not indicate what the unanimous vote was for, the Commission will assume that vote was to authorize the submission of a letter that reflected the ANC's recommendations. Those recommendations were:

- The existing chapel should be maintained at its present location, although it is not a historic building;
- StE-2 and 3 are Residential. Therefore, non-residential FAR should be no more than one and one-half (1.50) and the maximum allowable height should be no higher than forty (40) feet. Greater height would create a security risk;
- StE 14, 17, 18 are on the north side of Alabama Avenue. The south side consists of semi-detached and detached one-family dwellings. The seventy (70) to ninety (90) feet of height recommended by OP will not fit into the aesthetics of the current structures on Alabama Avenue. The ANC therefore recommends a reduction of the maximum permitted height to fifty (50) feet; and
- Underground Parking may prove problematic given the existence of underground streams in the area.

OP provided a supplemental report on November 5, 2012. Among other things, the report indicated that during the review for the Transportation Environmental Assessment, an ecological survey identified areas on Parcels 13 and 16 as wetlands. However, the assessment did not identify a stream at the bottom of the ravine. The report indicated that more detailed assessments will be required for each new development along the ravine by the District Department of the Environment. The report further noted that land dispositions for each development parcel, particularly for ones adjacent to the ravine, will include stormwater management as an important goal, to minimize runoff impacts on the ravine.

As to the chapel, OP explained that the chapel was evaluated as part of the St. Elizabeths Hospital National Historic Landmark East Campus Survey in March 2011 and it was determined that the chapel is a non-contributing element of the St. Elizabeths Hospital National Historic Landmark as well as a non-contributing element of the local St. Elizabeths Hospital Historic District. Finally the report provided a further planning analysis of the permitted height on Parcels 17 and 18.

DDOT provided a portion of a presentation entitled "Concept Design for MLK Avenue Improvements: Section 106 Evaluation at St Elizabeths and in Congress Heights."

On November 19, 2012, the Commission authorized the publication of a notice of proposed rulemaking in the *D.C. Register* and a referral to the National Capital Planning Commission (NCPC) for the thirty (30)-day period of review required under § 492 of the District Charter of the proposed amendments as set forth in OP's October 5, 2012 report. In doing so, the Commission authorized OP to include text to address the Commission's concern with the building massing on StE-6, StE-13, StE-16, StE-17, and StE-18. These additional provisions (codified as § 3306.7 through 3306.8.) provide step-backs for buildings on StE-17 and StE-18 which abut Alabama Avenue and on StE-6, StE-13, and StE-16, adjacent to the ravine.

The Executive Director of NCPC, through a delegated action dated December 12, 2012, found that the proposed text and map amendments would not adversely affect the identified federal interests, nor be inconsistent with the Comprehensive Plan for the National Capital.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on December 21, 2012 at 59 DCR 14971. Councilmember Marion S. Barry, Jr. submitted written comments, in which he made the following main points:

- The emphasis on historic preservation is very positive;
- The density on the StE-8 and StE-11 is too low, and too much open space is set aside at this location;
- The density proposed for the parcel adjacent to the Congress Heights Metro is not sufficient, the zoning does not require preferred uses, and the preferred uses in the adjacent parcel are focused away from Alabama Avenue;
- While StE-7, the proposed neighborhood center, does require preferred uses, and puts them along the Avenue, the proposed building discourages pedestrian traffic from getting to the retail along the Avenue; and
- There should be higher density on StE-3, between Martin Luther King Avenue and Sycamore Drive.

On January 7, 2013, OP submitted a second supplemental report which responded to the Commission's request for information concerning affordable housing and sustainability. The report also provided an attachment generally showing the building forms that could be developed on a sampling of lots.

At a properly noticed public meeting held on January 28, 2013, the Commission decided to defer final consideration of the petition until its February 11, 2013 meeting in order to obtain OP's analysis of Councilmember Barry's comments. In addition, the Commission discussed whether to increase the amount of mandatory Inclusionary Zoning (IZ) within the StE District. The Commission noted that current proposal would have required a residential development within the StE District to reserve either eight percent (8%) or ten percent (10%) of its residential gross

floor area for moderate-income households.¹ Given the fact that the District owned the land, the Commission believed that a set-aside level of twenty percent (20%) would be more appropriate and asked OP to respond to that proposal as well.

OP submitted a Supplemental Report dated February 5, 2013. As to Councilmember Barry's comments, OP noted that the *Saint Elizabeths Master Plan and Design Guidelines* (Master Plan) is based on the Council-approved Redevelopment Framework Plan which serves as supplemental guidance to the Council-approved Comprehensive Plan. The Master Plan was based on discussion and recommendations of federal and local agencies as well as the ANC, local community elected and business stakeholders on how best to develop the Saint Elizabeths East Campus.

OP stated that as part of the master planning process, the proposals were reviewed by all the preservation organizations for any anticipated adverse effects on historic resources and DDOT completed an Environmental Assessment including analysis of proposed trip generations caused by proposed new development. The levels and locations of density on the campus are the result of these two processes, which both included public review and comment periods. The proposed density for each parcel in the Master Plan is the result of each parcel having a defined character influenced by the presence of existing historic structures, the nationally landmarked historic landscape, topography, and proximity to transportation networks and other features. The proposed density and building massing standards proposed in the zoning are based on the building heights described in the Master Plan and establish an appropriate development scenario for each parcel which addresses the context of existing buildings and allowing heights to transition down to adjacent historic buildings.

The report also included the comments of the Executive Director of Saint Elizabeths East, which is part of the Office of the Deputy Mayor for Planning and Economic Development. The comments stated that the proposed increase in mandatory affordable housing would undermine the District's economic development goals for the campus. The Executive Director also contended that increasing the amount of housing reserved for moderate-income households would do little good because the current prices for market rate and IZ housing within Ward 8 had become roughly equivalent. Buyers at this income level therefore have little interested in IZ units because of the inability to capture any increase in property values through a subsequent sale.

The Commission continued its deliberations on this case at its properly noticed February 11, 2013 meeting. As to Councilmember Barry's comments, the Commission noted that there was a divergence of opinion within the community concerning the appropriate levels of density for the East Campus. Nevertheless, the Commission concluded that the densities proposed by OP were

¹ A moderate-income household is defined by § 2602.1 as a household of one or more individuals with a total annual income adjusted for household size equal to between fifty-one percent (51%) and eighty percent (80%) of the Metropolitan Statistical Area median.

consistent with the recommendations of the Council-approved Comprehensive Plan designations, the Council-approved Redevelopment Framework Plan, and the Master Plan. Further, although the site is at a metro station, its unique historic character calls for lower densities and that the densities and heights recommended by Councilmember Barry would be inconsistent with the recommendations of the identified Plans.

With respect to the amount of affordable housing that should be required, the Commission understood that at present the housing needs of moderate-income households in Ward 8 are being met by market rate housing, although that is always subject to change. Nevertheless, the present market conditions suggest that the Commission's focus should be on needs of low-income households.² Therefore, rather than increase the percentage of residential gross floor area that a building must set-aside for IZ housing, the Commission voted to require that half of a building's IZ units be reserved for low-income households.

The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give "great weight" to the issues and concerns raised in the written report of the affected ANC, which in this case is ANC 8C. To satisfy the great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances.

The Commission understands the ANC's view that the chapel should be retained, but has no authority to prevent the demolition or alteration of a structure. The Commission notes that potential developers of this site will receive extra points for proposals that call for the retention of the structure.

As to StE-2 and 3, there is no cap on non-residential density in any StE subdistrict, which is consistent with the Master Plan. The Commission has imposed minimum residential requirements for certain subdistricts, which act to limit non-residential density, but sees no reason to impose a similar requirement for StE-2 and 3. With respect to height, the Commission notes that NCPC has found no inconsistency between the proposed height and any federal interests, which would include security concerns.

The Commission is now comfortable with the seventy (70) and ninety (90) foot heights proposed by OP given the added step-back requirements that will apply within StE-6, StE-13, StE-16, StE-17, and StE-18. These requirements will ensure that any building erected to the maximum heights permitted will be compatible with its surroundings.

² A low-income household is defined by § 2602.1 as a household of one or more individuals with a total annual income adjusted for household size equal to less than fifty percent (50%) of the Metropolitan Statistical Area median as certified by the Mayor pursuant to the Act.

Finally, the Commission has not been presented with any evidence of underground streams within the StE District and believes that issues of this kind are best left to the building code and the environmental review process.

Having concluded that the proposed map and text amendments are in the public interest and not inconsistent with the Comprehensive Plan; and having given great weight to the issue and concerns expressed by the affected ANC, the Commission adopts the following amendments.

The Zoning Map is amended as follows:

Zone from unzoned to StE-1 the area described in the metes and bounds descriptions at Exhibit 7 in the record of Z.C. Case No. 12-08 entitled "DESCRIPTION OF PROPOSED A&T LOT 1 FOR ST. ELIZABETH EAST CAMPUS ZONING AMENDMENT SUBDIVISION LOT 2, SQUARE S-5868 DISTRICT OF COLUMBIA."

Zone from unzoned to StE-2 the area described in the metes and bounds descriptions at Exhibit 7 in the record of Z.C. Case No. 12-08 entitled "DESCRIPTION OF PROPOSED A&T LOT 2 FOR ST. ELIZABETH EAST CAMPUS ZONING AMENDMENT SUBDIVISION LOT 2, SQUARE S-5868 DISTRICT OF COLUMBIA."

Zone from unzoned to StE-3 the area described in the metes and bounds descriptions at Exhibit 7 in the record of Z.C. Case No. 12-08 entitled "DESCRIPTION OF PROPOSED A&T LOT 3 FOR ST. ELIZABETH EAST CAMPUS ZONING AMENDMENT SUBDIVISION LOT 2, SQUARE S-5868 DISTRICT OF COLUMBIA."

Zone from unzoned to StE-4a the area described in the metes and bounds descriptions at Exhibit 7 in the record of Z.C. Case No. 12-08 entitled "DESCRIPTION OF PROPOSED A&T LOT 4a FOR ST. ELIZABETH EAST CAMPUS ZONING AMENDMENT SUBDIVISION LOT 2, SQUARE S-5868 DISTRICT OF COLUMBIA."

Zone from unzoned to StE-4b the area described in the metes and bounds descriptions at Exhibit 7 in the record of Z.C. Case No. 12-08 entitled "DESCRIPTION OF PROPOSED A&T LOT 4b FOR ST. ELIZABETH EAST CAMPUS ZONING AMENDMENT SUBDIVISION LOT 2, SQUARE S-5868 DISTRICT OF COLUMBIA."

Zone from unzoned to StE-5 the area described in the metes and bounds descriptions at Exhibit 7 in the record of Z.C. Case No. 12-08 entitled "DESCRIPTION OF PROPOSED A&T LOT 5 FOR ST. ELIZABETH EAST CAMPUS ZONING AMENDMENT SUBDIVISION LOT 2, SQUARE S-5868 DISTRICT OF COLUMBIA."

Zone from unzoned to StE-6 the area described in the metes and bounds descriptions at Exhibit 7 in the record of Z.C. Case No. 12-08 entitled "DESCRIPTION OF PROPOSED A&T LOT 6

FOR ST. ELIZABETH EAST CAMPUS ZONING AMENDMENT SUBDIVISION LOT 2, SQUARE S-5868 DISTRICT OF COLUMBIA.”

Zone from unzoned to StE-7 the area described in the metes and bounds descriptions at Exhibit 7 in the record of Z.C. Case No. 12-08 entitled "DESCRIPTION OF PROPOSED A&T LOT 7 FOR ST. ELIZABETH EAST CAMPUS ZONING AMENDMENT SUBDIVISION LOT 2, SQUARE S-5868 DISTRICT OF COLUMBIA.”

Zone from unzoned to StE-8 the area described in the metes and bounds descriptions at Exhibit 7 in the record of Z.C. Case No. 12-08 entitled "DESCRIPTION OF PROPOSED A&T LOT 8 FOR ST. ELIZABETH EAST CAMPUS ZONING AMENDMENT SUBDIVISION LOT 2, SQUARE S-5868 DISTRICT OF COLUMBIA.”

Zone from unzoned to StE-9 the area described in the metes and bounds descriptions at Exhibit 7 in the record of Z.C. Case No. 12-08 entitled "DESCRIPTION OF PROPOSED A&T LOT 9 FOR ST. ELIZABETH EAST CAMPUS ZONING AMENDMENT SUBDIVISION LOT 2, SQUARE S-5868 DISTRICT OF COLUMBIA.”

Zone from unzoned to StE-10 the area described in the metes and bounds descriptions at Exhibit 7 in the record of Z.C. Case No. 12-08 entitled "DESCRIPTION OF PROPOSED A&T LOT 10 FOR ST. ELIZABETH EAST CAMPUS ZONING AMENDMENT SUBDIVISION LOT 2, SQUARE S-5868 DISTRICT OF COLUMBIA.”

Zone from unzoned to StE-11 the area described in the metes and bounds descriptions at Exhibit 7 in the record of Z.C. Case No. 12-08 entitled "DESCRIPTION OF PROPOSED A&T LOT 11 FOR ST. ELIZABETH EAST CAMPUS ZONING AMENDMENT SUBDIVISION LOT 2, SQUARE S-5868 DISTRICT OF COLUMBIA.”

Zone from unzoned to StE-12 the area described in the metes and bounds descriptions at Exhibit 7 in the record of Z.C. Case No. 12-08 entitled "DESCRIPTION OF PROPOSED A&T LOT 12 FOR ST. ELIZABETH EAST CAMPUS ZONING AMENDMENT SUBDIVISION LOT 2, SQUARE S-5868 DISTRICT OF COLUMBIA.”

Zone from unzoned to StE-13 the area described in the metes and bounds descriptions at Exhibit 7 in the record of Z.C. Case No. 12-08 entitled "DESCRIPTION OF PROPOSED A&T LOT 13 FOR ST. ELIZABETH EAST CAMPUS ZONING AMENDMENT SUBDIVISION LOT 2, QUARE S-5868 DISTRICT OF COLUMBIA.”

Zone from unzoned to StE-14a the area described in the attached metes and bounds descriptions at Exhibit 7 in record of Z.C. Case No. 12-08 entitled "DESCRIPTION OF PROPOSED A&T LOT 14a FOR ST. ELIZABETH EAST CAMPUS ZONING AMENDMENT SUBDIVISION LOT 2, SQUARE S-5868 DISTRICT OF COLUMBIA.”

Zone from unzoned to StE-14b the area described in the metes and bounds descriptions at Exhibit 7 in the record of Z.C. Case No. 12-08 entitled "DESCRIPTION OF PROPOSED A&T LOT 14b FOR ST. ELIZABETH EAST CAMPUS ZONING AMENDMENT SUBDIVISION LOT 2, SQUARE S-5868 DISTRICT OF COLUMBIA."

Zone from unzoned to StE-15 the area described in the attached metes and bounds descriptions at Exhibit 7 in the record of Z.C. Case No. 12-08 entitled "DESCRIPTION OF PROPOSED A & T LOT 15 FOR ST. ELIZABETH EAST CAMPUS ZONING AMENDMENT SUBDIVISION LOT 2, SQUARE S-5868 DISTRICT OF COLUMBIA."

Zone from unzoned to StE-16 the area described in the metes and bounds descriptions at Exhibit 7 in the record of Z.C. Case No. 12-08 entitled "DESCRIPTION OF PROPOSED A&T LOT 16 FOR ST. ELIZABETH EAST CAMPUS ZONING AMENDMENT SUBDIVISION LOT 2, SQUARE S-5868 DISTRICT OF COLUMBIA."

Zone from unzoned to StE-17a the area described in the metes and bounds descriptions at Exhibit 7 in the record of Z.C. Case No. 12-08 entitled "DESCRIPTION OF PROPOSED A&T LOT 17a FOR ST. ELIZABETH EAST CAMPUS ZONING AMENDMENT SUBDIVISION LOT 2, SQUARE S-5868 DISTRICT OF COLUMBIA."

Zone from unzoned to StE-17b the area described in the metes and bounds descriptions at Exhibit 7 in the record of Z.C. Case No. 12-08 entitled "DESCRIPTION OF PROPOSED A&T LOT 17b FOR ST. ELIZABETH EAST CAMPUS ZONING AMENDMENT SUBDIVISION LOT 2, SQUARE S-5868 DISTRICT OF COLUMBIA."

Zone from unzoned to StE-18a the area described in the metes and bounds descriptions at Exhibit 7 in the record of Z.C. Case No. 12-08 entitled "DESCRIPTION OF PROPOSED A&T LOT 18a FOR ST. ELIZABETH EAST CAMPUS ZONING AMENDMENT SUBDIVISION LOT 2, SQUARE S-5868 DISTRICT OF COLUMBIA."

Zone from unzoned to StE-18b the area described in the metes and bounds descriptions at Exhibit 7 in the record of Z.C. Case No. 12-08 entitled "DESCRIPTION OF PROPOSED A&T LOT 18b FOR ST. ELIZABETH EAST CAMPUS ZONING AMENDMENT SUBDIVISION LOT 2, SQUARE S-5868 DISTRICT OF COLUMBIA."

Zone from unzoned to StE-19 the area described in the metes and bounds descriptions at Exhibit 7 in the record of Z.C. Case No. 12-08 entitled "DESCRIPTION OF PROPOSED A&T LOT 19 FOR ST. ELIZABETH EAST CAMPUS ZONING AMENDMENT SUBDIVISION LOT 2, SQUARE S-5868 DISTRICT OF COLUMBIA."

Title 11 DCMR (Zoning) is proposed to be amended as follows:

Add a new chapter 33, "Saint Elizabeths East (StE) District:"

CHAPTER 33 - SAINT ELIZABETHS EAST CAMPUS (StE) DISTRICT

3301 GENERAL PROVISIONS AND APPLICABILITY

- 3301.1 The Saint Elizabeths East Campus (StE) District is a unique location district created to implement the public policy goal and objectives of the Comprehensive Plan, the St. Elizabeths Redevelopment Framework Plan, as approved by the Council of the District of Columbia on December 16, 2008, and the Saint Elizabeths East Master Plan and Design Guidelines, June 4, 2012.
- 3301.2 The StE District shall apply to Lot 2 in Square S-5868, which comprises the area historically referred to as the Saint Elizabeths East Campus, and generally bounded by the Unified Communications Center to the north; open space and the St. Elizabeths Psychiatric Hospital the east; Alabama Avenue and the residential community to the south; and Martin Luther King, Jr., Avenue to the west.
- 3301.3 The StE District shall constitute the Zoning Regulations for the geographic area referred to in § 3301.2. Where there are conflicts between this chapter and other chapters of this title, the provisions of the StE District shall govern.

3302 PURPOSES

- 3302.1 The StE District is intended to provide for the development of this site with a mix of uses, achieved through the adaptive reuse of existing buildings as well as new construction.
- 3302.2 The StE District is intended to provide for a broad mix of uses, including residential, commercial, hospitality, educational, and civic uses consistent with the Master Plan, with a target of approximately four million two hundred thousand (4,200,000) square feet of development, exclusive of the StE-2, StE-18, and StE-19 subdistricts and specified above-grade parking.
- 3302.3 The purposes of the StE District are to:
- (a) Improve community connectivity and access to and through the campus;
 - (b) Enhance the unique and historic identity of the campus;
 - (c) Reinvigorate the campus as an important neighborhood center;
 - (d) Preserve and adaptively reuse the historic resources;

- (e) Embody the District’s design and sustainability goals;
- (f) Create a safe public realm and enhanced pedestrian experience;
- (g) Enhance multi-modal transportation networks;
- (h) Support wider economic development initiatives; and
- (i) Ensure a parking supply that meets the needs of the St Elizabeths site while minimizing impacts on surrounding neighborhoods and incurring acceptable impacts on the surrounding road network.

3302.4 Land Use and Urban Design principles for the StE District include:

- (a) Create a safe environment by providing for a mix of uses and open spaces that are capable of being programmed to ensure vitality and social activity;
- (b) Create a desirable development opportunity by providing for flexibility in uses and appropriate building heights and densities;
- (c) Provide street-activating uses such as retail on the ground floor of buildings along designated public streets;
- (d) Recognize the unique and historic characteristics of the site and provide for the appropriate reuse of the historic buildings and new development that will respect the site’s historic nature;
- (e) Design and site new development sensitively to preserve existing gateways, vistas, and campus landmarks;
- (f) Create focal points to help establish a unique sense of place and orientation;
- (g) Provide for significant open space, including community parks, plazas, and natural open space on the site;
- (h) Provide for the preservation of the existing ravine within subdistrict StE-19 in its current, natural state; and
- (i) Promote the use of best practice environmental and stormwater management design.

3303 **USES**

3303.1 The following use categories are applicable to the StE District:

- (a) Agriculture - The on-site cultivation, or maintenance of plants, or the breeding or keeping of animals and livestock intended for personal use or eventual sale or lease off-site, including but not limited to: farm, truck garden, beekeeping, greenhouse, dairy, horticultural nursery, or community garden;
- (b) Animal Sales, Care, and Boarding - The on-site sale, medical care, or short term boarding of animals for a fee, which may include licensed veterinary practices such as medicine, surgery, or dentistry for animals, the provision of animal services such as grooming, training, or care-taking, including but not limited to pet shop, veterinary clinic or hospital, pet grooming establishment, dog day care center, animal boarding facility, animal sales establishment, or animal shelter;
- (c) Antennas - Any structure involving conducting, transmitting, or receiving communication signals, encompassing the portions of the structure responsible for signal transmission and reception, any associated towers, commercial broadcast antenna, mobile telecommunication antenna, microwave dish, satellite earth station, whip, or yagi antennas immediately related support and stabilizing elements, and rotating or other directional mechanisms;
- (d) Arts Design and Creation - The on-site design, rehearsal, or creation of visual, auditory, or performance art. This use may encompass work space for artists, artisans, or craftsmen practicing fine arts or applied arts or crafts, and may include the sale of items created on the site; including but not limited to artist studio, artisan production including kiln-fired, metal-working, wood-working, furniture making and glass-blowing arts, photographic studio, recording studio, radio, or broadcasting studio, or arts incubator;
- (e) Basic Utilities - The commercial or governmental generation, transmission, distribution, or storage of energy, water, stormwater, cable, or telecommunication-related information, commonly taking the form of infrastructure services which are provided city-wide including but not limited electrical sub-station, telephone exchange, optical transmission node, electronic equipment facility, sewer plant, water treatment plant, methods and facilities for renewable energy generation, or utility pumping station;
- (f) Chancery - The principal offices of a foreign mission used for diplomatic or related purposes, and annexes to such offices (including ancillary offices and support facilities), including the site and any building on such site that is used for such purposes;

- (g) Community-based Institutional Facility - Monitored care to individuals who have a common need for treatment, rehabilitation, assistance, or supervision in their daily living; have been assigned to the facility; or are being detained by the government, other than as a condition of probation, including, but not limited to, adult rehabilitation home, youth rehabilitation home, or detention or correctional facilities;
- (h) Daytime Care - The non-residential licensed care, supervision, counseling, or training, for a fee, of individuals who are not related by blood, adoption, or marriage to the caregiver, and who are present on the site for less than 24 hours per day, including, but are not limited to: child care centers and programs, pre-schools, nursery schools, before-and-after school programs, or elder care centers and programs;
- (i) Education – Education and academic institutions that provide District or state mandated basic education or educational uses of higher learning which offer courses of general or specialized study leading to a degree as well as accessory play areas, dormitories, cafeterias, recreational, or sports facilities; including, but not limited to, private schools, public or charter schools at the elementary, middle, junior high, or high school level; colleges, community colleges, universities, or boarding schools;
- (j) Emergency Shelter - Any use providing thirty (30) days or less of temporary housing to indigent, needy, homeless, or transient individuals as well as providing ancillary services such as counseling, vocational training, or similar social and career assistance;
- (k) Entertainment, Assembly, and Performing Arts - Facilities designed primarily for public assembly that enables patrons to experience visual, auditory, performance, or literary arts; attend sporting events or conferences; or participate in active leisure activities, typically characterized by activities and structures that draw large numbers of people to specific events or shows, including, but not limited to bowling alley, miniature golf, movie theatre, concert hall, or stadium;
- (l) Food and Alcohol Services - The sale of food, alcoholic drinks, or refreshments prepared on the premises and sold to customers for immediate consumption on or off the premises, including, but not limited to: prepared food shop, café, delicatessen, restaurant, fast food establishment, bar, nightclub, ice cream parlor, or coffee shop;
- (m) Health Care - The on-site licensed provision of medical diagnosis, treatment, or prevention of illness or disease of humans, or medical or

surgical care to patients including, but not limited to: dentist, doctor, optician, hospitals, clinics, or medical offices;

- (n) Institutional - Any non-governmental use involving the public assembly of people or provision of services for social, cultural, or religious purposes and which may include uses of a public, nonprofit, or charitable nature generally providing local service on-site to people of a local community, including, but not limited to, private clubs, private libraries, non-profit social service providers, or religious facilities;
- (o) Large Scale Government - Any use involving services owned, managed, or provided by a governmental entity and associated with providing regional or wider services, including, but are not limited to: airports, jails, truck dispatch facilities or police/fire training facilities;
- (p) Local Government - Services owned, managed, or provided by local government and associated with providing neighborhood-scaled services to meet the community needs of the directly adjacent areas, including, but not limited to: public community centers, police stations, libraries, or fire stations;
- (q) Lodging - Temporary housing for an agreed upon term of less than thirty (30) consecutive days; offered to the public for compensation, and open to transient rather than permanent guests, including, but not limited to, hotels, motels, inns, or bed and breakfast establishments;
- (r) Motor Vehicle-related - On-site sale, rental, service, maintenance, or refueling of motor vehicles or their components. These uses include the sale, installation or repair of parts, components, accessories, or fuel for motor vehicles, including, but not limited to, gas service station, auto repair facility, carwash, automobile sales, boat sales, or motorcycle sales;
- (s) Office - On-site administrative, business, professional, research, or laboratory-based activities. These uses are characterized by activities in an office setting that focus on the provision of off-site sale of goods or on-site information-based services, usually by professionals, including, but not limited to, real estate agency, law firm, accounting firm, advertising agency, stockbrokerage firm, or laboratory;
- (t) Open Space - Land that is intended to be preserved in a largely natural state;
- (u) Parking - The on-site short- or long-term storage of motor vehicles, including surface lots or within structures, including, but not limited to:

parking accessory to another use, public parking lot, public parking garage, and private garage;

- (v) Parks and Recreation - Publicly accessible passive or active open space or a structure or facility under the jurisdiction of a public agency that is used for community recreation activities, including, but not limited to: public plazas, parks, outdoor recreation, community gardens, areas devoted to recreational activities such as picnicking, boating, fishing, bicycling, tennis, or swimming, and structures or other recreation facilities such as auditorium, multi-purpose room, gymnasium, meeting space, open space, playground, playing court, golf course, playing field, or swimming pool, with associated accessory uses such as kitchen facilities;
- (w) Production, Distribution, Light Industrial, and Repair - The on-site production, distribution, repair, assembly, processing, or sale of materials, products, innovative technology, or goods intended for a wholesale, manufacturing, or industrial application, including, but not limited to, centralized services or logistics for retail uses, wholesale goods establishments, outdoor material storage, warehouse, ground shipping facility, or wholesale sales;
- (x) Residential - Any use offering habitation to one or more households on a continuous basis established by tenancy with a minimum term of a month or property ownership, including, but are not limited to: single dwelling unit, multiple dwelling units. This use category includes residential facilities that provide housing and supervision for persons with disabilities, which may include twenty-four- (24-) hour on-site supervision, lodging, and meals for individuals who require supervision within a structured environment, and which may include specialized services such as medical, psychiatric, nursing, behavioral, vocational, social, or recreational services, including but not limited to community residence facilities, retirement homes, substance abusers' home, youth residential care home, assisted living facility, floating homes, and other residential uses;
- (y) Retail - The on-site sale of goods, wares, or merchandise directly to the consumer or persons without a resale license, typically to individuals in small quantities for their direct use, including, but not limited to, uses such as antique shop, drugstore, department store, card shop, grocery store, jewelry store, fabric store, or pawn shop but not including firearm sales;
- (z) Service - The contracting of work that does not necessarily result in a tangible commodity, typically providing personal services or small-scale product repair or services for consumer and business goods on-site,

including, but not limited to: bank, appliance repair, travel agency, fitness center, yoga studio, shoe repair, tailor, or parcel delivery service; and

- (aa) Transportation Infrastructure - Structures or conveyances designed for individual mode or multimodal public transportation purposes, including, but not limited to: land or facilities for the movement or storage of transportation system components, streetcar or bus passenger depots, transportation rights of way, Metro stations, mass transit stations, bus stops, bicycle paths, bus transfer stations, accessways, airports, bicycle facilities, multi-use paths, pedestrian connections, or streets.

3303.2 The uses listed in § 3303.1 shall be permitted by-right in all subdistricts of the StE District, except as limited in §§ 3303.3 to 3303.8.

3303.3 Within the StE-19 subdistrict, no use is permitted except for Open Space and Transportation Infrastructure.

3303.4 Uses permitted within the StE-10 and StE-14a subdistricts shall be in accordance with the R-4 use provisions of 11 DCMR § 330 which includes but is not limited, to rowhouses, flats, attached or detached dwellings, and other uses compatible with a low to moderate density residential zone.

3303.5 Accessory uses, buildings, or structures customarily incidental and subordinate to the principal uses permitted in § 3302 shall be permitted in any StE District except StE-19 as a matter of right, subject to the limitations in chapter 25 of this title.

3303.6 Preferred uses described in § 3305 shall be provided in accordance with the provisions of that section.

3303.7 The following uses shall be permitted in the StE District as a special exception if approved by the Board of Zoning Adjustment pursuant to the general standard of § 3104, the criteria set forth in § 3304 and the specific conditions stated below:

- (a) Emergency shelter for five (5) to fifteen (15) persons, not including resident supervisors or staff and their families, subject to the standards and requirements of § 305; and
- (b) Community Based Institutional Facilities for seven (7) to fifteen (15) persons, not including resident supervisors or staff and their families, subject to the standards and requirements for Youth and Adult Rehabilitation Homes of § 306.

- 3303.8 The following uses are prohibited within the StE District as either a principal or an accessory use:
- (a) Any establishment that has as its principal use the administration of massages;
 - (b) Any industrial use first permitted in the M District;
 - (c) Correctional Facility;
 - (d) Drive-through establishment, where goods are sold/rented or services rendered, directly to occupants of motor vehicles while in the vehicles;
 - (e) Firearm Sales, including gun store, ammunition sales, pawn shop carrying guns, or weaponry store;
 - (f) Self-service storage establishment that provides separate storage areas for individual or business uses;
 - (g) Sexually-oriented business establishment;
 - (h) 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; and
 - (i) Vehicle sales.

3304 SPECIAL EXCEPTION GENERAL PROVISIONS

- 3304.1 In addition to the general standards set forth in § 3104, an applicant for a special exception to establish a Community Based Institutional Facility pursuant to § 3303.7 shall demonstrate that:
- (a) The proposal addresses any conditions pertaining to that use as detailed in this chapter;
 - (b) Noise and other potential impacts associated with the operation of a proposed use shall not adversely affect adjacent or nearby uses;
 - (c) Traffic conditions associated with the operation of a proposed use shall not adversely affect adjacent or nearby uses; and
 - (d) The proposed building will comply with the applicable ground floor use.

3305 PREFERRED USE REQUIREMENTS

3305.1 Preferred uses shall include any use within the Arts, Design & Creation; Food & Alcohol Services; Retail; or Service use categories described in § 3303.1.

3305.2 Each building that faces the following streets or locations in the following subdistricts shall devote not less than fifty percent (50%) of the gross floor area of the ground floor to preferred uses:

- (a) StE-3, facing Martin Luther King Jr. Avenue S.E., Cypress Street S.E., or Sycamore Street S.E., and the park;
- (b) StE-7, facing Martin Luther King Jr. Avenue S.E., Cypress Street S.E., or Dogwood Drive S.E., or Oak Drive S.E.;
- (c) StE-14b, facing Dogwood Drive S.E., Oak Drive S.E., or the southwest corner;
- (d) StE-15, facing Dogwood Drive S.E., 13th Street S.E., Oak Drive S.E., or the park;
- (e) StE-16, facing 13th Street S.E. and the southwest corner; and
- (f) StE-17, facing Dogwood Drive S.E., 13th Street S.E., or Oak Drive S.E.

3305.3 Not less than fifty percent (50%) of the surface area of the street wall, including building entrances, of those building frontages described in § 3305.2 shall be devoted to doors or display windows having clear or low emissivity glass.

3305.4 Preferred uses shall provide direct, exterior access to the ground level.

3305.5 The minimum floor-to-ceiling height for portions of the ground floor level devoted to preferred uses shall be fourteen feet (14 ft.).

3305.6 Ground floor area required for preferred uses may not be transferred to any other lot through the Combined Lot Development procedures of § 3307.

3305.7 For good cause shown, the Board of Zoning Adjustment may authorize interim occupancy of the preferred use space required under § 3305.2 by other uses permitted in the StE District for up to a five (5) year period, provided that:

- (a) The ground-floor space is suitably designed for future occupancy by preferred uses;
- (b) The proposed use is compatible with the surrounding uses; and

- (c) It can be demonstrated that a preferred use cannot be accommodated due to market conditions.

3306 FLOOR-AREA-RATIO (FAR), HEIGHT, LOT OCCUPANCY, REAR YARD SETBACK, MINIMUM LOT AREA, AND SETBACKS

3306.1 The StE District is divided into the StE-1 through StE-19 Districts for the purpose of floor area ratio (FAR), lot occupancy, and building height.

3306.2 Except as provided in this section, the FAR, height of a building or structure, lot occupancy and rear yard in a StE District shall not exceed or be less than that set forth in the following table:

Zone District	FAR (Max.)	FAR – Required Residential (Min.)	FAR – Above Grade Parking (Max.)	Height (Max. Ft.)	Lot Occupancy (Max. %)	Rear Yard (Min. Ft.)
StE-1	0.20	-	-	25	25	-
StE-2	4.00	-	-		75	-
StE-3	2.50	-	-	80	60	-
StE-4	0.50	-	-	25	60	-
StE-5	1.50	-	-	65	60	-
StE-6	3.20	1.60	-	90	75	-
StE-7	1.50	1.00	§ 3306.3	§ 3306.4	60	-
StE-8	0.40	-	-	25	60	-
StE-9	1.50	-	-	65	60	-
StE-10	1.50	-	-	40	60	20
StE-11	0.70	-	-	25	60	-
StE-12	3.00	1.50	-	80	75	-
StE-13	3.20	1.60	-	90	75	-
StE-14a	1.50		-	40	60	20
StE-14b	1.50	1.00	-	40	60	20
StE-15	2.00	1.00	§ 3306.3	80	75	-
StE-16	3.20	1.60	-	90	75	-
StE-17	0.50	-	§ 3306.3	70	60	-
StE-18	4.00	-	-	90	75	-
StE-19	0.00	-	-	0	n/a	-

3306.3 FAR for structured parking located above grade is regulated as follows:

- (a) In addition to the FAR permitted by § 3306.2, additional FAR for above grade parking is permitted as follows:
- (1) Within the StE-7 subdistrict – 1.0 FAR;
 - (2) Within the StE-15 subdistrict – 1.0 FAR; and

(3) Within the StE-17 subdistrict – 2.0 FAR;

- (b) Any of the FAR permitted under § 3306.3(a) that is not used for above grade parking may be utilized for any other use permitted within that zone;
- (c) Any above-grade parking shall conform to the standards of § 3309; and
- (d) This density may not be transferred through the Combined Lot Provisions of § 3307 to another parcel.

3306.4 Maximum permitted height within the StE-7 subdistrict is as follows:

- (a) For a distance of two-hundred fifty feet (250 ft.) measured from the north property line bounding Cypress Street, the maximum permitted height shall be eighty feet (80 ft.); and
- (b) For the remainder of this parcel, the maximum permitted height shall be fifty feet (50 ft.).

3306.5 The height and FAR limits of §3306.2 shall serve as the maximums permitted under a planned unit development (PUD).

3306.6 The minimum lot area for row dwellings in any StE District shall be one thousand eight hundred square feet (1,800 s.f.) with a minimum lot width of eighteen feet (18 ft.).

3306.7 No part of a building within the StE-6, StE-13, and StE-16 subdistricts shall project above a plane drawn at a forty-five degree (45°) angle from a line located seventy-five feet (75 ft.) directly above the eastern property line that abuts the ravine.

3306.8 Buildings within the StE-17 and StE-18 subdistricts shall be set back not less than ten feet (10 ft.) from the property line that abuts Alabama Avenue and 13th Street.

3306.9 No part of a building within the StE-17 and StE-18 subdistricts shall project above a plane drawn at a forty-five degree (45°) angle from a line located fifty feet (50 ft.) directly above the property line that abuts Alabama Avenue.

3307 COMBINED LOTS

3307.1 In any StE subdistrict with a minimum residential requirement, two (2) or more lots within such a subdistrict may be combined for the purpose of achieving the required FAR equivalent of residential uses, subject to the following:

- (a) The total height and density limits of the subdistrict(s) shall not be exceeded; and
- (b) The combined lot provisions may not be used to transfer density to or from any property within the StE-2, StE-10, StE-14a, StE-14b, StE-18, or StE-19 subdistricts.

3307.2 No allocation of gross floor area shall be effective unless an instrument, legally sufficient to effect such a transfer, is filed with the Zoning Administrator and recorded by the Recorder of Deeds in the land records against all lots included in the combined lot development.

3307.3 The instrument shall be in the form of a declaration of covenants that:

- (a) Is signed by the owners of all affected parcels;
- (b) Runs with the land in perpetuity;
- (c) Burdens all parcels involved in the allocation of gross floor area; and
- (d) States the maximum permitted gross floor areas for all uses in all parcels, the maximum allowed gross floor area for nonresidential uses in all parcels and the gross floor area of nonresidential uses allocated. The covenant shall further state that, after the transfer, the combined lots conform with the maximum gross floor area limitations.

3307.4 The declaration of covenants shall expressly state that it may be substantively amended or terminated only with the approval of the Zoning Administrator.

3307.5 The declaration of covenants shall be approved in content by the Zoning Administrator and certified for legal sufficiency by the Office of the Attorney General. The declaration shall also contain a written statement by the Director of the D.C. Office of Planning attesting to:

- (a) The lots' eligibility to allocate residential and nonresidential uses;
- (b) The accuracy of the computations with respect to the amount of residential and nonresidential uses allocated; and
- (c) Whether, after the transfer, the combined lots will conform with the maximum gross floor area limitations for the lots before any such transfer.

3308 INCLUSIONARY ZONING

- 3308.1 All residential development is subject to Inclusionary Zoning and shall be constructed according to the provisions set forth in chapter 26 except for § 2604.
- 3308.2 The FAR, lot occupancy, and height maximums of § 3306.2 shall serve as the maximum permitted density for buildings and structures within each subdistrict including for the provision of inclusionary units.

3309 OFF-STREET PARKING

- 3309.1 The cumulative total of all parking spaces, including below-grade, surface, and above-grade structured parking, shall not exceed a total of four thousand eight hundred (4,800) parking spaces, exclusive of parking on the StE-2 or StE-18 subdistricts, existing surface parking lots, historic structures, and any parking associated with existing District of Columbia Government facilities.
- 3309.2 Each application to the Department of Consumer and Regulatory Affairs for a development that includes above-grade or below-grade structured parking or surface parking shall provide an accounting of the total number of parking spaces within the StE District which count towards the four thousand eight hundred (4,800) parking space limit.
- 3309.3 Additional parking spaces beyond the four thousand eight hundred (4,800) space limit shall be permitted by special exception by the Board of Zoning Adjustment pursuant to § 3104 and in accordance with the provisions of § 3304.2 and 3304.3, provided that the applicant addresses compliance with the following standards:
- (a) The application shall include a detailed accounting of the existing and proposed number and locations of parking spaces provided pursuant to § 3309.1; and shall also include a traffic study assessing the impacts of the proposed additional parking spaces on local traffic patterns for referral to and comment by the District Department of Transportation;
 - (b) The applicant shall include a transportation demand management (TDM) plan, as well as District Department of Transportation analysis of the TDM plan. The parameters of the analysis shall be outlined by the District Department of Transportation; and
 - (c) 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.
- 3309.4 For any application pursuant to § 3309.3:

- (a) The Board shall judge, balance, and reconcile the need for additional on-site parking against any adverse impacts the presence of the parking will have on traffic, and the aesthetics and development of the surrounding neighborhood; and
- (b) The Board 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 StE District.

- 3309.5 Any additional commuter parking, beyond parking that may exist as of (*date of enactment*) within the StE-18, shall be for the exclusive use of residents of, employees within, or visitors to the StE District or Federal employees of the adjacent Saint Elizabeths West Campus.
- 3309.6 Parking spaces shared by more than one use is permitted.
- 3309.7 Parking spaces need not be located on the same lot as the building or buildings they are intended to serve, but must be located on a lot within the StE District other than the StE-18 or StE-19 subdistrict.
- 3309.8 Parking spaces shall not be located between a street right-of-way line and the more restrictive of either a building façade or a line extending from and parallel to a building façade. A building used solely as a parking attendant shelter shall not trigger this restriction.
- 3309.9 Parking spaces provided within a structure shall be located at least twenty feet (20 ft.) from all lot lines that abut public streets, unless the surface of the parking spaces is at least ten feet (10 ft.) below grade, at all points along the building frontage.
- 3309.10 Parking spaces within an above-grade structure along 13th Street, Dogwood Street, and Sycamore Street shall be lined with preferred uses as defined in § 3305.1 on the ground floor to a depth of thirty feet (30 ft.) minimum.
- 3309.11 All parking spaces, other than mechanical parking spaces shall be accessible at all times from a driveway accessing either an improved street or an improved alley or alley system with a minimum width of ten feet (10 ft.).
- 3309.12 Parking spaces provided within a mechanized parking system need not meet the accessibility requirement of § 3309.10 as long as the mechanized parking system does.
- 3309.13 Parking spaces and drive aisles shall be designed in accordance with the standards

of 11 DCMR chapter 21 of this title.

- 3309.14 Where other options for access to parking spaces exist, such as from an alley or a different street, access to parking shall not be from a section of street where preferred uses are required in accordance with § 3305; or from Martin Luther King Jr. Avenue, S.E., Dogwood Street, 13th Street, or Oak Drive.
- 3309.15 Approval of a driveway under this chapter shall not be interpreted to imply permission for a curb cut in public space. An applicant for a driveway with a curb cut in public space shall have the responsibility to obtain all other necessary approvals and permissions.

3310 LOADING

- 3310.1 Loading requirements for each use shall be as prescribed in chapter 22, § 2201, 2203, and 2204 of this title.
- 3310.2 Where other options for access to parking spaces exist, such as from an alley or a different street, access to loading shall not be from a section of street where preferred uses are required in accordance with § 3305; or from Martin Luther King Jr. Avenue, S.E., Dogwood Street, 13th Street, or Oak Drive.
- 3310.3 Loading entrances shall not be located closer than forty feet (40 ft.) from the intersection of an alley and public street as measured from the intersection of the curb lines extended.
- 3310.4 Loading entrances shall not be located closer than forty feet (40 ft.) from the nearest intersection of a street as measured from the intersection of the curb lines extended.
- 3310.5 Loading entrances shall make use of architectural treatments, to mitigate visual impacts.
- 3310.6 Access points requiring a curb cut should be a sufficient distant from any street intersection so as not to disrupt traffic flow.

3311 BICYCLE PARKING

- 3311.1 The bicycle parking standards of this chapter apply to all newly constructed buildings.
- 3311.2 Bicycle parking spaces shall be provided in accordance with § 2119 of this title.

3312 ROOF STRUCTURES

3312.1 Rooftop penthouses not intended for human occupation, such as penthouses over mechanical equipment, a stairway, or an elevator shaft shall be erected or enlarged pursuant to § 411 of this title.

Chapter 21, **OFF-STREET PARKING REQUIREMENTS**, § 2101, **SCHEDULE OF REQUIREMENTS FOR PARKING SPACES**, § 2101.1 is amended by adding the phrase “except for buildings and structures located in the StE District,” so that the provision reads as follows:

2101.1 On and after May 12, 1958, all buildings or structures shall be provided with parking spaces as specified in the following table, except for buildings and structures located in the StE District:

Chapter 26, **INCLUSIONARY ZONING**, is amended as follows:

Section 2602, **APPLICABILITY**, § 2602.1(a) is amended by inserting a reference to the StE District, so that the entire subsection reads as follows:

2602.1 Except as provided in § 2602.3, the requirements and incentives of this chapter shall apply to developments that:

- (a) Are mapped within the R-2 through R-5-D, C-1 through C-3-C, USN, CR, SP, StE, and W-1 through W-3 Zone Districts, unless exempted pursuant to § 2602.3;
- (b) Have ten (10) or more dwelling units (including off-site inclusionary units); and
- (c) Are either:
 - (1) New multiple-dwellings;
 - (2) New one-family dwellings, row dwellings, or flats constructed concurrently or in phases on contiguous lots or lots divided by an alley, if such lots were under common ownership at the time of construction; or
 - (3) An existing development described in subparagraph (i) or (ii) for which a new addition will increase the gross floor area of the entire development by fifty percent (50%) or more.

Section 2603, **SET-ASIDE REQUIREMENTS**, is amended as follows:

By amending § 2603.3 to insert a reference to the StE District, so that the subsection reads as follows:

2603.3 Inclusionary developments located in R-3 through R-5-E, C-1, C-2-A, StE, W-0 and W-1 Districts shall set aside fifty percent (50%) of inclusionary units for eligible low-income households and fifty percent (50%) of inclusionary units for eligible moderate-income households. The first inclusionary unit and each additional odd number unit shall be set aside for low-income households.

By adding new §§ 2603.6 and 2603.7 to read as follows:

2603.6 An inclusionary development for which the primary method of construction does not employ steel and concrete frame structure located in an StE District shall devote no less than ten percent (10%) of the gross floor area being devoted to residential use for inclusionary units.

2603.7 An inclusionary development of steel and concrete frame construction located in an StE District shall devote no less than eight percent (8%) of the gross floor area being devoted to residential use in an StE District.

Section 2604, **BONUS DENSITY**, § 2604.1 is amended by inserting the phrase “except those located in the StE District” so that the provision reads as follows:

2604.1 Inclusionary developments subject to the provisions of this chapter, except those located in the StE District, may construct up to twenty percent (20%) more gross floor area than permitted as a matter of right ("bonus density"), subject to all other zoning requirements (as may be modified herein) and the limitations established by the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452; D.C. Official Code § 6-601.01, *et seq.* (2001 Ed.).

On November 19, 2012, upon the motion of Chairman Hood, as seconded by Commissioner Miller, the Zoning Commission **APPROVED** the Petition at its public meeting by a vote of **4-1-0** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve; Marcie I. Cohen abstaining).

On February 11, 2013, upon the motion of Commissioner May, as seconded by Commissioner Miller, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **4-1-0** (Anthony J. Hood³, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt; Marcie I. Cohen to oppose).

³ With concern.

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 March 29, 2013.

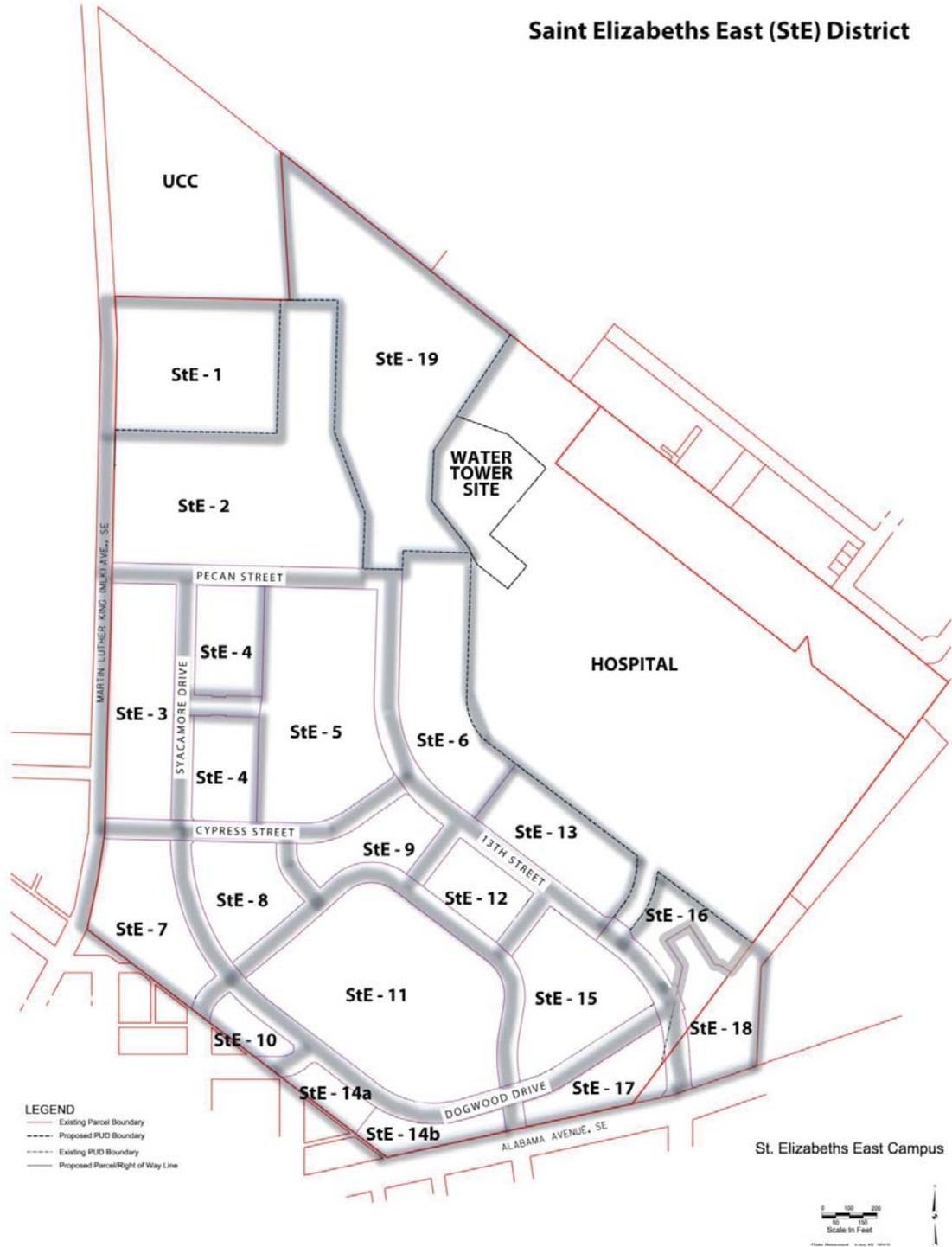


ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING

MAP (For illustrative purposes only)



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
AND
Z.C. ORDER NO. 12-08
Z.C. Case No. 12-08
Text and Map Amendments – 11 DCMR)
(To Create and Implement the Saint Elizabeths East (StE) District for the Saint
Elizabeths East Campus)
January 28, 2013**

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