Government of the District of Columbia
ZONING COMMISSION

ZONING COMMISSION ORDER NO. 696
CASE NO. 87-34
(Naval Observatory Precinct District - Text and Map Amendments)
March 9, 1992

The Zoning Commission initiated this case in response to a petition of the National Capital Planning Commission (NCPC). NCPC prepared and submitted the petition for the proposed Naval Observatory Precinct District (NOPD) Overlay for the following reasons:

> To protect the Federal interests associated with (a) the critical scientific mission performed by the Naval Observatory; and (b) to optimize the effectiveness of security required relative to the Vice President in his residence. This District will neutralize potential problems resulting from encroachment of adjoining private developments.

The Zoning Commission held hearing sessions on this proposal on February 25 and 28, and March 4, 1988. The presentation on behalf of the petitioner persuasively established the need for precision in the celestial observations that are conducted at the Naval Observatory. Those observations are, in part, affected by light from and height of development in the immediate area of the Observatory. Reduced height of area development would be in the best interest of the Observatory. Reduced height will also enhance the ability of the Secret Service to protect the residence of the Vice President.

The Zoning Commission recognizes that the Zoning Regulations are not the primary vehicle for protecting Federal officials, including the family of the Vice President. It also recognizes that the same factors that support adoption of the Naval Observatory Precinct District Overlay may eventually cause the Navy to secure a new site, even one outside the District of Columbia, for the Observatory. The Navy cogently observes that the data base that has been developed from the 50-year period of continuous observation is of great and irreplaceable value. In that light, it is significant that the Observatory is one of the singular and special institutions that give the District its individual character as the National's Capital.

The Observatory is charged with developing and maintaining sophisticated celestial (star position and motion) reference systems for the Department of Defense and the scientific community, for such uses as satellite navigation, missile guidance systems,

stellar tracking systems, satellite station keeping, and various geodetic applications. The record unequivocally demonstrates the value of this work to the National interest.

The opposition essentially contends that the owners of commercial property have a long-standing expectation of being able to develop commercial uses to a C-2-A height and bulk, and that, contrary to that expectation, the Navy and Secret Service did not adequately prove their case. No person in opposition contended that the overlay district would adversely affect the residential area that would be rezoned.

The critical flaw in the opposition's contention is that the overlay district is fully consistent with, and supported by, the Land Use Element of the Comprehensive Plan. The Generalized Land Use Maps generally depict a low density commercial land use objective for the commercially-zoned area within the overlay district. This objective includes shopping and service areas that are generally low in scale, character, and activity, and areas that provide a limited or specialized range of retail goods and services as the predominant uses.

The commercial area is also identified as a local neighborhood center. The policy objectives for such a center are to supply goods and services to neighborhood residents and workers, to limit parking spaces, and to limit office space or to provide no office space in such areas.

Notice of proposed rulemaking to approve the NOPD was published in the D.C. Register on April 26, 1991 and referred to NCPC on April 18, 1991. By letter dated May 30, 1991, NCPC transmitted its report, to the Zoning Commission with the following observations:

> The proposed NOPD will protect the Federal interests associated with the critical scientific mission performed by the Naval Observatory and optimize the effectiveness of security required to protect the Vice President and his residence. The Commission finds that the objectives of the proposed text and map amendment are consistent with the Comprehensive Plan for the National Capital and will protect the Federal Establishment and not be adverse to any Federal interests in the National Capital.

NCPC also cited provisions of the Federal Facilities Element of the Comprehensive Plan and of the District and Federal Preservation and Historic Features elements in support of the amendments.

Advisory Neighborhood Commissions 3B and 3C, both of which contain portions of the NOPD within their juridictional boundaries, submitted written comments in support of the proposed rulemaking.

Both ANCs emphasized the local neighborhood center designation in the Comprehensive Plan as a primary factor in support of the amendments. ANC 3B also cited the importance of the Naval Observatory as a valued local presence in the Glover Park area. ANCs 3B and 3C also explicitly supported proposed subsection 1534.3, which would restrict the application to the NOPD of the planned unit development provisions of Chapter 24 of the Zoning Regulations.

The Zoning Commission concludes that its adoption of the proposed amendments to the text and map of the Zoning Regulations is supported by NCPC and ANCs 3B and 3C, that it has given" great weight" consideration to the issues and concerns of the ANCs, and that further specific discussion of the those issues and concerns is not required.

The Zoning Commission concludes that the proposed amendments to the Zoning Regulations are in the best interest of the District of Columbia, are consistent with the intent and purpose of the Zoning Regulations and Zoning Act, and are not inconsistent with the Comprehensive Plan for the National Capital.

In July 1991, during preparations to publish the order and notice of final rulemaking in this case, it was determined that discrepancies existed in the location and identity of certain properties proposed for rezoning. Specifically, certain properties were proposed for rezoning that had not been included in the Notice of Public Hearing, and certain lot numbers were incorrectly identified.

On November 18, 1991, at its regular monthly meeting, the Zoning Commission considered a memorandum (Exhibit No. 132) dated October 4, 1991 from the Secretary to the Commission. The memorandum identified the properties proposed for rezoning that had not been included in the Notice of Public Hearing and recommended that the Commission delete those properties from consideration for rezoning in this case. After discussion, the Commission agreed with the recommendation of the Secretaty to the Commission and directed staff to make the appropriate corrections.

A corrected notice of proposed rulemaking was published in the D.C. Register on January 24, 1992 (39 DCR 518). No comments were received relative to the publication.

The corrected proposed action of the Zoning Commission was referred to the National Capital Planning Commission, pursuant to the terms of the District of Columbia Self-Government and Governmental Reorganization Act. By report dated January 9, 1992, NCPC determined that the objectives of the proposed text and map amendment are consistent with the Comprehensive Plan for the

National Capital and will protect the Federal Establishment. The correction to the notice of rulemaking, removing portions of Squares 1935 and 1938 from the NOPD, will not be adverse to any Federal interests in the National Capital.

On March 9, 1992, at its regular monthly meeting, the Zoning Commission considered draft Z.C. Order No. 696 for final action.

In accordance with the reasons set forth herein, the Zoning Commission hereby orders **APPROVAL** of amendments to Title 11, DCMR (the Zoning Regulations), and to the Zoning Map as follows:

1. **Adopt a new Section of Chapter 15, to read as follows:**

1531 **NAVAL OBSERVATORY PRECINCT DISTRICT**

1531.1 The Naval Observatory Precinct District (NOPD) is established to promote the public health, safety, and general welfare on land adjacent to or in close proximity to the highly sensitive and historically important Naval Observatory, in keeping with the goals and policies of the Federal and District elements of the Comprehensive Plan for the National Capital and the adopted Master Plan for that facility.

1531.2 Public land within the NOPD shall be used in a manner consistent with the historic or ceremonial importance and/or special missions of the Federal facility.

1531.3 The land use controls embodied in this title for land adjacent to the Observatory reflect the importance of the Observatory to the District of Columbia and the Nation.

1531.4 The NOPD is intended to provide additional controls on private land, in order to protect recognized Federal interest concerns. The concens include the critical scientific mission performed at the Observatory, and the security needs of the Vice-President's residence.

1531.5 The NOPD shall act to further restrict the development controls now permitted in existing districts to reduce or eliminate any possible harm or restrictions on the mission of the Federal establishment within the NOPD.

1531.6 The NOPD shall be mapped in combination with any district mapped at such locations and shall not be in lieu of any district mapped at that location.

1531.7 All uses, buildings, and structures permitted in accordance with the appropriate sections of this chapter for the respective districts with which the mapped NOPD is combined shall be permitted in those districts, except as specifically modified by this chapter.

1531.8 All restrictions or prohibitions applicable to either of the districts combined pursuant to this chapter shall apply in the NOPD.

1532 **USE REGULATIONS**

1532.1 The uses that are permitted in the underlying districts within the NOPD shall be permitted in the same manner in the combined District.

1533 **SPECIAL EXCEPTIONS**

1533.1 In an application for a special exception in the NOPD, the Board of Zoning Adjustment shall consider, in addition to the criteria that are set forth in other chapters of this title, whether the proposed development is compatible with the following factors:

(a) The present and proposed development within and adjacent to the NOPD;

(b) The goals, objectives, and policies pertaining to Federal facilities, as found in the Comprehensive Plan for the National Capital and the Master Plans for such facilities; and

(c) The role, mission, and functions of the Federal facilities within the NOPD, and the effect that the proposed development would have on such facilities.

1533.2 Upon receipt of the application, the Board shall refer the application to the Director of the Office of Planning for coordination, review, report, and impact assessment, along with reviews in writing by all relevant District departments and agencies, including the Departments of Public Works and Housing and Community Development, and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.

1533.3 Upon receipt of the application, the Board shall refer the application to the National Capital Planning Commission for review and report.

1533.4 The Board may require special treatment and impose reasonable conditions as it shall deem necessary to mitigate any adverse impact identified in the consideration of the application.

1534 HEIGHT, AREA AND BULK REGULATIONS

1534.1 The maximum permitted building height in the NOPD shall not exceed forty feet (40').

1534.2 For the purpose of this chapter, the height of a building shall be measured as follows:

(a) The height of a building shall be the vertical distance measured from the level of the curb opposite the middle of the front of the building to the highest point of the roof or parapet; and

(b) The curb elevation opposite the middle of the front of the building shall be determined as the average elevation of the site from its front line to its rear lot line.

1534.3 The provisions of Chapter 24 of this title shall not operate to permit a planned unit development in the NOPD to exceed either the limits of sub-section 1534.1 of this section, or the area, bulk, and yard standards that apply as a matter-of-right in any underlying district within the NOPD.

1534.4 All provisions of section 411 of this title shall also apply to roof structures in the NOPD.

2. **Amend the Zoning Map as follows:**

A. In Square 1935, rezone to NOPD/R-1-B all lots that are south of Davis Street and all lots that are east of 36th Place;

B. In Square 1937 rezone all lots to NOPD/R-1-B;

C. In Square 1938, rezone to NOPD/R-1-B Lots 12 through 15, and all lots that are east of 35th Place;

D. In Squares 1939 and 1939-W, rezone to NOPD/D/R-1-B all lots that are now zoned D/R-1-B, and rezone to NOPD/R-1-B all lots that are now zoned R-1-B;

E. In Squares 2122 and 2145, rezone to NOPD/D/R-1-A all lots that are now zoned D/R-1-A, and rezone to NOPD/R-1-A all lots that are now zoned R-1-A;

F. In Square 2147, rezone to NOPD/D/R-5-A all lots that are now zoned D/R-5-A;

G. In Square 1299, rezone Lots 959 and 974 to NOPD/R-1-B; rezone to NOPD/D/R-1-B all lots or portions thereof that are now zoned D/R-1-B; and rezone to NOPD/C-2-A all lots or portions thereof that are now zoned C-2-A; and

H. In Square 1300, rezone to NOPD/C-2-A all lots or portions thereof that are now zoned C-2-A and rezone to NOPD/R-3 those portions of lots 563 and 815 that are now zoned R-3.

Vote of the Zoning Commission on proposed action on July 11, 1988: 3-1 (Lindsley Williams, George M. White, and John G. Parsons to approve proposed amendments to the Zoning Regulations; Maybelle Taylor Bennett opposed by proxy vote; and Patricia N. Mathews - not voting, not having participated in the case).

This order was originally adopted, as amended, by the Zoning Commission at its meeting on July 8, 1991, by a vote of 3-0 (Maybelle Taylor Bennett and John G. Parsons to approve; George M. White, to approve by proxy; - Tersh Boasberg and Lloyd D. Smith, not voting, not having participated in the proceeding).

This order was finally adopted, as amended, by the Zoning Commission at the public meeting of March 9, 1992 by a vote of 3-0 (John G. Parsons, to adopt; Maybelle Taylor Bennett, to adopt for administrative purposes; and George M. White, to adopt by proxy - Tersh Boasberg and Lloyd D. Smith, not voting, not having participated in the proceeding).

In accordance with the 11 DCMR 3028, this order is final and effective upon publication in the D.C. Register, that is, on APR 17 1992.

TERSH BOASBERG
Chairman
Zoning Commission

MADELIENE H. ROBINSON
Acting Director
Office of Zoning

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