

NATIONAL CAPITAL PLANNING COMMISSION  
DELEGATIONS FROM COMMISSION TO CHAIRMAN, EXECUTIVE DIRECTOR,  
AND SECRETARY

COMPOSITE SUMMARY

Confirmed by Commission: February 5, 2009

**I. Delegations Related to Plan Review.**

A. Delegations to Executive Director. The Commission delegates to the Executive Director the following functions:

1. Requesting Federal and District governmental agencies to furnish plans, data, and records to Federal and District of Columbia governmental agencies upon request, pursuant to Section 5.(e) of the Planning Act [similar to 40 USC §8722(a)]. (1977 Part III #7).
2. Approval of all zoning referrals, referring to the Commission only those proposals with substantial adverse impacts on federal interests. (1986; essentially the same as 1991 Plans Sec. 7, H.; 1996 #9;<sup>1</sup> 1999).<sup>2</sup>
3. Small projects in the Environs. With respect to plans and programs submitted to the Commission for projects in the environs on reservations or sites for which the Commission has submitted to the [submitting] agency its report and recommendations on the master plan thereof [i.e. NCPC has already reviewed the master plan], approving preliminary and final site and building plans for proposed temporary or permanent buildings or additions of less than 50,000 square feet of floor area, if the Executive Director determines that (a) the proposed development (i) is consistent with the recommendations of the Commission on the land use and circulation plan elements of the master plan, (ii) will have no significant adverse impact on the environment, cultural and historic resources, access and egress to facilities and utilities, and (iii) is compatible with existing and proposed developments in its immediate vicinity, and (b) the addition or relocation of employees to the proposed development would not cause an adverse impact. (1996 #1, amending 1977 Part III #5 (1); essentially the same as 1991 Plans Sec. 7, A.).

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<sup>1</sup> The 1996 Approved Action notes that this section is codifying a delegation enacted on May 19, 1987. In fact, the Commission appears to have adopted this delegation on August 28, 1986, with the action set forth in a memorandum dated May 19, 1987, and printed in the Federal Register on May 28, 1987 (52 FR 19939)].

<sup>2</sup> This same delegation has been promulgated with slightly varying wording three times. I have used the most recent wording, from 1999, where this zoning delegation was the only delegation adopted.

4. Certain final site and building plans for projects in the environs. Final site and building plans in the environs on reservations or sites for which the Commission has submitted to the [submitting] agency its report and recommendations on the master plan thereof [i.e. NCPC has already approved the master plan], where such plans conform to applicable recommendations made by the Commission in its review of the preliminary site and building plans for the project and of any environmental statement or description of the environmental impact submitted pursuant to the Commission's [Environmental Policies and Procedures]. (1977 Part III#5(2)).<sup>3</sup>
5. Small projects in District of Columbia (except the Mall).<sup>4</sup> With respect to plans and programs in the District of Columbia for which the Commission has, where appropriate, an approved master plan, and which are not located on the Mall Complex, approving preliminary and final site and building plans for proposed buildings or additions of less than 50,000 square feet of floor area, if the Executive Director determines that (a) the proposed development (i) is, where appropriate, consistent with the land use and circulation plan elements of the master plan, (ii) will have no significant adverse impact on the environment, cultural and historic resources, access and egress to facilities and utilities, and (iii) is compatible with existing and proposed developments in its immediate vicinity, and (b) the addition or relocation of employees to the proposed development would not cause an adverse impact. (1996 #2; essentially the same as 1991 Plans Sec. 7, A.).
6. Small District of Columbia government projects in Central Area. Approving preliminary and final site and building plans for District of Columbia projects in the Central Area which have less than 50,000 square feet of floor area, if the Executive Director determines that the proposed development (a) will have no significant adverse impact on the environment, cultural and historic resources, access and egress to facilities and utilities, (b) is compatible with existing and proposed developments in the immediate vicinity, and (c) the addition or relocation employees to the proposed development would not cause an adverse impact. (1996 #3; essentially the same as 1991 Plans Sec. 7, B.).
7. Projects without buildings. Approving or commenting on, as appropriate, site development projects not on the Mall Complex, other than memorials, that do not include a building when the project is, where appropriate, not inconsistent with a master plan which has been approved or reported on by the Commission. (1996 #4; essentially the same as 1991 Plans Sec. 7, C.).

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<sup>3</sup> While 1977 Part III #5(1) is amended in 1996, the 1996 delegations include no reference to 1977 Part III #5(2). I assume the intention is to retain rather than supersede this delegation.

<sup>4</sup> This Delegation of 1996 at footnote 1 defines "Mall Complex" as: "the portion of the Monumental Core east of the Potomac River that includes the Mall (area bounded by Constitution and Independence Avenues and First and 14<sup>th</sup> Streets, N.W. and S.W.), the Ellipse, the Washington Monument Grounds, West Potomac Park, the Jefferson Memorial Grounds, and the Capitol Grounds."

8. District of Columbia government projects outside Central Area. Commenting on District of Columbia projects outside of the central area which do not affect a Federal interest. (1996 #5; essentially the same as 1991 Plans Sec. 7, D.).
9. Environmental Reviews. In conjunction with carrying out these procedures [the Environmental and Historic Preservation Policies and Procedures, as amended April 1, 2004] the Commission delegates to the Executive Director the functions of:
  - (A) Determining whether to prepare an EIS, make a Finding of No Significant Impact, or issue a Categorical Exclusion determination.
  - (B) Scoping and obtaining the information required for the preparation of a draft EIS or an environmental assessment.
  - (C) Preparing a draft EIS.
  - (D) Circulating a draft EIS for review and comment to EPA, affected and interested public agencies, and the general public.
  - (E) Integrating agency and public comments, where appropriate, into the preparation of the final EIS.
  - (F) Distributing the final EIS to EPA and all agencies and individuals who commented on the draft EIS.
  - (G) Determining the appropriate environmental documentation for each stage of Commission review, including adoption of federal agency prepared NEPA documents when appropriate.
  - (H) Monitoring and ensuring that mitigation and other conditions established by the Commission are implemented, including informing the public and cooperating or commenting agencies on progress regarding mitigation measures that the Commission proposed and were adopted.
  - (I) Preparing, circulating, and filing supplements to either draft or final environmental impact statements, if the Executive Director or the Commission finds that there are substantial changes to a proposed action that are relevant to environmental concerns, significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impact, or that the purpose of NEPA will be furthered by doing so.

NOTE: These delegations [Listed here as 9-A through 9-I] are not to be construed, however, to extend to the requirement to respond to any comments of the Advisory Council on Historic Preservation. That responsibility solely resides with the Chairman of the Commission. (2004 Environmental Procedures,

Section 12, implicitly superseding 1996 #6; Provisions 9 through 9 (G) here are essentially the same as 1991 Plans Sec. 7.E., except that Sec. 7. E. 7. provided in addition: “The Executive Director must require completed environmental documentation for all final project approvals.” )

10. Commenting to the Council of the District of Columbia on street closings outside the L’Enfant City where the proposed closing would not affect a Federal interest, is consistent with the Comprehensive Plan, and would not have an adverse impact on major historic or natural features. (1996 #7; essentially the same as 1991 Plans Sec. 7. F.).
11. Commenting to the Council of the District of Columbia on alley closings where the proposed closing would not be inconsistent with the Comprehensive Plan and would not have an adverse impact on a Federal interest. (1996 #8; essentially the same as 1991 Plans Sec. 7. G.).
12. Approving receive-only antenna installations that are:
  1. Located on a reservation or site for which the Commission has submitted its report and recommendations on a current master plan.
  2. Not inconsistent with the recommendations of the Commission on the land use and circulation plan elements of the master plan or its action on final project plans.
  3. Determined by the Executive Director to:
    - a. Have no adverse environmental impact.
    - b. Have no adverse visual impact on properties beyond the boundaries of the federal reservation or site.
    - c. Meet the general criteria of Section 3 [of the 2001 Antenna Guidelines].

(2001 Antenna Guidelines Section 6(A), and essentially the same as 1991 Plans Sec. 7. I., implicitly superseding 1996 #10).
13. The renewal of previously-approved antennas which meet all of the requirements of Section 7 [of the 2001 Antenna Guidelines] and propose no change to the physical parameters of the original proposal. (2001 Antenna Guidelines, Section 6(B)).
14. Consulting with appropriate state and local planning agencies, and commenting on local and state plans where there is no adverse impact on identified Federal interests, capital programs, and other state and local activities which are voluntarily submitted to the Commission for review. (1996 #11; essentially the same as 1991 Plans Sec. 7. J.).
15. Advising and consulting with appropriate planning agencies having jurisdiction over the affected part of the environs with respect to general plans for proposed Federal and District developments and projects within the environs. (1996 #12, essentially the same as 1991 Plans, Sec. 7. K.; both seem to supersede 1977 #6).

16. With regard to matters under the Pennsylvania Avenue Plan, the Executive Director may be responsible for:
- i. Determining whether a project conforms with the Pennsylvania Avenue Plan and making appropriate recommendations to GSA; and
  - ii. Reviewing requests for building permits and certifying appropriate requests to the D.C. government. (1996 #13; essentially the same as 1991 Plans Sec. 7. L.).
17. Federal leasing. Reviewing all prospectuses involving only the leasing of privately owned space in the region by a Federal agency or department to identify if any appear to be inconsistent with the Comprehensive Plan and other Commission policies. This delegation does not extend to all prospectuses which (1) are determined by the Executive Director to be inconsistent with Commission policies and which contain proposals that involve 100,000 or more occupiable square feet of floor area in a single building; (2) are located outside of an established Major Federal Employment Area and would accommodate more than 150 employees; or (3) would exceed the targeted Federal employment levels established for Major Federal Employment Areas by more than five percent. (1996 #14; essentially the same as 1991 Plans Sec. 7. M.). [Note, for actions in the environs, look also at I.A. #3 and #4 above, which to some extent overlap].
18. Temporary Security Measures. Review and/or approval of temporary perimeter security measures, and authority to modify submission requirements as appropriate. The Executive Director shall ensure that such projects are reviewed on an expedited basis. Temporary [security] measures may be approved for no more than two years. (2003).

B. Delegations to Chairman related to Plan Review

- 1. Making a report to the Zoning commission, pursuant to Section 8.(a) of the Planning Act [40 USC §8724(a)] on any zoning regulation or map, or amendment thereto proposed to be adopted by the Zoning Commission and referred to the Commission pursuant to Section 5.(a) of the Zoning Act [the Act of June 20, 1938(ch. 534, 52 Stat. 798)] where such zoning regulation or map, or amendment thereto, conforms to an urban renewal plan, or modification thereof, adopted by the Commission and approved by the Council pursuant to Sections 6 and 12 of the Redevelopment Act [Section 6(a) is similar to 40 USC §8721(b) through (f) regarding Commission review of DC elements of Comprehensive Plan; and to NCPC authorities under the DC Redevelopment Act, most recently at DC Code §6-301.01 et seq. and §2-1225.31 as amended in December 2008.] (1977 Part II #3).
- 2. Requesting the Zoning Commission to recess a public hearing on proposed amendment to the Zoning Regulations to provide an opportunity for the

Commission to present a further report to the Zoning Commission, pursuant to Section 8(b) of the Planning Act [40 USC §8724(b)] (1977, Part II #4).

3. Making favorable recommendations to the Council on proposed closings of streets, roads, highways, and alleys, or parts thereof, pursuant to Section 1 of the Street Readjustment Act of the District of Columbia (December 15, 1932, 47 Stat. 747, as amended: D.C. Code, sec. 7-401)[now DC Code §9-201.01 et seq., especially §9-202.02], where such proposed closings conform to master plans or site and building plans approved by the Commission pursuant to Section 5(a) of the Planning Act [40 USC §8722] or to urban renewal plans and modifications thereof, adopted by the Commission and approved by the Council pursuant to Sections 6 and 12 of the Redevelopment Act [Modified, see I.B.1 above]. (1977, Part II #9)
4. Approving transfers of jurisdiction over properties within the District of Columbia owned by the United States or the District among or between Federal and District authorities pursuant to Section 1 of the Act of May 20, 1932, 47 Stat. 161, as amended (40 USC 122: D.C. Code Sec. 8-115) [now 40 USC §8124 and D.C. Code §10-111] where such transfers of jurisdiction conform to master plans or site and building plans approved by the Commission pursuant to Section 5.(a) of the Planning Act [40 USC §8722] or to urban renewal plans, and modifications thereto adopted by the Commission and approved by the Council pursuant to Section 6 and 12 of the Redevelopment Act [Modified, see I.B.1. above]. (1977, Part II #10).

#### C. Procedures

1. Reporting. The Chairman, Executive Director, or Secretary must report to the Commission the exercise of any delegation of authority at the Commission meeting next following exercise of such delegation. (1977 Part V.).
2. Reservations of Functions. The delegations provide that the Commission, by majority vote at any meeting and prior to the exercise of any delegation, may reserve to the Commission the performance in general or with respect to a particular matter, of the function as to which the delegation is granted. (1977 Part VI).
3. Staff Practice of returning delegated item to action calendar in certain circumstances. NCPC currently attaches to the Tentative Agenda Items the following statement: “Delegated items are projects that the Commission delegates to the Chairman, Executive Committee, or Executive Director. Some projects listed as *Proposed Delegated Items* may become Action Items if a member of the public registers to speak on that item by the deadline (see schedule below).”

## **II. Delegations that are Not Related to Plan Review.**

A. Delegations to Executive Director Not Related to Plan Review. The Commission delegates to the Executive Director the functions of:

1. Establishing, jointly with the Mayor, procedures for appropriate meaningful continuing consultation throughout the planning process for the National Capital pursuant to Section 2.(a)(4)(F) of the Planning Act [now 40 USC §8721(h)(1)]. (1977 Part III #1).
2. Employing technical and administrative personnel, except a Secretary to the Commission, and, by contract or otherwise, the temporary or intermittent services of experts and fixing the rate of compensation therefore pursuant to Section 2. (c) of the Planning Act [now 40 USC §8711(d)]. (1977 Part III #2)
3. Establishing the representation of agencies of the Federal and District of Columbia Governments on, and invite representatives of the planning and developmental agencies of the environs to participate in the work of, Coordinating Committee established by resolution of the Commission adopted August 8, 1952, pursuant to Section 2.(d) of the Planning Act [as slightly amended now 40 USC §8721(h)(2).]. (1977 Part III #3).
4. Executing agreements with state officials as to the arrangements for acquisition by the Commission of lands in Maryland and Virginia for the national capital park, parkway, and playground system pursuant to Section 11 of the Planning Act [now 40 USC §8731]. (1996, #15, and essentially the same as 1991 Plans Sec. 7. N., both superseding 1977, Part II #5 which delegated this authority to the Chairman). Also executing agreements with State officials over the control of such lands. (1991 Plans, Sec. 7. N. last clause, implicitly superseding 1977, Part II #6 delegating such authority to the Chairman).
5. Determining appropriate Federal and District of Columbia authorities to whom Federal elements of the Comprehensive Plan, or amendments thereto, shall be presented for comment and recommendations prior to adoption thereof. (1996 #16, which is essentially the same as 1991 Plans Sec. 7. O., both slightly modifying 1977 Part III #4 by deleting the words at the end “pursuant to Section 4.(e) of the Planning Act”).
6. Conferring with Federal and District authorities and the [Redevelopment Land] Agency [now the Deputy Mayor for Planning and Economic Development] in the preparation of the general plan under Section 6.(a) of the Redevelopment Act and with respect to urban renewal planning under Section 6.(b) of the Redevelopment Act, pursuant to Section 6.(c) of the Redevelopment Act. (1977 Part III #8). [Note—the District of Columbia Redevelopment Act has been extensively revised and the sections referred to here repealed, see D.C. Code 6-301.05, then reinstated as amended. See D.C. Code 2-1225.31 as amended in December 2008].

7. Aiding the Mayor in making a survey of the “Old Georgetown” area pursuant to Section 4 of the Act of September 22, 1950, 64 Stat. 904 [P.L. 81-808]. (D.C. Code, sec. 5-804 [now D.C. Code §6-1204] (1977 Part III #9) (may be moot).

B. Delegations to the Chairman not related to Plan Review:

1. Requesting the [D.C.] Council to grant, pursuant to Section 2.(a)(4)(E) of the Planning Act [now 40 USC §8721(f)], an extension of any time limitation contained in Section 2.of the Planning Act [now 40 USC §8721]. (1977, Part II #1).
2. Employing an Executive Director and a Secretary to the Commission pursuant to Section 2.(c) of the Planning Act [now 40 USC §8711(d)]. (1977, Part II #2).
3. Executing agreements with state officials as to the arrangements for acquisition by the Commission of lands in Maryland and Virginia for the National Capital park, parkway, and playground system pursuant to Section 11 of the Planning Act [now 40 USC §8731]. (1977, Part II #5, implicitly superseded by 1991 Plans Sec. 7. N. and 1996 #15 both delegating this authority to the Executive Director).
4. Executing agreements with state officials as to the control of lands acquired in Maryland and Virginia, pursuant to Section 12. of the Planning Act [now 40 USC §8731(c)(2)]. (1977, Part II #6, implicitly superseded by 1991 Plans Sec. 7. N. delegating this authority to the Executive Director.).
5. Reporting annually to Congress the lands acquired during the preceding fiscal year, pursuant to Section 13. of the Planning Act [this provision has been appears to have been eliminated]. (1977, Part II #7).
6. Submitting to the Office of Management and Budget on or before September 15 of each year an estimate of the appropriations for land acquisition for the succeeding fiscal year, pursuant to Section 13. of the Planning Act [this provision appears to have been eliminated]. (1977, Part II #8).
7. Approving leasing, for terms not exceeding five years, by the Administrator of General Services of land acquired for park, parkway, or playground purposes pending their need for public uses, pursuant to Section 2. of the Act of December 22, 1928, 45 Stat. 1070 [now, as amended, 40 USC §8733]. (40 USC 72b; D.C.Code, Sec. 8-105). (1977, Part II #11).

C. Delegations to Secretary (not related to Plan Review), the functions of:

1. Publishing, jointly with the Mayor, from time to time as appropriate, the Comprehensive Plan pursuant to Section 2.(a)(4)(D) of the Planning Act [now with slight amendment 40 USC §8721(g)]. (1977, Part IV, #1)



2. Certifying to the [Redevelopment Land] Agency [now the Deputy Mayor for Planning and Economic Development] urban renewal plans adopted by the Commission and approved by the Council under Section 6.(b)(2) of the Redevelopment Act, pursuant to Section 6.(d) of the Redevelopment Act. [Note—the District of Columbia Redevelopment Act has been extensively revised and the sections referred to here repealed, see D.C. Code 6-301.05, then reinstated as amended. See D.C. Code 2-1225.31 as amended in December 2008]. (1977, Part IV #2)

D. Procedures [Same as Section C of Section I, Plan Review Procedures].

1. Reporting. The Chairman, Executive Director, or Secretary must report to the Commission the exercise of any delegation of authority at the Commission meeting next following exercise of such delegation. (1977 Part V.).
2. Reservations of Functions. The delegations provide that the Commission, by majority vote at any meeting and prior to the exercise of any delegation, may reserve to the Commission the performance in general or with respect to a particular matter, of the function as to which the delegation is granted. (1977 Part VI).

FURTHER POINT NOT IN 1977 PROCEDURES: NCPC currently attaches to the Tentative Agenda Items the following statement: “Delegated items are projects that the Commission delegates to the Chairman, Executive Committee, or Executive Director. Some projects listed as *Proposed Delegated Items* may become Action Items if a member of the public registers to speak on that item by the deadline (see schedule below).” [Because this provision is permissive, it appears to be consistent with the 1977 Reservation of Functions provision.]

**III. Consent Calender Procedures for All Commission Matters.**

Certain projects that are not delegated may be placed on the consent calendar and do not require presentation or discussion at a Commission meeting. By memorandum of November 24, 1975, the Chairman of the Commission established the following criteria for inclusion of an item on the consent calendar:

- the Executive Director recommends approval, or a favorable report, by the Commission;
- no interested or affected groups or individuals have requested, by close of business on the Thursday (or in case of a holiday on that day, the Wednesday) preceding the first day of the Commission meeting, opportunity to present their views in person at the Commission meeting; [in practice, this rule has been construed as noon on Wednesday of the week preceding the week of the Commission meeting]; and

- the Chairman has not otherwise concluded that, because of its importance or controversial nature a full presentation of the item should be made to the Commission.

Any agenda item on the consent calendar to which objection is made to approval of the EDR by any member of the Commission will be removed from the consent calendar and considered by the Commission.