



RECEIVED
D.C. OFFICE OF ZONING

2009 OCT 16 PM 3: 32

MEMORANDUM

TO: District of Columbia Zoning Commission
FROM: Travis Parker, Zoning Review Project Manager 
DATE: October 15, 2009
SUBJECT: Public Hearing Report for ZC #08-06-10
Proposed Amendments to Zoning Regulations – Downtown

I. OVERVIEW OF RECOMMENDATIONS

Based on a public working group, public comment period, and input from the Zoning Review Taskforce, the Office of Planning (OP) recommends conceptual changes to the zoning regulations covering downtown and adjacent high density commercial and mixed use areas. Issues addressed by these recommendations include:

- Expanding the area considered as Downtown for zoning regulations' purposes;
- Consolidating downtown zone districts;
- Simplifying procedures that promote housing production;
- Standardizing retail requirements;
- Emphasizing design review in certain areas in lieu of PUDs;
- Retaining designations of Arts areas while removing bonus density generation;
- Retaining bonus density generation for historic landmarks
- Instituting residential parking maximums; and
- Permitting surface parking as a special exception.

ZONING COMMISSION
District of Columbia

CASE NO. 08-06-10

EXHIBIT NO. 7

II. ZONING REVIEW PROCESS

The 2006 Comprehensive Plan for the District of Columbia states that “The Zoning Regulations...need substantial revision and reorganization, ranging from new definitions to updated development and design standards and even new zones.”¹ It goes on to note that “a major revision to the Zoning Regulations is planned for 2007-2009.”² The Office of Planning (OP) has designed a three-year process to produce recommended changes to update, clarify and simplify the current Regulations. The overall goal of the Zoning Review process is to improve the relevance, clarity and ease of use of the zoning code.

Regulations are currently being reviewed by subject area, with up to twenty subject areas to be covered over the course of the process. Each subject area will be reviewed in consultation with a public working group that will discuss issues identified in the Comprehensive Plan as well as issues arising from the existing Zoning Regulations. Recommended changes are then forwarded to the 24-member Task Force for further review and input. Finally, recommendations for each subject area are made available for public review including a public hearing before the Zoning Commission. After the conclusion of public review for all subject areas, OP will work with the Office of the Attorney General to draft zoning language to reflect the proposed policy changes.

The recommendations for all subject areas, including downtown, will come forward to the Commission as recommended changes and policies. After all topics have been heard by the Commission, those policies will be unified into proposed zoning text that will be the subject of a second public review process.

III. DOWNTOWN SUBJECT AREA PROCESS

The Downtown working group met four times between in October and November 2008 to review the strengths and weaknesses of the existing regulations as well as look at best practices from around the country. Throughout the winter, OP did further research and development of concepts to improve the usability of the regulations and their effectiveness in implementing Comprehensive Plan policies. The working group was reconvened in April of 2009 to review recommended revisions to downtown zoning that are presented in this report. Working group participants included developers, lawyers, residents, land use professionals, and others with an interest in downtown zoning issues. The extensive comments and insights provided by the working group were critical to forming OP’s recommendations.

Following the last working group meeting, the preliminary recommendations were sent to the Taskforce for member review and comment at the June 24 Taskforce meeting. Revised draft recommendations were posted online in late June for public review and comment. Additional changes were given to the Taskforce and others interested in the process for final review in August prior to presenting them to the Zoning Commission.

¹ Comprehensive Plan, §2504.2

² *ibid*

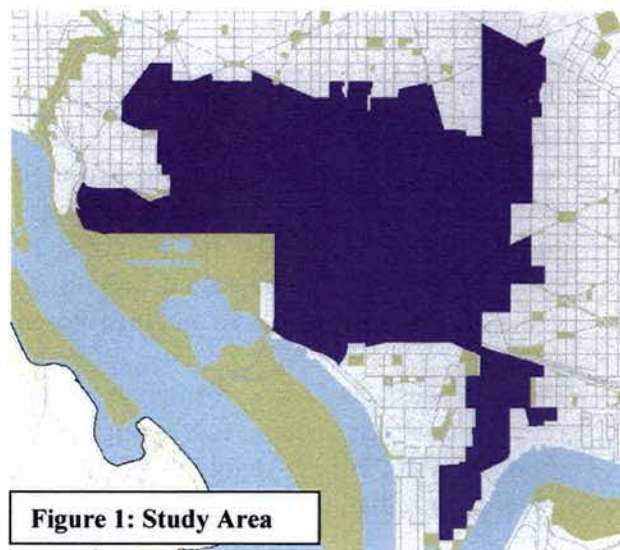
IV. BACKGROUND OF RECOMMENDATIONS

This document presents recommendations to the Zoning Commission for conceptual changes to:

- 1) Simplify existing regulations that promote housing, arts, and retail in the Downtown Development District, and
- 2) Expand the lessons learned there to the broader area of Central Washington that the Comprehensive Plan designates as suitable for High Density Commercial and Mixed Uses (see Figure 1). This area includes the existing DD overlay, CG overlay, HR overlay, TDR receiving zones, and various surrounding zones.

The study area in Figure 1 includes all areas in Central Washington designated in the Comprehensive Plan as high density commercial and high density mixed-use (commercial and residential). The study area contains the greatest concentration of office space in the District: over 80 million square feet. Although there are more than 350,000 jobs in this portion of the city, there are only about 65,000 households living within walking distance of the downtown: approximately 15,000 of these households live within the area, while another 50,000 households live within a half mile.

Two seemingly logical areas have been excluded from the study area. Most of the Dupont Circle overlay is designated historic and would not be appropriately considered for high-density development. The Southeast Federal Center overlay will be considered later by other working groups.



OP's approach was guided by four basic themes:

- Updated Downtown Plan goals;
- Geographically expanded Downtown;
- The need for expanded Downtown zoning tools to achieve planning goals;
- Simplifying and coordinating existing zoning tools.

The final recommendations were also shaped by three principal comments received from the working group, the Task Force and the general public:

- ~ There should be no diminution of the value of combined lot or other pre-existing transactions enabled by the current regulatory framework;
- ~ It is essential to retain the provision for satisfying some of the DD housing requirements through the provision of off-site affordable housing; and
- ~ The transactional document approval process must be streamlined.

Although these and other comments have informed OP's recommendations, they *do not necessarily represent a consensus of the opinions of the Working Group or the Taskforce, nor of the opinions of individual members. The recommendations in this document are OP's.*

V. PLANNING FRAMEWORK

Starting with *A Living Downtown for Washington DC (1981)*, multiple planning efforts have promoted housing, retail and arts goals in Downtown. The efforts were given City Council approval in the Comprehensive Plan of 1984, and its amendments, and restated in the 2006 Comprehensive Plan. They were first codified in the Zoning Regulations by the Zoning Commission's adoption of the Downtown Development District Overlay (DD overlay) in 1991.

Planning Guidance

A Living Downtown for Washington DC, 1981

Downtown DC Recommendations, 1982

Downtown Action Agenda, 2001

Anacostia Waterfront Initiative, 2003

Mt Vernon Triangle Action Agenda, 2003

Mt Vernon Square Design Workbook, 2004

NoMa Vision Plan and Development Strategy, 2006

These regulations have been quite effective, particularly since 2001. The goals for arts have been met, and if currently planned residential projects are completed, the goals for housing will also be achieved. Retail development has fallen short of the ambitious original goals, but retail is succeeding where the zoning requires it to be built. The DD cannot take all credit for these achievements, but it has been quite successful in guiding development toward achieving the goals of the comprehensive and downtown plans.

In the process, as DD performance has been monitored and regulations have been amended, the regulations have become increasingly complex. Some properties are now governed by three or more layers of zoning requirements. There are extremely few people, either inside or outside the government, that have a full understanding of the DD overlay zone.

The 1998 amendments to the Comprehensive Plan and the Future Land Use Map of the 2006 Comprehensive Plan expanded the area of central Washington where downtown levels of density are considered appropriate including the Transferable Development Rights (TDR) receiving areas in Southeast, the Southwest, and the Capitol Gateway (CG) Overlay. These areas are part of a geographic expansion of the central area outside of the traditional downtown boundaries. This growth has resulted in large areas that function as downtown but lack the zoning tools of the DD Overlay for achieving the central area goals set out in the Comprehensive Plan.

The study area described above is generally defined in the Comprehensive Plan as "the central employment district of the city and other major office employment centers on the downtown perimeter." The Plan characterizes the area as "office and mixed use/retail buildings greater than eight stories in height, although many lower scale buildings are interspersed."³ The Comprehensive Plan strongly encourages incentives for non-office uses "including housing, ground floor retail, educational uses, and arts facilities" in order to keep Central Washington

³ Comprehensive Plan Land Use Map

“attractive, exciting, and economically productive.”⁴ It also has multiple policies in Section CW-1.1 to support provision of a vibrant mixture of uses.

These policy statements originate from multiple planning efforts highlighted in the text box above. In addition, they are supported by a variety of recent sustainability research. Most of these studies center on attracting more households to the District and speak to the importance of a strong retail market and support for arts uses.

Central Area Zoning Goals

The zoning regulations implementing the plans listed above all have similar statements of purpose and lend themselves to simplification into a single statement of purpose for the central area:

- *The Downtown Development District overlay (DD) includes creating a “balanced mixture of uses by means of incentives and requirements for critically important land uses ... including retail, hotel, residential, entertainment, arts, and cultural uses.”⁵*
- *The Capital Gateway (CG) include assuring a mixture of commercial and residential including support for “retail, service, entertainment, cultural and hotel” uses.⁶*
- *The majority of remaining land in the study area is within the C-3 zone districts, which have the stated goal of providing “substantial amounts of employment, housing, and mixed uses.”⁷*

The consistent goals throughout all of these identified areas of Central Washington include ensuring mixed uses through the support of housing and the encouragement of retail, entertainment, and arts uses.

Housing Policy

Fiscally, attracting a greater number of households to live and work in the District is vital to improving the District’s tax base. The 2001 Brookings Institute paper set a goal of attracting and retaining 100,000 new residents to improve the District’s fiscal health.

Housing availability and affordability is most directly related to the number of jobs in a region compared to the number of housing units/households. Regionally, the ratio of jobs to households is roughly 3:2. Higher ratios (i.e. higher job number:lower housing number) indicate more people commuting from beyond the city to distant housing. Central Washington has a job to household ratio of over 5:1, indicating an imbalance in workers to residents and having a significant impact on housing prices in Central Washington. By providing more housing closer to the Central Employment Area, the city can improve housing availability in close-in neighborhoods.

⁴ Policy CW-1.1.3

⁵ DCMR 11 §1700.3

⁶ DCMR 11 §1600.2

⁷ DCMR 11 §740.2

The benefits of encouraging more housing in Central Washington extend beyond a stable tax base for the District. Recent urban research has studied the benefits of employees living closer to their places of work in urban environments that provide pedestrian and/or transit access to employment and public/private services. Research conducted by the Center for Neighborhood Technology (CNT) has determined several important benefits of urban areas close to employment centers. Household transportation costs and Vehicle Miles Traveled (VMT) are as little as 33% of the auto-dependent neighborhoods of suburban jurisdictions. Reduced transportation expenses leave more disposable income for other expenditures including housing. Complementary research suggests that multifamily residential buildings in close proximity to job centers reduce energy consumption used for both the building and transportation. In the long run, this makes the District a more sustainable place.

Retail Policy

In addition to guidance from the plans above, in 2007 the Washington, DC Office of Planning, the Office of the Deputy Mayor for Planning and Economic Development, the Washington DC Economic Partnership, and the Department of Small and Local Business Development joined forces to create an ambitious and comprehensive retail strategy for the District. This *Retail Action Strategy (RAS)* study found that the District has almost everything needed to make it a world-class retail city, with a strong core and vibrant neighborhood commercial centers. The positive factors include:

- A strong, stable employment base
- Half a million daytime workers from the suburbs
- Accessibility
- Income growth outpacing that of the nation as a whole
- 16 million visitors annually^[1]
- Population growth
- Walkability
- Opportunities to grow

However, there are challenges to retail growth in the city, resulting in a loss of up to a billion retail dollars per year to surrounding suburbs. Many of the challenges are most acute in central Washington. The study concludes that the success of the city's retail sector is dependent on policies and regulations that result in the appropriate concentration of retail districts surrounded by the right mix of residential, office/employment/entertainment and retail uses across the District.

Arts Policy

Several District plans have emphasized the importance of the arts and creative uses. The city's creative economy, taken as a whole, is large, diverse, and vibrant enough to provide expanding employment and economic opportunities to residents and businesses while supporting an

^[1] 16.2 million people visited Washington, DC in 2007, representing a 7 percent increase over the previous year, and spent \$5.54 billion here, according to *Destination DC. ForbesTraveler.com*, citing information from the National Park Service, places the numbers even higher, estimating that 24 million people visited the National Mall and Memorial Parks in 2007.

exceptional range of cultural activities and entertainment for residents and visitors. The innovative component of the businesses involved in the creative economy—and the remarkable talents of those who are employed in this sector—create a compelling case for paying closer attention to strategies that encourage growth of the sector. There are over 90,000 jobs in D.C. directly related to the arts or creative enterprises and the sector faces similar challenges as general retail. Regulatory and policy support is crucial to ensure the arts and culture resources that are part of a vibrant and successful balance of urban land use.

At the neighborhood level the District's arts districts have been important components in fostering neighborhood vitality. The DD and 14th Street Uptown Arts Overlay have both successfully guided those neighborhoods and recently H Street N.E. has started to see new shops and arts uses open since the passage of the overlay. Maintaining the city's current zoning tools for arts districts and identifying other opportunities to foster and support arts uses is important to the overall economic and cultural health of the city.

VI. DOWNTOWN RECOMMENDATIONS

1. Zone Consolidation

Existing Practice

The study area contains twelve base zones and five overlay zones and sub-areas for a total of 27 zone combinations. The chart below shows the existing combinations of zoning regulations in the study area and the different FAR allowances for each. Most of these zone combinations provide methods for achieving additional density. Where this is the case, the method by which the additional density can be achieved is identified in the "Max Method" column. The methods include receiving TDRs for supporting certain public objectives in the DD, building housing, and being approved for a PUD.

Table 1: Existing Central Washington Zones

Zone	Comm FAR	Max FAR	Max Method	Base Height	Max Height
R-5-E	0	6	N/A	90	90
DD/R-5-E	0	6	N/A	90	90
R-5-E/TDR	0	10	TDR	90	90
CG/R-5-E	0	6	PUD	90	90
C-2-A	1.5	3	PUD	50	65
C-2-C	2	6	N/A	90	90
SP-2	3.5	6.5	PUD	90	90
CG/CR	3	7	Housing	90	110
CG/C-2-C	2	6	N/A	90	90
C-M-3	6	6	N/A	90	90
DD/C-2-C (non-HPA)	2	6	N/A	90	90
DD/C-2-C (HPA)	3.5	N/A	Housing	90	130
R-5-D	0	4.5	PUD	90	90
C-3-C	6.5	8	PUD	90	130
HR/C-3-C	6.5	8.5	PUD	90	130
CG/C-3-C	6.5	8	PUD	90	130
CG/C-3-C/TDR	6.5	10	TDR	90	130
C-3-C/TDR	6.5	10	TDR	90	130
HR/C-3-C/TDR	6.5	9	TDR	90	130
DD/C-3-C (non-HPA)	6.5	8	PUD	90	130
DC/C-4	8.5	8.5	N/A	110	130
C-4	8.5	11	PUD	110	130
DD/C-4 (non-HPA)	8.5	11	PUD	110	130
DD/C-3-C (HPA)	6	N/A	Housing	90	130
DD/C-4 (HPA)	8	N/A	Housing	110	130
DC/C-3-C/TDR	6.5	10	TDR	90	130
DD/C-5	10	12	PUD	130	160

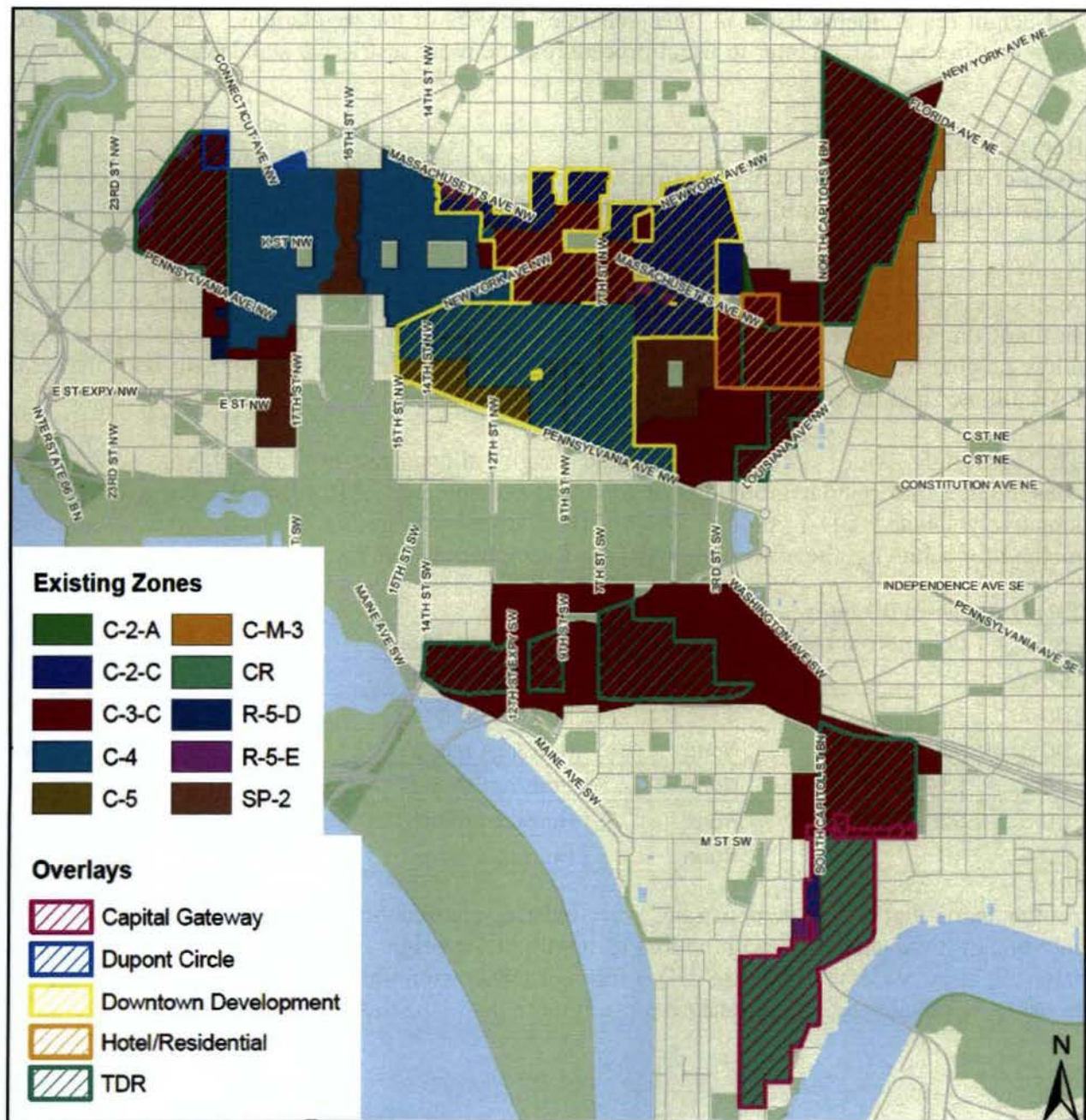


Figure 2: Existing Zoning

Issues

With nearly 30 zoning combinations, including 12 underlying zones, 5 overlays, 3 housing priority areas, and 5 TDR receiving zones, the existing zoning structure results in unnecessary variety and complexity of zone regulations. However these multiple overlapping zone districts actually have many similarities in use and form requirements.

The complexity of the language and the need to research several sections for the rules governing a single lot complicates the understanding of zoning regulations across the downtown area as a whole, as well as for individual lots. For example, many lots within the study areas have bulk

and height requirements listed in three separate chapters of the regulations. The standards are often conflicting and, counter to usual procedures, the more restrictive standard does not always apply.

Recommendation 1

Replace complicated overlay structure with six stand-alone downtown zoning districts in order to establish a simplified zoning structure for height, bulk, and use permission.

Analysis

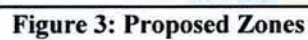
As discussed in the policy guidance section above, all of the areas in the downtown area have similar Comprehensive Plan and zoning goals for overall height and bulk. In general, these areas allow heights from 90' up to the levels allowed by the Height Act, but differ in both the total FAR allowed and the percentage of commercial FAR allowed.

The seemingly wide variety of FAR and height allowances in Table 1 can actually be consolidated into regular groupings of total and commercial FAR allowed. These have been tentatively labeled DD-1 through DD-6. (For an explanation of "housing credits" and the method for achieving the maximum FAR, see Recommendation Two).

Table 2: Proposed DD zones

Zone	Commercial FAR	Max FAR	Max FAR Method	Max Height
DD-1	0	6	Housing	90
DD-2	3.5	8	Housing Credits	110
DD-3	3.5	None	Housing Credits	Height Act
DD-4	6.5	None	Housing Credits	Height Act
DD-5	8.5	None	Housing Credits	Height Act
DD-6	10	None	Housing Credits	Height Act

As the charts that follow demonstrate, every existing combination of zone regulations can be fit into one of these categories with no loss of total FAR or height allowed on any lot (many would have slight increases). While the DD-3 through DD-6 would have no maximum FAR limit for housing, in practice height limitations prevent more than 10.5 to 11 FAR on most lots.



(This map is for illustrative purposes only. It shows how the proposed DD zones would be applied based on the analysis in this recommendation. It should not be interpreted to represent final boundaries of any new zone. OP will continue to analyze each square for accuracy and consistency prior to final text.)

Below is further breakdown of the proposed zone transitions:

DD-1

This zone is designed to be a residential zone that serves as the catch-all for different versions of R-5-E located in Central Washington. The R-5-E, DD/R-5-E, and CG/R-5-E would all become DD-1. This zone would allow only residential uses with accessory ground floor commercial and would be limited to 90' resulting in no gain or loss in total or commercial FAR or height for any properties.

Table 3: DD-1 comparison

Zone	Commercial FAR	Max FAR	Max Height
R-5-E	0	6	90
DD/R-5-E	0	6	90
CG/R-5-E	0	6	90
DD-1	0	6	90

DD-2

This zone is intended for those areas zoned SP-2, C-2-C, CG/C-2-C, and CG/CR. The zone would allow the full range of commercial uses and allow structures up to a total FAR of seven and height of 110. This represents an increase in FAR, height, or both for each zone. Most of these areas are subject to special consideration and review through the Capitol Gateway overlay, PUD review, or by virtue of proximity to important federal buildings. In light of the additional density being granted and its location, it will be important to maintain design review of buildings constructed in this zone. Design review for the downtown will be included in a broader discussion as part of the Design Review working group.

Table 4: DD-2 comparison

Zone	Commercial FAR	Max FAR	Max Height
SP-2	3.5	6.5	90
CG/CR	3	7	110
CG/C-2-C	2	6	90
C-2-C	2	6	90
DD-2	3.5	7	110

OP had originally proposed including the C-M-3 and M zoned property north of Union Station in the DD-2 zone. These zones have both a commercial and total FAR of 6. While the total FAR would have risen, the commercial FAR would have dropped. OP proposes not including these zones within a DD zone at present. They may, however, be appropriate for inclusion in the DD system through future re-zonings or PUDs.

Square 563N is a small, triangular District-owned square between New Jersey, 2nd, and H Streets, N.W. It is the only property zoned C-2-A in Central Washington, although it is surrounded by C-2-C and C-3-C properties. Square 563N would be included in the DD-2 zone.



Figure 4: Square 563N

OP has done further research into the buildings zoned SP-2 around Judiciary Square. There are five 1980s-era PUDs in this area that are uniformly 120' in height and between 7 and 8 FAR. Based on these approvals the Zoning Commission may want to consider either creating an additional DD zone with an 8 FAR and 120' limit, or including these sites in a higher DD classification.

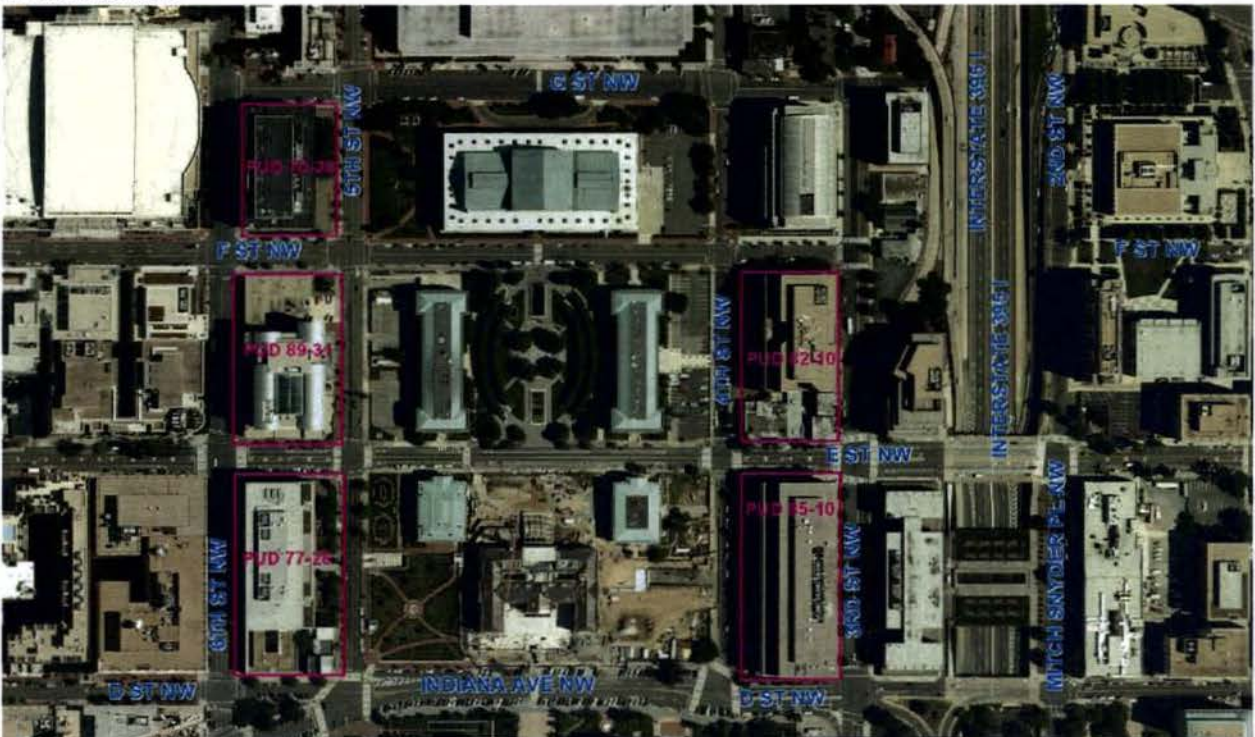


Figure 5: Judiciary Square

DD-3

DD-3 is the general zone for that would replace the DD/C-2-C zone. It would allow all general commercial uses. As with all DD zones, FAR above the commercial maximum would be achieved by creation of housing (see Recommendation 2). With the exception of Square 518 (see below), all of the DD/C-2-C is within a Housing Priority Area (HPA). DD/C-2-C currently has a requirement for 4.5 FAR of housing in new development. This requirement would be maintained in DD-3.

Table 5: DD-3 comparison

Zone	Commercial FAR	Residential Requirement	Max FAR	Max Height
DD/C-2-C (HPA)	3.5	4.5	N/A	Height Act
DD-3	3.5	4.5	N/A	Height Act

Square 518 is the only DD/C-2-C zoned property that is not in the HPA. It is owned by the U.S. government and contains the GAO building. This property could either be unzoned or included in the DD-3 zone.

DD-4

The DD-4 zone is designed to accommodate the large number of existing C-3-C variations in Central Washington, including all of the existing TDR receiving zones. The zone would permit the full range of commercial uses. Commercial FAR would be set at 6.5, with no maximum FAR for the provision of housing on or off-site (see recommendation 2).

Table 6: DD-4 comparison

Zone	Commercial FAR	Residential Requirement	Max FAR	Max Height
C-3-C	6.5	N/A	8	Height Act
HR/C-3-C	6.5	N/A	8.5	Height Act
CG/C-3-C	6.5	N/A	8	Height Act
CG/C-3-C/TDR	6.5	N/A	10	Height Act
C-3-C/TDR	6.5	N/A	10	Height Act
HR/C-3-C/TDR	6.5	N/A	9	Height Act
DD/C-3-C (non-HPA)	6.5	N/A	8	Height Act
DC/C-3-C/TDR	6.5	N/A	10	Height Act
DD-4	6.5	N/A	N/A	Height Act
DD/C-3-C (HPA)	6	3.5	N/A	Height Act
DD-4A	6.5	N/A	N/A	Height Act

Currently, the DD/C-3-C zone in the HPA allows maximum FAR up to the limit of the Height Act through the provision of housing. This allowance is accompanied by a requirement that at least 3.5 FAR of the housing must be built on or off-site. This requirement would remain for existing HPA areas in the new zone. In the table this is shown as possible DD-4 and DD-4A zones.

The proposal would allow all other C-3-C variations the same bonus FAR for an effective increase of between one and three FAR per lot. In exchange for this additional matter-of-right density, the Zoning Commission should consider either extending the requirement to provide for at least 3.5 FAR of housing per site (eliminating the need for a DD-4A zone) and/or establishing design review for buildings where bonus density is being granted over existing matter-of-right.

Squares 120 and 121 contain two lots that have existing underlying zones of R-5-D. Both lots are between 19th and 20th Streets and were zoned C-3-C through PUDs in the 1980s. The lot on Square 120 is owned by the International Monetary Fund and the lot on Square 121 is owned by the World Bank. The existing buildings are office use, 130 feet in height, 7 FAR, and surrounded by other C-3-C buildings. The proposal would include these properties in the DD-4 zone.

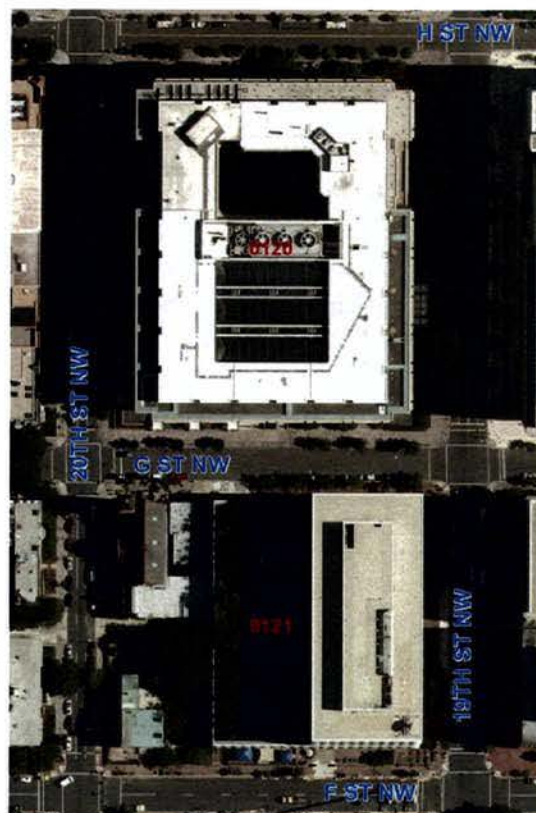


Figure 6: Squares 120 & 121

DD-5

This zone would replace DD/C-4 lots in the HPAs. Currently, this zone allows 8.0 FAR of commercial use, with unlimited residential over 8. There is a 2.0 residential requirement. All of these standards would remain.

Table 7: DD-5 comparison

Zone	Commercial FAR	Residential Requirement	Max FAR	Max Height
DD/C-4 (HPA)	8.0	2.0	N/A	Height Act
DD-5	8.0	2.0	N/A	Height Act

DD-6

The DD-6 zone would represent the area of highest commercial potential, including those areas currently zoned C-4 and C-5 outside of the Housing Priority Area. Both C-4 and C-5 zones allow 10 FAR of commercial use as a matter-of-right on a 110' street. The C-4 zone limits FAR on narrower streets to 8.5, a limit that may be unnecessary as the height limits of the Height Act would provide a similar effective FAR limit on these sites.

Areas along Pennsylvania Avenue that are currently zoned C-5 would continue to be allowed 160' of height under the Height Act, while the effective limit in the remainder of the DD-6 would be 130' or less, as determined by street width.

Table 8: DD-6 comparison

Zone	Commercial FAR	Max FAR	Max Height
C-4	8.5/10	11	Height Act
DD/C-4 (non-HPA)	8.5/10	11	Height Act
DD/C-5	10	12	Height Act
DD-6	10	N/A	Height Act

The existing C-5 zone offers density above 10.0 FAR through an incentive program for residential use, arcades, courts, and other design amenities. This incentive program would be effectively replaced by the residential incentive proposed in Recommendation 2.

2. Housing

Existing Practice

The DD overlay uses a) residential requirements, b) transfer of development rights (TDR), and c) FAR bonuses to incentivize housing downtown. Within defined HPAs each development is required to provide a set amount of housing or “residential requirement.” This minimum requirement may be transferred to another lot within the HPA through combined lot development (CLD), or the housing requirement may be partially reduced through ensuring the construction of affordable housing. Most housing that has been built in the DD overlay (whether required or not) also generates TDRs that can be sold to other projects in the DD overlay, or in TDR receiving zones to help support the housing development in the DD overlay. Finally, FAR maximums are waived in the HPAs for development of housing; projects may be built above the FAR limit if built as residential.

The housing requirements and incentives of the DD overlay have been very successful, albeit slow in coming, toward realizing the original goals for the downtown. Currently 71% of the 1982 planned housing has been built. Another 28% is in the planning or permitting process. The current capital markets and the economic climate suggest that it will be several more years before the 1982 housing goals of the Downtown plan are met. This report does not suggest or conclude that downtown housing goals have been fully met.

<u>1982 Downtown Plan</u>	<u>12,410 units</u>
Pre-2000 units	3,707
2000-2008 units	5,180

Since the 1982 Downtown Plan was written, the geographic scope of what is considered “downtown” has expanded significantly. The areas considered in this report represent approximately six times the land area of the DD overlay, and therefore potentially six times the housing supply. Many post-1982 planning documents such as the Downtown Action Agenda, Southeast Federal Center and Mount Vernon Triangle and Square Plans provide additional goals for housing in areas of both the original and expanded downtown.

Combined Lot Process

In the CR zone and the CG and Uptown Arts overlay zones, a combined lot development may be used to permit two lots to act as one for the purpose of distributing uses. One lot may build more non-residential GFA and the other lot would in turn, through covenants, assume the responsibility for the residential equivalent.

In the DD overlay some lots have a minimum residential requirement by virtue of their location in the Housing Priority Area (HPA), which is divided into three sub-areas, A, B and C. To ensure housing, the total FAR of properties within an HPA was increased above comparable properties outside the HPA, which were not subject to the housing requirement. Within each of the HPA sub-areas, two or more lots may combine in order to allocate their required uses among them. Transfers of residential use across HPA sub-areas was not permitted in order to ensure each sub-area achieved sufficient housing to create a successful local neighborhood. In both types of combined lots, the participating lots may also reallocate commercial density, which means that the building on one lot may exceed the matter of right FAR provided that the aggregate FAR with the combined lot stays within matter of right limits.

The combined lot process works to facilitate the aggregation of required housing by enabling a non-residential development to partner with a residential development and maximize the potential of both properties.

Transferable Development Rights (TDRs)

TDRs are not about use, but about density. All properties in the DD can generate TDRs for any housing constructed, but only properties in the housing priority area or in one of five TDR Receiving Zones located outside the DD may use TDRs to increase their matter of right density and height. Non-residential properties in the housing priority area are limited to an additional 0.5 FAR through the purchase of TDRs, while properties in a receiving zone can utilize considerably more.

The TDR and CLD Covenant

Before a residential development may allocate its CLD uses or transfer its TDRs the owner of the site must sign a covenant agreeing to maintain the residential use that generated the gross floor area being partnered or transferred. TDRs can thereafter be transferred through the use of certificates of transfer that require four District signatures. CLDs require separate covenants for each allocation. The process is lengthy, cumbersome, and expensive.

Issues

Existing housing incentives have had great success in implementing the housing goals of the DD. However, the existing system is geographically limited to the DD and the CG overlay zones and does not provide a mechanism to establish and meet housing goals on a larger scale throughout the entire study area. Comprehensive Plan Policy CW-1.1.4, among others in the Central Washington chapter, clearly lays out the city's policy to encourage new high-density housing throughout Central Washington. The proposed amendment would maintain housing levels achieved in the HPAs and expand zoning incentives to provide housing in the larger study area while not removing any existing development rights.

Several projects have used, or engaged in, partnerships to reduce an existing housing requirement through the support of affordable housing elsewhere in the District. As the remaining developable sites become fewer in the existing DD, this tool provides a non-residential developer some flexibility to assemble the necessary use permissions for a non-residential project. In addition, several affordable housing projects have benefited from the existing provisions.

Recommendation 2

Replace the current mechanisms for incentivizing housing (combined lot developments and transferable development right) within a single system of Housing Credits. Ensure that vested TDR and CLD rights not yet allocated will retain existing rights and value, including converting unallocated rights to Housing Credits. Allow the generation of extra Housing Credits through the creation of on-site affordable housing. Retain an ability to reduce a downtown housing requirement by constructing affordable housing projects outside of the DD.

Analysis

Almost all zones in DC provide an incentive density for residential use. Each existing non-residential zone in Table 1 has an allowed FAR for commercial uses and a maximum FAR that is achievable through a variety of other methods linked to the zone classification. The most common methods in these zones for achieving maximum FAR are the provision of housing on-site, the provision of housing off-site through TDRs, or through PUDs. By expanding the general concept of the TDR system to the entire study area, it would be possible to increase options for bonus density, reduce the need for some PUDs, and incent housing throughout Central Washington.

The CLD system works differently from the TDR system. Within Housing Priority Areas (HPA) in the DD Overlay, housing is required and may be provided either on-site or off-site by partnering with the developer of another property to accept the requirement. Trades in this system must be made within the local HPA in order to meet established housing goals within specified local areas and prevent required housing from migrating to the least expensive areas of the city. Figure 4 shows the existing HPAs.

Maximizing Density Through Housing

The proposed system would capitalize on the difference between the allowable matter of right commercial FAR and the allowable maximum FAR in each area. Within the proposed DD-2 through DD-6 zones, there are between 2 and 7 FAR that would not (and cannot currently) be used for matter-of-right commercial development, but would be accessible as a matter-of-right by providing housing either on-site or off-site.

A residential or mixed-use project could build to the maximum FAR simply by providing housing on-site above the base commercial FAR. Commercial projects could gain the same additional density by partnering with a residential project elsewhere within an identified area, similar to the existing CLD system.

For this report, the method of pairing residential and non-residential uses between sites will be called Housing Credits (HC).

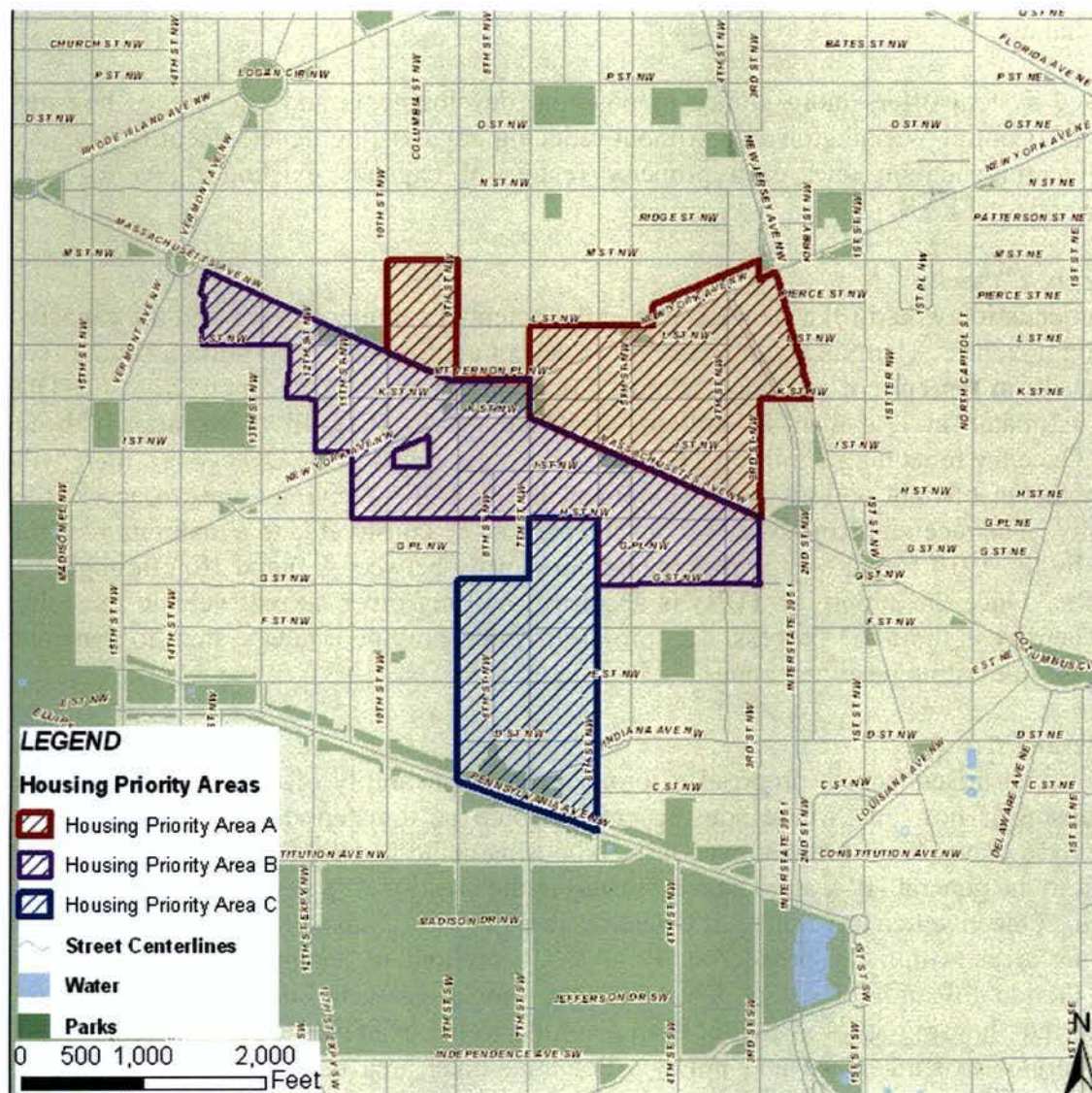


Figure 7: Existing Housing Priority Areas

On any property, residential use built within the commercial FAR limits would generate HC. Commercial use built above commercial FAR limits would require the purchase of HC from a residential property. These trades would happen on the open market the same way the existing TDR market works.

For example, a residential developer in the DD-4 zone wants to build a 10 FAR residential building. In the DD-4, the commercial FAR limit is 6.5 and there is no maximum. Building 10 FAR of residential would generate 6.5 FAR of HC based on the 6.5 FAR commercial allowance. The remainder of 3.5 FAR would be allowed as a matter-of-right as residential development, but would not generate HC.

The same developer could also build a 10 FAR commercial office building. The first 6.5 FAR of this building cost nothing. The remaining 3.5 FAR would be achievable as a matter-of-right by

simply purchasing an equivalent number of HC from another owner. No HC would be generated by commercial use.

The proposed system offers more choice to potential developments and encourages housing throughout the Central Washington area without reducing any existing development rights. As shown in recommendation one, each property retains or expands existing rights to both commercial and total FAR.

Receiving Zone Capacity

This recommendation would fill a looming gap in the potential supply of TDRs and the capacity of the receiving zones. There is zoning capacity to accept approximately 30 million square feet of TDR density in the current receiving zones. The total potential TDR supply from the DD overlay is estimated at less than 13 million, of which nearly 10 million has already been generated. Once the remaining 3 million TDRs have been generated in the DD overlay, there will be no other matter-of-right options for development in the TDR receiving zones to access the bonus density. The receiving zones allow a development to be constructed to a maximum height as allowed by the 1910 Height Act with a maximum density between 9.0 and 10.0 through the use of TDRs. Once the supply of TDRs is absorbed the only other current vehicle for extra height and density is the PUD process. The proposal would provide a new system to generate density for use in existing receiving zones.

Transfer of New HCs

The question that arises from a proposal to broaden the applicability of the TDR program to promote housing is how and where housing credits could be transferred. The original HPA boundaries were drawn to ensure that even though housing could be transferred off-site it would still be built in the general HPA area, thereby fostering the creation of a neighborhood. In order to expand this objective to a larger area, it would be necessary to create additional neighborhood-sized housing areas within the broader study area. A preliminary examination of this issue shows that the identification of six to eight housing trading areas would be sufficient to ensure that "transferred" housing stays in the local area similar to the existing Housing Priority Areas and in support of existing plans and policy. Potential trade area boundaries are still being considered and will be presented to the Commission at the public hearing.

Simplification

A benefit of the proposal is that the existing TDR and CLD programs would be combined and greatly simplified. While there was working group concern about avoiding unintended consequences to any changes, major problems raised by the group included the complication of the programs, the lack of fluidity of CLDs, and the transparency of programs.

Currently, the TDR program is used to increase matter of right density while the CLD program is mostly used to transfer use requirements from one lot to others. Under the proposal, the new system would meet both needs. Properties mapped in the current Housing Priority Area should continue to have a residential requirement.

The Downtown working group expressed concern about the current TDR and CLD processes not being flexible or transparent. These two important concerns could be solved by the proposed system. Housing credits could only be generated through construction. Unlike the current CLD

system, housing credits would be completely bankable so they could be open market commodities. This means a residential development could sell their Housing Credits to a non-residential development, or an investor who could then resell the credits to a non-residential development. This way a residential developer would be freed from finding an immediate non-residential developer partner. Secondly, a single transfer system that does not tie multiple lots together through covenants would allow the generation and supply of housing credits to be monitored and tracked for the public. Open knowledge of availability of housing credits would improve the market and open the process to a wider set of buyers and sellers.

Currently CLDs and TDRs are recognized as being generated when the project architect certifies that 50% of the residential uses have been constructed. If a project has not progressed to that level, an escrow must be funded, which is released to the District if the residential project does not exceed 50% completion in five years. The Office of Planning will work with the Office of the Attorney General in reviewing this requirement in light of the new proposal.

A final question regards how the existing TDR and CLD programs would transfer into the new system. While the data is not available on exactly how many TDRs are not currently vested to a site, it is known that there will be some number of unused TDRs and untransferred CLD potential when the ordinance is updated. OP has been working steadily with developers to design a system for the grandfathering and continued use of these TDRs and CLDs with the goal of maintaining or increasing their existing value. At a minimum, existing TDRs and CLDs will be broadly tradable under the new system. Until the generation of HCs under the proposed system, existing TDRs and CLDs would continue to be the only housing credits and would serve to “prime the pump” by providing a starting market for the new system. OP is also examining the current value difference between TDRs and CLDs and working with developers to recognize this difference in the new system.

3. Retail

The Retail Action Strategy supports the general planning guidance for retail in the various downtown neighborhoods and offers many strategies for encouraging a successful retail market. The study concludes that the success of the city’s retail sector is dependent on policies and regulations that result in the right mix of residential, office, employment, entertainment and retail uses across the city.

Existing Practice

The DD overlay has multiple overlapping sections dealing with retail requirements. The use requirements in Section 1702 list all the streets in the DD overlay required to provide 0.5 FAR of retail use. Subsequent sections for the Retail Core (§1703), Arts (§1704), Chinatown (§1705), and Mt. Vernon Triangle (§§1722-1732) then relist those streets and provide either the same or different requirements as those in §1702 (see Figure 5).

While the DD overlay has not come close to achieving the retail goals outlined in the downtown plan, our analysis shows that the original projections may have been based on overly broad calculations. Streets and areas intended for retail have a requirement of 0.5 FAR of retail uses in the DD overlay. Instead of setting the retail goal at full buildout of these areas, the goal was set

at 0.5 FAR of the *entire downtown*, even including non-retail areas. The resulting goal may have set unrealistic retail expectations.

<u>1982 Downtown Plan</u>	<u>5,600,000 sf</u>
Existing Retail	1,600,000 sf
Under Construction	<u>400,000 sf</u>
Total Retail Provided	2,000,000 sf

The existing regulations allow generation of TDRs for retail only when provided above the requirement (0.5 FAR).

Issues

While the overall DD overlay goal for retail may have been set unrealistically high, the requirement for retail along designated streets and in the retail core area has resulted in retail uses in every new development in those areas since it was enacted. Keeping this program in place will ensure that existing retail stays and will provide new retail as new buildings are redeveloped. As with form and use regulations, retail requirements should be standardized across the downtown zones to simplify the code.

Retail TDR generation has happened extremely rarely with preliminary research revealing only three cases of retail bonus generation in the history of the DD overlay. In two of those cases the project received significant financial support from the District. The lack of use of this provision indicates that there would appear to be no utility in retaining this provision for retail purposes.

Recommendation 3

Continue existing street-based retail requirements from the DD and CG overlay zones. Standardize requirements and combine them into a single list or map of retail streets. Add streets where approved policy guidance calls for support of retail. Do not allow the generation of Housing Credits for retail uses.

Analysis

The main recommendation is simply to standardize the system for requiring retail. As discussed above, the DD overlay currently has two systems for requiring retail; identification by street frontage⁸ and identification by square.⁹ These two separate systems result in duplicate regulation. Without affecting the required areas at all, the retail requirements could be mapped to show what street frontages in the downtown have retail requirements. Figures 8 and 9 in the following pages show the existing and proposed set of requirements. Other than the two new potential retail streets discussed below, the only difference is the removal of duplicative regulations.

⁸ DCMR 11 §§1701.4 & 1701.5c

⁹ DCMR 11 §§1703, 1704, 1705 & 1722

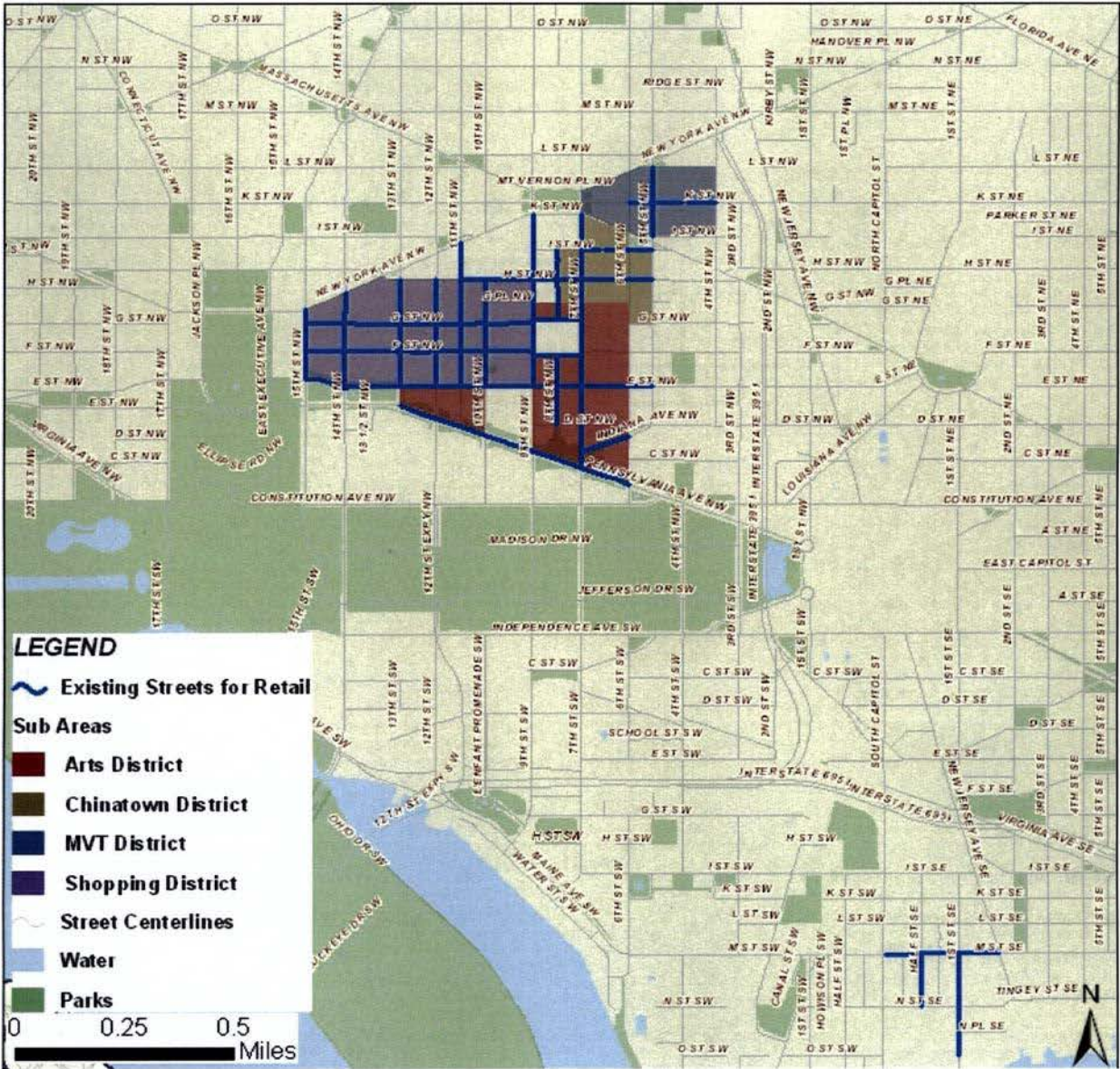


Figure 8: Existing Retail Requirements

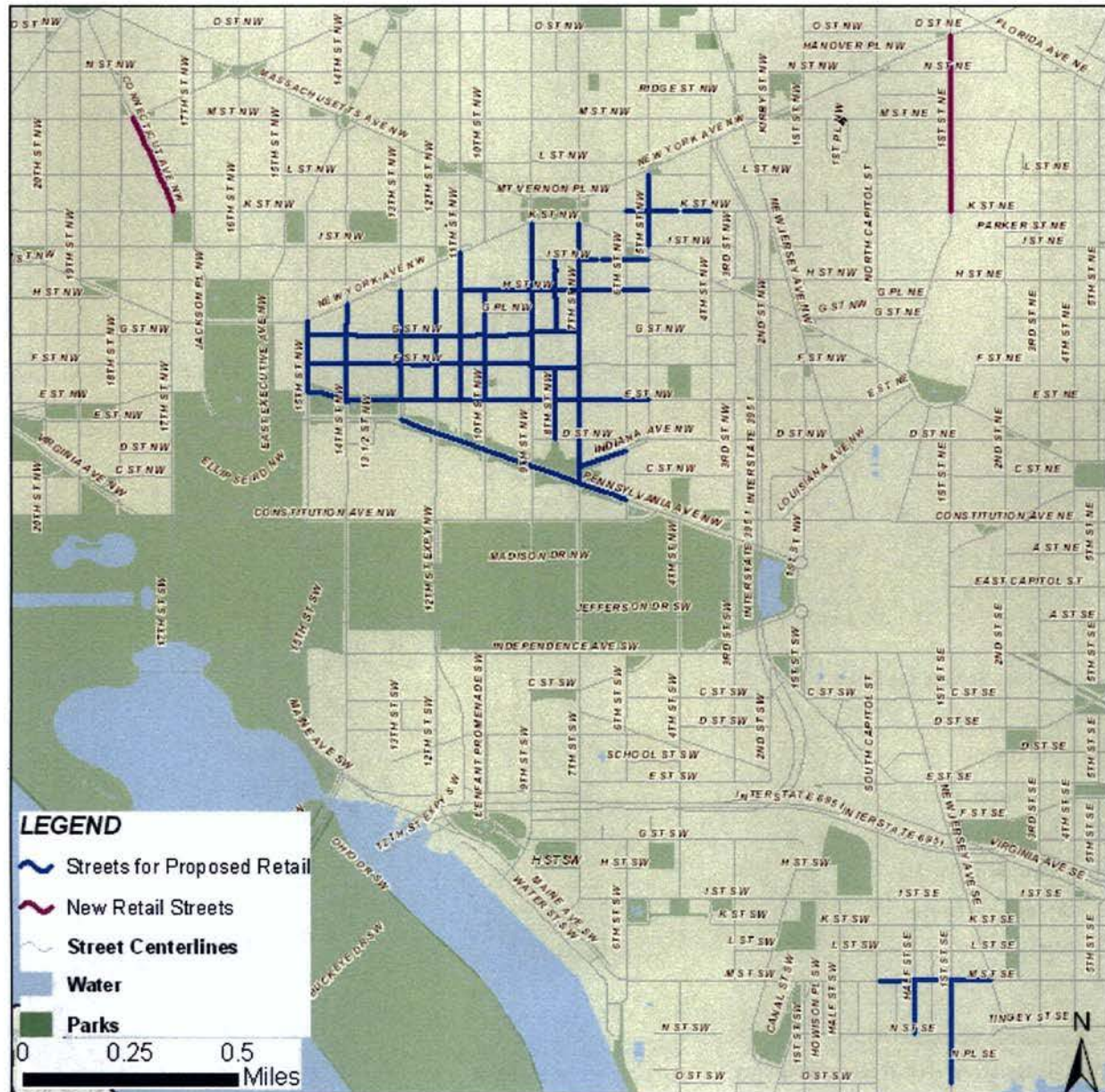


Figure 9: Proposed Retail Requirements

In addition to current retail requirements from the DD overlay, it would be important to identify retail streets from the remainder of the study area. The Comprehensive Plan calls out the old convention center site for retail promotion.¹⁰ The CG overlay currently requires retail on three streets; M Street SE, Half Street SE, and 1st Street SE. Finally, Connecticut Avenue NW and parts of K Street NW are identified by the Retail Action Strategy as major commercial corridors appropriate for ground floor retail requirements.

¹⁰ Policy CW-1.1.8: Promote Central Washington Retail

The list below contains the streets to have retail requirements based on the above sources:

- i. F Street NW (7th to 15th)
- ii. G Street NW (7th to 15th)
- iii. 7th Street NW (Penn to K)
- iv. 10th Street NW (E to F)
- v. H Street NW (5th to 11th)
- vi. Pennsylvania Ave NW (6th to 15th)
- vii. Indiana Ave NW (6th to 7th)
- viii. E Street NW (6th to 14th)
- ix. 10th Street NW (E to H)
- x. 11th Street NW (E to NY)
- xi. 12th Street NW (E to H)
- xii. 13th Street NW (E to H)
- xiii. 9th Street NW (E to NY)
- xiv. 14th Street NW (Penn to NY)
- xv. 15th Street NW (Penn to NY)
- xvi. I Street NW (5th to 7th)
- xvii. 8th Street NW (Penn to K)
- xviii. K Street NW (4th to 6th)
- xix. 5th Street NW (I to L)
- xx. Connecticut Ave NW (K to N)
- xxi. 1st Street NE (K to New York)
- xxii. M Street SE (S Capitol to New Jersey)
- xxiii. Half Street SE (M to O)
- xxiv. 1st Street SE (M to O)

Existing retail design requirements are generally consistent among the existing zones and should be standardized into a single set of requirements. In regards to the recommendation for 14' clear ceiling heights, OP will continue to examine this issue as it relates to the Height Act to ensure that there is no loss of development potential. Also, in light of potential unique situations and the complexity of development downtown, OP recommends that a special exception be available to alter retail design requirements where necessary.

The existing regulations allow generation of TDRs for retail use above the required 0.5 FAR. While retail development in the DD overlay may or may not be the result of retail requirements, the TDR program has had no determinable role in downtown retail development. In nearly 20 years of TDR availability, only three projects have generated retail TDRs. It is not clear that the TDR program played any role in the decision to create that retail and it was the consensus of the working group that TDR generation did not play a significant role in encouraging retail. As such, there appears to be no need to allow the generation of Housing Credits for retail uses, but simply to continue to require retail where it is desired.

4. Historic Preservation

Existing Practice

Within the DD overlay, historic landmarks or sites identified as historic are limited to a 6.0 FAR but can generate TDR bonus density for unused density when completing a full building restoration. Since 1990, over 1.5 million square feet of TDRs have been generated using this provision. In the early 1990s, this provision was instrumental in supporting historic buildings in the DD.

Issues

All of the historic landmarks in the DD overlay that can benefit from this provision have already taken advantage of it and no historic buildings have generated TDRs since 2003. There are however, potential historic resources in the expanded study area that could benefit from incentives to complete a full building restoration.

Recommendation 4

Allow the generation of Housing Credits through renovation of historic landmarks in the expanded downtown area.

Analysis

While historic preservation goals have been met in the existing DD overlay, there are a significant number of historic landmarks in the expanded downtown area. Based on the TDR model, the new DD zone could allow for the generation of HC by doing a full building restoration of a historic landmark. This would promote historic restoration in the expanded downtown area while having only minimal impact on the projected housing incentive. As with the current system, historic landmarks could generate up to 4.0 FAR of unused density as HC if the historic building is under 6.0 FAR.

5. Arts

Existing Practice

As stated earlier, Arts are a very critical element in the District's economy. Over 90,000 jobs in the city are directly related to the arts or creative enterprises. The arts sector of the economy faces unique challenges and opportunities. The current zoning recognizes a synergy and advantage to having the arts uses clustered and represented in the downtown. Arts uses are now required in the Arts subarea of the DD overlay and can count toward retail requirements elsewhere. In the Arts subarea, the requirement is 1.0 FAR of retail of which 0.25 FAR must be arts uses. To date, the DD has been very successful with regards to the provision of art-related uses:

<u>1982 Downtown Plan</u>	<u>900,000 sf</u>
Existing Arts & Entertainment Uses	1,218,000 sf

Issues

Based on previously approved recommendations on Arts districts which call for continued Arts requirements and the limited use of arts uses for the generation of TDRs, there is no need to allow the generation of HC for particular arts uses.

Recommendation 5

Maintain designation of existing arts area within the DD. Guidelines will be changed according to Arts & Culture recommendations and do not require HC production for arts uses.

Analysis

The August 28, 2008 OP report on the Arts subject area laid out recommendations for clarifying and standardizing arts requirements. Highlights of those recommendations include:

- a general 0.5 FAR Arts requirement that is transferrable between properties,
- a CLD-type system to transfer arts requirements,
- removal of requirements for “arts-related uses,”
- a revised list of arts uses,
- limitation of the amount lobby exhibition space can count toward requirements, and
- standardization of design and ceiling height standards.

The downtown recommendations would not remove or change arts requirements other than what has already been approved as part of the previous subject area. Arts requirements within the DD could be identified by street, similar to the retail maps above.

Only three projects have been identified that generated TDRs based on arts uses since 1991. Based on input from the working group, all of these projects received other subsidies, including city money, and the generation of TDRs have played no determinable role in the creation of arts uses in the DD overlay.

6. Residential Parking

Existing Practice

Chapter 21 of the existing regulations provides minimum parking requirements for all uses in all zones.

Issues

The Zoning Commission has offered affirmative guidance to remove parking minimums in the downtown and has requested an examination of parking maximums. The issues of residential parking are different from those of commercial parking. Because of use limitations in residential zones, convertibility for residential parking areas is impractical. Having a correct ratio of parking spaces to residential uses is more important. In addition, unbundling the sale or rental of parking spaces from sale or rental of residential units is important to avoid subsidizing the price of car ownership and skewing travel choices toward driving.

Recommendation 6

Establish parking maximums for residential uses downtown. Maximums should be geared toward ensuring unbundling of residential parking and maximum efficiency of residential parking lots.

Analysis

For residential buildings there is limited opportunity for conversion of space to residential use or supportive uses such as storage or recreation, and there is the additional issue of encouraging unbundling of parking spaces from the sale/rental of units to help achieve affordability goals.

Based on analysis of residential parking ratios in Central Washington, it appears that parking for residential uses drops below 85% occupancy at around 0.8 spaces per rental unit and 0.9 spaces per for-sale unit. Setting a maximum for residential spaces at a level under one space per unit would accomplish ensure that parking was not built that was likely to go unused and it would require the unbundling of parking spaces from unit sales or rental by ensuring a ratio below one space per unit.

7. Surface Parking

Existing Practice

The DD overlay provides some limitations on surface and above-grade parking in Section 1702.7. With this exception, surface parking is generally permitted in the study area.

Issues

The use of empty lots for surface parking is not supported by the general land use and transportation goals for the downtown even though it can be an economical temporary use. Policy T-1.2.3 in the Comprehensive Plan discourages surface parking lots and other automobile-oriented uses.

Recommendation 7

Require a special exception with time limitations for surface parking lots in the proposed downtown area.

Analysis

This recommendation would require a special exception for new surface parking lots. Based on the land use and urban design goals of the Central Washington element of the Comprehensive Plan, surface parking limitations within the DD overlay should be expanded to the wider study area. This would limit the creation of new surface parking lots and ensure review of those instances where surface parking might be necessary for conformance with Comprehensive Plan goals.