

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING



Office of the Director

MEMORANDUM

TO: District of Columbia Zoning Commission
FROM:  Ellen McCarthy, Acting Director
DATE: June 20, 2005
SUBJECT: Supplemental Information
Zoning Commission Case No. 04-18: Text Amendment to the Downtown Development District Overlay, and Associated and Map Amendment

Handwritten notes: CASE NO. 04-18, EXHIBIT NO. 15

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In its report dated July 2, 2004 (updated July 9, 2004), the Office of Planning petitioned for a map and text amendment to establish a new sub-area within the DD Overlay, to be known as the Mount Vernon Triangle District. The District consists of those portions of Squares 451, 483, 484, 484W, 515 and 516 that are within seventy-two feet (72 feet) of the rights of way on each side of K Street or 5th Street, Northwest, as shown on Attachment 1 to the Office of Planning Report dated July 9, 2004. Because Square 483 is not presently mapped in the DD Overlay, and the adjacent Squares are, the Office of Planning also requested that it be rezoned from C-3-C to DD/C-3-C. The Office of Planning's set down report also served as the pre-hearing statement for this case.

The Zoning Commission set down the case for public hearing at its meeting of July 12, 2004, and also voted to advertise an alternative rezoning for Square 483 to DD/C-2-C, which had been the property's previous zoning designation.

The principal DD sub-areas (Shopping, Arts, Chinatown and the three Housing Priority Areas are currently codified as 11 DCMR §§ 1703 through 1706. Because there are no reserved sections immediately thereafter, this notice will begin the provisions related to the proposed new sub-area with § 1720. This avoids a confusing renumbering of existing provisions and while reserving §§ 1713 through 1719 for any future DD provisions as might be needed. The final codification of these provisions will be determined by the District of Columbia Office of Documents.

The advertised amendments follow. OP has noted, *in italics*, "Comments" and "Issues" related to some of the sections of the proposed regulation. Generally, the "Issues" are public comments that have been noted in the case record and that OP believes require additional discussion. The

“Comments” are explanatory remarks by OP that respond to comments in the case record or that explain how certain issues that had been raised have already been resolved.

This report incorporates by reference the Preliminary Report of the Office of Planning on Canse No. 04-18, dated July 2, 2004 – *Revised July 9, 2004*. OP also will be submitting an additional supplemental report after issues have been aired at the Public Hearing.

ADVERTISED AMENDMENTS

With Annotations by the Office of Planning in Italics

A. The Zoning Map of the District of Columbia, as incorporated by reference in 11 DCMR § 106, is amended by rezoning Square 483 from C-3-C to DD/C-3-C or, in the alternative, from C-3-C to DD/C-2-C.

Comment: OP will be submitting additional information after the Public Hearing.

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

1720 MOUNT VERNON TRIANGLE DISTRICT: OBJECTIVES AND BOUNDARIES (DD/MVT)

1720.1 The principal objectives for the Mount Vernon Triangle District (MVT District) are to:

- (a) Promote the development of ground floor level street frontages that will be active and pedestrian-friendly, particularly along the sections of K and 5th Streets, Northwest that are within the MVT District boundaries, as defined in §1720.2.
- (b) Promote a lively, mixed-use and high density Mount Vernon Triangle neighborhood with neighborhood amenities and retail development that serves the MVT as well as nearby neighborhoods, the Convention Center, and the downtown.

1720.2 The provisions of the MVT District, as stated in §§ 1720 through 1733, apply to an area comprising those portions of Squares 451, 483, 484, 484W, 515 and 516 that are within seventy-two feet (72 feet) of the rights of way on each side of K Street or 5th Street, Northwest, as shown on Attachment 1 to the Office of Planning Report dated July 9, 2004.

Issue: Concern has been expressed that 72' is too deep. In particular, there has been a suggestion that the depth should be based on structural bay dimensions of 22': e.g., 22 feet, 44 feet, 66 feet or 88 feet.

OP chose 72 feet for two principal reasons: 1) because that covers the deepest dimension of any of the MVT sub-area requirements as specified in the advertised language – those in Section 1723.1 the requirements for the Principal Intersection Area, and; 2) the task force of developers, retailers and architects working with OP on the crafting of this proposals suggested that 36 feet was a logical bay dimension. This dimension could be adjusted without seriously affecting the desired results of the proposed amendments.

1720.3 Any reference in the provisions of the MVT District to the Mount Vernon Triangle Area shall mean the area comprising squares 451, 483, 484, 484W, 515, 515N, 516, 516S, 525, 526, 527, 528, 556, 558, 560, 561, 562, 563, and 563S.

1720.4 All street locations in the MVT District are in Northwest Washington and therefore all future reference to these streets will omit the identification of the Northwest quadrant.

1720.5 All provisions of this Chapter shall apply unless otherwise noted.

1720.6 Except when used in §§ 1725 and 1726, the term “building” shall mean a building located within the MVT District that became subject to the provisions of the DD Overlay after [the effective date of this section] pursuant to § 1700.5.

1721 OFFICE OF PLANNING REVIEW (DD/MVT)

1721.1 An applicant for a building permit or a certificate of occupancy within the MVT District shall provide a copy of the application, including reference to the applicable provisions of the DD Overlay and/or MVT District, to the Director of the D.C. Office of Planning at the time of filing with the Department of Consumer and Regulatory Affairs.

1721.2 The Director of the Office of Planning shall, within sixty days of receipt of the application, provide the Zoning Administrator with a written evaluation of the project’s compliance with the provisions of the MVT District. The Zoning Administrator shall take no action on the application for seventy-five (75) days from the date of filing, or for fifteen (15) days after receipt of the Office of Planning report, whichever time period is less.

1722 STREETWALL DESIGN REQUIREMENTS (DD/MVT)

1722.1 Except for a building located in the Principal Intersection Area, as described in § 1723.1, this section, together with § 1701.3, shall apply to each building with frontage on:

- (a) K Street in Squares 451, 483, 484, 484W, 515 or 516;

- (b) 5th Street in Squares 483, 484, 515 or 516;
- (c) 6th Street in Squares 484 or 484W if that frontage is within thirty-six feet (36 ft.) of the right-of way of K Street; and
- (d) 4th Street in Square 515 or 516 if that frontage is within thirty-six feet (36 ft.) of the right-of way of K Street.

Comment 1: The linear reference in (c) and (d) [advertised as 36 feet] should probably be consistent with the depth noted in Section 1720.2 (advertised as 72 feet).

Comment 2: Section 1722.1 does not mean that the MVT sub-area requirements apply to an entire building that happens to have frontage on the above streets and squares. The requirements apply only to the portions of buildings fronting on the above streets and only to a length or depth noted in these proposed regulations.

1722.2 Each building on a lot that fronts on a pedestrian street shall devote not less than fifty percent (50%) of the surface area of the streetwall(s) at the ground level of each building to display windows with clear/low-emissivity glass¹, except for decorative or architectural accent, and to entrances to commercial uses or to the building.

Comment: Final Zoning Commission action on the clear/low-emissivity glass definition is scheduled for July 11, 2005.

¹ The Zoning Commission will conduct a public hearing on March 31, 2005 on a proposed text amendment that will define the term "clear/low-emissivity glass" (ZC Case 04-31). The Commission will also consider a definition for the term "clear floor-to-ceiling height" as used in proposed § 1722.5. As contained within the Office of Planning Report dated October 29, 2004, the proposed definitions are as follows:

Clear or Low-Emissivity Glass has a visible light transmission rating of at least seventy percent (70%) and an outdoor visible light reflectance rating of no greater than seventeen percent (17%).

Floor to ceiling height is a vertical distance measured from the finished floor to the finished ceiling that is unobstructed by any of the following:

- a) Elements of the building structure other than columns and walls;
- b) Components of mechanical or plumbing systems; or
- c) Components of electrical systems, except lighting fixtures.

If the ceiling is not finished, the distance shall be measured to the lowest point of any of the structural elements or systems referenced in a), b), or c) above.

- 1722.3 Each building on a lot that fronts on a pedestrian street shall devote not less than percent (50%) of the surface area of the streetwall between twelve feet (12 feet) and fourteen feet (14 feet) above grade to clear or clear/low-emissivity glass.

Issue: Concern has been expressed that this may interfere with the installation of grills for HVAC and other systems needing venting or intake.

OP believes it would be possible to accommodate these needs in the remaining 50% of the surface area.

- 1722.4 Each building shall be designed so as not to preclude an entrance every forty feet (40 ft.) on average for the linear frontage of the building; excluding vehicular entrances, but including entrance to ground floor uses and any main lobby.

- 1722.5 The ground floor level of each new building or building addition shall have a minimum clear floor-to-ceiling height of fourteen feet (14 ft.)² for a distance of at least thirty-six feet (36 ft.) perpendicular to the ground floor's front building line.

Comment: The Zoning Commission is scheduled to take final action on July 11, 2005 on the definition of clear height.

Issue 1: Concern has been expressed about whether this requirement will be achievable by projects well into their design phase, most notably the Wax Museum redevelopment in Square 515. The project developer states that as the project is currently designed, the project would not be able to add a second floor/mezzanine space for two of fourteen retail suites. The developer has asked to be exempted from this requirement and to have requirements imposed by the NCRC govern the development in lieu of any proposed for the MVT sub-area.

OP notes that mezzanines would be permitted in the two retail suites beyond a depth of 36 feet. OP notes that the resulting spaces in the first 36 feet of depth would be approximately 23 feet in height, and that such height is eagerly sought after by certain retailers.

OP continues to recommend the advertised language.

Issue 2: Concern has been expressed about the 36-foot depth specification for the clear height requirement, due to varying span and load transfer requirements among buildings. Some property owners have suggested that bays may be only 22 feet deep.

As noted above, the 36 foot figure was agreed upon by the task force working with OP on the crafting of these proposed regulations. The regulations do not

² See footnote number 1.

preclude working with a different structural module (e.g., 22 feet) and extending the 14-foot clear height beyond 36 feet (e.g., to a 44-foot depth in the case of a 22-foot module).

The Commission may wish to explore this issue further during the public hearing.

**1723 PRINCIPAL INTERSECTION AREA (PIA): LOCATIONS INCLUDED
(DD/MVT)**

1723.1 The provisions of §§ 1723 through 1727 shall apply to those portions of buildings in Squares 483, 484, 515 or 516 that:

- (a) Front on K Street or 5th Street; and
- (b) Fall within any of four (4) seventy-two foot square (72 foot by 72 foot) areas as measured from the point of tangency of the rights of way lines of K Street and 5th Street in the relevant quadrant described by the intersection of these streets.

1723.2 The area described in 1723.1 shall hereafter be referred to as the Principal Intersection Area (PIA).

1723.3 As illustrated in the following table, each of the four corners within the PIA has four (4) thirty-six foot by thirty-six foot (36 foot by 36 foot) sub-areas.

Issue: As noted above, 36-foot modules were chosen by the MVT Subarea Task Force as representative of typical bay measurements for future buildings in the Triangle. Since set-down there have been suggestions that other modules may be more appropriate: e.g., 22 feet.

It is possible to uncouple the PIA modules' measurements from either 36-foot modules or structural bay measurements. The Commission may wish to seek input on this.

Square 483	Square 483		5th Street	Square 515		Square 515
	<u>D</u>	<u>B</u>		<u>B</u>	<u>D</u>	
	<u>C</u>	<u>A</u> (NW)		<u>A</u> (NE)	<u>C</u>	
K Street			Intersection 5 th & K Streets	K Street		
Square 484	C	A (SW)	5th Street	(SE) A	<u>C</u>	Square 516
	<u>D</u>	<u>B</u>		<u>B</u>	<u>D</u>	
	Square 484			Square 516		

- 1723.4 In the table, “K Street” defines the east and west directions; “5th Street” defines the north and south directions. The northwest corner is Square 483; the northeast corner is Square 515; the southwest corner is Square 484; the southeast corner is Square 516.
- 1723.5 At each corner there are four sub-areas labeled A, B, C and D. Each block in the chart labeled A, B, C, or D represents a 36-foot by 36-foot area within the respective 72-foot by 72-foot PIA corner.
- 1723.6 The “A” sub-areas are the thirty-six foot by thirty-six foot squares nearest to the intersections. The “B” sub-areas are the thirty-six by thirty-six foot squares fronting on 5th Street, that are between thirty-six and seventy two feet north and south of K Street. The “C” sub-areas are the thirty-six foot by thirty-six foot squares fronting on K Street that are between thirty-six and seventy two feet east and east and west of 5th Street. The “D” sub-areas are the thirty-six foot by thirty-six foot interior squares that have frontage on neither K Street nor 5th Street.

1724 PIA: MAXIMUM BUILDING HEIGHT (DD/MVT)

1724.1 Except for buildings in Square 515 the portion of a building in an "A" sub-area shall be no higher than fifty feet (50 feet) above grade.

1724.2 No more than fifty percent (50%) of the portions of a building in each of the "B" and "C" sub-areas shall be more than fifty feet (50 feet) above grade.

Comment: The 50-foot heights and their distribution were chosen to reflect the scale defined by the existing buildings on the southeast and southwest corner of this intersection and to acknowledge the design already proposed for the existing Wax Museum site. Since this language was advertised, the D.C. Preservation League, in partnership with the DC Historic Preservation Office, has submitted landmark and historic district nominations for the proposed National Register of Historic Places Multiple Property designation of the Mount Vernon Triangle.

The buildings on these corners are listed as contributing buildings. If the application is approved by the Historic Preservation Review Board, there will be a degree of protection for these buildings and their context that cannot be afforded by zoning regulations. It is also possible that historic review of proposals for construction within the PIA would result in design solutions not envisioned by this section of the advertised regulations.

Issue: The owner of Square 483 has suggested that the lateral extent of the height restrictions be based on a 22 foot module to accommodate the projected structural needs of a building on that Square. See previous comments on this.

1725 PIA: MINIMUM GROUND FLOOR HEIGHT (DD/MVT)

1725.1 With the exception of buildings in Square 516 that existed as of [the effective date of this section], the following minimum ground floor height requirements apply to each building located within the PIA:

Sub-area height	Minimum clear floor-to-ceiling
A	22 Feet
B & C ground floor	22 Feet for at least 50% of its
D	14 Feet

Comment: If buildings in Square 484 that are within the PIA are given historic protection, there may be impact on the specified height requirements.

1726 PIA: STREETWALL DESIGN (DD/MVT)

1726.1 Each building shall devote not less than seventy-five percent (75%) of the surface area of the streetwall(s) at the ground level, to a height of at least twenty-two feet (22 feet), to display windows with clear/low-emissivity glass, except for decorative or architectural accent and entrances to commercial uses or to the building.

Comment: This may need to be revisited for Square 484 if buildings in that Square gain historic status.

1726.2 Each building shall devote not less than seventy-five percent (75%) of the surface area of the streetwall between eighteen feet (18 feet) and twenty-two feet (22 feet) above grade to clear/low-emissivity glass.

Issue: Concern has been expressed that this may interfere with the installation of grills for HVAC and other systems needing venting or intake.

OP believes these needs can be accommodated in the remaining 25% of the surface area.

1726.3 The provisions of this section shall not apply to a building in Square 516 that existed on [the effective date of this section], or to a building in that Square that is renovated thereafter.

1727 PIA: MISCELANEOUS PROVISIONS (DD/MVT)

1727.1 There shall be no direct entrances to lobbies serving residential or office uses.

Issue: The developer of the Wax Museum site in Square 515 has expressed concern that this may interfere with emergency exists for the proposed grocery store fronting on the north side of the Square.

This may require additional discussion.

1727.2 Roof terraces, whether open to the sky or covered with awnings or canopies, that are atop the "A", "B" or "C" portions of a building subject to the special height

restrictions of § 1724 shall not be included in the maximum floor area ratio calculations as set forth in § 771.2.

Issue: The Commission has requested clarification of when roof terraces would not count toward FAR.

Further examination needs to be given to whether this provision should be included as a specific exclusion for this Sub-Area or more generally added to the overall Zoning Regulations as an exclusion from FAR counted in matter-of-right situations. OP will submit this as supplemental information.

Issue: The Commission asked for clarification of what is meant by "subject to the special height restrictions of Section 1724". This is intended to refer to the "A", "B" and "C" modules in the PIA.

1728 REDUCTION OF REAR YARDS AND SIDE YARDS OF BUILDINGS ABUTTING ALLEYS (DD/MVT)

1728.1 In the event that the Council of the District of Columbia accepts a dedication for public alley purposes of land within DD/MVT that would have been required to be a rear yard pursuant to § 774.7, and the land dedicated is adjacent to a public alley and extends the entire length of the lot, the rear yard requirements for the portion of the structure above the horizontal plane described in §774.7(a) shall be reduced by five feet (5 ft.) for every ten-foot (10 ft.) depth of land dedicated.

1728.2 For the purposes of § 1728.1, the depth of the land dedicated shall be measured perpendicular to the alignment of the adjacent public alley.

1728.3 In the event that the Council of the District of Columbia accepts a dedication for public alley purposes of land within DD/MVT that would have been required to be a side yard pursuant to §§ 775.4 and 775.5, and the dedication is at least eight feet (8 ft.) deep, the side yard requirement shall be eliminated for that portion of the structure below a horizontal plane twenty feet (20 feet) above the mean finished grade at the middle of the side of the structure, if the dedication is adjacent to a public alley and extends the entire length of the lot.

Issue: The Commission wishes to consider:

- *For what alleys within the MVT has closure been requested within the last few years?*
- *What is current land ownership adjacent to the existing alley system and what are ownership consolidation trends?*

- *Might the provisions proposed in Section 1728 be overly complex and potentially underused given possible land consolidation and large-floorplate building patterns?*
- *What would be the FAR increase accompanying the trade-off between alley easement dedications and related liberalization of rear-yard and side-yard requirements?*

OP will supply this information in a supplemental report.

1729 GROUND FLOOR PARKING AND LOADING PROVISIONS (DD/MVT)

1729.1 Where a court is provided in accordance with § 776, and the surface of the court begins at or between the first floor and second floor above the ground floor, the gross floor area beneath the surface of the court shall not be included when calculating the floor area ratio of the building, provided:

- (a) The area immediately beneath the court provides:
 - (i) Vehicular access from a public or private alley for the purposes of providing loading berths, loading platforms, or service/delivery loading spaces required by § 2201.1;
 - (ii) Parking or access to parking required by § 2101.1; or
 - (iii) Parking permitted by § 1702.7(a) or (b); and
- (b) At least seventy-five percent (75%) of the court's surface is covered by vegetative material that reduces the rate of flow of stormwater run-off or contributes less to ambient heat build-up than a conventional roof; or
- (c) In a building that is subject to the recreation space requirements of § 773 or, if applicable, §§ 1706.4(f) or 1706.5(f), the court floor provides outdoor recreation space accessible to the building's tenants or occupants.

1729.2 *The recreational space provided in accordance with § 1729.1 (c) shall not count toward the building's required residential recreation space.*

Issue 1: *At the Setdown hearing, the Commission had been concerned about what constituted a LEED certification for the covering of a courtyard. The advertised language addresses that concern by referring to specific performance, rather than to LEED standards.*

Issue 2: *The Commission has requested an examination of what the proposed exclusion of such courtyards would mean for effective density/FAR.*

OP will submit this information in a supplemental report after the public hearing.

1730 DRIVEWAYS ON PREFERRED USE STREET FRONTAGES. (DD/MVT)

1730.1 The provisions of this section govern the construction of driveways that:

- (a) Provide access from the adjacent public street to parking spaces or loading berths;
- (b) Serve delivery loading spaces on the subject lot; or
- (d) Serve parking spaces, loading berths, or service/delivery loading spaces not required by the Zoning Regulations.

Comment: According to DDOT, existing driveways would remain valid for the existing uses. However, if a new development is proposed, that development would require permission for construction of a driveway even if the driveway is in the same location as a current driveway.

1730.2 No driveway may be constructed on the south side of K Street between 4th Street and 7th Street, or on the north side of K Street between 5th Street and 7th Street.

Issue: A property owner in Square 516 has requested that one new driveway be permitted on the south side of the 400 block of K Street.

OP notes that Special Exception permission could be sought for such a driveway under Section 1730.5. OP continues to recommend adoption of the advertised language.

1730.3 There shall be no more than one driveway constructed in the following areas:

- (a) The north side of K Street between 4th Street and 5th Street;

Comment: There are already driveways on the north side of K Street. As designed, the Wax Museum development will require a new driveway on the north side of K Street between 4th and 5th that will not align with the alley on the south side of K Street. (This alignment was previously proposed as a requirement). Construction of a new driveway at a different location may require BZA Special Exception approval under Section 1730.5.

- (b) The east side of 5th Street between I Street and K Street; and
- (c) The east side of 5th Street between K Street and L Street.

- 1730.4 There shall be no more than two driveways constructed in the following areas:
- (a) The west side of 5th Street between I Street and K Street; and
 - (b) The west side of 5th Street between K Street and L Street.
- 1730.5 Exceptions from the prohibitions and limitations of this section shall be permitted if granted by the Board of Zoning Adjustment under § 3104, provided the applicant demonstrates that:
- (a) There is no practical alternative means of serving the parking, loading or drop-off needs of the building to be served by the proposed driveway, such as signage approved by the District Department of Transportation (DDOT) that would direct vehicles to an alternative entrance point within the same Square;
 - (b) The driveway will not impede the flow of pedestrian traffic on the street frontages listed in §§ 1730.2 to 1730.4; and
 - (c) The proposed driveway is not inconsistent with the DDOT landscape plans for the public rights of way in the Mount Vernon Triangle Area, to the extent that such plans exist at the time of the special exception application.

1731 DRIVEWAYS: OTHER STREET FRONTAGES (DD/MVT)

- 1731.1 The provisions of this section apply to street frontages in DD/MVT not listed in §1730.

Comment: According to DDOT existing driveways would remain valid for the existing uses. However, if a new development is proposed, that development would require permission for construction of a driveway even if the driveway is in the same location as a current driveway.

- 1731.2 The provisions of this section apply to driveways that provide access from the adjacent public street to parking spaces or loading berths within the a Square, whether or not those spaces or berths are required by the Zoning Regulations.
- 1731.3 No more than one driveway may be constructed within the length of an individual building, unless the building extends the entire length of the block, in which case § 1731.4 shall apply.
- 1731.4 No more than two driveways may be constructed per block-face.

- 1731.5 Each driveway shall be separated by no less than sixty feet (60 feet).
- 1731.6 Exceptions from the requirements of this section shall be permitted only if granted by the Board of Zoning Adjustment under § 3104, provided that the applicant demonstrates that:
- (a) There is no practical alternative means of serving the parking, loading or drop-off needs of the building to be served by the proposed driveway, such as signage approved by the District Department of Transportation (DDOT) that would direct vehicles to an alternative entrance point within the same Square;
 - (b) The driveway will not impede the flow of pedestrian traffic on the street frontages listed in §§ 1730.2 through 1730.4; and
 - (c) The proposed driveway is not inconsistent with the DDOT landscape plans for the public rights of way in the Mount Vernon Triangle Area, to the extent that such plans exist at the time of the special exception application.

1732 PERMITTED GROUND FLOOR USES (DD/MVT)

- 1732.1 For the purposes of identifying the location of permitted ground floor uses, the Mount Vernon Triangle District is divided into the three Sub-Areas:
- (a) The Special Entertainment Use Sub-Area comprises the areas of Square 483, 383, 515 and 516 that are included within the Principal Intersection Area defined in § 1723.1.
 - (b) The Secondary Use Sub-Area comprises the areas with frontage along the portions of Square 515 and 516 between the centerpoint of 4th Street and the centerpoint of the public alley in Square 515 existing on [the effective date of this section] that is approximately three hundred sixty feet (360 feet) west of 4th Street.
 - (c) The Primary Use Sub-Area comprises all areas not defined in § 1732.1 (a) or (b) with frontages along K Street in Squares 451, 483, 484, 484W, 515 or Square 516; or with frontages on 5th Street in Squares 483, 484, 515 or 516.

Comment: The use requirements in Section 1732.4 for the Special Entertainment Use Sub-Area apply to the ground floor of only the portion of a building that is within the Principal Intersection Area. The use requirements in Section 1732.2 for the Secondary Use Sub-Area apply to the ground floor of only the portion of a building that is within the Secondary Use-Sub Area. The use requirements in Section 1732.3 for the Primary Use Sub-Area apply to the ground floor of only the portion of a building that is within the Primary Use Sub-Area.

This responds to concerns that if a building "touched" the PIA, for instance, then the entire ground floor of the building would be subject to Special Entertainment Use Sub-Area requirements. This would not be the case.

1732.2 The following uses may be established and continued on a permanent basis on the ground floor of any building located in the Primary or Secondary Use Sub-area and on an interim basis ("interim use") on the ground floor of any building located in the Special Entertainment Use Sub-area:

- (a) Antique Store;
- (b) Artist Live-Work Space or Artist Studio, with Sales;
- (c) Apparel and Accessories Store;
- (d) Art Center;
- (e) Art Gallery;
- (f) Art School, including school of dance, photography, filmmaking, music, writing, painting, sculpturing, or printmaking;
- (g) Arts Services, including set design and restoration of artworks;
- (h) Assembly Hall, Auditorium, Public Hall or Other Performing Arts Space, including rehearsal/pre-production space or concert hall;
- (i) Auction House;
- (j) Bakery, limited to baking of food sold on premises;
- (k) Bicycle Shop;
- (l) Barber or Beauty Shop;
- (m) Blueprinting, Printing or Copy Service;
- (n) Book Store;
- (o) Cabaret;
- (p) Candy Store;
- (q) Clinic;
- (r) Computer Store;
- (s) Concert Hall or other Performing Arts Space;
- (t) Cosmetic Store;
- (u) Camera Store;
- (v) Craftsman or artisan studio, with sales;
- (w) Dance Hall, Discotheque, or Ballroom;
- (x) Department Store;
- (y) Dinner Theater;
- (z) Dressmaking or Tailor Shop;
- (aa) Drinking Place, including bar, nightclub or cocktail;
- (bb) Drug Store;
- (cc) Dry Cleaner;
- (dd) Fabric Store;
- (ee) Fast Food Restaurant, excluding drive-through;
- (ff) Film exchange;
- (gg) Florist and Plant Store;

(hh) Furniture Store;
(ii) Gift, Novelty, and Souvenir Shop;
(jj) Grocery Store;
(kk) Hardware Store;
(ll) Health or Exercise Studio;
(mm) Hobby, Toys and Game Shop;
(nn) Home Furnishing Store;
(oo) Home Supply and Decorating Store;
(pp) Jewelry Store;
(qq) Liquor Store (subject to a public hearing);
(rr) Leather Goods and Luggage Store;
(ss) Legitimate Theater;
(tt) Library, Public;
(uu) Lobbies for Apartment, Condominium or Other Residential Uses;
(vv) Movie Theater;
(ww) Museum;
(xx) Musical Instruments and Accessories Sales;
(yy) Newsstand;
(zz) Office Supplies and Equipment Sales;
(aaa) Optical Goods Store;
(bbb) Paint Store;
(ccc) Pet Store;
(ddd) Picture Framing Studio or Shop;
(eee) Printing, Fast Copy Service;
(fff) Radio, Television, and Consumer Electronics Store;
(ggg) Restaurant
(hhh) Secondhand Store or Consignment Shop;
(iii) Shoe Repair and Shoeshine Parlor;
(jjj) Shoe Store;
(kkk) Specialty Food Store;
(lll) Sporting Goods Store;
(mmm) Telegraph Office;
(nnn) Television and Radio Broadcast Studio
(ooo) Theater, including Motion Picture Theater
(ppp) Tobacco Store;
(qqq) Travel Agency, Ticket Office;
(rrr) Variety Store;
(sss) Video Tape Rental; and;
(ttt) Other similar personal/consumer service establishment or retail use including assemblage and repair clearly incidental to the principal use.

Issue1: Concern has been expressed about conference rooms for professional offices, such as law firms, not being a permitted use in the primary use sub-area. Such uses are seen as easier to market than retail uses in the initial lease period for transitioning area such as the MVT.

OP believes that permitting such uses as a matter of right would create a disincentive to leasing the spaces for retail and other preferred uses, as the professional offices' ability to pay would likely exceed that of potential initial retail or other preferred users. OP notes that such professional uses could be permitted as Special Exceptions under Section 1732.6.

1732.3 The following uses may be established and continued on a permanent basis on the ground floor of any building located in the Secondary Use Sub-area and on an interim basis ("interim use") on the ground floor of any building located in the Primary or Special Entertainment Use Sub-areas:

- (a) All uses permitted in §1732.2;
- (b) Accountant;
- (c) Apartment or Condominium Entered Directly From Street;
- (d) Architect;
- (e) Attorney;
- (f) Bail Bondsman;
- (g) Bank, Loan Office, or Financial Institution;
- (h) Counseling Service;
- (i) Consultant - General;
- (j) Dentist, Doctor, or Medical Office;
- (k) Employment Agency;
- (l) Escrow Agent;
- (m) Government;
- (n) Health Clinic;
- (o) Insurance Broker;
- (p) Laboratory;
- (q) Landscape Architect;
- (r) Mortgage Broker;
- (s) Public Agency Office;
- (t) Real Estate Agent, Appraiser, Broker, Developer;
- (u) Social Service Agency Office;
- (v) Stockbroker;
- (w) Tax Preparer;
- (x) Title Company;
- (y) Trust Company; and
- (z) Utility Company, Offices of.

1732.4 The following uses may be established and continued on a permanent basis on the ground floor of any building located in any of the three sub-areas:

- (a) Book Store including restaurant;
- (b) Cabaret;

- (c) Drinking Place, including bar, nightclub or cocktail lounge; and
- (d) Restaurant.

Comment: The restrictions are proposed to apply only to the 72-foot by 72-foot squares on each of the four corners of the Principal Intersection Area. This addresses a concern that had been raised after setdown.

Issue: Concern has been expressed by the developer of the Wax Museum site that grocery stores are not permitted uses in the Secondary Use Sub-Area. Additional concern has been expressed that the secondary exit for the grocery store, as designed, may be located in the PIA.

OP notes that the grocery store itself would not be located in a restricted area. Additional discussion may be needed about the exit location.

1732.5 Unless approved by the Board of Zoning Adjustment pursuant to § 1732.3, no interim use shall be established or continued for more than five years after the date that the Zoning Administrator publishes a notice in the *D.C. Register* indicating that, since [the effective date of this Section], certificates of occupancy for the use of three million five hundred thousand square feet (3.5 million square feet) of new construction have been issued for properties located in the Mount Vernon Triangle Area.

Issue: Concerns have been expressed about this so-called “trigger mechanism” for use. These include:

- *Concern that the interim-use tenants will be reluctant to sign a lease for a date-uncertain period;*
- *Concern that in the MVT neighborhood, where there is not an established retail market or tradition, it will be difficult to secure initial leases from the permitted types of uses included in Sections 1732.2 – 1732.4. Further concern has been expressed that failure to have ground floor spaces occupied by the permitted uses and, therefore, having those spaces remain vacant, will be a drag on the market and a negative factor for the area’s development;*
- *Concern about the administrative mechanism for tracking the 3.5 million square foot “trigger point”.*

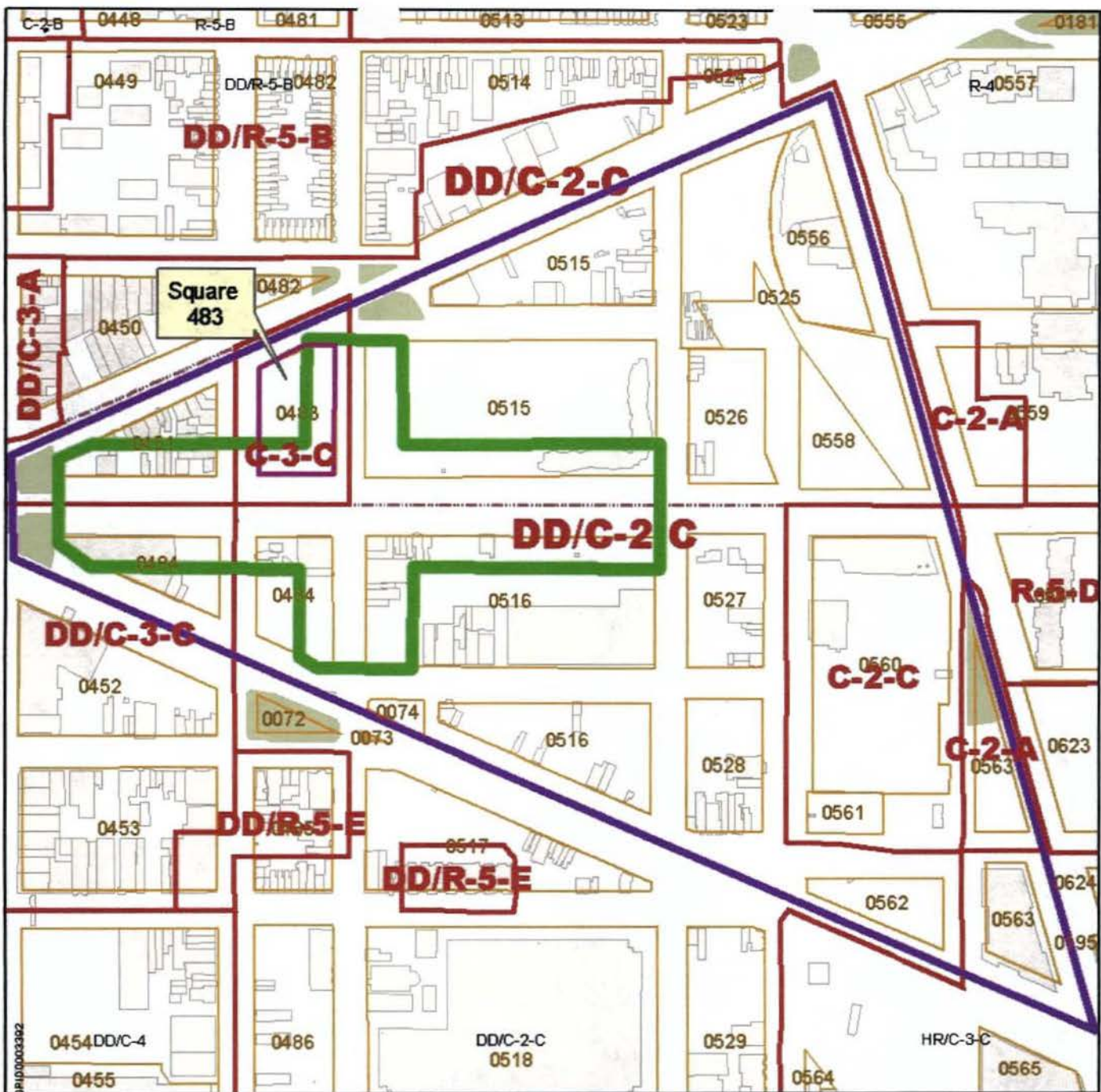
The “trigger” mechanism was developed by OP in consultation with the MVT Sub-Area Task Force. It is intended to permit a wider range of uses when the MVT retail market is in its initial stages, and to then focus those uses after momentum and a critical mass has developed.

The Commission may wish to discuss whether this mechanism is too complicated, and whether the concept of matter-of-right interim uses should be eliminated in favor of a combination of permanent uses and special exceptions. OP notes that if the “trigger point” creates too much uncertainty for lessors or lessees, it may be possible to lease to a permanent use at a lesser rate during the first few years.

- 1732.6 In addition to meeting the standards of § 3104, the applicant shall demonstrate that it made good faith efforts for at least nine months (9 months) prior to applying for the special exception to lease space for one of the permanent ground floor uses allowed in the Sub-area in which the applicant's property is located.
- 1732.7 Approval of the establishment or continuation of an interim use by the Board of Zoning Adjustment shall be for no more than a five (5) year period from the date of the certificate of occupancy issued pursuant to the approval.
- 1733 GROUND FLOOR AREAS REQUIRED TO BE DEVOTED TO PREFERRED USES (DD/MVT)**
- 1733.1 The provisions of this section apply to each building with frontage on K Street in Squares 451, 483, 484, 484W, 515 or 516; and to each building with frontage on 5th Street in Squares 483, 484, 515 or 516.
- 1733.2 Each building that faces or abuts a street segment identified in § 1732.1 shall devote not less than fifty percent (50%) of the gross floor area of the ground floor to uses listed in §§ 1732.2, 1732.3, or 1732.4 ("preferred uses"), provided:
- (a) Not more than thirty percent (30%) of the gross floor area of the ground floor required to be devoted to preferred uses shall be occupied by financial institutions; and
 - (b) The net leasable area occupied by the preferred uses shall be no less than eighty percent (80%) of the gross floor area allocated to these uses;
 - (c) Up to one thousand (1,000) square feet of the sidewalk or atrium area of an unenclosed sidewalk café may count towards the preferred use requirement of this section, if the sidewalk café is operated from a restaurant located on the subject lot.

EMC/slc

Attachments to Supplemental Report
Location Map
Use Areas
Alleys and Driveways



Mount Vernon Triangle Proposed District Existing Zoning, Boundaries and Square 483 Location

Boundaries of Proposed New MVT District Within DD: Smaller Green Area
Boundaries of Mount Vernon Triangle: Larger Purple Area

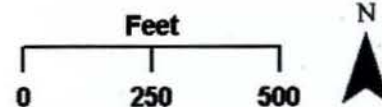
★ ★ ★ Government of the
District of Columbia
Anthony A. Williams, Mayor

Office of Planning ~ July 9, 2004

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purposes from a variety of sources.
It is neither a survey nor a legal document.
Information provided by other agencies
should be verified with them where appropriate.

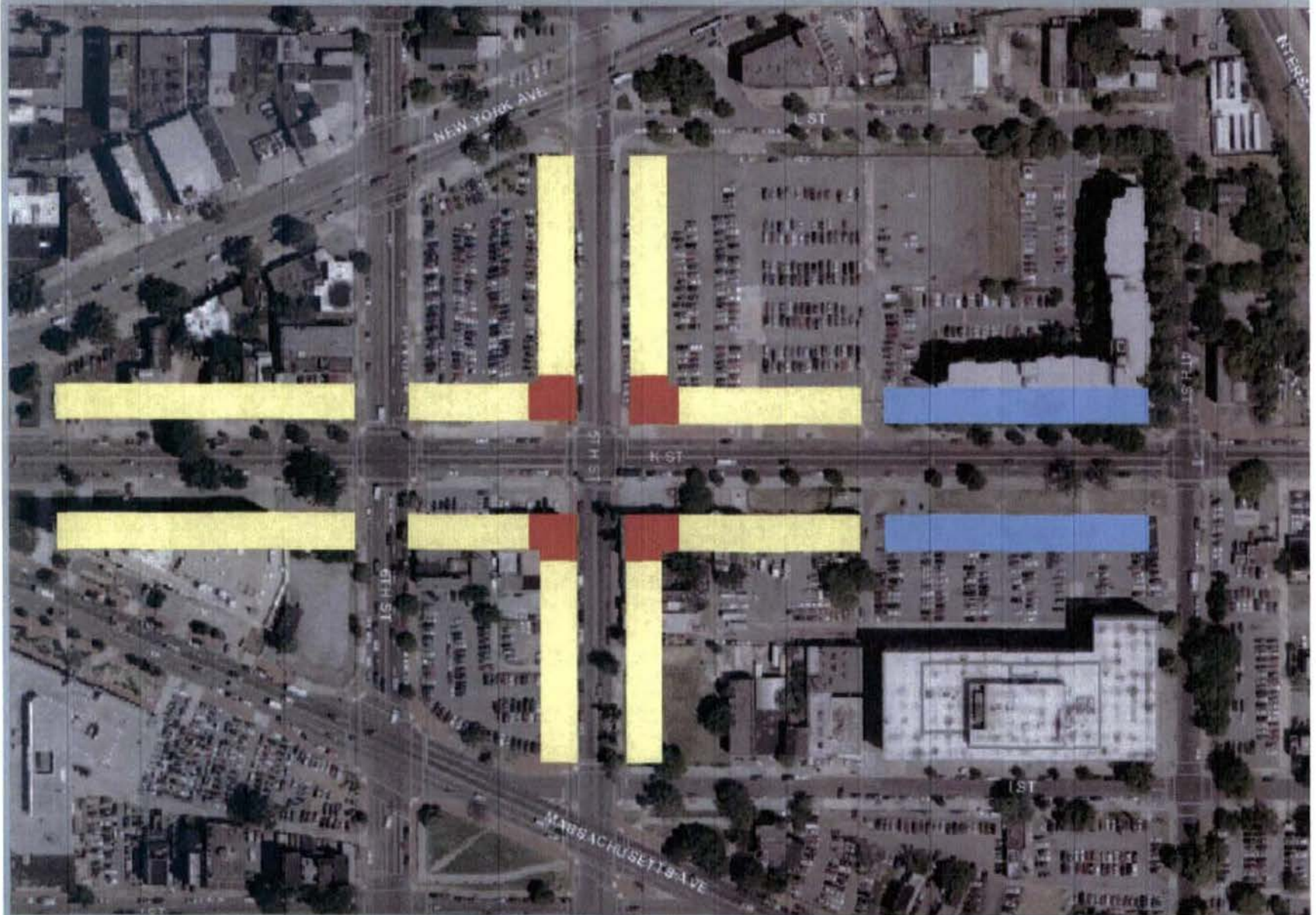
Legend

- Central Employment Areas (CEA)
- Proposed MVT District Within DD
- Mount Vernon Triangle



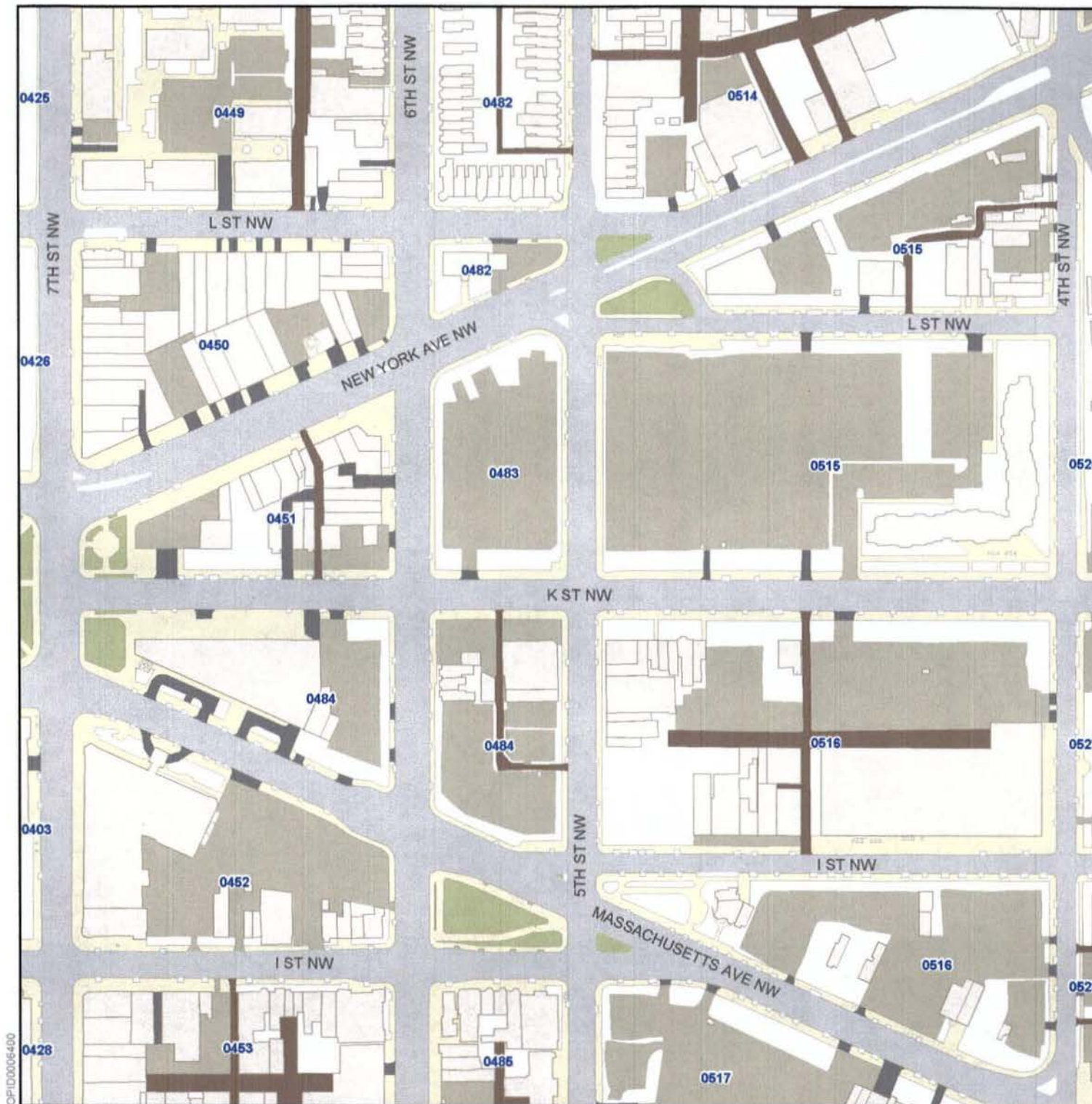
Note: Land Use Info based on OTR records.

Attachment 1

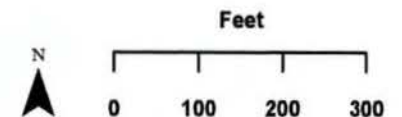


Proposed overlay with primary subdistrict in yellow and secondary in blue. Special corner use requirements are indicated in red.

Mt. Vernon Triangle Alleys and Driveways



- Buildings
- Sidewalks
- Drives
- Roads
- Alleys
- Parking Lots
- Bridges, overpasses etc
- Water
- Parks



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District of Columbia
Anthony A. Williams, Mayor

Office of Planning ~ June 17, 2005

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