

**MEMORANDUM**

TO: District of Columbia Zoning Commission

FROM:  Jennifer Steingasser, Deputy Director, Development Review and Historic Preservation

DATE: November 4, 2013

SUBJECT: Case No. 08-06A Title 11, Zoning Regulations – Comprehensive Text Revisions; Hearing Report on Subtitle I – Downtown (D Zones)

I. INTRODUCTION

The Comprehensive Plan is a general policy document that provides overall guidance for future planning and development of the city. The first Comprehensive Plan was adopted in 1984 and 1985. In 2006 a new Comprehensive Plan (Comp Plan) was approved, which was the first major revision of the 1985 plan. The Comp Plan was updated in 2011. The Comp Plan's Implementation chapter (IM-1.3) calls for the substantial revision and reorganization of the zoning regulations:

The Zoning Regulations need substantial revision and reorganization, ranging from new definitions to updated development and design standards, and even new zones.

This report provides the Office of Planning's (OP's) recommendation on Subtitle I – Downtown (D) zones. It includes a summary of the Central Area element, a summary of the proposed changes relative to the current code chapters, and a summary of changes to the Downtown zoning proposals that have been made since the Zoning Commission last considered them in 2009. Additionally, the report notes any clarifying or additional language that may be required or is recommended.

The Comprehensive Plan's Central Washington Area Element

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, NoMA and the Capitol Gateway (CG) Overlay.

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

The growth of the area that serves functionally as the downtown includes large areas surrounding the existing DD overlay, but these areas lack the zoning tools of the DD overlay for achieving the goals set out in the Comprehensive Plan. With the exception of the Capitol Gateway Overlay,



which is addressed in Subtitle K, the Central Washington areas identified in the Comprehensive Plan are part of the proposed expanded Downtown zoning boundaries.

Attachment A contains a table of Comprehensive Plan policies relevant to the existing and proposed Downtown regulations.

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.”

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.”

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.

Zoning Commission Action to Date

In general, the Commission held public hearings on the proposed concepts and then provided guidance to OP between 2008 and 2011. With respect to Downtown, OP submitted a public hearing report on October 15, 2009 and a hearing was conducted on November 2, 2009. At that hearing: OP and the Commission discussed the proposals; the Commission asked for clarification about the relationship between historic proposed preservation credits and housing production, and expressed concern about the proposed institution of residential parking maximums. Testimony was heard from five land use attorneys and one downtown property owner/developer. Unlike for most other topic areas, there was not a subsequent guidance session or decision meeting on the Downtown proposals but feedback was given to OP at the hearing.

The table that follows summarizes the actions taken to date by the Zoning Commission relative to the Downtown subtitle.

Subtitle	Case Number and Topic	Public Hearing and Feedback
Previously G; now I	08-06-10: Downtown	November 2, 2009 (OP Report October 15, 2009)

Advertised Version

All reports for Case 08-06A respond to the advertised text dated September 9, 2013 (“9/9/13 text”). The 9/9/13 text was posted and continues to be available for viewing on the Office of Planning website (www.dczoningupdate.org) and the Office of Zoning website (www.dcoz.dc.gov) through the

IZIS link. An updated copy on a disc was provided to all ANCs, and an updated paper copy was provided to every DC Public library.

Repetitions, Omissions, Additions and Clarifications

OP is aware that many of the regulations are repeated throughout the subtitles and that there are phrases that may be inconsistently used (e.g. “by special exception” and “as a special exception”). There are also some unintentional omissions due to the new format of the proposed text.

Some changes may also be recommended after additional consultation with the Zoning Administrator’s office since the publication of the 9/9/13 text and review of the guidance discussions. Additionally, OP has continued to hear from the public and where possible has proposed clarification or new language.

These issues are addressed in the report as clarifications with suggested or additional text, or noted as Errata with suggested additional text. The repetitions and inconsistencies will be reconciled after the public hearings in collaboration with the Office of Attorney General and any direction from the Commission.

II. SUBTITLE I

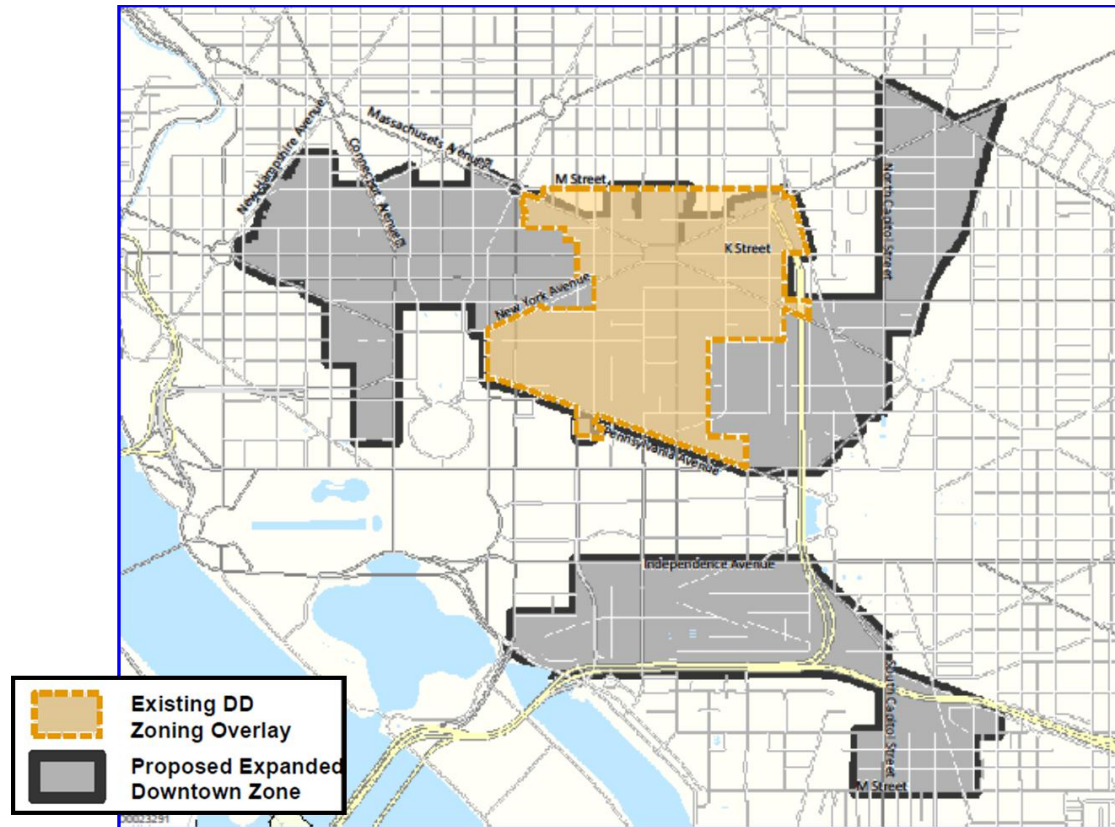
Subtitle I is based on the current Chapter 17 Downtown Development Overlay District regulations and regulations targeted to downtown development that are contained in other chapters. These other chapters include those establishing relevant base zone entitlements for zones within the existing Downtown and the proposed expansion area, such as chapters 4, 5, 6, and 7.

A “cross-walk” from the existing regulations to the proposed regulations is available on the Office of Zoning and Office of Planning websites. Although significantly re-organized and re-worded, the proposed subtitle retains and improves most of the existing downtown overlay provisions, underlying zones, and policy implementation zoning tools, and expands their applicability to the broader downtown areas identified in the Comprehensive Plan. Subtitle I § 101 outlines the organization of the subtitle and summarizes the content of its chapters.

The major downtown proposals are:

1. Align the coverage of downtown zoning regulations and permissions with the actual functional downtown, by expanding the areas where existing downtown overlay and zoning tools apply to high density areas included in the Comprehensive Plan’s Central Area element and identified in the Future Land Use Map as appropriate for high density mixed use or high density commercial use.

The existing and proposed downtown zone boundaries are shown in the following illustration:



Two areas north of Massachusetts Avenue NW and south of M Street that are now within the DD have been omitted from the proposed D zones because the areas are not designated for high density uses in the Comprehensive Plan. Other areas such as Dupont Circle are within the area designated for high density uses by the Comprehensive Plan, but are not included within the expansion because existing overlays or historic district restrictions preclude the introduction of new high-density downtown-type uses.

2. Maintain all existing commercial and residential entitlements;

No properties are proposed for downzoning or significant up-zoning. Entitlements generated by bonus-density generating uses, TDRs and CLD's would be preserved under the proposed Credits system. BZA and PUD adjustments to massing and density would be retained during a transition period prior to the issuance of a building permit.

3. Standardize 2 existing approaches to Downtown zone regulations:

- a. For zone-based regulations that apply across different downtown locations, the proposals consolidate 21 sometimes overlapping and duplicative zones into 11 zones in one subtitle. There is one table for each zone that contains or directly references all massing, use and other zoning regulations pertinent to the particular zone. The purpose statements and development tables for each zone are contained in Chapter 2. The table in Attachment B shows the conversion of current

names to proposed zone names in the existing Downtown and area proposed for its expansion

- b. For location based regulations that are individuated to each of ten different sub-areas or downtown but that apply across different zones within each area, the proposals would standardize existing ground floor use and exterior design provisions. The proposals would regulate by street frontages rather than by Square and lot as is now done. Eight of the sub-areas are in the current DD and the two new ones – Lower Connecticut Avenue and 1st Street, N.E. in NoMA are in expansion area. Maps of the locational sub-areas, their street-types and their geographically-based regulations are contained in Chapter 6.
4. Upgrade TDRs and /CLDs with more flexible Credit system for preferred uses that can:
 - a. Be used as transferable density,
 - b. Satisfy the provision of uses that would otherwise have been required on another site;
 - c. Traded in broader areas downtown; and that
 - d. Maintain the relative value of CLDs and TDRs. CLDs are more expensive to buy than TDRs. The relationship would be maintained by not permitting TDRs that have been converted to Credits to be used to meet housing requirements.

While the Credit system is focused on encouraging more housing and Arts uses and historic preservation, it would continue to be usable to incentivize other uses now served by TDRs, such as daycare and the minority owned or operated businesses.

The Credit system is summarized in the table in § 801.2 and thoroughly described in chapters 8 and 9.

5. For all but the densest zone, which is located on the north side of Pennsylvania Avenue between 3rd and 15th Streets N.W., the draft text continues to tie increased FARs and heights to the provision of housing or other preferred uses. The base FARs for commercial uses and the maximum FAR that can be achieved by providing specific uses are listed in Chapter 2 zone tables.
6. Require ground floor retail uses and arts uses in locations where they are now required, and along streets in expansion area identified as principal retail streets in the Comprehensive Plan;
7. Continue to preserve historic properties by maintaining height and FAR limitations and allowing generation of Credits for unused density and construction of housing;
8. Incentivize more than the required amount of housing, retail and arts and other preferred uses by allowing the generation of Credits for square footage of the use that is greater than what is required;
9. For the now-federally owned portions of Southwest Washington near L'Enfant Plaza, the proposals tailor a D-8-B-1 zone that promote mixed uses and street connectivity by making access to the maximum permitted densities permissible, subject to agreements to re-open closed rights of way, provide housing or purchase Credits, and undergo design review by the Commission;

10. Remove minimum parking requirements;

11. Eliminate 55-foot loading berths requirements.

III. COMPARISON OF PREVIOUS AND CURRENT OP RECOMMENDATIONS

The 9/9/13 draft text reflects proposals based on OP's October 15, 2009 public hearing report on Downtown, the November 2, 2009 hearing on the topic, and comments received at OP's subsequent outreach to the residential, commercial and property-owning communities within the proposed boundaries of the expanded Downtown.

This section compares the major recommendations in OP October 15, 2009 proposals and the proposals in the draft text dated September 9, 2013.

A. Zone Consolidation

Previous Recommendations:

- 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.

Current Proposals:

After further analysis and consultation with potentially affected parties, OP determined that 11 zones are needed to accommodate the complexity of functions, densities, zoning tools and neighborhoods in the existing and expanded downtown. Each of these zones has a zone table in Chapter 2 that provides Development Standards, Use Standards Permissions and Credits, and Design Standards and Design Review Credits. Each table included references to all zoning regulations pertinent to the zone throughout the downtown and in the particular locations identified in Chapter 6.

Previously, federal properties south of Independence Avenue, SW were recommended for zoning comparable to the existing C-3-C zone, should the properties ever become privately owned. To incentive conversion from federal to private ownership, a new zone has been created that would conditionally give access to heights and densities comparable to the existing DD/C-3-C/ TDR receiving zone.

Appendix A contains a table of zone name conversions in the existing and expanded downtown and their proposed FARs and heights.

B. Housing

Previous Recommendations:

- Replace the current mechanism 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.

Current Proposals

The proposed text continues to require housing where it is now required. The existing Housing Priority Areas have been refashioned as individual zones.

In all but two proposed zones providing housing would be the key to achieving additional density. The zones where this would not be the case replace the existing C-5 zone along the north side of Pennsylvania Avenue, and the newly proposed D-8-B-1 zone where federal uses are now clustered near L'Enfant Plaza.

A Credit generation and use system is proposed in chapters 8 and 9 to replace the existing TDR and CLD system. The use most incentivized by the system is housing, although other uses that the zoning regulations currently incentivize by TDRs or make more feasible to achieve or construct through CLD's have also been incorporated into the Credit system.

The ability to comply with housing requirements through construction of affordable housing outside of Downtown has been retained in § 401.7.

C. Retail

Previous Recommendations:

- Continue existing street-based 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 streets. Add streets where approved policy guidance calls for support of retail. Do not allow the generation of Housing Credits for retail uses.

Current Proposals

The 9/9/13 draft is consistent with the previous recommendations. The CG overlay zone requirements and standards are incorporated in Subtitle K.

Primary and secondary retail streets are clearly delineated in Chapter 6. On these street frontages retail is required. On the most important retail streets (Primary Streets) 14 foot high ground floor ceilings would be required and openings for garages and loading areas would be allowed only as special exceptions. On secondary streets that require retail, the minimum ground floor height and vehicular opening restrictions would not apply.

Consistent with the Comprehensive Plan's Central Area Element and earlier drafts, lower Connecticut Avenue and First Street in NoMA are proposed as new primary streets.

D. Historic Preservation**Previous Recommendations:**

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

Current Proposals

Consistent with the earlier draft, Credits would be generated by building rehabilitation, and by converting unused density on a historic structure's site into Credits. Multiple credits are generated by conversions to housing, and especially to affordable housing.

At the November 2, 2009 hearing the Zoning Commission expressed some concern about whether the use of Credits in the expanded downtown would reduce the amount of housing that would be generated by Credits. OP's analysis shows that 88% of the historic landmarks subject to zoning in the expanded downtown area are located to the west of the existing DD overlay, between the DD overlay and the Golden Triangle area. Seventeen of these thirty properties may be eligible to generate Credits from historic preservation and/or unused density under the 9/9/13 draft proposals. To lessen the possibility of preservation Credits reducing purchase incentives for Housing-generated Credits, a higher ratio of Credit generation has been proposed for preservation projects that include housing than for those that do not.

E. Arts Use Requirements**Previous Recommendations:**

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

Current Proposals

The 9/9/13 draft incorporates the Arts proposals in Subtitle C. The existing Downtown Arts overlay would become Subtitle I § 607's Downtown Arts sub-area. Arts uses would continue to be required. The categorization of arts uses has been refined, consistent with the Arts and Culture proposals. The new use categories distinguish between what are sometimes considered "real" arts and others that are considered "arts-related". The proposed sub-area regulations require that a certain percentage of "real" arts uses be provided. Within the overall proposed zoning regulations such types of arts uses are given greater encouragement by excluding bars and restaurants from the Arts use category. The proposed Downtown Arts sub-area regulations also clarify that portions of the existing Downtown retail overlay are also within the existing and proposed Arts sub-area but, as now, have a lesser Arts use requirements than locations only in the Arts sub-area.

F. Residential Parking**Previous Recommendations:**

- Eliminate current parking minimums and establish parking maximums for residential uses downtown. Maximums should be geared toward ensuring unbundling of residential parking and maximum efficiency of residential parking lots.

Current Proposals

The existing C-5 zone has no parking requirements in the current regulations. Consistent with comments made by Commissioners at the November 2009 hearing, all minimum parking requirements are proposed for elimination in the existing and expanded downtown. The parking supply would be linked to the marketplace.

While parking maximums for residential uses had been recommended in earlier drafts of Downtown zoning, members of the Commission expressed concerns that instituting parking maximums for residential developments might put downtown housing at a competitive disadvantage with surrounding jurisdictions and that “spillover” parking would have a negative impact on areas of downtown where residents live.

Consistent with the recommended market-based approach to Downtown parking, the 9/9/13 draft text does not recommend the establishment of parking maximums in the Downtown. Additionally, the proposed Subtitle C, Chapter 19, Parking, includes a provision requiring Transportation Demand Management (TDM) measures.

G. New Surface Parking Lots

Previous Recommendations:

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

Current Proposals

The current draft text differs from the earlier recommendation. The proposals in Chapter 11 are similar to existing regulations for at-grade or above-grade parking lots or garages. Such facilities would be permitted:

By-right, subject to conformance with the proposed more stringent and sustainable layout, surfacing, design and landscaping requirements of Subtitle C, Chapter 19, if they provide only short-term parking leased to merchants or park and shop organizations or residents, or

By variance if they provide all-day commuter parking.

H. Capitol Gateway Overlay

Previous Recommendations:

- Include with new Downtown boundaries.

Current Proposals

The proposed text keeps the portion of the CG Overlay that is south of M Street, S.E. as a separate zone in that would not be included among the Downtown zones or subareas. The properties south of M Street, S.E. have more in common with the entertainment-oriented uses, design standards and design reviews promoted by zoning near the ballpark than they do with Downtown. Therefore only the CG overlay properties fronting on the north side of M Street S.W. and S.E. are proposed for inclusion in the expanded Downtown zones and Credit trading areas. These properties are largely developed or are within the Capper-Carrollburg PUD and are currently with the Southwest TDR receiving zone.

IV. ERRATA and CONCERNS TO BE FURTHER EXPLORED

A. Historic Preservation Considerations

1. **§ 306.1:** Concern has been expressed about the area of a historic site within which height is restricted, particularly the potential vagueness of language referring to “on the portion of a site”

Proposed clarifying language:

§ 306.1 In the D-1-A-2 through D-5-B-2 zones a building or structure within the footprint of ~~on the portion of a site occupied by~~ a historic landmark or a contributing building within a historic district shall be limited to 90 feet in height. In the D-6-B-1 through D-8-B-1 zones a building or structure on the site of a historic landmark or a contributing building within a historic district may be constructed to the maximum height allowed under the Height Act.

2. **§ 306.1:** Concern has been expressed that placing 90-foot height restrictions on historic properties in the D-5-B-1 zone [current DD/C-3-C Housing Priority Areas (HPA's) and DD/MVT/C-3-C/HPA's] would lessen by 20 feet the 110 foot maximum permitted if consistent with the Height Act.

After the public hearing OP will examine the potential impact of § 306.2's proposed height limitation for this zone, and whether § 306.1's clarification that the limitation applies only within the footprint of the historic property may have already resolved the height concern.

3. **§ 308.3:** It was noted that the proposed language precludes averaging composite FAR between a historic site regulated by this section and another property permitted a high FAR and that is legally linked to the historic property.

The elimination of the existing ability to average such FARs, as is now permitted by the existing § 1707.4, was unintentional and language contained in the existing § 1707.4 has been re-inserted:

§ 308.3: If a historic landmark, contributing building in a historic district, or a building that received its first certificate of occupancy before 1936 has an existing FAR of:

(a) 6.0 or less, it shall be is limited to an on-site FAR of 6.0 and shall be exempt from the minimum residential requirements of its lot's zone, but may generate density credits under the provisions of Chapter 8, provided that in a multi-lot development or combined lot development within a single square, the permitted 6.0 FAR may be

averaged with the permitted FARs of other lots that are part of the development, including any lots not subject to the 5.0 FAR maximum, so as to achieve a composite FAR for the entire development ;

(b) Greater than 6.0, it shall not increase its existing FAR, but shall be permitted to occupy all of the existing floors of the building for uses permitted within the zone and may generate density credits under the provisions of Chapter 8, provided that in a multi-lot development or combined lot development within a single square, the permitted 6.0 FAR may be averaged with the permitted FARs of other lots that are part of the development, including any lots not subject to the 5.0 FAR maximum, so as to achieve a composite FAR for the entire development ;

B. Retail Considerations

1. **§§ 602.2 and 615.3, FAR Requirements in NoMA.** Concern has been expressed that the 0.5 ground floor FAR requirement is inconsistent with the retail priority proposed for NoMA's Primary Street, 1st Street, NE. It has been noted that because the blocks between North Capitol Street and 1st Street, NE are unusually deep and unbroken by north-south alleys, buildings fronting on 1st Street often draw their height from the wider North Capitol Street rather than the narrower 1st Street. Accordingly, the proposed regulation would require 0.5 FAR of retail space on the entire ground floor stretching from 1st Street to North Capitol Street.

No change to the draft § 602.2 is proposed at this time. Under the Height Act, properties with frontage on 1st Street, NE and on North Capitol Street for which a development chooses to avail through-block buildings of heights permitted by frontage on North Capitol are able to achieve 20 feet more height than properties that are limited to choosing 1st Street for their height permissions. The NoMA plan encourages property owners to provide alleys or public easements between 1st Street and North Capitol Street. Changing the proposed 0.5 FAR retail requirement would make it more likely that the alley/easement policy would not be implemented.

2. **§ 603.4, Ground Floor Height Requirements.** The previously submitted language has been clarified to exempt most existing buildings that do not have 14 foot high ground floors from the regulations governing the primary street ground floor clear height minimums for new buildings on primary street frontages.

Correction: § 603.4: Other than for buildings constructed on primary street segments in the Mount Vernon Triangle sub-area after [the effective date of the MVT regulations] and on the north side of M Street, SE after [the effective date of the CG Overlay regulations] Exceptions from the requirements prohibitions and limitations of § 603.1(a) shall not apply to be permitted for structures existing prior to [the effective date of these regulations]. if granted by the Board of Zoning Adjustment by special exception, provided the applicant demonstrates that the slab-to-slab height of the existing structure's first or second floor would have to be altered in order to meet the requirement.

C. Credits Generation

1. **§804.3 (G), Generation for Public Open Spaces / Plazas.** An unintended cross reference has been deleted.

Correction: § 804.4: ~~For permits pursuant to § 801.1(b) to~~ Five Credits shall be generated for each square foot of Public Open Space/Plaza pursuant to this subsection.

2. **§ 807.6, Time Limitations on the Conversion unused TDRs and unassigned CLDs into Credits.** This subsection has been modified to preclude the expiration after 3 years of Credit-converted unused TDRs and unassigned CLDs.

Correction: § 807.6: ~~Generation of Credits through~~ The conversion of unused TDRs or unassigned CLDs into Credits, pursuant to §§ 801.1(e) and 801.1(f), to shall occur no later than three years after [THE EFFECTIVE DATE OF THIS SECTION]. After that date, the provisions of these sub-sections §§ 801.1(e) and 801.1(f,) shall no longer be available. and the rights of previously built preferred uses to generate Credits will expire.

3. **§ 808.4: Obstructions within the L'Enfant Plan.** Subsection 808.4 allows the generation of one Credit for each square foot of gross floor area of an intrusion into a L'Enfant Plan street right of way. This provision could be counterproductive within the D-8-B-1 zone that has been proposed for the Southwest Urban Renewal Area. The number of Credits that could be generated under proposed § 808.4 could be large enough to enable a property to achieve maximum densities without providing housing or other preferred uses in what is now a completely office-use area. This would be contrary to the objectives of the Comprehensive Plan and its supplementary Maryland Avenue Plan.

Correction: §808.4: *In addition to generating Credits pursuant to § 808.1(c) of this subtitle, a project in any D zone other than D-8-B-1 that removes any incompatible intrusion into a street right-of-way of the L'Enfant Plan of Washington, as determined by the Historic Preservation Review Board, may generate additional Credits by an amount equal to the gross floor area of the removed intrusion, provided the right-of-way is returned to public jurisdiction, or the property owner executes a covenant that runs with the land permanently foregoing construction above grade within the historic right-of-way.*

D. Arts Sub-Area Trading Area Considerations

1. **§ 900.8: Bifurcation of the Downtown Arts Credit Trading Area.** The proposed Credit Trading Area boundaries split the Downtown Arts sub-area into two different Credit Trading Areas. Concern has been expressed that with the expanded boundaries for each of the new trade areas, the trading of arts credits would be permitted in such a broad area that the intended concentration of required arts uses would be diluted.

Response: The concern appears to be well-founded and after the public hearings, the trade area boundaries will be reviewed to include the Downtown Arts sub-area within only one Credit Trade Area.

E. Square 267 Zone Labeling Correction

1. This Square, a vacant property on the north side of Maryland Avenue in the SW Portals site, has until recently been shown as outside of a TDR receiving area. Recent zoning map corrections have re-included it in the C-3-C/TDR receiving area.

Correction: Square 267 should be labeled as being in the D-5-B-1 zone, rather than the D-4-B-1 zone, and map should be adjusted accordingly.

F. D-6-B-1 and D-7-B-1 Zone Corrections

1. **§ 210.** The proposed text indicates the D-6-B-1 zone would be equivalent to the C-4- non-HPA only in expanded Downtown, and DD/C-4/Non-HPA. The zone is actually intended to be the equivalent of the C-4 zone in the expanded Downtown. The DD/C-4-/non-HPA zone is proposed to become the D-7-B-1 zone. The errors had led to misimpressions on the proposed FARs for converted zones proposed

Correction: *§ 210: The D-6-B-1 zone:*

(C-4 non-HPA only in expanded Downtown, ~~DD/C-4/non-HPA~~)

2. **§ 212:** The converted zone names were not included in the 9/9/13 text.

Correction: *§ 212: The D-7-B-1 Zone*

(~~C-5~~)(~~DD-C-4 Non-HPA, DD-C-5~~)

G. Proposed D-8-B-1 Zone Considerations

1. **§ 213: Adjustments to the proposed D-8-B-1 Zone.** After additional review with parties potentially affected by the proposed zone, it was determined that there was too great an emphasis placed on re-opening closed streets in order to gain access to the tools by which a property could achieve the maximum density permitted in the zone. Several comments were also received asking to have a zone table for this proposed zone, as there already was for all other proposed D zones.

The re-worded language for the proposed zone includes the requested zone table and places greater emphasis on Zoning Commission review of a property development plan before access to greater density tools would be permitted. Additional refinements may be needed to the zone after the public hearing.

Correction: **213 THE D-8-B-1 ZONE:**

(C-3-C, non TDR, generally bounded by 4th and 12th Streets, SW and Independence Avenue and Maryland Avenue, SW; and including Squares ~~410 and 434~~) 325, 326, 327 Lot 831, 351, 352, 383, 384, 385, 409, 410, 433, 434, 462.

213.1 The D-8-B-1 zone:

- a) *Permits, with conditions, the highest density commercial development that is achievable under the Height Act;*
- b) *Fosters the transition of a federally-owned area into a mixed use area of commercial, residential, cultural, arts, retail and service uses, with both public and private ownership;*

- c) *Permits, with conditions, the highest density commercial development that is achievable under the Height Act,*
- d) *Fosters the transition of a federally-owned area into a mixed use area of commercial, residential, cultural, arts, retail and service uses, with both public and private ownership;*
- e) *Promotes greater pedestrian and vehicular connectivity with an emphasis on re-establishing connections that have been compromised by previous street closings, vacations, obstructing construction, or changes in jurisdiction; ~~incentivizes for the re-opening of closed streets~~*
- f) *Is not subject to C – Chapter 23, Inclusionary Zoning;*
- g) *Permits properties to generate and receive Density Credits as provided for in Chapters 8 and 9, subject to the review process in § 213.2;*
- h) *Shall be developed in accordance with the regulations of the ~~development standards table for the D-5-B-1 zone in § 208.1(f), as modified by § 213.2, and by the building height provisions in § 306.1.~~ following zone table:*

<u>D-8-B-1 Zone Table</u>				
A	B	C	D	E
REGULATORY TOPIC	STANDARD OR PERMISSION SPECIFIC TO THIS ZONE	MEASUREMENT RULES SPECIFIC TO THIS ZONE	CONDITIONS SPECIFIC TO THIS ZONE	PERTINENT REGULATIONS IN OTHER SUBTITLES
1. Development Standards				
Lot area, width, and subdivision	None. See	-----	-----	C Chapter 4
Alley Lot	- Chapter 14	-----	-----	-----
Height Maximum without Density Credits	130 ft. max., or as limited by Height Act	-----	§ 306.1 § 306.3(b) § 610.4	C Chapter 5
Height Maximum with Density Credits	130 ft. max., or as limited by Height Act	-----	§ 306.1 § 306.3(b) § 610.4 – Chapter 9	C Chapter 5
FAR – Residential Minimum	None	-----	-----	C Chapter 9
FAR - Non-Residential Maximum without Density Credits	6.5	§ 307.1	<u>§ 213.2</u> <u>§308.1</u> <u>§308.3</u>	C Chapter 9

<u>D-8-B-1 Zone Table</u>				
A	B	C	D	E
REGULATORY TOPIC	STANDARD OR PERMISSION SPECIFIC TO THIS ZONE	MEASUREMENT RULES SPECIFIC TO THIS ZONE	CONDITIONS SPECIFIC TO THIS ZONE	PERTINENT REGULATIONS IN OTHER SUBTITLES
Maximum FAR: a) If property is in compliance with § 213.2, and: i) If all FAR is residential; ii) If all FAR exceeding the non-residential maximum is residential; or iii) If using Density Credits	No limit	§ 307.1	<u>§ 213.2</u> <u>§308.1</u> <u>§308.3</u> Chapter 9	C Chapter 11
Lot Occupancy	No limit	-----	-----	Not Applicable
Front Setback	See columns C,D,E	§ 311	<u>§ 213.2</u>	C Chapter 10
Front Build-to	See columns C,D,E	§ 313	§ 314	C Chapter 10
Side Setback	Not required. If provided, see columns C,D,E	§ 315	<u>§ 213.2 or § 617</u>	C Chapter 11
Rear Setback	Feet from Rear Lot Line	Rear Lot Line does not abut alley § 317.1(a), (c), (d)	<u>§ 213.2 or § 617</u> § 317.3 § 318	C Chapter 12 Through Lot – C § 1201.4
	Vertical Height	Horizontal Setback		
	≤25	0		
	> 25, ≤ 56	12		
	> 56	1 to 4.66 horizontal run to vertical rise		
Courtyard	Not required. If provided, see § 323.3 and Column E	-----	-----	C Chapter 13
Plazas	Not required. If provided, see Column E	-----	-----	C Chapter 14
GAR	0.2	-----	-----	C Chapter 17
Vehicle Parking	Not required. If provided, see columns D, E	-----	Chapter 11	C Chapter 19
Bicycle Parking	Required. Based on use and square footage. See column E.	-----	-----	C Chapter 20

<u>D-8-B-1 Zone Table</u>				
A	B	C	D	E
REGULATORY TOPIC	STANDARD OR PERMISSION SPECIFIC TO THIS ZONE	MEASUREMENT RULES SPECIFIC TO THIS ZONE	CONDITIONS SPECIFIC TO THIS ZONE	PERTINENT REGULATIONS IN OTHER SUBTITLES
Loading	See Columns D, E	-----	§ 603.1(c)(2)	C Chapter 21
Accessory Buildings	Chapter 12	§ 1201	§ 1202	C Chapter 8
Alley Dwellings	Chapter 14	-----	-----	-----
Planned Development	See Columns D, E	-----	Chapter 13	X - Chapter 3
2. Use Standards, Permissions and Credits				
Uses Permissions - by Zone	§ 40212(c) and Column D	-----	§ 403 § 404	-----
Use Requirements - by Zone	Not applicable	-----	-----	-----
Use Requirements - by Designated Street Segments	Not applicable	-----	-----	-----
Use Requirements for IZ	IZ not applicable	-----	-----	-----
Density Credits	See column D	-----	Chapter 9	-----
3. Design Standards and Design Review Regulations				
Design Requirements - by Zone	See Chapter 5	-----	§ 500.3	-----
Design Requirements - by Designated Street Segments	Not applicable	-----	Not applicable	-----
Design Review Requirements		-----	<u>§ 213.2 and/or Chapter 7</u>	-----

213.2 With the exception of a property that is both owned and ~~primarily~~ occupied primarily by the United States government for government purposes no property in Squares 325, 326, 326, 327 Lot 831, 351, 351N, 352, 383, 384, 385, 388, 410, or 434, may access non-residential density greater than 6.5 FAR, or generate or accept Density Credits under the provisions of Chapters 8 or 9, unless a development plan for the property – including the proposed site plan, uses, design of building(s) or structure(s), alterations or additions to existing buildings, and landscaping – has been determined by the Zoning Commission to be not inconsistent with the Comprehensive Plan and the provisions of § 213.3. Zoning Administrator, in written consultation with the Director of the Office of Planning and the Director of the District Department of Transportation, has certified that, every former street right of way within or adjacent to the property's boundaries, that was, between 1840 and 1980, officially closed, granted an easement for railroad transportation purposes; or had a structure constructed within or above its right of way:

- ~~a) Has been dedicated to the District of Columbia, or has an agreement with the District of Columbia to dedicate the former right of way as a private street with permanent public access;~~
- ~~b) Has an agreement with the District of Columbia to remove all physical impediments to public use by vehicles or pedestrians and to remain open to the sky;~~
- ~~c) Is part of a District approved plan to re-establish street connectivity; and~~
- ~~d) Has been reserved for public use whether by public dedication or perpetual easement; or,~~
- ~~e) An acceptable, enforceable agreement has been made for achieving the conditions specified in § 213.1 (a) in a location other than a former street right of way.~~

213.3 The Zoning Commission shall consider the following criteria in making its determination pursuant to § 213.2. The development plan shall:

- (a) Help achieve the objectives of the Maryland Avenue Southwest Plan approved June 26, 2012, or subsequent adopted plans for the Squares listed in § 213.2;
- (b) Help achieve the desired mix of uses comprising a diverse neighborhood, particularly private office, residential, cultural, and retail or service uses;
- (c) Based on historic street rights of way, help promote greater connectivity for pedestrians and vehicles both within the area of the zone and to surrounding areas.
- (d) Minimize conflicts between vehicles and pedestrians;
- (e) Minimize unarticulated blank walls adjacent to public spaces through facade articulation;
- (f) Provide for retail spaces with 14 foot-high clear ground floors on major streets
- (g) Reinforce and/or re-open views of the U.S. Capitol, the Washington Monument and the original building of the Smithsonian Institution.
- (h) Minimize impact on the environment, as demonstrated through the provision of an evaluation of the proposal against GAR requirements and LEED Gold certification standards.

H. Permitted Height by reference to the 1910 Act to Regulate the Height of Buildings in the District of Columbia:

Where there is a reference to building height being permitted as the maximum permitted under the 1910 Height Act, the following language shall be added to clarify the maximum heights:

Proposed Text: Add New Section 306.5:

For all zones except the D-7-B-1 zone, where there is a reference to maximum building height being the maximum permitted by the Height Act, the maximum height shall be equal to the width of the right-of-right from which the building height is measured, increased by twenty feet, but not to exceed one hundred and thirty feet (130 ft.). For the D-7-B-1 zone, references to the maximum height permitted by the Height Act shall be governed by Section 306.2.

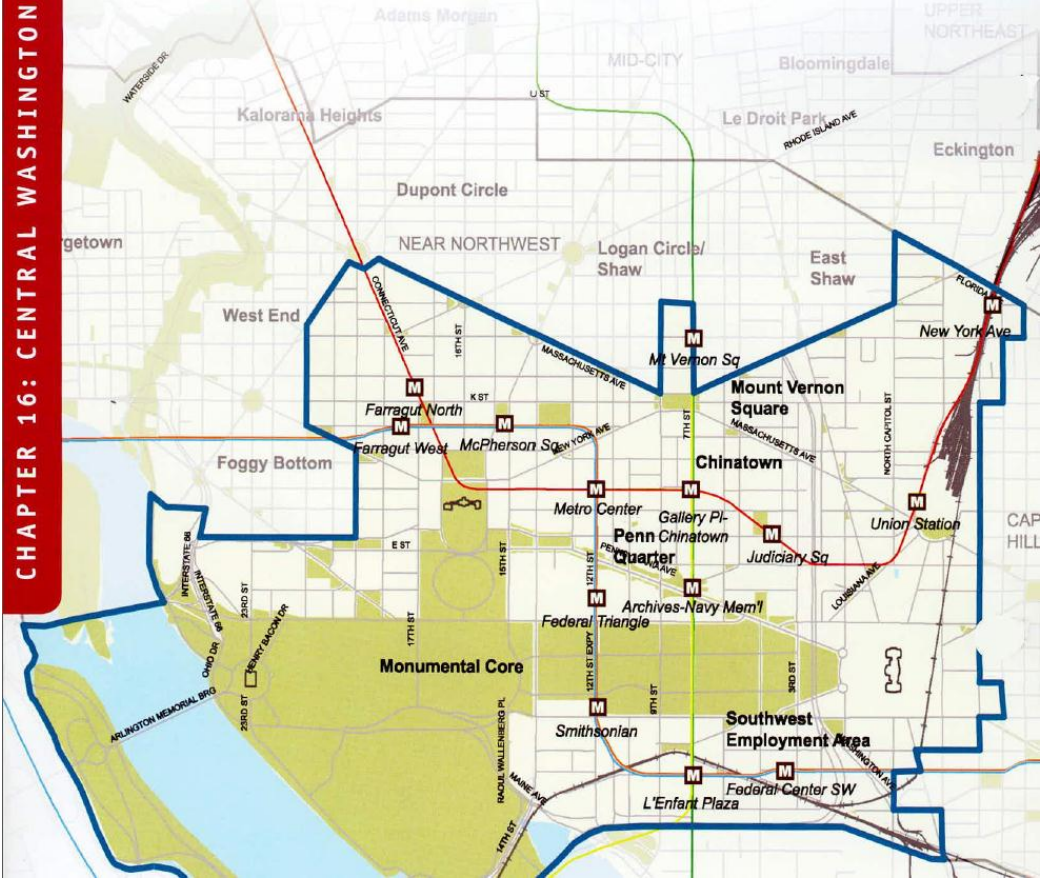
jls/slc

Stephen Cochran, subtitle manager

APPENDIX A: Zone Name Conversion Table, With Proposed FARs and Heights

Existing Zones	New Zone Name	FAR		Total Max.	Height
		Non-Res. Max w/out Credits	Res. Min..		
DD/R-5-E	D-1-A-2	0.5 (credits n/a)	2.0	6.0	90'
SP-2 (expanded downtown only)	D-2-B-1	3.5 (credits n/a)	None	6.0/7.2*	90'/100'
HR/C-3-C/TDR, C-3-C/TDR/Downtown E.	D-3-B-1	6.5	None	9.0**	110'
C-3-C/non-TDR (expanded Downtown only); HR/C-3-C/non-TDR	D-4-B-1	6.5; 7.8 with IZ	None	9.0**	110'
DD/C2C – HPA	D-4-B-2	3.5	4.5	No limit	Ht. Act
C-3-C (expanded Downtown other than SW non-TDR receiving areas), HR/C-3-C C-3-C/TDR, HR/C-3-C/TDR, DD/C-3-C/non-HPA, DD/C-3-C/TDR	D-5-B-1	6.5	None	No limit	Ht. Act
DD/C-3-C/HPA	D-5-B-2	6	3.5	No limit	Ht. Act
C-4 (expanded downtown only)	D-6-B-1	8.5	None	No limit	Ht. Act
DD/C-4/HPA	D-6-B-2	8	2	No limit	Ht. Act
DD/C-4 NON-HPA, DD/C-5	D-7-B-1	10	None	No limit	Ht. Act
C-3-C (non-TDR receiving areas in SW)	D-8-B-1	6.5	None	No limit***	Ht. Act
*With IZ. Credits not applicable to zone. **If: 1) All is residential; or, 2) All FAR > non-residential. max. is residential; or, 3) Using Density Credits *** If in footnote immediately above, plus street ROW re-openings					

APPENDIX B: Comprehensive Plan Policies and Actions Relevant to Subtitle I Proposals

Downtown Proposals	Com Plan Policy or Action
Update Downtown Zone Boundaries	<i>The Central Washington Planning Area is the heart of the District Columbia. 1600.1 The area's boundaries are shown in the map [below]. 1600.2 This Area Element takes a broader view of the city center than has been taken in the past. Historically, city plans for "Downtown" have covered the area east of 16th Street NW, north of the National Mall and south of Massachusetts Avenue. However, most residents, workers and visitors think of Downtown in a broader sense – including areas as far north as Dupont Circle, as far west as Foggy Bottom, and as far east as Capitol Hill,,,"Traditional" Downtown is also almost completely built out. 1600.4</i> 
Promote Appropriate Mixed Use Development	<i>Policy CW-1.1.1: Promoting Mixed Use Development</i> Expand the mix of land uses in Central Washington to attract a broader variety of activities and sustain the area as the hub of the metropolitan area. Central Washington should be strengthened as a dynamic employment center, a high-quality regional retail center, an internationally-renowned cultural center, a world-class visitor and convention destination, a vibrant urban neighborhood, and the focus of the regional transportation network. New office and retail space, hotels, arts and entertainment uses, housing, and open space should be encouraged through strategic incentives so that the area remains attractive, exciting, and

	economically productive. 1608.2
Retain and Promote Office Downtown	Policy CW-1.1.2: Central Washington Office Growth Retain Central Washington as the premier office location in the Greater Washington region. Office development should generally be guided eastward from its current area of concentration, filling in the gap between 3rd Street NW and North Capitol Street (south of Massachusetts Avenue), and capitalizing on the growing demand for office space along North and South Capitol Streets and in the vicinity of the New York Avenue Metro station. A range of office space should be planned to meet the needs of high-end, mid-range, and low-end office space users. 1608.3
Promote new housing, especially housing diversity	Policy CW-1.1.4: New Housing Development in Central Washington Encourage the development of new high-density housing in Central Washington, particularly in the area north of Massachusetts Avenue and east of Mount Vernon Square. Policy CW-1.1.5: Central Washington Housing Diversity Preserve Central Washington’s existing low- to moderate-income housing, including public housing, Section 8 housing—both contracts and vouchers - and other subsidized units. Policy H-1.1.6: Housing in the Central City Absorb a substantial component of the demand for new high-density housing in Central Washington and along the Anacostia River .
Promote Downtown Retail	Policy CW-1.1.6: Capturing Visitor and Employee Spending Capture a greater share of the demand for goods and services generated by the more than 400,000 persons working in Central Washington, and the millions of tourists who visit the area each year by supporting additional retail and restaurant development. Policy CW-1.1.8: Promote Central Washington Retail Develop and promote Central Washington as a regional retail destination. Particular emphasis should be placed on sustaining a concentrated regional shopping area at: a. The F and G Street corridors between 7th and 15th Streets NW; b. Seventh Street NW in the Gallery Place and Penn Quarter neighborhoods; and c. The Old Convention Center site. Policy CW-1.1.9: Neighborhood-Serving Retail in Central Washington Ensure that Central Washington’s retail uses serve not only the regional market, but also the local neighborhood market created by residential development within the area.
Reinforce and Enhance the Urban Design Structure	Policy CW-1.1.12: Reinforcing Central Washington’s Characteristic Design Features Reinforce the physical qualities that set Central Washington apart from all other major American city centers, including the L’Enfant framework of diagonal avenues and park reservations, relatively low building heights, the great open spaces of the National Mall and Tidal Basin, the large number of historic and/or monumental buildings, and the blending of historic and contemporary architecture. 1608.13 Policy UD-2.1.1: Design Character Create a more coherent design character for Central Washington by improving the physical linkages between the monumental core, the business sub-districts on the perimeter of the National Mall, and the expanding mixed use areas to the east and southeast of Downtown. Policy UD-2.1.2: Downtown Street and Block Pattern Maintain a fine-grained pattern of Downtown blocks, streets, and alleys, with intersections and frontages that encourage pedestrian movement and reduce the potential for immense variations in scale and “fortresslike” office buildings. (see Figure 9.8) 909.8

	<i>From Urban Design Element UD-2.1 Place-Making in Central Washington</i> Some of the very qualities that make Central Washington’s design so memorable also create its greatest challenges. Distances are unusually long, walking is difficult in many places, and there is a lack of connectivity between the sub-districts of the central city. It is nearly four miles from the West End to the Navy Yard—arguably both are parts of the central business district - yet the two feel like entirely different cities. The District’s height limit, while lauded for its human scale, has also resulted in long rows of featureless office buildings with little architectural interest. Moreover, Downtown is not particularly well integrated with the National Mall. To some extent, the Mall divides—rather than unites—the central city, and adds to the perception of a city with multiple downtowns bearing little connection to one another. 909.1
<i>Promote multi-modal transportation options and interconnectivity downtown</i>	<i>Policy CW-1.1.14: Central Washington Multi-modal Transportation System</i> Develop and maintain a balanced multi-modal transportation system for Central Washington which makes optimal use of the existing street network, the Metrorail and commuter rail networks, the bus system, and public spaces including sidewalks and alleys. <i>Policy CW-1.1.15: Increasing Central Washington’s Transit Mode Share</i> Improve public transit and other means of non-automobile access to Central Washington to the point where 70 percent of all peak hour trips into the area are made by a mode other than a single occupant vehicle. <i>Transportation Element Action 2.3.A: Bicycle Facilities</i> Wherever feasible, require large new commercial and residential buildings to be designed with features such as secure bicycle parking and lockers, bike racks, shower facilities, and other amenities that accommodate bicycle users. Promote strategies that reduce motor vehicle emissions in the District and surrounding region. As outlined in the Land Use and Transportation Elements of this Comprehensive Plan, this includes the development of a fully integrated regional system of buses, streetcars, rail transit, bicycles, taxis, and pedestrian facilities to make it easier and more convenient to travel without an automobile. It also includes the promotion of trip reduction measures such as videoconference facilities, telecommuting, flextime, and carpooling. Strategies to reduce congestion and idling time, such as improved signal timing and reversible commute lanes also should contribute to air quality improvement. 618.10
<i>Reintegrate areas now divided by rail tracks</i>	<i>Policy UD-1.5.3: Reducing Railroad Barriers</i> Upgrade railroad overpasses and underpasses to maintain the continuity of the street network along rail lines and ensure the comfort and safety of pedestrians and bicyclists. In appropriate settings, such as Downtown Washington, explore longer-term solutions to addressing railroad barriers such as air rights development over the tracks. 907.5
<i>Promote placemaking efforts for distinct downtown areas</i>	<i>Policy CW-1.1.13: Creating Active Street Life and Public Spaces</i> Promote active street life throughout Central Washington through the design of buildings, streets, and public spaces. <i>Policy CW-1.1.17: Making Central Washington’s Streets More Pedestrian-Friendly</i> Enhance Central Washington’s pedestrian network and improve pedestrian safety. <i>Policy PROS-1.4.6: Parks in Employment Growth Areas</i> Provide new parks and open spaces in areas of expected employment growth. Small pocket parks, plazas, and other open spaces should be created in the vicinity of the New York Avenue Metro Station, the Southeast Federal Center, the east end of Downtown, and the South Capitol Street Corridor to provide visual relief and space for outdoor seating and passive recreation. 807.9

Promote the Arts	Policy CW-1.1.7: Central Washington Arts and Entertainment Uses Retain, enhance, and expand Central Washington’s arts and entertainment uses, including theaters, cinemas, galleries, studios, museums, and related services.
Retain and Promote Distinct Areas and Uses Within Downtown	METRO CENTER Policy CW-2.1.1: Strengthening the Retail Core Strengthen the traditional retail core along F and G Streets between 9th and 15th Street NW. Encourage the extension of the retail core eastward to 6th^h Street NW to create greater synergy between this area and Gallery Place. Policy CW-2.1.2: Promoting Central Washington Shopping Facilitate District and private sector efforts to market the Central Washington Retail Core as a shopping destination for District residents as well as for tourists and suburban residents, and to promote Central Washington as a preferred alternative to suburban shopping malls. Policy CW-2.1.3: Creating a Critical Mass of Retail Choices Improve Downtown’s viability as a shopping destination by encouraging additional small retailers to locate around existing retail anchors, adding new major retail anchors, and requiring continuous ground floor retail space wherever appropriate. Policy CW-2.1.5: Pedestrian Movement in the Retail Core Emphasize and encourage pedestrian movement in the Downtown Retail Core, particularly along F, G, and H Streets NW. Future development in this area should create and support street-level activity. GALLERY PLACE/PENN QUARTER Policy CW-2.2.1: Art and Entertainment District Promote the development of the Gallery Place and 7th Street area as a pedestrian-oriented arts and entertainment district, with nightlife and restaurants, theaters, galleries, and independent and national retailers. Policy CW-2.2.2: East End Theater District Promote the area bounded by 6th Street, 14th Street, F Street, and Pennsylvania Avenue as an internationally recognized theater district... Policy CW-2.2.3: Penn Quarter Neighborhood Continue to develop the Penn Quarter as a mixed use urban neighborhood. Policy CW-2.2.5: Links to Adjacent Areas Improve the linkages from the Gallery Place/Penn Quarter area to the National Mall on the south, the Retail Core on the west, and the Mount Vernon Square and Triangle area on the north. Action CW-2.2.A: Gallery Place/Penn Quarter Streetscape Improvements Prepare streetscape improvement plans for 7th, 8th, and 9th Streets NW that physically reinforce the desired character of the area as the city’s “Arts Walk” and provide space for performance, street theater, public art and exhibitions, and other activities that reinforce its role as an entertainment district. CHINATOWN Policy CW-2.3.2: Protection Chinatown as a Viable Community Protect and conserve Chinatown, not only through Chinese-themed building facades and street signs, but by supporting the cultural traditions of the local Chinese community, assisting Chinese-owned businesses within Chinatown, sustaining the social services that serve the Chinese population, and attracting new activities which expand the area’s role as a regional center for Chinese culture and education. 1613.5 Policy CW-2.3.3: Chinatown’s Architectural Character

	Support architectural, streetscape, and landscape design criteria for new and renovated buildings that reinforce the identity of Chinatown as a special cultural district. MOUNT VERNON <i>Policy CW-2.4.1: Re-envisioning Mount Vernon Square</i> Improve Mount Vernon Square as a center of cultural activity, a memorable civic landmark, and a crossroads between Downtown on the south and the historic Shaw neighborhood on the north. <i>Policy CW-2.4.3: Convention Center Area Land Uses</i> Encourage land uses around Mount Vernon Square which capitalize on the presence of the Washington Convention Center. Such uses include hotels, restaurants, retail, and entertainment uses. <i>Policy CW-2.4.4: Mount Vernon Triangle Residential Development</i> Develop the Mount Vernon Triangle (east of Mount Vernon Square) as a high-density residential neighborhood. Zoning incentives for this area should encourage the production of housing, as well as local-serving ground floor retail, arts, and small office uses. JUDICIARY SQUARE <i>Policy CW-2.5.2: Judiciary Square Parking Relocation</i> Pursue the long-term relocation of surface parking lots south of Judiciary Square (on E Street) and east of the Square (along 4th Street) to underground garages as a way to improve aesthetics, enhance the Square's role as a formal open space, and provide a green connection to the National Mall. <i>Policy CW-2.5.6: I-395 Air Rights Development</i> Pursue development of the air rights over I-395 between E Street NW and Massachusetts Avenue NW, including the restoration of the street rights-of-way along F and G Streets. GOLDEN TRIANGLE <i>Policy CW-2.6.1: Golden Triangle/Franklin Square as a Prestige Employment Center</i> Sustain the Golden Triangle/Franklin Square area as a prestige employment center, strongly supporting reinvestment in its office buildings to meet market demand. L'ENFANT PLAZA <i>Policy CW-2.7.2: 10th Street Promenade and Banneker Overlook</i> Enhance 10th St SW as a major point of access between the National Mall, L'Enfant Plaza, and the Southwest Waterfront. <i>Action CW-2.7.A: Design Planning for the Near Southwest</i> Work collaboratively with the National Capital Planning Commission to develop urban design and streetscape plans for the Near Southwest. These plans should consider the build out potential of the area's urban renewal sites. NoMA <i>Policy CW-2.8.1: NoMA Land Use Mix</i> Promote NoMA's development as an active mixed use neighborhood that includes residential, office, hotel, commercial, and ground floor retail uses. A diverse mix of housing, serving a range of household types and incomes, should be accommodated. 1618.9 <i>Policy CW-2.8.3: NoMA Transportation Improvements</i> Design NoMA to accommodate a wide array of transportation options, with a particular emphasis on walking, bicycling, and improved transit connections. Improve the accessibility, functionality, and safety of the area's street grid, introducing new streets as needed to improve circulation through the area.
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