



MEMORANDUM

TO: District of Columbia Zoning Commission

FROM: Jennifer Steingasser, ^{JLS} 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 Subtitles J (PDR zones) and K (Special area zones)

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 OP's recommendation on Subtitles J - Production, Distribution and Repair (P) and Subtitle K (special area) zones; a summary of the proposed changes relative to the current code chapters; and a summary of Comprehensive Plan elements. Each subtitle is discussed in terms of Commission guidance provided to OP and changes to the current text. Additionally, the report notes any clarifying or additional language that may be required or is recommended.

Zoning Commission Action to Date

The Commission held public hearings on the proposed concepts and then provided guidance to OP between 2008 and 2011. The table below summarizes the actions taken to date by the Zoning Commission relative to each subtitle or topic. The Commission took specific action related to the PDR zones, including taking final action. For the Special Area zones, the Commission did not hold meetings or hearings specifically for these zones, but other public hearings and meetings provide guidance, particularly for the Capitol Gateway (CG) zones. At the time the guidance was provided, the CG zones were being considered for inclusion within the expanded downtown.

Subtitle	Case Number and Topic	Public Hearing	Guidance Public Meeting
J	08-08-06 (PDR)	November 20, 2008	January 12, 2009
J	08-06 (PDR)	November 29, 2010 (setdown meeting) February 24, 2011 (public hearing)	March 28, 2011 (proposed action) May 23, 2011 (final action)



Subtitle	Case Number and Topic	Public Hearing	Guidance Public Meeting
K	08-06-05 (Mixed use Commercial)	October 23, 2008	December 8, 2008
K	08-06-13 (Mixed Use Commercial)	October 25, 2010	November 29, 2010
K	08-06-10 (Downtown)	November 2, 2009	No guidance meeting
K	08-06-11 (Waterfront)	January 7, 2010	February 22, 2010

At a properly noticed public meeting held on May 23, 2011, the Commission took final action to adopt the text amendments for Case 08-06A, PDR, but to delay publication of a notice of final rulemaking until the text was finalized and conformed to all other text that would represent the Zoning Regulations adopted under case 08-06. The final action was published as a Notice of Opinion in the D.C. Register on July 8, 2011.

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 and disc 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.

SUBTITLE J

Subtitle J is primarily based on current Chapter 8 - Industrial Districts. The main use is industrial, or Production, Distribution and Repair (PDR), although the current zoning permits a number of additional uses, but not residential. Below is a summary of how elements are proposed to be modified or changed in the draft text:

- Place Use Permissions and Development Standards into each zone.
- Floor Area Ratio requirements modified to maintain industrial uses.
- Transition Setback (Buffer) proposed along any industrial lot line adjacent to residential lot lines or separated by an alley.

- Eating and Drinking Establishments, and Entertainment uses that include night club/dancing activities would require a special exception. Although not part of the original guidance from the Zoning Commission, this last change is proposed to address concerns of many residential neighborhoods adjacent to PDR zoned lands, to help address issues of parking, traffic, noise, and other negative impacts that can result from this use.

The Zoning Commission took final action on the final regulations for PDR at a properly noticed public meeting held on March 28, 2011. The final action was published as a Notice of Opinion in the D.C. Register on July 8, 2011. The 9/9/13 draft text for PDR zones generally reflects the final action taken by the Commission March 28, 2011.

Clarification: The PDR zones as formatted in the Notice of Opinion reflect a format that is no longer proposed. As a result, the 9/9/13 text has some minor and non-substantive language differences which will be reconciled to reflect the final action taken by the Commission and advertised as Notice of Opinion on July 8, 2011.

Chapter 7 in the Notice of Opinion does not require any parking minimums for the PDR zones. This provision has not been proposed in the 9/9/13 draft text and Subtitle C § 1901 proposes a parking minimum for the uses permitted in the PDR zones.

ZC Guidance: Name of Industrial Districts:

Rename existing Industrial Districts from Commercial-Light Manufacturing (CM) and General Industry (M) to Production Distribution and Repair (PDR); C-M-1 to PDR-1, C-M-2 to PDR-2, C-M-3 to PDR-3, and M to PDR-4.

Proposed Text: “PDR” has been shortened to “P” zones, and includes P-1 (CM-1 and CM-1/LO); P-2 (CM-2); P-3 (CM-3); P-4 (M); P-5 (CM-1/CAP); P-6 (CM-1/FT); and P-7 (M/FT).

ZC Guidance: Performance Measures

Coordinate, but do not duplicate, performance standards with current District Department of the Environment (DDOE) standards. Where possible, ensure that measurable standards are used.

Proposed Text: In the proposed text, OP has generally attempted to avoid duplication with standards that exist and are enforced more effectively through other regulations. OP consulted with DDOE, and in accordance with this guidance, has not brought forward standards of external effect from the existing code into the proposed new code.

ZC Guidance: PDR Uses

Replace existing use lists with consolidated and simplified use categories. This would include consolidating industrial uses, to the extent possible, within an industrial use category.

Proposed Text: The proposed text includes a new use category called “Production, Distribution and Repair”, defined in Subtitle B as “A use involving the on-site production, distribution, repair, assembly, processing, or sale of materials, products, technology, or goods intended for a wholesale, manufacturing, or industrial application.” This includes most forms of what are considered industrial uses.

However, a separate use category for Waste-Related Services was also created, defined as “A use involving the collection, transportation, recycling, or disposal of refuse either on-site or at a transfer station. This use group may include the collection of sanitary wastes or uses that produce goods or energy from wastes.” This allows these uses to be more specifically regulated, and they are generally proposed to be permitted only by special exception subject to a list of specified conditions.

ZC Guidance: Retention of Development Potential for PDR Uses

Adjust the development potential of PDR land to encourage the construction of PDR uses while also permitting the continued development of non-PDR uses as guided by market demand. This would be accomplished by capping the development potential for non-PDR uses similar to commercial uses in commercial zones. Suggested limits are:

Zone	Current Maximum FAR	Proposed Maximum FAR	Proposed Non-PDR FAR Limit	Maximum Height	Maximum Number of Stories
PDR-1 (C-M-1)	3.0 FAR	3.5 FAR	2.0 FAR	50	No limit
PDR-2 (C-M-2)	4.0 FAR	4.5 FAR	3.0 FAR	40	No limit
PDR-3 (C-M-3)	6.0 FAR	6.0 FAR	4.0 FAR	60	No limit
PDR-4 (M)	6.0 FAR	6.0 FAR	1.0 FAR	60	No limit

Proposed Text: The proposed text incorporates this direction into the Development Standards Table of J § 201.1 as follows:

Zone	Current Maximum FAR	Proposed Maximum FAR	Proposed Non-PDR FAR Limit
P-1 (C-M-1, CM-1/LO) P-5 (CM-1/CAP) P-6 (CM-1/FT)	3.0 FAR	3.5 FAR	2.0 FAR
P-2 (C-M-2)	4.0 FAR	4.5 FAR	3.0 FAR
P-3 (C-M-3)	6.0 FAR	6.0 FAR	4.0 FAR
P-4 (M) P-7 (M/FT)	6.0 FAR	6.0 FAR	1.0 FAR

The existing CM and M zones provide a maximum density, but do not provide a maximum density for non-PDR uses. The proposed maximum non-PDR density is intended to encourage the retention and utilization of industrial lands. OP is not proposing any changes to the maximum permitted height; this includes the incorporation into the relevant zones the height limitations of the current Fort Totten Overlay of 40 feet in the P-6 zones, and 65 feet in the P-7 zone.

ZC Guidance: Buffering

Create uniform buffering standards to apply wherever PDR zones abut residential zones. These standards would replace existing rear yard, side yard, and court regulations as well as eliminate the need for existing special exception and overlay standards.

Suggested standards are:

- 25 foot yard required adjacent to Residential districts;
 - 15 foot yard required when separated by street or alley;

- Yard must contain solid vegetative buffer, fence or wall to visually screen use;
- No outdoor storage of materials/ within 200 feet of a residential zone.

Proposed Text: An expanded transition setback is required for any P zoned property line that directly abuts a residential zone, or an alley that abuts a residential zone. The transition setback requirements are:

- A 25 foot setback from a lot line that is directly abutting a lot in a residential zone;
- A 15 foot setback from a lot line that is directly abutting an alley that serves as the zone boundary between a P zone and a residential zone;
- A 15 foot setback from a lot line other than a front lot line that is directly abutting a street that serves as the zone boundary between a P zone and a residential zone;
- The setback area is required to be:
 - Landscaped with evergreen trees a minimum of eight feet in height; and
 - Screened with a solid wood fence or masonry wall of eight to ten feet in height; and
- The setback area is not permitted to be used for parking, loading, or accessory uses.

ZC Guidance: **Green Area Ratio**

Application of Green Area Ratio to the PDR zones, including blanket 0.3 GAR requirement. Amended sliding GAR scale from 0.1 to 0.3 in the PDR zones (OP Supplemental Report dated March 17, 2011)

Adopted Text: The Green Area Ratio (GAR) has been adopted into the current zoning code and is currently in effect. The adopted language is consistent with this guidance.

SUBTITLE K

Subtitle K is a compilation of current Chapter 18 Southeast Federal Center, Chapter 28 Hill East, Chapter 29 Union Station North, Chapter 16 Capitol Gateway (CG) overlay district, and Chapter 33 Saint Elizabeths East Campus. Generally, few changes are proposed for these chapters as the existing zoning is intended to be site specific and the result of often long and involved public consultation processes. Below is a summary, by existing chapter, of how elements are proposed to be modified or changed in the draft text.

Chapter 18 Southeast Federal Center:

- Incorporated into new zones in Chapter 2 of Subtitle K.
- Elimination of minimum parking requirement for all uses.
- Replacement of permitted / required use lists with more general use categories.
- No other development or use changes.

Chapter 28 Hill East:

- Incorporated into new zones in Chapter 2 of Subtitle K.
- No development or use changes.

Chapter 29 Union Station North:

- Incorporated into a new zone in Chapter 4 of Subtitle K.
- No development or use changes.

Chapter 16 Capitol Gateway (CG) overlay district (Subtitle K Chapter 5):

- Incorporated into new zones in Chapter 5 of Subtitle K.
- A small portion on the north side of M Street SE between South Capitol Street and 8th Street SE which is currently in the CG/C3C zone and within a Transfer of Development Rights receiving area, is proposed to be removed from CG and included within the expanded D zones as D-++++ zone. Much of this area is now developed or is covered by the Arthur Capper / Carrolsburg PUD.
- Elimination of minimum parking requirement for all uses.
- Replacement of permitted / required use lists with more general use categories.
- No other development or use changes.

Chapter 33 Saint Elizabeths East Campus (Subtitle K Chapter 6):

- Incorporated into new zones in Chapter 6 of Subtitle K.
- No development or use changes.

As none of these zones were intended to be significantly modified, the Zoning Commission did not hold guidance sessions specifically for these chapters, but guidance provided as part of other topic areas is of relevance. Most of this guidance relates to the areas covered by the GC Overlay as follows:

Mixed Use / Commercial Guidance**ZC Guidance: Commercial Zones and Overlays**

Replace existing commercial zone districts and overlays with standalone districts in which the uses and area restrictions are tailored to the needs of specific and contiguous geographic areas. This would not change the protections and restrictions afforded by the current overlays, but rather include them in an underlying zone for that area.

Proposed Text: Both Chapter 2 SEFC, and Chapter 5 CG incorporate the provisions of the relevant base and overlay zoning into new zones specific to these areas.

ZC Guidance: Ground Floor Design Standards

Establish design standards within commercial zones for designated streets addressing:

- a. Minimum clear ceiling height;
- b. Active retail/window space;
- c. Minimum distance between building access points; and
- d. The limitation of office or residential lobby entrances relative to overall retail frontages.

Proposed Text: Both Chapter 2 SEFC, and Chapter 5 CG include requirements for ground floor retail space.

ZC Guidance: Consolidation of Use Lists

Consolidate the current retail, service and miscellaneous use lists contained in Chapter 7 into broad categories. Proposed commercial categories include: Retail, Service, Office, Accommodation & Food Service, Entertainment, and Arts. Categories would be permitted or prohibited in each zone with conditions for each use (such as hours of operation, radius requirements, and the amount of gross floor area occupied) established for each district.

Proposed Text: The SEFC zones of Chapter 2 make reference to the use provisions of the equivalent zones in Subtitles M (SEFC-1), F (SEFC-2 and -3), and G (SEFC-4). For example, the SEFC-1 (former SEFC/CR) zone refers to the M-10-V (CR) zone. In addition, the specific use restrictions and requirements of the current SEFC Overlay are carried forward into the new SEFC zones.

Unlike the SEFC area, the CG area is not controlled by one master developer. As such, these are more fully self-contained zones, not referring back to the equivalent zone categories of other subtitles. Rather, in accordance with the Zoning Commission guidance, use provisions are consolidated into the categories used in other subtitles, and permissions are provided in use tables for each CG zone.

Downtown**ZC Guidance: Housing**

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.

Proposed Text: Chapter 5, CG Zones includes provisions allowing for combined lot development for the allocation of commercial and non-commercial uses, and allow for specified transfer of density between sites. Since the CG provisions serve a different intent, the housing credit system proposed for the Downtown is not proposed for the CG – in fact, the differences in the intent of this provision was a main reason the CG area is not included within the expanded Downtown. Rather, language consistent with that of the existing regulations has been carried forward into the proposed regulations.

ZC Guidance: Residential Parking

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.

Proposed Text: When the Zoning Commission reviewed the Downtown recommendations in 2009, the CG Overlay area was proposed to be part of the expanded Downtown. The CG and SEFC zoned areas have been proposed as their own zones within Subtitle K. The 9/9/13 draft text incorporates into the Chapters 2 (SEFC) and 5 (CG) the elimination of the requirement for a parking minimum. This is particularly appropriate given the presence of the Navy Yard Metro station, bus lines and a future streetcar line through the area, the existing restrictions on the provision of surface parking; and the proximity to the riverfront

with the resulting water table and environmental impacts of below grade and surface parking.

Waterfront

ZC Guidance: PUD development

Allow additional height, but not density, in W-1, W-2, and W-3 through a PUD process.

Proposed Text:

Chapter 5 CG-5 zone is based on the W-2 zone (M-13 in the proposed code), with the CG Overlay provisions also applied. For this zone, the height provision remains the same as in the current code, although the provisions also allow Zoning Commission approval of additional height through the mandatory review process.

ZC Guidance: Surface Parking

Allow surface parking by special exception only in W zones.

Proposed Text:

Subtitle C chapter 23 includes a new section of provisions that would apply to any waterfront property, including the current W zones. This includes provisions related to parking, including a restriction on parking spaces and access within the required waterfront setback area. However, the requirement that surface parking anywhere on a W zoned lot be by special exception only was not included in the provisions for the CG-5 zone.

Errata: The following text is recommended to be included in Subtitle K in Section 518 which outlines special exception uses:

518.10 – Parking – A surface vehicle parking lot anywhere on the property, subject to the provisions of Subtitle K § 525.4.

ZC Guidance: Visual Access for Matter-of-Right Development

Establish visual access to the water for matter-of-right projects generally based on surrounding relevant street grid. Where existing street grid does not exist, limit building width to a maximum of 500 feet, although the Zoning Commission commented that maximum building width should be lowered to less than five hundred feet.

Proposed Text: This requirement is included in Subtitle C, so would apply to any property along the waterfront, as follows: § 2302.3 *Where no L’Enfant street grid exists in the vicinity of a waterfront lot, no buildings or structures may be built to a length, as measured parallel to the water, of greater than five-hundred feet (500 ft.).*

Five hundred feet for a block face is not atypical for the L’Enfant street grids. Within the CG-5 zoned area, the typical block face varies but typically is less than or close to four hundred feet. All proposed development within the CG-5 zone is subject to Zoning Commission review to address issues of physical and visual access to the waterfront and meeting environmental goals.

ZC Guidance: Setback from the Waterfront

Establish a minimum setback from waterfront of 75 feet for matter-of-right projects, of which a minimum of 25 feet are reserved for approved trail connections. The Zoning Commission requested provision of special exception relief from this requirement.

Proposed Text: Subtitle C § 2302.1 includes the provision for a 75 foot setback, the 25 foot trail-way, and the special exception provision.

General Errata: 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 or substituted to clarify the maximum heights:

“Maximum height shall be that equal to the width of the adjacent right-of-right, increased by twenty feet, but not to exceed one hundred and thirty feet (130 ft.), or less if otherwise restricted by the Height Act.”

COMPREHENSIVE PLAN POLICIES AND ACTIONS

ZONING ISSUES	COMPREHENSIVE PLAN CITATION	COMPREHENSIVE PLAN TEXT
SUBTITLE J PRODUCTION, DISTRIBUTION & REPAIR		
Zoning Changes to Reduce Land Use Conflicts in Residential Zones	Action LU-2.3.A	As part of the comprehensive rewrite of the zoning regulations, develop text amendments which: a. Expand buffering, screening, and landscaping requirements along the edges between residential and commercial and/or industrial zones; b. More effectively manage the non-residential uses that are permitted as a matter-of-right within commercial and residential zones in order to protect neighborhoods from new uses which generate external impacts; c. Ensure that the height, density, and bulk requirements for commercial districts balance business needs with the need to protect the scale and character of adjacent residential neighborhoods; d. Provide for ground-level retail where appropriate while retaining the residential zoning along major corridors; and e. Ensure that there will not be a proliferation of transient accommodations in any one neighborhood
Group Housing	Action LU-3.4.C	Analyze spatial standards used to regulate group homes and homeless shelters, and determine whether modifications are necessary to create additional siting opportunities. Consider

ZONING ISSUES	COMPREHENSIVE PLAN CITATION	COMPREHENSIVE PLAN TEXT
		allowing group homes and homeless shelters in the CM-1 and CM-2 zones.
Economic Development and Environmental Protection Elements	Policy ED-2.5 and Policy E-5	The Economic Development Element discusses retaining Production, Distribution, and Repair (PDR) land as a way to help foster a diverse economy that maintains and creates living wage jobs. In the Environmental Protection Element, the discussion of industrial uses is framed by issues of environmental justice and our efforts to prevent a concentration of industrial uses in a particular community or geographic area. This section of the Plan also discusses the need for better measurement and enforcement of existing regulations that address the external effects often associated with industrial uses (e.g., noise regulations), and the need to study the health impacts of industrial uses when making land use decisions.
Lower Anacostia Waterfront/Near Southwest	Policy AW-1.1	Suggested actions included reducing the amount of industrial land and uses along the waterfront.
Upper Northeast	Action UNE-1.1.A	Develop additional solutions to buffer residential and industrial areas from one another. One possibility is to consider extending the Langdon Overlay zone, which prohibits certain types of industrial uses in immediate proximity to residential uses and which requires screening to protect residential areas.
	Action UNE-1.1.B	Implement the applicable recommendations of the 2006 Industrial Land Use Study as they relate to Upper Northeast.
Far Northeast and Southeast and Rock Creek East	FNS-1.2 & RCE-1.2	Plan policies focused on providing adequate buffers between residential and industrial uses, improving the appearance and screening of industrial uses, and suggesting areas where it may be appropriate to consider land use changes from industrial to mixed or residential uses.
Industrial Land Retention	Policy ED-2.5.1	Retain an adequate supply of industrially zoned land in order to accommodate the production, warehousing, distribution, light industrial, and research and development activities which sustain the local economy, support municipal services, and provide good employment opportunities for District residents.
Retaining Heavy Industry	Policy ED-2.5.2:	Ensure that basic manufacturing (M-zoned) land is retained within the District to support the heavy industries that are essential to the local economy, such as concrete and asphalt batching plants and waste transfer facilities.
Production, Distribution, and Repair Uses	Policy UNE-1.1.9	Retain the existing concentration of PDR uses in Upper Northeast, but encourage the upgrading of these uses through higher design standards, landscaping, and improved screening and

ZONING ISSUES	COMPREHENSIVE PLAN CITATION	COMPREHENSIVE PLAN TEXT
		buffering. Emphasize new uses, including retail and office space, that create jobs for Upper Northeast area residents, and that minimize off-site impacts on the surrounding residential areas.
Production, Distribution, and Repair Land Uses	Policy UNE-2.3.2	Retain a significant concentration of PDR land uses in the New York Avenue corridor. While the conversion of industrial land to other uses can be considered on key sites, including the Bladensburg/Montana/New York “triangle,” these changes should not diminish the area’s ability to function as an industrial district meeting the needs of government and District businesses and residents. Retail and office uses have existed historically along both sides of V Street between Bladensburg Road and South Dakota Avenue NE and should continue in accordance with the existing CM- and M-zoning.
Conservation of Industrial Land	Policy LU-3.1.1	Ensure that zoning regulations and land use decisions protect active and viable PDR land uses, while allowing compatible office and retail uses and development under standards established within CM- and M- zoning. Economic development programs should work to retain and permit such uses in the future.
Industrial Zoning Use Changes	Action LU-3.1.A	Provide a new zoning framework for industrial land, including limiting non-industrial uses in the M zone to avoid encroachment by uses which could impair existing industrial and public works activities (such as trash transfer).
Industrial Land Use Compatibility	Action LU-3.1.B	Develop performance standards and buffering guidelines to improve edge conditions where industrial uses abut residential uses, and to address areas where residential uses currently exist within industrially zoned areas.
SUBTITLE K SPECIAL PURPOSE		
Zoning Changes to Reduce Land Use Conflicts in Residential Zones	Action LU-2.3.A	As part of the comprehensive rewrite of the zoning regulations, develop text amendments which: a. Expand buffering, screening, and landscaping requirements along the edges between residential and commercial and/or industrial zones; b. More effectively manage the non-residential uses that are permitted as a matter-of-right within commercial and residential zones in order to protect neighborhoods from new uses which generate external impacts; c. Ensure that the height, density, and bulk requirements for commercial districts balance business needs with the need to protect the scale and character of

ZONING ISSUES	COMPREHENSIVE PLAN CITATION	COMPREHENSIVE PLAN TEXT
		adjacent residential neighborhoods; d. Provide for ground-level retail where appropriate while retaining the residential zoning along major corridors; and e. Ensure that there will not be a proliferation of transient accommodations in any one neighborhood
Form-Based Zoning Codes	Action UD-2.3.B	Explore the use of form-based zoning codes on selected large sites as a way of establishing desired urban design characteristics without rigidly prescribing allowable uses.