DRAFT PROPOSED BP RULES AS **COMPILED BY OCC**
OP VERSION MAY DIIFER

Bolded language differs from advertised test, except for titles.

CHAPTER 16 BUZZARD POINT-CAPITOL GATEWAY OVERLAY DISTRICT

1600 PREAMBLE

1600.1 The Buzzard Point-Capitol Gateway (BP) Overlay District is applied to the Buzzard Point and Capitol Gateway areas, which are designated for mixed use development in the Comprehensive Plan for the National Capital. The following squares and portions of squares in the Southwest and Southeast quadrants of the District of Columbia are included in the BP Overlay District: 601, 602, 603, 605, 607, 609, 611, 612, 613, 656, 657, 658, 660, 661, 662, E662, 664, E664, 665, 666, E667, S667, 700 through 708, E708, S708, S744, 771, 698, 699, N743, 742 and 769.

1600.2 The purposes of the BP Overlay District are to:

(a) ~~Assure development of the area with a mixture of residential and~~ commercial uses, and a suitable height, bulk and design of buildings, as generally required by the Comprehensive Plan and planning studies of the area;

(b) Encourage a variety of support and visitor-related uses, such as retail, service, entertainment, cultural and hotel or inn uses;

(c) Allow for continuation of existing industrial uses, which are important economic assets to the city, during the extended period projected for redevelopment;

(d) Provide for a reduced height and bulk of buildings along the Anacostia riverfront in the interest of ensuring views over and around waterfront buildings, and provide for continuous public open space along the waterfront with frequent public access points; and

(e) Require suitable ground-level retail and service uses and adequate sidewalk width along M Street, S.E., near the Navy Yard Metrorail station.

1600.3 The BP Overlay District and the underlying CR, W-1, W-2, W-3, and C-3-C Districts shall constitute the Zoning Regulations for the geographic area referred to in §1600.1. Where there are conflicts between this chapter and

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the underlying zoning, the provisions of the BP Overlay District shall govern.

1601 BONUS DENSITY AND HEIGHT

1601.1 **In the BP/CR and BP/W-3 districts, a building *or combined lot development* shall be allowed a maximum density of 7.0 FAR; Provided that the additional 1.0 FAR in excess of the matter-of-right maximum of 6.0 FAR shall be devoted solely to residential uses.**

1601.2 For the purpose of accommodating bonus density as authorized by § 1601.1, the maximum permitted building height shall be that permitted by the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452; D.C. Code §§ 5-401 to 5-409), as amended; Provided that in squares 601, 656 and 657 those lots abutting or separated only by a street or alley from residentially zoned property shall provide a 1:1 building setback for any part of a building that exceeds 90 feet in height on the side abutting the residential zone.

1601.3 **In the BP/W-1 District, a building or the combined lot development shall be allowed a maximum density of 3.5 FAR and a maximum height of 55 feet; Provided that:**

(a) The additional 1.0 FAR in excess of the matter-of-right maximum of 2.5 FAR shall be devoted solely to residential uses; or,

(b) The additional 1.0 far may be devoted to any permitted use in the w-1 zone if the building or the combined lot development includes at least 2.0 far of residential development.

1601.4 **The Zoning Commission may grant additional density to lots in the BP/W-2 District, as part of the special exception process applicable to that area, in the manner set forth in §§ 1603.5 and 1603.6.**

1601.5 **A building that qualifies as a Capitol South Receiving Zone site under § 1601.3(b) shall be subject to the maximum height and bulk limits of §1709.21 of this title.**

1602 COMBINED LOT DEVELOPMENT

1602.1 Two or more lots within the Overlay District may be combined for the purpose of allocating residential and non-residential uses regardless of the normal limitation on floor area by uses on each lot; Provided, that the aggregate residential and non-residential floor area shall not exceed the

matter-of-right maximum height or FAR of the underlying zone district(s), except when bonus density is being constructed.

1602.2 **The provisions of § 1709 shall govern the prerequisites and procedures for transferring bonus density off site if permitted by § 1603.6.**

1602.3 **For combined lot developments that involve the allocation of residential and non residential FAR, no allocation of gross floor area shall be effective unless an instrument, legally sufficient to effect such a transfer, is filed with the Zoning Administrator and recorded by the Recorder of Deeds in the land records against all lots included in the combined lot development;**

1602.4 **The instrument shall be in the form of a declaration of covenants that:**

(a) **Is signed by the owners of all affected lots;**

(b) **Runs with the land in perpetuity;**

(c) ~~**Burdens all lots involved in the allocation of gross floor area;**~~

(d) **Binds the present and future owners of the lot receiving FAR to reserve, design, construct, cause to be occupied, and maintain in perpetuity an area on-site equal to the gross floor area of residential uses received;**

(e) **States the maximum permitted gross floor areas for all uses in all lots, the maximum allowed gross floor area for nonresidential uses in all lots, and the gross floor area of residential uses allocated. The covenant shall further state that, after the transfer, the combined lots conform with the maximum gross floor area limitations for nonresidential USES on the lots before the transfer.**

~~1602.5 The declaration of covenants shall require the owner of the receiving lot to reimburse the Government of the District of Columbia such reasonable expenses as the District incurred to successfully enforce its rights under the declaration;~~

1602.5 **The declaration of covenants shall expressly state that it may be amended or terminated only with the approval of the Zoning Commission, after public hearing and only upon a finding that the proposed modification or termination is fully justified and consistent with the purposes of this chapter**

1602.6 **The declaration of covenants shall be approved in content by the Zoning Administrator and certified for legal sufficiency by the Office of the Corporation Counsel. The declaration shall also contain a written statement by the Director of the D.C. Office of Planning attesting to:**

(a) The lots' eligibility to ~~re~~allocate residential and nonresidential uses;

(b) The accuracy of the computations with respect to the amount of residential and nonresidential uses ~~re~~allocated; and

(c) Whether, after the transfer, the combined lots will conform with the maximum gross floor area limitations on residential uses for the lots before any such transfer.

1603 ZONING COMMISSION APPROVAL FOR BUILDINGS, STRUCTURES AND USES IN THE BP/W-2 DISTRICT

1603.1 ~~All proposed uses, buildings and structures in the BP/W-2 District shall be subject to approval by the Zoning Commission as a special exception.~~

1603.2 In addition to proving that the proposed use, building or structure meets the standards set forth in § 3104, the applicant shall further demonstrate that the use, building or structure:

(a) Will help achieve the desired mixture of uses in the BP Overlay District as set forth in §§ 1600.2(a) and (b), with the identified preferred uses specifically being residential, hotel or inn, cultural, entertainment, retail or service uses; and

(b) In the case of waterfront lots, provides suitably designed public open space along the waterfront, as specified in § 1603.3.

1603.3 With respect to a building or structure to be constructed on a lot that faces or abuts the Anacostia River:

(a) The building or structure shall be set back by no less than **seventy-five (75) feet, unless the Commission finds that such setback renders development infeasible and in no case less than fifty (50) feet**, from the **bulkhead**.

(b) The application shall include a plan for suitable open space treatment of the setback area for such uses as walkway and bikeway, passive or active recreational use, and including provisions assuring private

maintenance of the space, convenient and permanent public access to the space, and suitable connections to adjacent public space along the waterfront.

1603.4 With respect to all applications, the proposed building or structure shall be designed with a height, bulk and siting so as to provide for openness of views and vistas to and from the waterfront and, where practical, maintain views of federal monumental buildings.

1603.5 The Zoning Commission, at its discretion, may also provide for additional on-site or off-site bonus density to be earned for setbacks required under this section, based on the land area of the setback and the proposed features for public open space uses; Provided, that 2.0 FAR based on the land area of the open space setback shall be used as a general guideline.

1603.6 **In the BP/W-2 District, the Zoning Commission, at its discretion, may grant bonus density for residential development in a building or a combined lot development, using a guideline of 1.0 FAR in excess of the normally allowed maximum of 4.0 FAR and an additional ten (10) feet in excess of the normally allowed maximum height of sixty (60) feet; Provided that:**

(a) The building or combined lot development shall include at least 2.0 FAR of residential development; and

(b) The Zoning Commission, at its discretion, may allow construction of such bonus density on the property zoned BP/W-2 or may allow only for the bonus density to be transferred off-site to a lot or lots zoned BP/CR by means of a combined lot development.

1604 ZONING COMMISSION APPROVAL FOR BUILDINGS AND STRUCTURES ON M STREET, S.E.

1604.1 Any proposed building on a lot that abuts M Street, S.E., between South Capitol Street and 4th Street, S.E. shall be subject to approval by the Zoning Commission as a special exception.

1604.2 An applicant requesting special exception approval under this section must prove that the proposed building's architectural design, site plan, landscaping and sidewalk treatment are of a superior quality, pursuant to the design and use requirements set forth in §§ 1604.3 through 1604.7.

1604.3 The streetwall of each new building shall be set back for its entire height and frontage along M Street not less than fifteen feet (15') measured from the **face of the adjacent curb** along M Street, S.E.;

1604.4 Each new building shall devote not less than fifty percent (50%) of the gross floor area of the ground floor to retail, service, entertainment or arts uses **("preferred uses")** as permitted in §§701.1 through 701.5 and §§721.1 through 721.6 of this title; Provided, that the following uses shall not be permitted: automobile laundry, drive through accessory to any use, gasoline service stations, and office uses **(other than those accessory to the administration, maintenance, or leasing of the building)**.

1604.5 For good cause shown, the Commission may authorize interim occupancy of the preferred use space required by § 1604.4 by non-preferred uses for up to a five (5) year period; Provided that the ground floor space is suitably designed for future occupancy by the preferred uses.

1604.6 Not less than fifty percent (50%) of the surface area of the streetwall of any new building along M Street shall be devoted to display windows having clear or low-emissivity glass except for decorative accent, and to entrances to commercial uses or the building;

1604.7 ~~Notwithstanding §2117.8(c)(1), no driveway may be constructed or used from M Street to required parking spaces or loading berths in or adjacent~~ to a new building;

1604.8 A building that qualifies as a Capitol South Receiving Zone site under § 1601.3(b) and for which a building permit has been applied for prior to August 31, 2001 shall not be subject to the requirements of this Section.

1605 EXISTING INDUSTRIAL USES

1605.1 A commercial or industrial use that is first permitted in the CM or M districts and that is in existence with a valid Certificate of Occupancy as of (date)_____, shall be deemed a conforming use and shall be entitled to expand on its current lot or lots as a matter of right up to the permitted commercial FAR and height limits of the underlying zone district; Provided, that the performance standards of §§804, 805, 825 and 826 applicable to the use shall apply to any expansion.

1699 DEFINITIONS

1699.1 When used in this chapter, the term residential uses shall have the following meaning:

Residential uses – residential uses include dwellings, flats, multiple dwellings, guest room areas of hotels or inns, and community based

residential facilities (CBRFs), subject to the size or other limitations normally applicable to the specific type of CBRF in the underlying zone.

* * *

Notice of Public Hearing on p. 2, Item 5 (Rezone from M to BP/W-2), the last item in the list of squares, should read "and the southern part of Square 665, for a distance of 400 feet north of the right-of-way line of V Street, SE."