

**DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

441 4th Street, N.W.
Washington D.C. 20001

RECEIVED
D.C. OFFICE OF ZONING

2010 APR -5 AM 11:33

Appeal of Steuart Investment Company

Appeal No. 18041

DISTRICT OF COLUMBIA'S SUPPLEMENTAL PRE-HEARING FILING

The Appellee, the District of Columbia Department of Consumer and Regulatory Affairs ("Appellee" or "DCRA"), by and through undersigned counsel, respectfully submits twenty (20) copies of the exhibits it intends to reference during the hearing.

Respectfully Submitted,

PETER J. NICKLES
Attorney General
for the District of Columbia

MELINDA M. BOLLING
Acting General Counsel

April 5, 2010


JAY A. SURABIAN (DC Bar # 977657)
Assistant Attorney General
Department Of Consumer And
Regulatory Affairs
Office of General Counsel
1100 4th Street, SW, 5th Floor
Washington, DC 20024
(202) 442-8403 (office)
(202) 442-9447 (fax)
jay.surabian@dc.gov

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18041

EXHIBIT NO. 19

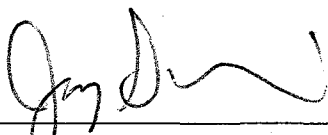
Board of Zoning Adjustment
District of Columbia
CASE NO. 18041
EXHIBIT NO. 19

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing filing was served by first class mail and electronically this 5th day of April 2010, to the following:

Kinley R. Bray, Esq.
Arent Fox LLP
1050 Connecticut Avenue, NW
Washington, DC 20036
bray.kinley@arentfox.com

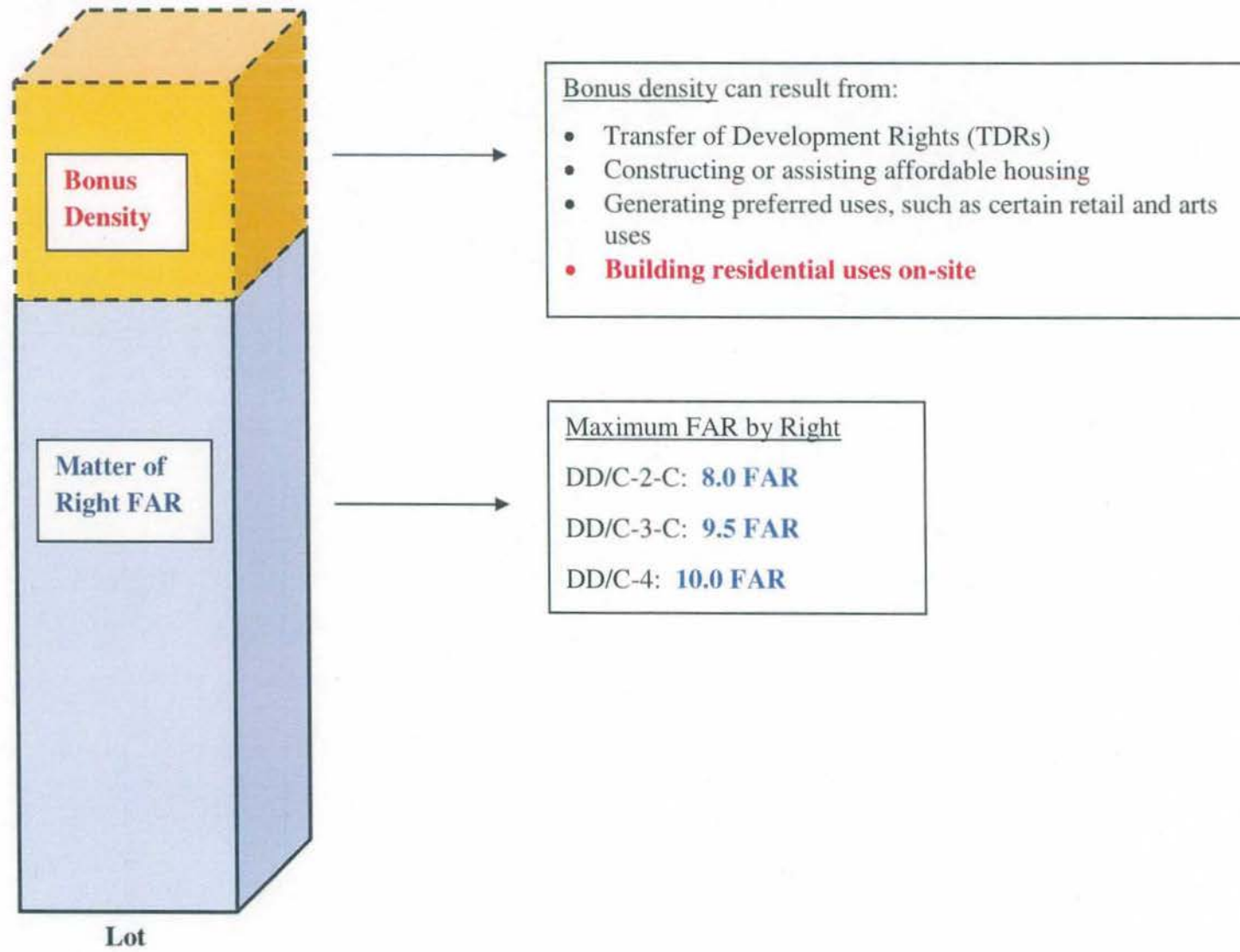
ANC 6C02
P.O. Box 77876
Washington, DC 20013-7787
6C02@anc.dc.gov



Jay Surabian

What is bonus density?

- Density allowed above the matter of right FAR on a lot in the Downtown Development (DD) Overlay District



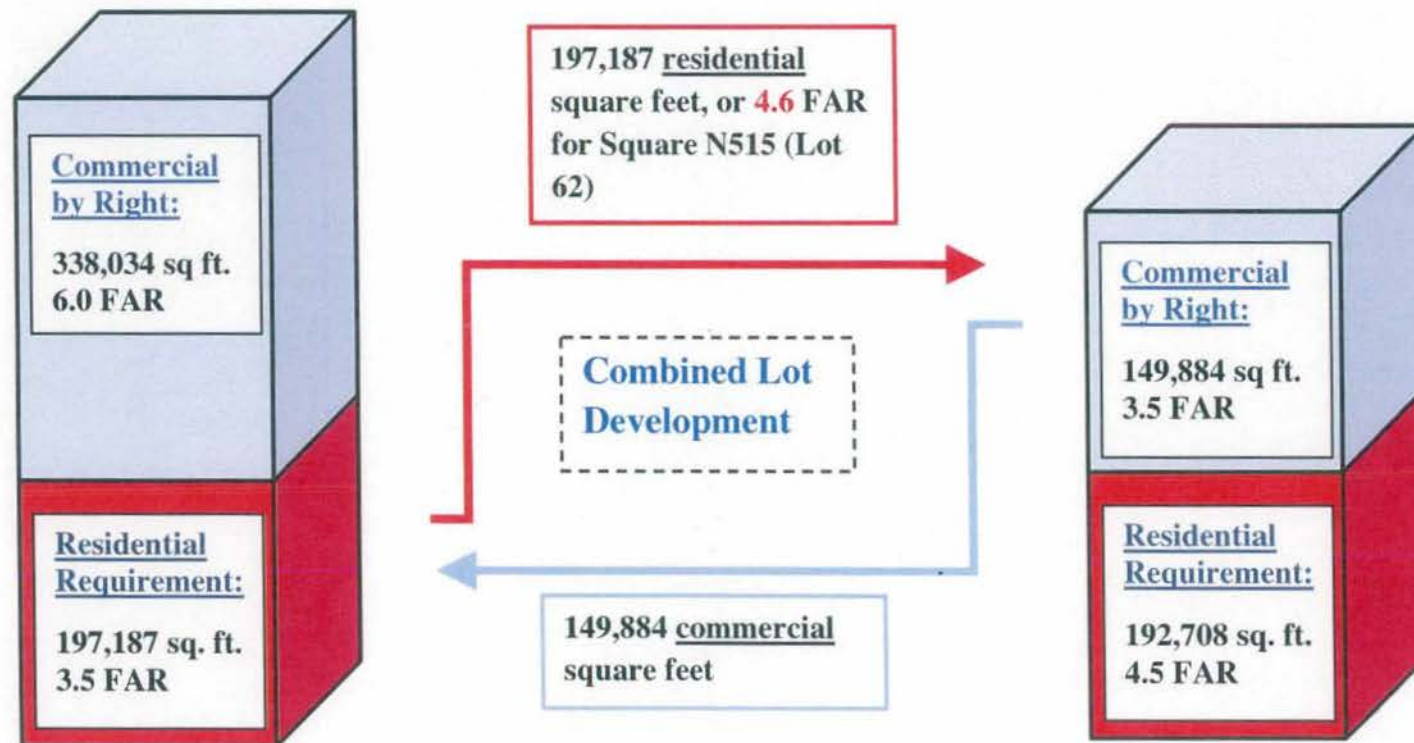
Applicant's Proposed Transfer: § 1706.7(b)(2) Problem

Square 483 (Lot 9)

- DD/C-3-C
- 56,339 sq. ft. lot
- 9.5 FAR by right, 3.5 residential required
- Total density permitted by right: 535,221 sq. ft.
- Wants to have more commercial use

Square N515 (Lot 62)

- DD/C-2-C
- 42,824 sq. ft. lot
- 8.0 FAR by right, 4.5 residential required
- Total density permitted by right: 342,592 sq. ft.
- Wants to have more residential use

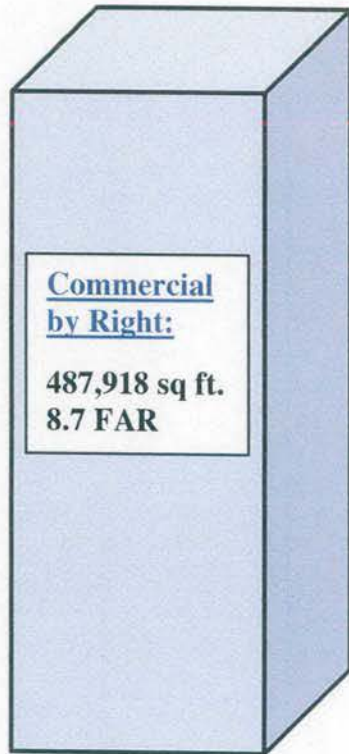


*Graphics are not to scale

Result of Applicant's Proposed Transfer: § 1706.7(b)(2) Problem

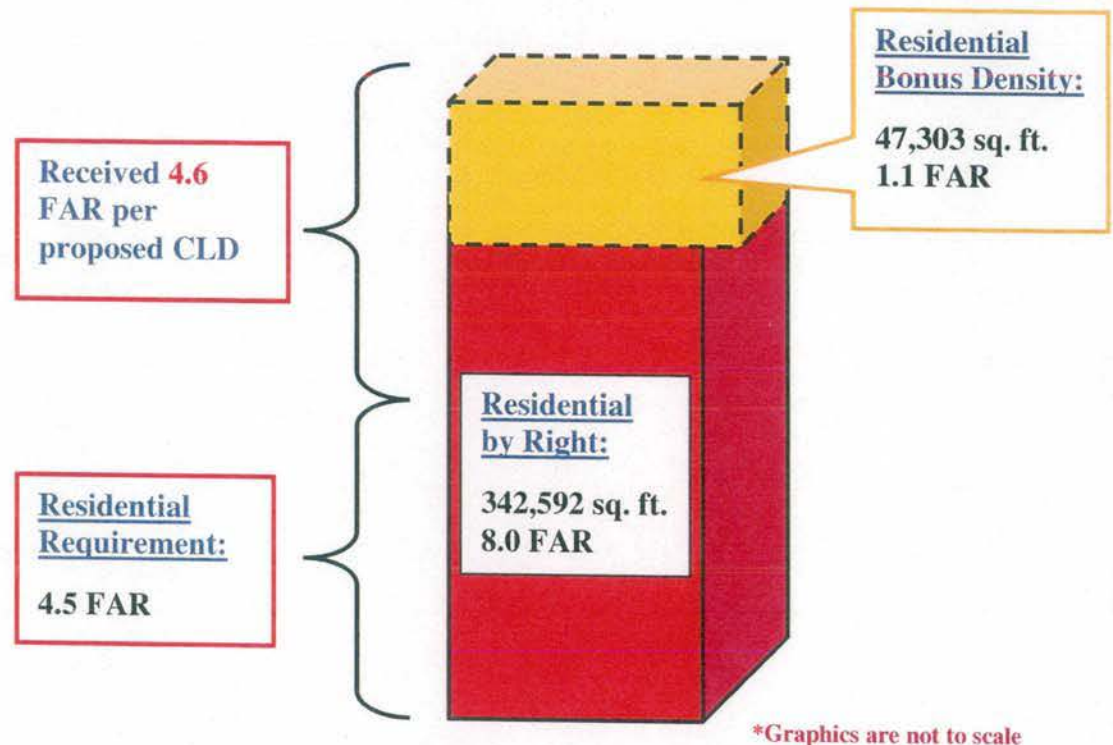
Square 483 (Lot 9)

- DD/C-3-C
- Total density permitted by right: 9.5 FAR or 535,221 sq. ft.



Square N515 (Lot 62)

- DD/C-2-C
- Total density permitted by right: 8.0 FAR or 342,592 sq. ft.



Comment

- Square N515 (Lot 62) would receive 4.6 FAR of residential use and therefore total 9.1 FAR, which exceeds the matter of right FAR of 8.0 for the lot. Since Square N515 (Lot 62) would use residential bonus density to relieve the housing requirement of Square 483 (Lot 9), the CLD conflicts with the limitation of § 1706.7(b)(2).

The § 1706.7(b)(2) Limitation

- To incentivize housing development, the FAR limitations were removed for any lot in the DD that devotes the gross floor area entirely to residential use on-site (§ 1706.7(b) per ZC Case No. 00-30TA (July 26, 2001)).
- An Office of Planning report, dated January 25, 2001, supporting the proposed change provided:

“Since the goal of this zoning change is to encourage the development of additional housing downtown, the bonus residential FAR should not be permitted to relieve other commercial sites of their housing requirement through combined lot development. Residential FAR eligible for transfer should be limited to the amount of non-residential FAR permitted on the residential lot under the current regulations.”

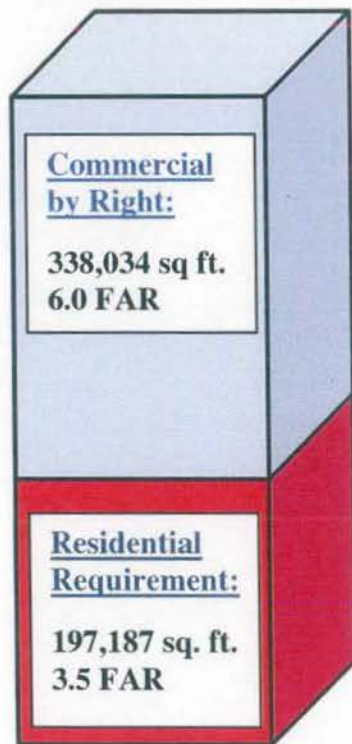
- To that end, § 1706.7(b)(2) limits the maximum FAR that can be received by the residential lot in a combined lot transaction in the DD. The following table shows the symmetry of the limitation.

Zone District of the Lot <u>Receiving</u> Housing	Residential Use Requirement (§§ 1706.4, 1706.5, 1706.6)	Maximum Allowable Combined Lot Transfer (FAR) (§ 1706.7(b)(2))	Maximum FAR (§§ 1706.4, 1706.5, 1706.6)
DD/C-2-C	4.5	3.5	8.0
DD/C-3-C	3.5	6.0	9.5
DD/C-4	2.0	8.0	10.0

CLD Transfer (Sq. 483, Lot 9 and Sq. N515, Lot 62): *If Consistent With § 1706.7(b)(2)*

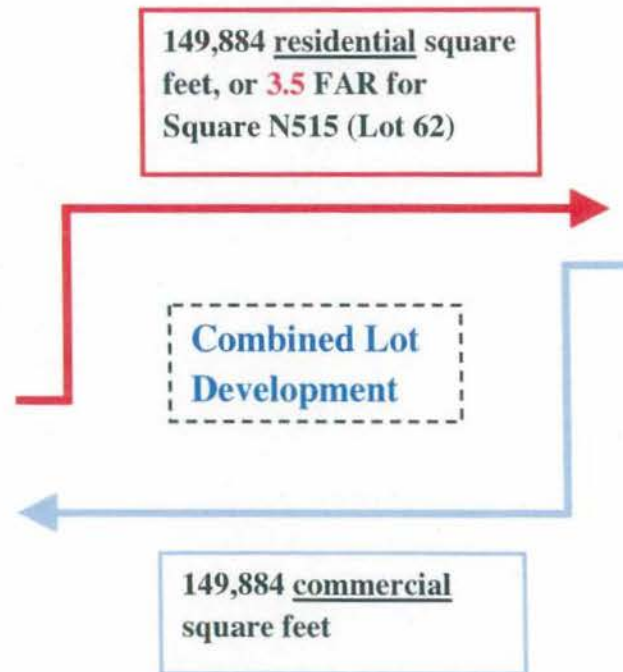
Square 483 (Lot 9)

- DD/C-3-C
- 56,339 sq. ft. lot
- 9.5 FAR by right, 3.5 residential required
- Total density permitted by right: 535,221 sq. ft.
- Wants to have more commercial use



Square N515 (Lot 62)

- DD/C-2-C
- 42,824 sq. ft. lot
- 8.0 FAR by right, 4.5 residential required
- Total density permitted by right: 342,592 sq. ft.
- Wants to have more residential use



*Graphics are not to scale

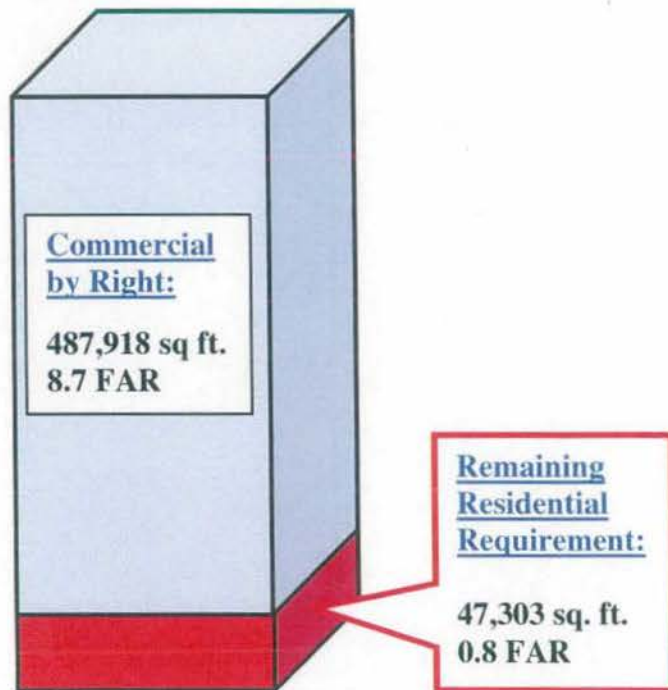
Comment

- The CLD satisfies § 1706.7(b)(2), which limits the lot receiving housing in a DD/C-2-C zone to 3.5 FAR. No bonus density would be used on Square N515 (Lot 62) to relieve Square 483 (Lot 9), the commercial receiving lot, of its housing requirement.

Result of Transfer (Sq. 483, Lot 9 and Sq. N515, Lot 62): *If Consistent with § 1706.7(b)(2)*

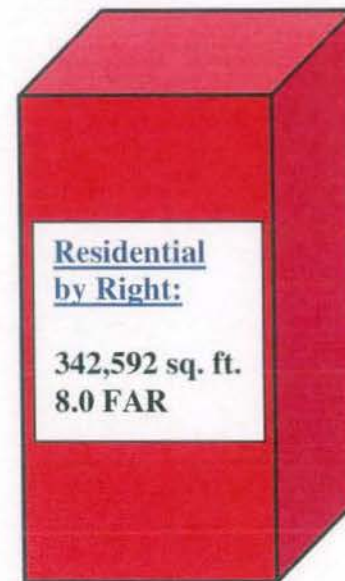
Square 483 (Lot 9)

- Total density permitted by right: 9.5 FAR or 535,221 sq. ft.



Square N515 (Lot 62)

- Total density permitted by right: 8.0 FAR or 342,592 sq. ft.



*Graphics are not to scale

Comment

- Square 483 (Lot 9): Can develop a mixed-use project or engage in a second CLD to fully satisfy the residential requirement.
- Square N515 (Lot 62): Can develop an entirely residential project.
- Both lots can build additional residential bonus density on-site pursuant to § 1706.7(b), but the bonus density cannot be used to relieve the commercial site of its required residential use.