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The Honorable Adrian M. Fenty

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Council of the District of Columbia
The Honorable Vincent C. Gray

Executive Director
Marcel C. Acosta

IN REPLY REFR TO:
NCPC File No. Z.C. 08-33

SEP 09 2009

Zoning Commission of the
District of Columbia
2nd Floor, Suite 210
441 4th Street, NW
Washington, D.C. 20001

Members of the Commission:

The National Capital Planning Commission, at its meeting on September 3, 2009, approved the enclosed action on the Consolidated Planned Unit Development, 1st Stage Planned Unit Development and related map amendment, Parcel 121/131 at the intersection of Irving Street, NE and Michigan Avenue, NE. The Commission found that the proposed First Stage Planned Unit Development would be adverse to a federal interest because the proposed residential use is inconsistent with the March 1990 agreement between the General Services Administration and the District of Columbia. The Staff Recommendation for the project is also enclosed.

Sincerely,

Marcel Acosta
Executive Director

Enclosures

ZONING COMMISSION
District of Columbia

CASE NO.

EXHIBIT NO.

cc: Harriet Tregoning, Director, D.C. Office of Planning
Anthony Hood, Chairman, Zoning Commission

08-33
41

COMMISSION ACTION

NCPC File No. Z.C. 08-33



CONSOLIDATED PLANNED UNIT DEVELOPMENT, 1ST STAGE PLANNED UNIT DEVELOPMENT, AND RELATED MAP AMENDMENT AT PARCEL 121/31

Irving Street, NE at Michigan Avenue, NE
Washington, DC

Referred by the Zoning Commission of the District of Columbia

September 3, 2009

Commission Action Requested

Approval of the report to the Zoning Commission of the District of Columbia pursuant to 40 U.S.C. § 8724(a) and DC Code § 2-1006 (a).

Commission Action

The Commission:

Advises the Zoning Commission that the proposed Consolidated Planned Unit Development and related map amendment for a mixed use development at Parcel 121/31, located at the intersection of Irving Street, NE and Michigan Avenue, NE, Washington, DC; would not be inconsistent with the Comprehensive Plan for the National Capital, nor would it adversely affect any other identified federal interests.

Advises the Zoning Commission that the proposed 1st Stage Planned Unit Development for a mixed use development at Parcel 121/31 would have an adverse effect on an identified federal interest because the proposed inclusion of dwelling units is inconsistent with the acceptable uses stipulated in the Statement of Non-Disturbance established on March 7, 1990 between the District of Columbia government and the General Services Administration.

A handwritten signature in dark ink, appearing to read "Deborah B. Young". The signature is written over a horizontal line.

Deborah B. Young

Secretary to the National Capital Planning Commission

STAFF RECOMMENDATION

NCPC File No. ZC 08-33



CONSOLIDATED PLANNED UNIT DEVELOPMENT, 1ST STAGE PLANNED UNIT DEVELOPMENT, AND RELATED MAP AMENDMENT AT PARCEL 121/31

Irving Street, NE at Michigan Avenue, NE
Washington, DC

Referred by the Zoning Commission of the District of Columbia

August 27, 2009

Abstract

The Zoning Commission of the District of Columbia has taken a proposed action to approve a Consolidated Planned Unit Development, 1st Stage Planned Unit Development, and related map amendment to construct a mixed use development consisting of hotel / conference center, restaurant, retail, and residential uses. The property is located at the corner of Michigan Avenue, NE and Irving Street, NE. It is 5.48 acres and is currently improved with a 400-space parking lot. The requested map amendment will rezone the property from "unzoned" (GOV) to C-3-A in order to allow the desired building heights and mix of uses. The project will be carried out in two phases with the first phase consisting of the construction of the hotel / conference center, restaurant, retail, and parking garage. This phase of the project is being reviewed by the Zoning Commission as a Consolidated Planned Unit Development. The second phase of the project will consist of the construction of two buildings located on the northern portion of the property and will contain a mixture of hotel, conference center, and residential uses; as well as a possible expansion of the parking garage constructed in phase one. This phase of the project is being reviewed by the Zoning Commission as a 1st Stage Planned Unit Development.

Commission Action Requested by Applicant

Approval of the report to the Zoning Commission of the District of Columbia pursuant to 40 U.S.C. § 8724(a) and DC Code § 2-1006(a).

Executive Director's Recommendation

The Commission:

Advises the Zoning Commission that the proposed Consolidated Planned Unit Development and related map amendment for a mixed use development at Parcel 121/31, located at the intersection of Irving Street, NE and Michigan Avenue, NE, Washington, DC; would not be inconsistent with the Comprehensive Plan for the National Capital, nor would it adversely affect any other identified federal interests.

Advises the Zoning Commission that the proposed 1st Stage Planned Unit Development for a mixed use development at Parcel 121/31 would have an adverse effect on an identified federal interest because the proposed inclusion of dwelling units is inconsistent with the acceptable uses stipulated in the Statement of Non-Disturbance established on March 7, 1990 between the District of Columbia government and the General Services Administration.

* * *

PROJECT DESCRIPTION

Site

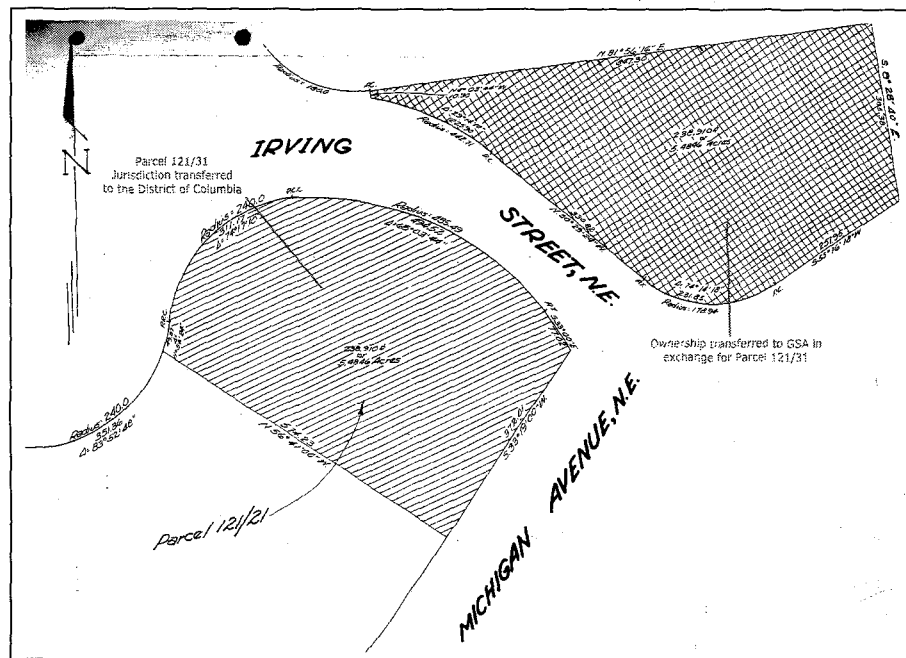
The site that is the subject of this application is Parcel 121/31. It is located in the northeast quadrant of the District of Columbia at the intersection of Irving Street, NE and Michigan Avenue, NE. The site measures 5.48 acres and is unzoned as it is currently owned by the federal government. However, the District of Columbia government has retained administrative jurisdiction over the property for approximately forty years. Land uses in the vicinity of the site are predominately institutional and residential. Uses that are adjacent to Parcel 121/31 include the Shrine of the Immaculate Conception to the northeast and residential uses to the southwest. Several institutional uses exist within a one-mile radius of the site such as Catholic University, Trinity College, Washington Hospital Center, Children's Hospital, Veteran Affairs Medical Center, and the U.S. Armed Forces Retirement Home. The site is currently improved with a 400-space parking lot that is used by the Washington Hospital Center for off-site parking.



Project site map

Background

Jurisdiction of Parcel 121/31 was transferred from the General Services Administration (GSA) to the District of Columbia ("the District") in 1959 as part of a land swap where GSA received fee simple ownership of a similarly sized piece of property located to the north across Irving Street, NE. Following the transfer of jurisdiction the District used the site as a commuter parking lot, commonly referred to as the "fringe parking lot." Commuters would park in the lot and take buses to their work places downtown. Following the opening of the Metrorail in the 1970s the buses were rerouted to the nearby Metro station and the use of the site as a commuter parking lot was no longer necessary.



Plat showing 1959 transfer of jurisdiction

In an effort to put the site back to productive use the District explored several potential uses throughout the 1970s and 1980s. Relying upon the Comprehensive Plan and the Ward Plan; the District issued a Request for Expressions of Interest (REI) for development of the site. The responses received to the REI unanimously suggested development of a facility to complement the surrounding educational and health care institutions. In August 1988, the District issued a Request for Proposals (RFP) calling for development of a conference facility. Conference Center Associates (CCA) was subsequently selected as the development entity. A development agreement was signed with CCA in November 1989. This agreement did not clear the way for development of the site for its intended uses since the federal government still held title to Parcel 121/31. Therefore, in addition to filing an application for a Planned Unit Development (PUD) and related map amendment with the Zoning Commission of the District of Columbia (ZC) to construct the conference facility (Case No. 90-3C), the District also needed to discuss the project with GSA prior to going forward. Having done so, the District and GSA entered into a Statement of Non-Disturbance on March 7, 1990 that provided the District with assurances that "as long as

the parcel is used as a conference, training and/or exhibit center, overnight accommodations facility and ancillary uses, such as a restaurant, recreational facilities and/or gift shop, and/or compatible use and such use is consented to by the District, GSA will not seek to revoke the transfer of jurisdiction of this parcel to the District, nor will it take other action to prohibit construction, development, maintenance, operation, restoration and/or repair of the facility." (Attachment 1) Around this same time, GSA also submitted a memorandum to the ZC giving the District authorization to represent GSA throughout the PUD and rezoning approval process. On March 11, 1991, following NCPC review and comment, the ZC gave final approval to Case No. 90-3C for a period of two years. Over the next nine years the PUD and related map amendment were granted six approval extensions, the last extension granted in May 2000 was for a period of 180 days. It appears this was the last action taken by the ZC on this application.

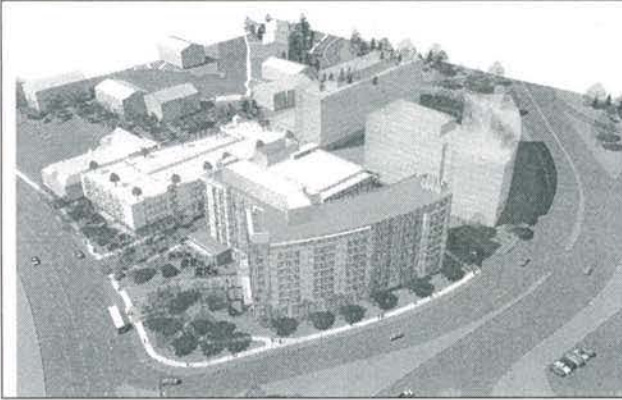
On December 23, 2008, Conference Center Associates I, LLC, on behalf of the District of Columbia Department of Housing and Community Development, filed a new application with the ZC for a Consolidated PUD, 1st Stage PUD, and a proposed map amendment for the development of Parcel 121/31. This application, ZC Case No. 08-33, is the subject of NCPC's current review. The proposed uses for this PUD differ slightly from the application that was approved in 1991 in that residential dwelling units are included in the second phase of development.

Proposal

The Zoning Commission of the District of Columbia has taken a proposed action to approve a Consolidated PUD, 1st Stage PUD, and related map amendment to construct a mixed use development consisting of a hotel / conference center with restaurant and retail space as well as residential and/or additional hotel space depending on future economic conditions. As indicated above the site is currently owned by the federal government, but under the jurisdiction of the District, and is technically "unzoned." The requested map amendment would rezone the property to C-3-A in order to allow the desired building heights and mix of uses.

The proposed development of Parcel 121/31 will be carried out in two phases. The first phase of the project will consist of a 233-room hotel/conference center with approximately 5,000 square feet dedicated to a restaurant use. Approximately 12,000 square feet of retail use would occupy a portion of the ground-level of a 5-story parking garage with frontage along Michigan Avenue, NE. This phase of the project will take place on the southern half of the site, and has been submitted to the ZC as a Consolidated PUD.

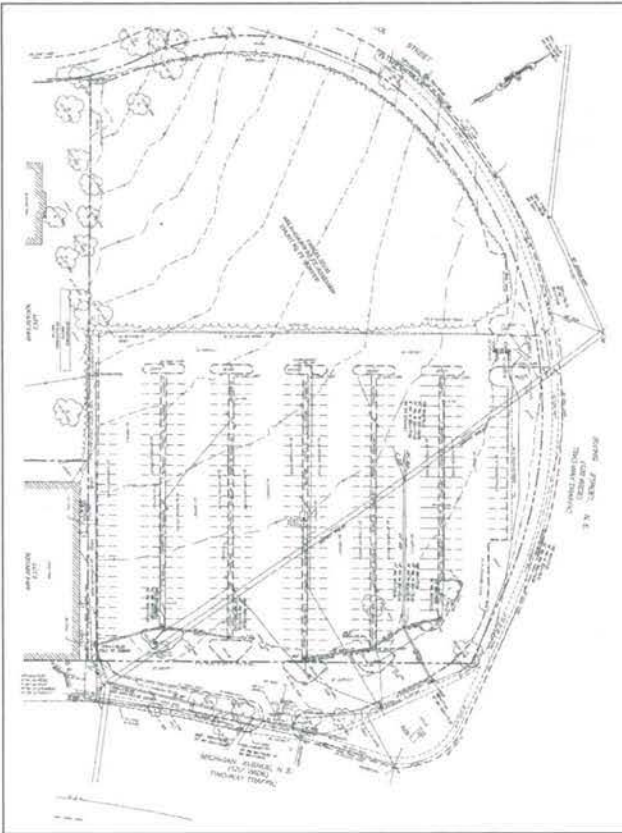
The second phase of this project will consist of two buildings located on the northern half of the site, and will be carried out according to one of two development scenarios depending upon economic conditions. The first scenario would construct 240 residential units with a 220 space below-grade parking garage. The second scenario would construct a 120 residential units and additional hotel / conference space with approximately 200 rooms supported by a 220 space below-grade parking garage. This scenario would also expand the 5-story parking garage constructed in the first phase to add an additional 174 parking spaces. This phase of the project has been submitted to the ZC as a 1st Stage PUD.



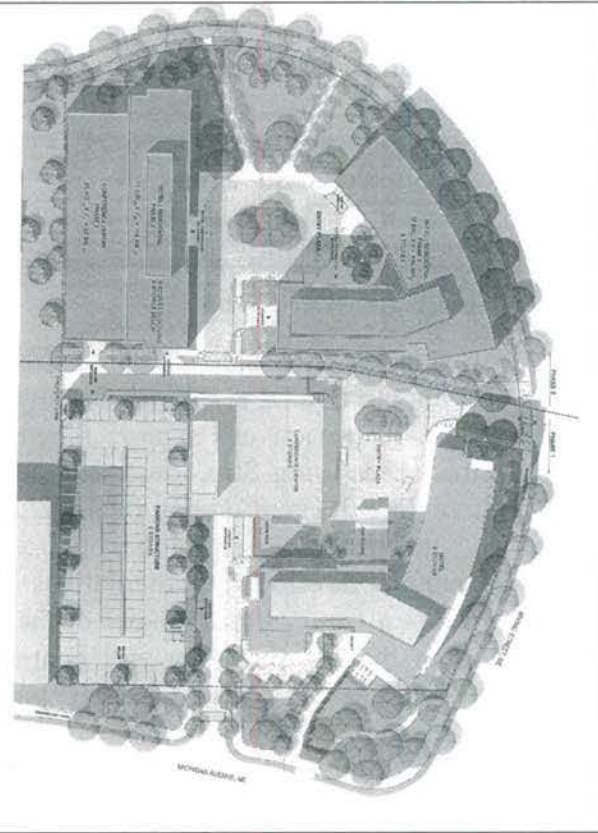
Perspective from Michigan Ave, NE and Irving St, NE



Aerial perspective showing surrounding context



Existing conditions showing street widths



Proposed site plan (Phase 1 & 2)

PROJECT ANALYSIS

The federal interests associated with the proposed Consolidated PUD, 1st Stage PUD, and related map amendment include:

- Compliance with the 1910 Height of Buildings Act (“the Act”);

- Impact on the transportation and development alternatives contained in the North Capitol Street Cloverleaf Feasibility Study;
- Proximity of the project to nearby federal facilities such as the U.S. Armed Forces Retirement Home and the Veteran Affairs Medical Center; and
- The applicability of the Statement of Non-Disturbance established between the District and GSA to the current PUD application.

Compliance with the 1910 Height of Buildings Act

Based on the widths of the streets surrounding the site, the Act will allow any building constructed and measured along Michigan Avenue, NE or Irving Street, NE to reach a maximum height of 130 feet.* All buildings associated with this project will not exceed a height of 94'6" and therefore will comply with the Act. The Act also requires penthouses and other roof structures to be setback from all exterior walls a distance equal to their height above the adjacent roof. This project consists of multiple roof structures that have varying heights; some of which do not meet this setback requirement. However, since the combined height of the proposed buildings and their associated roof structures does not exceed the maximum building height allowed under the Act, the proposed PUD (as proposed) would not be in violation of the Act's roof structure setback requirement.

Impact on the transportation and development alternatives contained in the North Capitol Street Cloverleaf Feasibility Study

The North Capitol Street Cloverleaf Feasibility Study was a joint initiative between the DC Office of Planning (DCOP), District Department of Transportation, and NCPC. The purpose of the study was to proactively explore the traffic and transit issues associated with the North Capitol Street and Irving Street intersection while also addressing how the character of North Capitol Street and the surrounding public realm can better reflect the street's symbolic role as a gateway to the historic core of the city. Staff has reviewed the proposed PUD against the transportation and development alternatives contained in this study and has determined that the project will not affect or preclude any of these alternatives. In addition, DCOP has indicated in their report to the ZC that they will continue to work to ensure that the proposed PUD is coordinated with the North Capitol Street study.

Proximity of the project to nearby federal facilities

There are two federal facilities located approximately 0.25 miles from the location of the proposed PUD: the U.S. Armed Forces Retirement Home (AFRH) and the Veteran Affairs Medical Center (VA). Staff has reviewed the proposed PUD against the relevant plans, master plans and/or studies that pertain to the Armed Forces Retirement Home[†] and the VA and has determined that the proposal will not adversely affect this particular identified federal interest.

* Both Michigan Avenue, NE and Irving Street, NE have a width of 130 feet where they are adjacent to Parcel 121/31.

[†] The National Capital Planning Commission approved MP060, final master plan for the Armed Forces Retirement Home, at its meeting on July 10, 2008

The applicability of the Statement of Non-Disturbance

The Statement of Non-Disturbance established between the District and GSA for purposes of developing Parcel 121/31 in accordance with ZC Case No. 90-3C states that “as long the parcel is used as a conference, training and/or exhibit center, overnight accommodations facility and ancillary uses, such as a restaurant, recreational facilities and/or gift shop, and/or compatible use and such use is consented to by the District, GSA will not seek to revoke the transfer of jurisdiction of this parcel to the District, nor will it take other action to prohibit construction, development, maintenance, operation, restoration and/or repair of the facility.” Since the Statement of Non-Disturbance was established as part of a previous zoning approval that has since expired, and considering the current development proposal contemplates a different mix of uses than was previously approved by the ZC in 1991, staff has worked closely with GSA to determine whether the Statement of Non-Disturbance is still applicable to the current development proposal. After reviewing the current proposal against the provisions of the Statement of Non-Disturbance, GSA has informed staff that it is not prepared to state that the revised development proposal for Parcel 121/31 is compatible with the agreement it entered into with the District in 1990, nor is it prepared to conclude that the proposal would have no adverse affect on this particular federally owned site, or those located nearby. Specifically, GSA is of the opinion that the inclusion of dwelling units as part of the proposed 1st Stage PUD is inconsistent with the language of the Statement of Non-Disturbance, and that such a use was not contemplated at the time the agreement was established. Therefore, in light of GSA’s position regarding the applicability of the Statement of Non-Disturbance to the current development proposal staff finds that the proposed 1st Stage PUD would have an adverse affect on the federal interest.

Attachment 1 - Statement of Non-Disturbance

STATEMENT OF NON-DISTURBANCE

THIS STATEMENT OF NON-DISTURBANCE is made this 7th day of March, 1990, by the United States of America, acting by and through the General Services Administration ("GSA") to the District of Columbia Government acting by and through the Office of Business and Economic Development.

WHEREAS, the United States of America, acting by and through GSA, is the owner of premises known as Parcel 121/31, and located at Michigan Avenue and Irving Street, N.E., Washington, D.C.; and

WHEREAS, by virtue of a transfer of jurisdiction from GSA to the District of Columbia, a municipal corporation ("District"), pursuant to 40 U.S.C. Section 122, the aforementioned premises is now under the jurisdiction of the District; and

WHEREAS, the District desires to offer the site for development as a privately-owned conference, training and/or exhibit center, overnight accommodations facility and ancillary uses, such as a restaurant, recreational facilities, and/or gift shop, and/or compatible use; and

WHEREAS, the Developer seeks assurances from GSA that while the property is so used, GSA will not seek to revoke the transfer of jurisdiction or take other action to prohibit construction of the facility; and

WHEREAS, GSA is willing to grant this assurance.

NOW, THEREFORE, GSA hereby covenants to the District of Columbia and agrees that, as long as the aforementioned parcel is used as a conference, training and/or exhibit center, overnight accommodations facility and ancillary uses, such as a restaurant, recreational facilities and/or gift shop, and/or compatible use and such use is consented to by the District, GSA will not seek to revoke the transfer of jurisdiction of this parcel to the District, nor will it take other action to prohibit construction, development, maintenance, operation, restoration and/or repair of the facility.

WITNESS:

UNITED STATES GENERAL
SERVICES ADMINISTRATION

Paul Christolini

BY: James C. Handley

WITNESS:

DISTRICT OF COLUMBIA

Luci Ann Blackman

BY: Raymond A. Skinner

Raymond A. Skinner
Assistant Director

