

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

MEMORANDUM

TO: District of Columbia Zoning Commission

FROM: *ALS for*
Ellen McCarthy, Director

DATE: September 1, 2006

SUBJECT: Preliminary Office of Planning Report on Zoning Commission Case No 06-32
Square 766, Lots 808, 809, 812, 813, 823 and 824 (all of Square)
Proposed Text Amendment to Include Square in a TDR Receiving Area

I. SUMMARY RECOMMENDATION

OP recommends the Commission set down the application for a public hearing so that the applicant is provided an opportunity to fully articulate its case to the Commission. OP, however, has explained to the applicant that the Office will not support the text amendment in its final report

II. BACKGROUND

Applicant Washington Telecom Associates, LLC (as long-term lessee of Square 766)
Action Requested Text Amendment to 11 DCMR § 1709 18 to include Square 766 within the Capitol South TDR Receiving Area

Square 766 is between 2nd and 3rd Streets S E just south of I-395 and at the northern end of the planned Canal Blocks Park. It is occupied by the former Evening Star newspaper printing plant building. In 1998, as part of larger action that expanded TDR receiving areas into the C-3-C zoned areas of the central employment area outside of Downtown, the Office of Planning recommended that this Square and the C-3-C zoned portions of Squares 769 and 800 be included in the Capitol South TDR receiving zone. In response to testimony expressing concern that the additional height and bulk permitted in a receiving zone would be incompatible with the scale of adjacent two-story residential buildings on 3rd Street, SE, OP modified its recommendations to not include these three squares in the receiving area. OP wished to limit the TDR receiving area to the areas west of 2nd Street in order to ensure that 130 foot high buildings could not extend east of the 2nd Street Canal Blocks. The revised OP recommendation provided an approximately 200 foot buffer between matter of right 130 foot buildings and the existing two-story residential uses on the east side of 3rd Street. The Zoning Commission concurred with OP and, on May 18, 1998 voted to expand the TDR receiving zone, but without including Squares 766, 769 or 800.

ZONING COMMISSION
District of Columbia

The current owners of the Square's property are asking that Square 766 now be included in the receiving area based on their contention that the Square's context has changed significantly since 1998. OP has explained our concern about expanding receiving zones as a way to exempt property from the Inclusionary Zoning (IZ) program.

OP believes the development context has indeed changed in the last six years, not just with respect to building environment, but also with respect to the planning and policy context. Affordable housing, as achieved by mandatory Inclusionary Zoning, is a new factor in the development calculus. Every Square added to a TDR receiving zone will likely result in a Square subtracted from the area in which IZ requirements will apply. OP does not support increasing the density by more than 50% and simultaneously exempting the site from the affordable housing requirements of the IZ program.

The applicant states that changes in the development context since 1998 justify the Commission's re-examining its decision to exclude Square 766 from the TDR receiving zone. 130 foot buildings have already been constructed to the south and west, along New Jersey Avenue and 2nd Street, between K and M. The Arthur Capper Hope VI project (Z C PUD Cases Nos 03-12 and 13) will construct buildings of 65 and 110 feet to the south east, between 2nd Street Place and 3rd Street, facing onto what is slated to become the Canal Blocks Park between 2nd Street and the private 2nd Street Place.

However, OP notes that the scale of development east of the buildings facing onto the Canal Blocks will not be that different in the new Arthur-Capper PUD development from what existed in 1998. It will still be rowhouses and apartments less than 50' high. More importantly, the new developments on Square 797, immediately east of Square 766, will also be two to four story townhouses.

OP has explained to the applicant the Office's preference for a PUD as a more appropriate way to apply for additional height and density.

III. SITE AND AREA DESCRIPTION

Square 766 in southeast Washington is bounded by

- North Virginia Avenue,
- East 3rd Street,
- South I Street,
- West 2nd Street

The site's location is illustrated to on the next page and, in larger format, in the Attachments to this report.



Fig. 1: Location Map

The shaded rectangle is the Canal Blocks park, which is bounded by I and M Streets on the north and south, and 2nd Street and the private 2nd Street Place on the west and east.

The site is occupied by a 5 story building that formerly housed the printing operations of the Evening Star and then the Washington Post newspapers, and by 50 surface parking spaces. The location is in the rapidly redeveloping Near Southeast neighborhood and is convenient both to freeways and to Metrorail.

With one exception, the applicant accurately describes the surrounding existing and proposed land uses on pages 1 and 2 of its June 19, 2006 filing. Developments to the west will rise to 130 feet and have 10.0 FARs. Developments to the south will range from 65 feet to 110 feet high and have FARs ranging from 2.35 to 7.18. The height and FAR differences are due to the properties on the west and south's facing onto the 160 foot wide New Jersey Avenue and being in the Capitol South Receiving Zone for TDRs, while the properties on the east and south are on narrower streets and are not in the TDR Receiving Area.

The applicant's inaccuracy is stating (Point 3, page 2) that the Capper-Carrolsburg PUD development to the immediate east of Square 766 will rise to six stories. That Square, Square 797, will be developed with 3 to 4 story townhouses, as will the 2 ½ Squares south of Square 797. It is Square 798, to the southeast that will be developed with a 65' mixed use building.

See Attachment 2 for the Capper Carroll site plan and heights that were adopted by the Zoning Commission in Case No. 03-12 / 03-13. Square 766 is just above Square 767 and the the PUD boundaries and contains the very large orange footprint of the existing building in the Square.

IV. AREA ZONING AND HISTORIC DISTRICTS *(See Attachment 1)*

Square 766 is zoned C-3-C and is not in the TDR receiving zone. Squares to the west are also C-3-C, but are in the TDR receiving zone. The underlying zoning of Squares to the south and east is R-5-B; however the zoning associated with these Squares as part of the Capper-Carrolsburg PUD is CR

immediately to the south and R-5-B to the east and south Zoning to the north, across the Freeway, is generally R-4 and within the Capitol Hill overlay

The Capitol Hill historic district is to the north, across the freeway

V. DESCRIPTION OF TEXT AMENDMENT PROPOSAL

The applicant is asking the Commission to amend 11 DCMR § 1709 18 to add Square 766 to the Capitol South receiving zone The following table compares the development potential and likely Inclusionary Zoning Requirements for the Square under current zoning and the development potential if it were included in the TDR receiving zone

Zone District	Use Considerations	Lot Occ. (%)	FAR	Ht. (ft)	Develop-able SF on 92,400 SF Lot	SF and % More Than C-3-C Matter of Right
C-3-C M-O-R	Medium-high density office, retail, housing, entertainment, and mixes thereof permitted	100	6 5	90	600,600	0 0
C-3-C PUD	Same as above, with front on Virginia Ave for height purposes	100	8 0	130	739,200	138,600 23%
C-3-C M-O-R with IZ	Same as above, but, if 10 or more residential units were constructed, would be entitled to 20% density increase (i e , 1.3 FAR) provided 50% of bonus were devoted to IZ housing (IZ reducable to 8% of M-O-R density by BZA)	100	7 8	110	720,720	120,120 20%
C-3-C M-O-R or PUD in TDR Receiving Area	Same as C-3-C MOR or PUD respectively, plus 3 5 FAR over matter of right, up to maximum of 10.0 No IZ requirement under current OP IZ mapping proposal	100	10 0 MOR and PUD	130	924,000	323,400 53 8%

Table 1. Comparison of Zoning and Development Scenarios for Primarily Residential Development of Square 766: Matter of Right, PUD, With IZ and Within Capitol South TDR Receiving Area.

The applicant's request would permit, by right, a 53 8% larger building with an additional 40' of height, and 3 5 FAR (323,400 SF) of development over the current matter of right height and square footage If the development were residential, none of it would likely be subject to an IZ requirement under the applicant's proposal If the Square were developed solely for commercial and non-residential uses, the IZ requirements would not apply

VI. RELATIONSHIP OF THE APPLICATION TO THE COMPREHENSIVE PLAN (*See Attachments 3 and 4*)

The requested text amendment is not inconsistent with the Generalized Land Use Map. The current Comprehensive Plan (*Attachment 3*) shows the Square as being suitable for high density commercial, which permits mixed-uses. The proposed draft Comprehensive Plan (*Attachment 4*) shows the Square as high-density residential / medium density commercial. The current maximum FAR allowed on the Square, whether or not it is in the TDR receiving area, comports with the density indicated on the Comprehensive Plan Maps.

The written elements of the current Comprehensive Plan do not contain specific references to the land use or economic development of the Square or nearby area, nor to the Transferable Development Rights Receiving Zones. However, page 15-24 of the July 2006 draft of the new proposed Comprehensive Plan does refer to the desirability of creating the Canal Blocks Park, and of continuing to “develop and apply zoning incentives to promote residential uses within the near Southeast, such as the Capitol Gateway Overlay District.” It also cautions that “Zoning changes should not diminish *established* provisions for transfer of development rights into the Capitol South area” [emphasis added].

OP Analysis

The Capitol South Receiving Zone boundary line in 11DCMR § 1709 18 was set by the Zoning Commission in Case No. 97-14Z. The applicant has outlined the history of Square’s 766 being recommended by OP for inclusion in the Capitol South Receiving Zone, and its being omitted from the receiving zone by the Zoning Commission due to height and bulk context considerations. The applicant posits that this exclusion was inappropriate then because the property was one of only three C-3-C zoned Squares or parts of Squares south of the freeway and east of South Capitol Street that were not included within the Capitol South receiving area. It suggests that the exclusion is even more inappropriate now that 130 foot, 10 FAR buildings are being built to the west and south, and the mixed use townhouse / mid-rise / high rise Arthur Capper development is under construction to the east and south. The applicant believes that the context to the east and south has changed enough to vitiate the Zoning Commission’s rationale for excluding the Square in its rulemaking for Case No. 97-14Z. By this rationale, all three Squares explicitly excluded from the TDR receiving zones in Case 97-14Z should now be included within the receiving zone. OP notes that the redevelopment of Arthur Capper is being done as a PUD.

However, OP notes that the intent of the 10 DCMR Comprehensive Plan § 940 2, which describes the objectives for TDR receiving areas, was to help create downtown housing, department store development, and preferred use development by ensuring there were enough TDR receiving zones to capture, and to generate competition for, the value of the downtown-generated TDRs. The purpose was not to ensure that all C-3-C areas outside of downtown were treated uniformly with respect to potential FAR bonuses.

VII. RELATIONSHIP TO RECENT ZONING ACTIONS AND OTHER ONGOING PLANS FOR THE AREA, AS WELL AS PROMOTION OF HEALTH AND GENERAL WELFARE

Square 766 was not affected by the Zoning Commission action that established the Capitol Gateway (CG) Overlay, with its retail bonuses and design review requirements, as the Square is not within the CG Overlay area. The Square's market potential has benefited substantially by the combination of Zoning Commission Case Nos 03-12/03-13 (the Capper-Carrollsborg PUD) as well as public action in support of the entire baseball stadium area, the Southeast Federal Center, planned South Capitol and First Street SE road improvements by DDOT, and Anacostia Waterfront Corporation planning. The Square will anchor the northern end of the Canal Blocks Park development that was formalized in the Zoning Commission decision on the U.S. Department of Transportation PUD.

The proposed inclusion of the Square in the TDR receiving area would have some impact on the urban design of the Canal Blocks. The Square is currently permitted 90' in height and 6.5 FAR as a matter of right under its C-3-C zoning. As a PUD, subject to community review and Zoning Commission approval, the site would be permitted 130 feet in height and 8.0 FAR. If the Square were included in the TDR receiving area a 130 foot high and 10.0 FAR building could be developed as a matter of right.

The proposed addition of the Square to the TDR receiving area would not further the objectives of the recent Zoning Commission action in Case No 04-18 (Inclusionary Zoning). The Commission made clear its desire to mandate IZ in, among other areas, those near Metro and along major development corridors – both of which conditions this Square meets. However, the Commission also made clear its intention not to impose IZ on properties where additional density could not be granted as part of the IZ process. If this Square were included within a TDR receiving area, its maximum potential density could be achieved as a matter of right through the purchase of TDRs. It would not be possible for zoning to mandate the inclusion of affordable housing with the residential development of the Square and to grant a bonus density.

OP believes that there is enough justification for the applicant's request to warrant a public hearing. However, should the case be set down, the applicant will need to address the following concerns:

1. How the inclusion of this Square in § 1710 18 would further the objectives of the TDR program,
2. How the inclusion of the Square within the receiving area would further all other public objectives,
3. How the heights permitted by the zoning associated with the Capper-Carrollsborg PUDs approved development program differ from what would have been allowed under matter-of-right zoning, and how such changes create a new context for the density increases that would be possible on Square 766 under the applicant's proposal,
4. How the height and density that would be permitted as a matter of right by the applicant's proposal would help to transition from the 130 foot, 10 FAR buildings on the west side of the Canal Blocks, to the less-dense buildings on the east of the Canal Blocks and immediately east of Square 766
5. How the public good would be better served by essentially removing the site from both the IZ and the community/Commission review process that a PUD entails, since, within a TDR receiving area, a PUD would no longer be required to build 130' high or to achieve a density greater than the matter of right density.

VIII. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends that the Zoning Commission set down this application for a public hearing and that it request that the applicant address the significant concerns noted in this report

EMcC/SLC

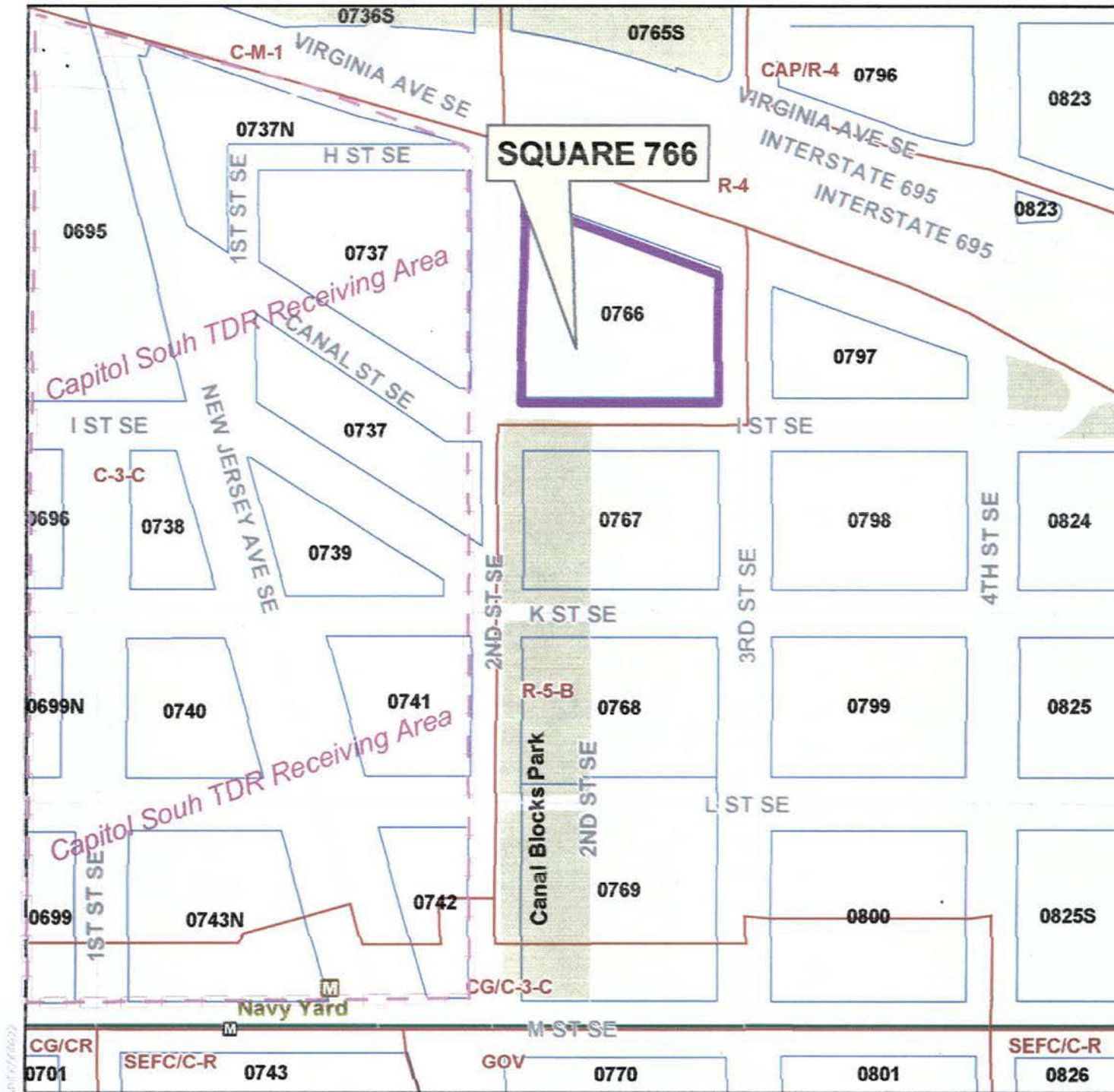
Attachments (4)

Location, Zoning and Existing TDR Receiving Area map

Adopted Capper-Carrollsborg Site Plan, with Building Heights

Generalized Land Use Map from Existing Comprehensive Plan

Generalized Land Use Map from Draft Proposed New Comprehensive Plan



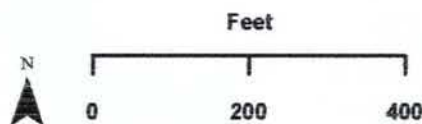
District of Columbia ZC 06-32 Text Amendment to Include Square 766 in Capitol South TDR Receiving Area LOCATION, ZONING, EXISTING TDR RECEIVING AREA

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Office of Planning ~ August 25, 2006

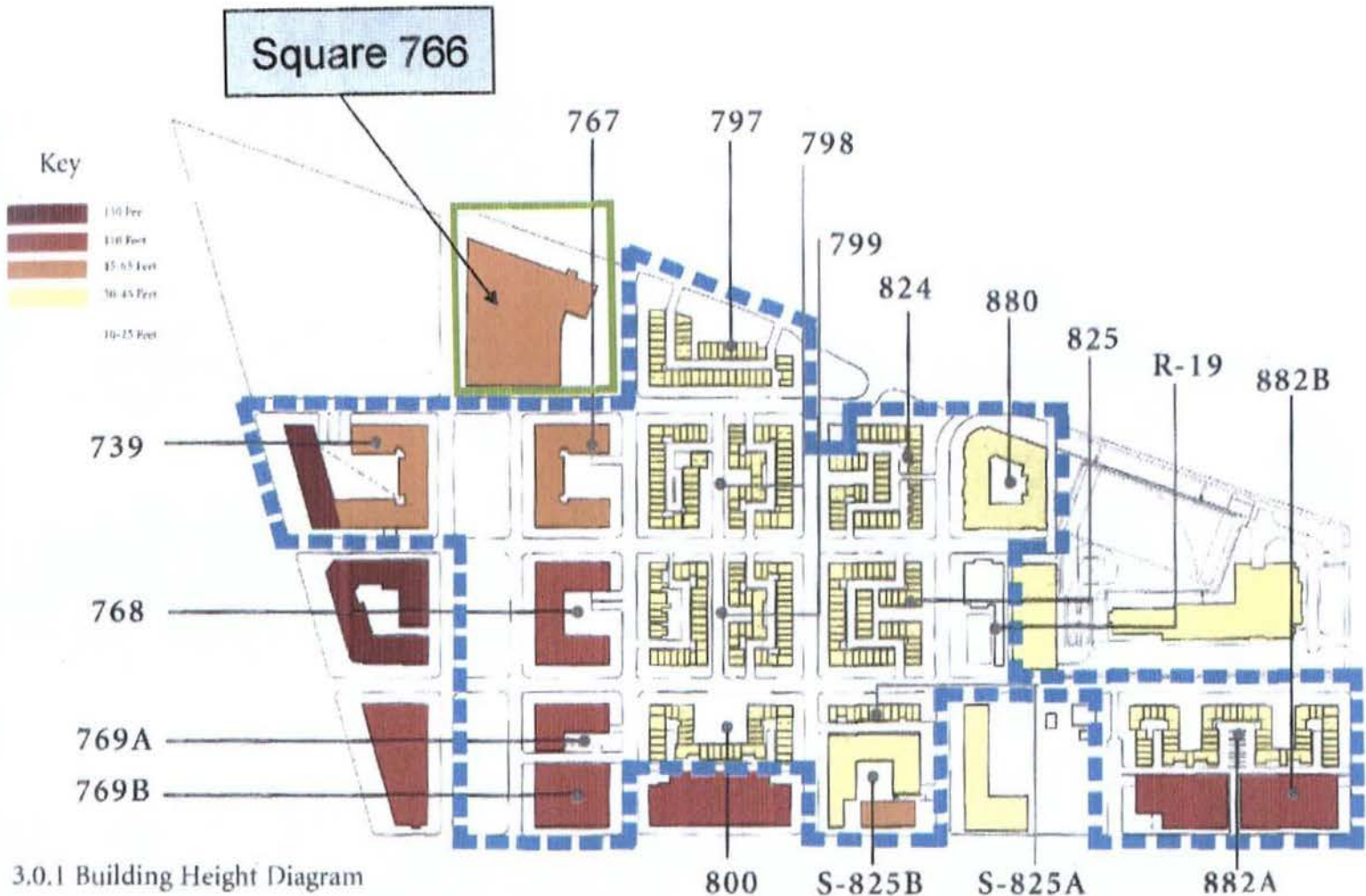
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It is neither a survey nor a legal document.
Information provided by other agencies
should be verified with them where appropriate.

- Street Centerlines
- Property Squares
- Metro Station Entrances
- Street Centerlines
- Zoning Districts
- TDR Receiving Areas
- Metro Stations (Regional)



ATTACHMENT 1

Attachment 2 Capper - Carrollburg Site Plan and Heights



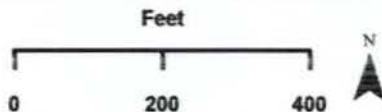


District of Columbia ZC 06-32 Text Amendment to Include Square 766 in Capitol South TDR Receiving Area LOCATION, ZONING, EXISTING TDR RECEIVING AREA AND CURRENT GENERALIZED LAND USE MAP

Office of Planning ~ August 25, 2006

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- M Metro Stations (Regional)
- TDR Receiving Areas
- Zoning Districts
- M Metro Station Entrances
- Residential Low Density
- Residential Moderate Density
- Residential Medium Density
- Residential High Density
- Commercial Low Density
- Commercial Moderate Density
- Commercial Medium Density
- Commercial High Density
- Institutional
- Federal
- Local Public Facilities
- Parks, Recreation, and Open Space
- Production and Technical Employment
- Mixed Use
- Water
- NO DATA

Attachment 4: Proposed Draft Generalized Land Use Map

