

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: Jennifer Steingasser, Deputy Director *JS*

DATE: October 17, 2008

SUBJECT: Supplemental Report, Zoning Commission Case No. 06-32
Proposed Text Amendment to Include Square 766 in Capitol South TDR Receiving Area

I. SUMMARY AND RECOMMENDATION

Petitioner: 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.

OP Recommendation: Approve With a Condition Requiring Zoning Commission Review of Height Above 90 Feet.

II. SITE AND AREA DESCRIPTION*Fig. 1: Location Map*

Square 766 in southeast Washington is bounded by: Virginia Avenue on the North; 3rd Street on the East; I Street on the South; and 2nd Street on the West. 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 five 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 redeveloping Near Southeast neighborhood and is convenient both to freeways and to Metrorail.

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III. ZONING AND HISTORIC

Square 766 is at the northern end of the Canal Blocks Park. The Square is zoned C-3-C and is permitted a matter of right FAR of 6.5, a height of 90 feet, and 100% lot occupancy.

Squares to the west of the property are also zoned C-3-C, but are in the Capitol South Transferable Development Rights (TDR) receiving zone established in Zoning Commission Order No. 97-14Z. Many of the properties on the west side of the Park also face onto 160-foot wide New Jersey Avenue. Buildings there may rise to 130 feet and achieve approximately 10.0 FAR.

Properties on the east side of the Canal Blocks face onto narrower streets, are not in the receiving zone, or are limited by the Zoning Commission's order for the Capper-Carrollsbury PUD (Z.C. 03-12 / 03-13). Buildings there will range from 40 feet to 110 feet high and will have FARs ranging from 2.35 to 7.18.

The underlying zoning of Squares to the south and east is R-5-B, but this has been superseded to the immediate south by the CR zoning associated with the Capper-Carrollsbury PUD. 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, and east at 8th Street.

IV. PETITIONER'S TEXT AMENDMENT REQUEST

The petitioner has asked the Commission to include Square 766 in the Capitol South receiving zone. The petitioner believes 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. The petitioner suggests that the Square's continued exclusion from the receiving zone 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 PUD development is under construction to the east and south.

V. ISSUES IDENTIFIED BY OP

The proposed language would permit a matter of right building to be significantly larger than is currently permitted. In 2006, OP recommended the Commission not approve the petitioner's request, primarily because of two concerns:

- The impact the matter-of-right additional bulk could have on the Capper-Carrollsbury development to the east., and;
- A commercial development in the receiving zone would not be bound by Chapter 26 (Inclusionary Zoning) of the regulations.

V. OP'S RECOMMENDED ALTERNATIVE

OP is now prepared to recommend that Square 766 be included in the Capitol South receiving zone, provided there is zoning commission review of the design of the portions of a building proposed to rise higher than 90' above the measuring point. The recommended language follows:

*Chapter 17 is amended as follows (new text shown in **bold and underline**; deleted text in ~~struck through~~):*

A. Subsection 1709.18 is amended to read as follows:

1709.18 The Capitol South receiving zone consists of those portions of Squares 695 through 697, N697, 698, 699, N699, 737 through 742, and N743 and 766, each zoned C-3-C.

B. Subsection 1709.21 is amended to read as follows:

1709.21 Except as provided in the second sentence, In the New Downtown, North Capitol, Capitol South, and Southwest receiving zones, 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, as amended; D.C. Official Code §§ 6-601.01 to 6-601.09 (formerly codified at D.C. Code §§ 5-401 to 5-409 (1994 Repl. & 1999 Supp.))), and the maximum permitted FAR shall be 10.0 for buildings permitted a height of one hundred thirty feet (130 ft.), and 9.0 for buildings permitted a lesser height. A building on Square 766 may exceed a height of ninety (90) feet if the Zoning Commission, after hearing, finds that the additional height

(a) Will be sufficiently setback from the eastern building face to avoid shadowing the lower buildings in Square 797 to the east;

(b) Will provide a suitable northern focal point for the Canal Blocks Park;

The proposed language would address the issues raised in OP's February 23, 2007 report.

- Scale in Relation to Capper-Carrollsborg PUD: The proposed revisions satisfy the concerns of the D.C. Housing Authority (DCHA). DCHA had expressed concerns to OP about an increase in matter-of-right scale adjacent to the PUD townhouses now under construction in Square 797.
- Inclusionary Zoning: The Square would not be exempt from 11 DCMR Chapter 26's inclusionary zoning requirements. Section 2602.3 (e) (2) exempts properties in the Capitol South receiving zone only if they were included in the receiving zone as of February 12, 2007.

VI. RELATIONSHIP OF THE APPLICATION TO THE COMPREHENSIVE PLAN

The requested text amendment is not inconsistent with the Generalized Land Use Map. The Comprehensive Plan labels the Square suitable for high density commercial, which permits mixed-uses.

VII. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends that the Zoning Commission approve the application with the language recommended in Section V of this report requiring design review for buildings or additions that exceed 90 feet in height.