

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING



Office of the Director

MEMORANDUM

TO: District of Columbia Zoning Commission

FROM: Harriet Tregoning, Director *HTS*

DATE: June 8, 2007

SUBJECT: **ZC 07-09 – Final Report for Text Amendments to §§ 1706.13 and 1706.23(g) of the Zoning Regulations to modify the administrative procedures for the residential use requirement within the Downtown Development (DD) Overlay District for Square 374, Lot 848 (part of the Old Convention Center site), and Square 369 or Square 370, Lots 40, 62, 65 through 67, 801 through 805, 838, 839, 842, 848, 849 and 878 (proposed New Convention Center Hotel sites), proposed by the Office of Planning.**

The subject application was set down by the Zoning Commission on April 9, 2007 as a rulemaking case. The Commission amended the wording of the proposed legislation to modify the residential use requirement for Square 374, the site of a proposed non-residential building, and for Square 369 or Square 370, the proposed sites for the new convention center hotel. The proposed hotel will be located on only one of those two squares and not both. Addition of the word 'or' preserves the residential use requirement for the square upon which the hotel will not be constructed. The Office of Planning also inserted the word 'and' between the Square 370 and Square 369 or 370 to differentiate between the old convention center site and the proposed hotel sites. Draft language at the end of this report reflects those changes.

RECOMMENDATION

The Office of Planning recommends the Commission adopt the proposed text amendments to § 1706.13 and § 1706.23(g) of the Zoning Regulations to modify administrative procedures for the residential use requirement within the DD Overlay District. The amendments propose to eliminate the requirement that either a certificate of occupancy be issued or an escrow account established for the residential uses required by Chapter 17 of the Zoning Regulations prior to the issuance of certificates of occupancy for nonresidential space for Square 374, Lot 848, and Square 369 or Square 370, Lots

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D.C. OFFICE OF ZONING

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ZONING COMMISSION

District of Columbia

CASE NO.

EXHIBIT NO.

40, 62, 65 through 67, 801 through 805, 838, 839, 842, 848, 849 and 878 only. The two additional words are shown in **bold** above.

PROPOSAL

The following amendments to the Zoning Regulations are proposed:

(New text is shown in **bold** and underline and deleted text is shown with ~~striketrough~~):

Amend subsection 1706.13 to read:

Except for a nonresidential development on Square 374, Lot 848, and Square 369 or Square 370, Lots 40, 62, 65 through 67, 801 through 805, 838, 839, 842, 848, 849 and 878, if a development project includes both nonresidential uses and required residential uses, whether on the same lot or in a combined lot development, no certificate of occupancy shall be issued for the nonresidential space until either:

- (a) A certificate of occupancy has been issued for the residential space; or
- (b) An escrow account has been established and funded in a combined lot development pursuant to § 1708.2.

Amend subsection 1706.23(g) to read:

Except for a nonresidential development on Square 374, Lot 848, and Square 369 or Square 370, Lots 40, 62, 65 through 67, 801 through 805, 838, 839, 842, 848, 849 and 878, No certificate of occupancy shall be issued for the nonresidential development within the DD Overlay District until a certificate of occupancy has been issued for the affordable dwelling units.

BACKGROUND

One of the developers of Square 374, Lot 848, Gould Property Company, submitted the following background information to the District in support of the proposed text amendments:

Construction of a headquarters hotel in support of the District's new convention center is a top economic development priority of the District. In April 2006 the City Council passed the Convention Center Hotel Omnibus Financing and Development Act of 2006, which authorized the lease of certain lots in Square 369 and Square 370 by the District to a private development team led by Marriott International, Inc., and approved tax increment financing to support the development of the hotel on these lots.

Currently, a substantial portion of the proposed site of the hotel is owned by affiliates of Gould Property Company. In April 2006 Gould, the District and the Washington Convention Center Authority entered into a Letter of Intent that provided for Gould to transfer its parcels in Square 370 to the District in exchange for a portion of the site of the former convention center (a portion of Lot 848 in Square 374.)

The site of the former convention center has been the subject of extensive planning and pre-development activities. In July 2000 the District convened the Mayor's Convention Center Redevelopment Task Force, a group of community and business leaders, to recommend future potential uses of the site. The Task Force issued its report in July 2001; recommending that the District redevelop the site into a mixed-use urban neighborhood to include retail, residential, cultural and entertainment facilities.

The Office of the Deputy Mayor for Planning and Economic Development and the Office of Planning issued a Request for Proposals for a Development Partner for the site. In November 2003 they selected a team led by Hines Interests Limited Partnership and Archstone-Stone Operating Trust for the redevelopment of the site.

Since its selection the developer and the District have finalized a specific development program for the site, including retail, residential and office uses. They have negotiated the economic terms of the ground lease of the site by the District to the Hines/Smith team, including extensive guaranties to insure performance. The developer has also prepared Master Plan Design Guidelines for the redevelopment of the site and such guidelines have been approved by the Office of the Deputy Mayor for Planning and Economic Development and the Office of Planning.

Pursuant to Z.C. Case No. 05-43, the Zoning Commission included the former convention site within the Housing Priority Area of the Downtown Development Overlay District and designated the site as being within Housing Priority Area B for the purpose of the combined lot development location requirements of § 1708. This designation was consistent with the development program contemplated by Hines/Smith for the site.

Gould and the District are finalizing an Exchange Agreement that provides for the swap of their sites. The Exchange Agreement requires that the residential zoning requirement applicable to the parcel to be transferred to Gould will be transferred to the portion of the former convention center site being developed by Hines/Smith. Since the Hines/Smith project will include residential gross floor area in excess of that required under the Zoning Regulations it has the capacity to

receive the residential requirement from the Gould parcel. The transfer would occur through a conventional combined lot development covenant.

Currently, the transaction between the District and Hines/Smith contemplates that construction of all residential uses by Hines/Smith will begin in 2008. Under the combined lot provision of the Zoning Regulations (§ 1706.13), a certificate of occupancy for commercial improvements on the Gould parcel cannot be issued until a certificate of occupancy has been issued for the residential project which incorporates the residential gross floor area from the Gould parcel. Similarly, if the Hines/Smith project incorporates affordable housing to reduce the residential requirement pursuant to § 1706.5, then under § 1706.23(g) a certificate of occupancy for commercial improvements on the Gould parcel cannot be issued until a certificate for the affordable housing has been issued. These conditions are not consistent with the commitment made by the District to the Gould Property Company.

The CLD escrow provisions of § 1708.2 could provide relief from the residential requirement. However, the District has not budgeted sufficient funds for the funding of the escrow in this transaction. More importantly, the District owns fee simple title to the portion of the old convention center site that is receiving the residential requirement, and has sufficient remedies through its lease transaction with Hines/Smith (including completion guaranties) to enforce the development of residential uses on the receiving site.

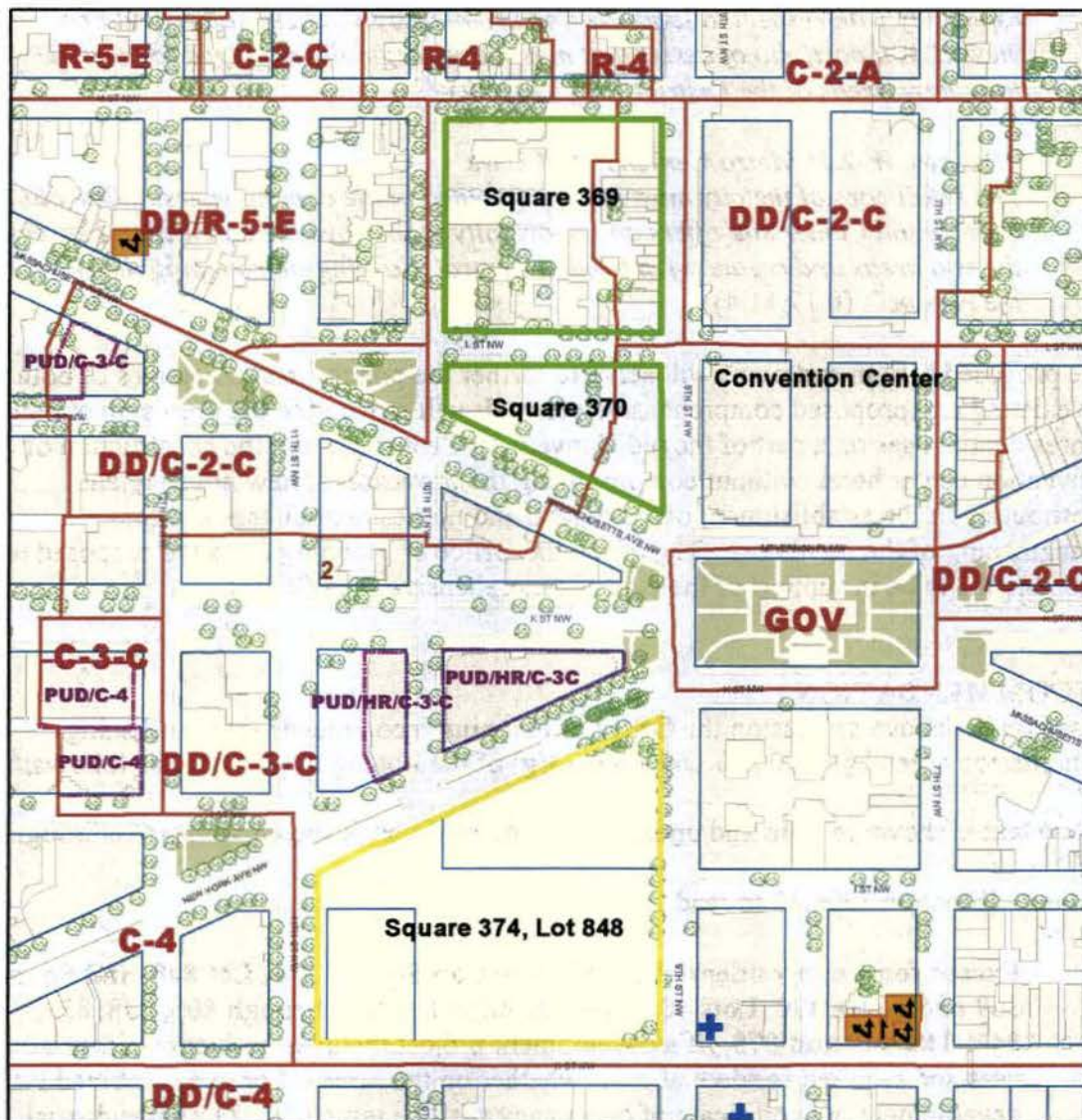
The proposed text amendment provides that the parcel to be transferred to Gould in the pending land swap transaction is not subject to the requirements of § 1706.13 or § 1706.23(g). Consequently, commercial development may proceed on the swap parcel and a certificate of occupancy issued, even if a certificate of occupancy has not yet been issued for the residential project on the CLD receiving site.

ANALYSIS

The Gould Property Company and the District have negotiated a land swap that will include a portion of the old Convention Center site being transferred to Gould in exchange for land in Square 374, and the proposed location of the new Convention Center headquarters hotel on Square 369 or 370. Although both locations are within the DD Overlay District and impacted by regulations requiring certificates of occupancy or escrows for the residential uses prior to the issuance of certificates of occupancy for nonresidential uses, this land transfer alters the situation.

Following the land transfer Gould will control a part of Square 374, with the remainder of the combined lot development proposed for Square 374 under the control of the District government. The proposed Gould building will only contain nonresidential uses, with all of the required residential uses provided on the remainder of the square and combined lot

development, and outside of the control of the Gould Property Company. As the remainder of the combined lot development and the two possible new convention center hotel sites are under the control of the District, the District is a position to guarantee that the residential uses are provided without the need to place money in escrow to ensure their construction. The word 'or' has been added to § 1706.13 and § 1706.23(g) to ensure that the residential requirement will still be met on the square where the hotel is not built. The word 'and' has been added to ensure that the residential requirement regulations are modified for both the old Convention Center site and the new Convention Center hotel.



**Zoning and Vicinity Map Depicting:
Square 374, old Convention Center site, and
Squares 369 and 370, proposed new Convention Center hotel sites**

COMPREHENSIVE PLAN

The proposed text amendments are consistent with the following policies of the draft Comprehensive Plan (2006):

“Policy CW-1.1.11: Leveraging Public Development Sites

Use publicly-owned development sites, such as urban renewal sites, WMATA joint development sites, and the former Washington Convention Center site to implement key objectives and policies of the Central Washington Area Element, especially with respect to land use and urban design. These sites should be viewed as a portfolio of assets that must be strategically managed to meet the long term needs of the District.” (§ 1708.12)

“Policy CW-2.1: Metro Center/Retail Core

The retail core of the city must be strengthened in the coming years.... The old Convention Center site offers an opportunity to improve the connection between the two areas and create an expanded Central Washington shopping district for the region.” (§ 17.11.4)

The proposed text amendments will serve to further the policies and objectives of both the existing and proposed comprehensive plans. It will streamline the provision of new nonresidential uses on a part of the old Convention Center site and the construction of a convention center hotel, without compromising the provision of new housing, and contributing to the establishment of residential and nonresidential uses and the strengthening of the retail core. Therefore, the Office of Planning finds the proposed text amendments to be in support of the Draft Comprehensive Plan (2006).

RECOMMENDATION

Based on the above discussion the Office of Planning recommends that the Zoning Commission amend §§ 1706.13 and 1706.23(g) of the Zoning Regulations as follows:

(New text is shown in **bold** and underline and deleted text is shown with ~~strikethrough~~):

Amend subsection 1706.13 to read:

Except for a nonresidential development on Square 374, Lot 848, and Square 369 or Square 370, Lots 40, 62, 65 through 67, 801 through 805, 838, 839, 842, 848, 849 and 878, if a development project includes both nonresidential uses and required residential uses, whether on the same lot or in a combined lot development, no certificate of occupancy shall be issued for the nonresidential space until either:

- (a) A certificate of occupancy has been issued for the residential space; or

- (b) An escrow account has been established and funded in a combined lot development pursuant to § 1708.2.

Amend subsection 1706.23(g) to read:

Except for a nonresidential development on Square 374, Lot 848, and Square 369 or Square 370, Lots 40, 62, 65 through 67, 801 through 805, 838, 839, 842, 848, 849 and 878, No certificate of occupancy shall be issued for the nonresidential development within the DD Overlay District until a certificate of occupancy has been issued for the affordable dwelling units.

HT/sjm^{AICP}