

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



Z.C. CASE NO.: 08-05

As Secretary to the Commission, I hereby certify that on **APR 15 2009** copies of this Z.C. Notice of Final Rulemaking & Order No. 08-05 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

- | | |
|---|---|
| 1. <i>D.C. Register</i> | 7. Commissioner Jerome E. Sikorski
ANC/SMD 2F05
1221 Massachusetts Ave NW #1019
Washington, DC 20005 |
| 2. Charles Reed, Chair
ANC 2F
5 Thomas Circle, NW
Washington, DC 20005 | 8. Commissioner Michael B. Benardo
ANC/SMD 2F06
912 P Street NW
Washington, DC 20001 |
| 3. Commissioner Charles Reed
ANC/SMD 2F01
1310 Q Street NW
Washington, DC 20036 | 9. Gottlieb Simon
ANC
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004 |
| 4. Commissioner Jim Richardson
ANC/SMD 2F02
1302 Rhode Island Avenue NW
Washington, DC 20005 | 10. Councilmember Jack Evans |
| 5. Commissioner Christopher Dyer
ANC/SMD 2F03
1420 N Street NW #508
Washington, DC 20005 | 11. DDOT (Karina Ricks) |
| 6. Commissioner Jennifer Trock
ANC/SMD 2F04
1217 N Street NW #201
Washington, DC 20005 | 12. General Counsel - DCRA
941 North Capitol Street, N.E.
Suite 9400
Washington, D.C. 20002 |
| | 13. Office of the Attorney General (Alan Bergstein) |

ATTESTED BY:

Sharon S. Schellin

**Secretary to the Zoning Commission
Office of Zoning**

ZONING COMMISSION
District of Columbia

CASE NO. 08-05

EXHIBIT NO. 8

441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001

Telephone: (202) 727-6311

Facsimile: (202) 727-6072

E-Mail: dcoz@dc.gov

Web Site: www.dcoz.dc.gov

ZONING COMMISSION

District of Columbia

CASE NO.08-05

EXHIBIT NO.8

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission**



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
AND**

Z.C. ORDER NO. 08-05

Z.C. Case No. 08-05

(Text Amendment - 11 DCMR)

**(Amendments to DD Zoning Regulations to Facilitate Construction
of the Convention Center Hotel)**

October 20, 2008

The Zoning Commission for the District of Columbia (the "Commission"), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01); having held a public hearing as required by § 3 of the Act (D.C. Official Code § 6-641.03); and having referred the proposed amendments to the National Capital Planning Commission ("NCPC") for a 30-day period of review pursuant to § 492 of the District of Columbia Charter; hereby gives notice of the adoption of the following amendments to §§ 1700.7, 1706.11, and 2405.3 of the Zoning Regulations (Title 11 DCMR).

The text amendments will facilitate construction of the planned convention center headquarters hotel at Square 370 by removing the residential use requirement of the DD Regulations, and allowing additional density above the Planned Unit Development standard for that use of this property without the applicant having to meet the otherwise applicable standard or to purchase transferrable development rights.

A Notice of Proposed Rulemaking was published in the *D.C. Register* ("DCR") on September 19, 2008, at 55 DCR 9871. The Commission took final action to adopt the amendments at a public meeting on October 30, 2008, without making changes to the proposed text. This final rulemaking is effective upon publication in the *D.C. Register*.

Existing Regulations

The site for the proposed convention center hotel is split-zoned DD/C-2-C and DD/C-3-C and is located in the Housing Priority Area of the Downtown Development ("DD") overlay. The DD overlay establishes minimum residential use requirements for properties located in a housing priority area of at least 4.5 floor area ratio ("FAR") in the DD/C-2-C, and 3.5 FAR in the DD/C-3-C Zone District. Such properties are also granted a matter-of-right density of 8.0 FAR and 9.5 FAR, respectively. A hotel is considered a non-residential use in the DD, so in order for this project to be a completely non-residential building, it would have to engage in a combined lot development pursuant to § 1708. It could also obtain an addition .5 FAR of non-residential density through buying transferrable development rights.

Subparagraphs (b) and (c) of § 1700.7 disallow the use of the Planned Unit Development process to reduce the housing requirement, and requires a PUD applicant to demonstrate that it purchased transferable development rights to the maximum feasible extent prior to obtaining additional FAR through a PUD. Although § 2405.3 of the PUD regulation permit the Commission to grant an addition 5% FAR above the PUD standard, an applicant must show the additional density is “essential to the successful functioning of the project.”

Description of Text Amendment

The amendments remove the residential use requirement from any portion of Square 370 improved with a convention center headquarters hotel. Because the property remains in the Housing Priority Area, it will continue to be the able to achieve the full matter-of-right FAR allowed, all of which may be used for a convention center headquarters hotel use. This will avoid the need for the developer to engage in a costly combined lot development transaction. Should this amount of non-residential FAR prove insufficient, the proposed rules would allow the Commission, as part of a PUD proceeding, to increase the maximum FAR by up to 5% without the Applicant having to meet the otherwise applicable standard or purchasing transferrable development rights

Relationship to the Comprehensive Plan

The amendments would not be inconsistent with the District Elements of the Comprehensive Plan for the National Capital: (“Comprehensive Plan”), adopted through the Comprehensive Plan Amendment Act of 2006, effective March 8, 2007 (D.C. Law 16-300), and are specifically consistent with the following policies and recommended action of the Comprehensive Plan:

- **Policy CW-1.1.10: Central Washington Hotels and Hospitality Services**
Encourage the development of additional hotels in Central Washington, especially in the areas around the new Convention Center and Gallery Place, along Pennsylvania Avenue NW and Massachusetts Avenue NW, in the Thomas Circle area, and in the area east of Third Street NW. A range of hotel types, including moderately priced hotels, and hotels oriented to family travelers as well as business travelers, should be encouraged. Hotels generate jobs for District residents and revenues for the general fund and should be granted incentives when necessary. Retain existing hotel uses by allowing and encouraging the expansion of those uses, including the addition of one floor, approximately 16 feet in height subject to coordination with federal security needs, to the Hay-Adams Hotel. (10 DCMR §_1708.11.) (emphasis added).
- **Policy CW-2.4 Mount Vernon District**
Mount Vernon Square itself was designed to be a focal point in Washington’s ensemble of great civic landmarks. Its focus is the 1902 former Carnegie Library building, an elegant historic structure that is now in use by the Washington Historical Society. Facing

the north edge of the Square is the 2.3 million square foot Washington Convention Center, completed in 2003. To the southwest, the now vacant site of the former Convention Center is awaiting redevelopment. Immediately northwest of the Square, a major convention hotel is planned. Large-scale office buildings occupy other sides of the Square, framing it as a potentially great public space. (10 DCMR § 1714.2.) (emphasis added).

- **Policy CW-2.4.3: Convention Center Area Land Uses**
Encourage land uses around Mount Vernon Square which capitalize on the presence of the Washington Convention Center. Such uses include hotels, restaurants, retail, and entertainment uses. Convention related hotel construction should be focused on vacant or underutilized land immediately adjacent to the Convention Center to minimize impacts on the surrounding neighborhood. (10 DCMR § 1714.8.) (emphasis added).
- **Action CW-2.4-B: Convention Center Hotel**
Develop a major convention center hotel in close proximity to the Washington Convention Center. The hotel should be sited and designed to complement adjacent uses and add activity and aesthetic value to the Mount Vernon Square neighborhood. (10 DCMR §1714.14.)

The Comprehensive Plan Generalized Land Use Map identifies the site for a mix of high-density residential and commercial uses.

Setdown Proceeding

OP initiated this rulemaking proceeding by filing a report dated March 14, 2008. The Commission setdown the case at its April 14, 2008 regular public meeting.

Public hearing

The Commission held a properly noticed public hearing on July 14, 2008.

OP testified in support of the text amendments.

Great Weight Given to ANC Issues and Concerns

The Commission is required under D.C. Official Code § 1-309.10(d)(3)(A) to give great weight to the affected ANC's written recommendation. No written recommendation was submitted by an affected ANC in this case.

Proposed Action

The Commission took proposed action at the conclusion of the July 14, 2008 hearing.

The Notice of Proposed Rulemaking was published in the *D.C. Register* on September 19, 2008 at 55 DCR 9871, for a 30-day notice and comment period.

No comments were received.

The proposed rulemaking was referred to NCPC under the terms of § 492 of the District of Columbia Charter. NCPC, through a delegated action dated August 29, 2008, found that the proposed text amendments would not adversely affect the identified federal interests, not be inconsistent with the Comprehensive Plan for the National Capital.

The Office of the Attorney General has determined that this rulemaking meets its standards of legal sufficiency.

Final Action

At its properly noticed October 20, 2008 public meeting, the Commission took final action to approve the proposed text amendments.

Based on the above, the Commission finds that the proposed amendments to the Zoning Regulations are in the best interests of the District of Columbia, consistent with the purpose of the Zoning Regulations and the Zoning Act.

In consideration of the reasons set forth herein, the Zoning Commission hereby **APPROVES** the following amendments to §§ 1700.7, 1706.11, and 2405.3 of the Zoning Regulations, Title 11 DCMR (new text is shown **bolded** and underlined, deleted text is shown in strike-through text):

A. Chapter 17, DOWNTOWN DEVELOPMENT OVERLAY DISTRICT, is amended as follows:

1. By amending § 1700, General Provisions, § 1700.7, to read as follows:

1700.7 A Planned Unit Development (PUD) in the DD Overlay District shall be subject to the following provisions in addition to those of chapter 24 of this title:

...

- (d) Notwithstanding paragraphs (b) and (c) of this subsection, if a PUD is proposed to govern the following, the PUD shall be guided by the applicable policies of the Comprehensive Plan pertaining to the development of: ~~development of the University of the District of Columbia campus and other uses in Squares 401, 402, 425, and 426, the PUD shall be guided by the applicable policies of the Comprehensive Plan.~~

- 1) The University of the District of Columbia campus and other uses in Squares 401, 402, 425, and 426, and**
- 2) A convention center headquarters hotel on square 370.**

2. By amending Section 1706, Residential and Mixed Use Development, § 1706.11 to read as follows:

1706.11 No minimum residential use requirement shall apply to the following: in Square 485 nor to any lot or lots in Square 455 or the southern part of Square 454 improved with a sports arena.

(a) Square 485;

(b) Any lot or lots in Square 455 or the southern part of Square 454 improved with a sports arena; and

(c) Any portion of Square 370 improved with a convention center headquarters hotel.

- B. Chapter 24, PLANNED UNIT DEVELOPMENT PROCEDURES, Section 2405 PUD Standards, § 2405.3, is amended to read as follows:

2405.3 The Commission may authorize the following an increase increases; provided, that the increase is essential to the successful functioning of the project and consistent with the purpose and evaluation standards of this chapter, or with respect to FAR, is for the purpose of a convention headquarters hotel on square 370; of not more than five percent (5%) in the maximum height or floor area ratio provided, that the increase is essential to the successful functioning of the project and consistent with the purpose and evaluation standards of this chapter.

(a) not more than five percent (5%) in the maximum height; or

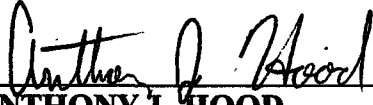
(b) not more than five percent (5%) in the maximum floor area ratio.

On July 24, 2008, upon motion of Vice Chairman Jeffries, as seconded by Commissioner Turnbull, the Zoning Commission **APPROVED** the petition at the end of the hearing on this case by a vote of **5-0-0** (Anthony J. Hood, Gregory N. Jeffries, Curtis J. Etherly, Jr., Peter G. May, and Michael G. Turnbull).

On October 20, 2008, upon motion of Chairman Hood, as seconded by Vice Chairman Jeffries, the Zoning Commission **ADOPTED** the Order at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Gregory N. Jeffries, Peter G. May, and Michael G. Turnbull to approve; Curtis J. Etherly, Jr., not present, not voting).

Z.C. ORDER NO. 08-05
Z.C. CASE NO. 08-05
PAGE 6

In accordance with the provisions of 11 DCMR § 3028.9, this Order shall become effective upon publication in *the D.C. Register*; that is, on ~~APR 24 2009~~.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



RICHARD S. NERO, JR.
ACTING DIRECTOR
OFFICE OF ZONING

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
AND
Z.C. ORDER NO. 08-05
Z.C. Case No. 08-05
(Text Amendment - 11 DCMR)
(Amendments to DD Zoning Regulations to Facilitate Construction
of the Convention Center Hotel)
October 20, 2008**

The full text of this Zoning Commission Order is published in the "Final Rulemaking" section of this edition of the *D.C. Register*.