

Government of the District of Columbia  
ZONING COMMISSION



ZONING COMMISSION ORDER NO. 815  
Case No. 96-10  
(Text Amendment 11 DCMR Subsection 1706.21)  
May 12, 1997

The Zoning Commission for the District of Columbia initiated this case in response to an application filed by the law firm of Wilkes, Artis, Hedrick and Lane on behalf of the District of Columbia Department of Housing and Community Development (DHCD) and the Golden Rule Plaza, Inc. The application requested the Zoning Commission to amend the text of Subsection 1706.21 of the Zoning Regulations or in the alternative, to amend the Zoning Map from DD/C-2-C to C-2-C for portions of Squares 525, 526 and 558. Amendments to the Zoning Regulations and Map are authorized pursuant to the Zoning Act [Act of June 20, 1938, 52 Stat. b797, as amended, D.C. Code Ann. Section 5-413(1994)].

The application filed on August 29, 1996 requested the Zoning Commission to amend the text and map provide for an exemption from the residential requirements of the DD/C-2-C, while the map amendment requested the Commission to remove the Downtown Development District (DDD) designation from the site. The applicants proposed these amendments to allow for the construction of a seven-story building with approximately 125-130 apartment units for senior citizens. Although the proposed development is predominantly housing, it does not meet the minimum residential requirements of the DD/C-2-C zone.

The District of Columbia Office of Planning (OP), by memorandum (Preliminary Report) dated September 5, 1996, analyzed the text and map amendment requests. The OP favored the text amendment approach, indicating that the text amendment would further the DDD housing objectives, limit the exception to the specific site and project, and would not create irregular zone boundaries in the area.

The Zoning Commission at its monthly meeting on September 9, 1996 reviewed and considered the application and the OP report. The Commission concurred with OP's reasons for favoring the text amendment alternative provided by the applicants. Accordingly, the Commission authorized a public hearing for the text amendment.

Pursuant to notice a public hearing was held by the Zoning Commission on December 9, 1996, to consider the proposed text amendment to Subsection 1706.21 of the Zoning Regulations. The

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proposal would reduce the residential requirements for property that was formerly in a highway right-of-way, if the proposed housing to be built includes affordable dwelling units as defined by Chapter 17 of the Zoning Regulations, and those units constitute not less than 60 percent of the total floor area ratio (FAR) of the project. Additionally, the proposed amendment would provide that the remainder of the project constitute substantially other residential related development and allow a project that is divided by an improved right-of-way to be considered one lot for determination of compliance with the amendment.

In the public hearing notice, the Commission indicated that it would consider any modifications or alternative proposals that reasonably related to the scope of the proposed amendment set forth in the notice.

At the public hearing on December 9, 1996, the Commission heard the OP presentation and the testimony of the applicants' team lead by the law firm of Wilkes, Artis, Hedrick and Lane.

At the hearing session, the OP reinforced its report dated September 5, 1996 and pressed its support for the text amendment option for the site. The OP testified that the proposed text amendment would retain a housing requirement consistent with the DDD objective, whereas rezoning to C-2-C would remove such a requirement.

OP indicated that the proposed text amendment would allow the development of portions of Squares 525, 526, and 558 which are bounded by New York Avenue to the north, New Jersey Avenue to the east, K Street to the south and 4th Street N.W., to the west, including portions of 1 Street, N.W. to be closed, without creating a precedent for waiving the normal housing requirements for other DDD sites.

The OP noted that the applicants, the DHCD and the Golden Rule Plaza Inc., a nonprofit subsidiary of the Bible Way Church requested the amendment to facilitate the construction of a mixed-use project that includes affordable housing apartments for senior citizens and community services.

OP also stated that the need for a text amendment derives from the fact that the project, while predominantly housing, does not meet the minimum residential requirement of the DD/C-2-C zone of 4.5 FAR. In OP's opinion, it is in furtherance of the Downtown mixed use objectives for this area. With regard to affordable housing, OP indicated that the Council adopted an amendment to the Downtown Plan in 1994 encouraging extra credit for affordable housing, in addition to the general policy in the Residential Land Use provisions. OP further stated that the Council of the District of

Columbia and the Executive Branch have supported this affordable housing and community services development project for several years.

In conclusion, OP added that its staff and the applicants' attorneys worked closely to prepare the text amendment. OP recommended that the Commission adopt the proposed text amendment which would become Subsection 1706.21 of the Zoning Regulations, and would renumbering existing Subsections 1706.21 through 1706.26. The proposed text amendment recommended for adoption is as follows:

1706.21 A reduced residential requirements shall apply to property that was formerly in a highway right-of-way; Provided, that:

- (a) The housing that is built shall include affordable dwelling units as defined in this chapter;
- (b) The gross floor area of the affordable dwelling units shall constitute not less than sixty percent (60%) of the total FAR of the project;
- (c) The remainder of the project shall consist substantially of other residentially related development, such as child development, senior or elder care, community center and other neighborhood-serving social services that are offered by a nonprofit, religious or charitable organization, but may also include in commercial districts, ground floor commercial uses; and
- (d) Where an improved right-of-way divides a project, the entire project shall be considered as if on one lot for the purposes of determining compliance with this section.

Witnesses for the applicant testified as follows:

1. The objective of the D.C. Department of Housing and Community Development, Applicant and Golden Rule Plaza, Inc., in making this application with the Zoning Commission is to enable the construction of an approximately 125 unit, seven-story senior citizens apartment building with supporting ground floor commercial, a 10,000 square foot senior daycare center, and a 15,000 square foot Intergenerational Community Service Center on DD/C-2-C zoned property. Because this exceptional residential project does not contain the minimum 4.5 FAR required in the DD/C-2-C District, the applicants initially requested that the DD overlay be removed from the site through a zoning map amendment. However, the Office of Planning

advised representatives of Golden Rule Plaza, Inc. that it would support an amendment to the text of Chapter 17 (Downtown Development District) which would exempt the subject property from having to comply with the minimum residential FAR requirements given the unique circumstances affecting this former federal highway right-of-way.

2. The proposed text amendment will permit the construction of the apartment building on a portion of the site. There is space also planned on the ground floor of the apartment house for ancillary service uses, such as physicians offices, a pharmacy and a small grocery store. The project will serve the future residents of the proposed senior apartment house and the community at large. The proposed text amendment is needed as the residential component of this splendid project will only amount to an FAR of approximately 1.6, 2.9 FAR less than the 4.5 FAR required under the DD Overlay. The Applicant respectfully contend that the text amendment will not substantially impair the intent of the Zoning Regulations and Comprehensive Plan. The text amendment will allow the flexibility needed for the City to realize a tremendous private sector housing and social services opportunity on the edge of downtown. The Comprehensive Plan designates the site for high density commercial/high density residential use. As described above, the proposed project is mixed use in nature.
3. The approval of the applicants' request would allow the construction of the proposed development without violating the minimum 4.5 FAR residential requirement in the DD/C-2-C.
4. The applicants' counsel testified that the proposed text amendment would further the health, safety and general welfare of the District of Columbia. The text amendment would allow a development which is consistent with surrounding uses, height and density. The text amendment would be consistent with sound planning and zoning principles, and its adoption would not have adverse impact on surrounding property. The development of the site will enhance the general welfare of the citizens by providing additional low and moderate income senior citizen housing opportunities in the District.
5. The testimony indicated that the text amendment is not inconsistent with the housing, human services and economic development elements of the Comprehensive Plan. It is in keeping with Section 1200.205 of the Ward 2 Plan that provides for the stimulation of production of new and rehabilitated housing to meet all levels of need and demand and to provide incentives for the type of housing needed at desired locations, and provide for the housing needs of low and moderate income households.

6. It is also in line with Section 1200.206 of the Ward 2 Plan which states that the District government should encourage the private sector to provide new housing to meet the needs of present and future District residents at locations consistent with the District land use objectives, and the District government shall establish as a matter of major governmental priority, the production of housing including low and moderate income households in Ward 2 particularly in the Downtown area by encouraging the inclusion of housing units in appropriate locations in all commercial areas with particular incentives for the central city.
7. The amendment would allow the applicants to provide a comprehensive range of community based social services for those in need. It would allow the construction and operation of a low to moderate income senior citizens housing structure, a senior citizens daycare center, create job opportunities for District residents, expand the city's revenue base, and promote growing citizen-business-government partnership.
8. The applicants' counsel indicated that there is broad-based community support for the application as evidenced by the supporting letters of Advisory Neighborhood Commission (ANC) 2C and other citizens groups.

The applicants appended a copy of District of Columbia Bill 11-750: ordering the closing of a portion of 3rd Street, N.W. and L Street, N.W. contained within the boundaries of the subject site in support of the project; letter dated June 12, 1996, from District of Columbia Housing Finance Agency indicating the eligibility and approval of issuance of mult-family housing revenue bonds for the project; copy of the Golden Rule Plaza Mortgage Revenue Bonds Resolution of 1996, PR 11-652; letter dated July 2, 1996 from the Mayor of the District of Columbia to the District of Columbia City Council transmitting a proposal for the acquisition and redevelopment of the subject property; and a Memorandum dated October 12 1995 from the Administrator, U.S. Department of Transportation, Federal Highway Administration concerning the limitation on the use of the subject property for public purposes.

By written testimony presented at the public hearing the President of DBW Development Group, Inc., the representative and development manager for the Golden Rule Plaza Inc. gave the chronology of the subject site with regards to the development of the financial plan for the project, the design concept, the building configurations and systems and the proposed mixed-uses and the portion allocated to each use in the project.

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The testimony DBW Development Group, Inc. of stressed that Bible Way Church is committed to its mission of providing housing and social services to the City's seniors. It added that the project has the support of the community including Councilman Jack Evans and ANC-2C. It urged the Commission to approve the text-amendment indicating that the Golden Rule Plaza Inc., the Bible Way Church and the DBW Development Inc. have secured all the necessary support to make the project a reality.

ANC-2C by letter dated May 9, 1996, indicated that at its public meeting held on May 1, 1996, the ANC voted 4-0 in support of the amendment and urged the Commission to approve the project.

At the conclusion of the hearing session and in the absence of any testimony and/or submissions in opposition to the proposal, the Commission evaluated and considered the OP reports and presentation, the testimony of the witnesses, letters from various government agencies including ANC-2C and made the following findings:

1. The proposed text amendment retains housing requirements that are consistent with the DDD housing objectives and limits the exceptions to the subject site.
2. The proposed text amendment is not inconsistent with the Comprehensive Plan and the Generalized Land Use Map which places the subject site in an area recommended for mixed use --
3. The amendment would further the housing objectives of Sections 1200.205 and 1200.206 of the Ward 2 plan, provide for the housing needs of low and moderate income residents in the downtown without resulting in overcrowding of land or undue concentration of population.

The Commission concurs with ANC-2C that the present DD/C-2-C zoning of the site exceeds the density that could reasonably and feasibly be accommodated by the housing proposed for the project.

The Commission believes that the adoption of the proposed text amendment is in the best interest of the District of Columbia and not inconsistent with the DDD Overlay and the Comprehensive Plan for the National Capital.

The Commission took proposed action at the close of the public hearing to approve the text amendment. The proposed action of the Commission was referred to the National Capital Planning Commission (NCPC), under the terms of the District of Columbia Self-Government and Governmental Reorganization Act.

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The Executive Director of the National Capital Planning Commission pursuant to Paragraph 9 of the Commission's Delegation of Authority indicated that the proposed action of the Zoning Commission in this case would not adversely affect the Federal Establishment or other Federal interest in the National Capital.

A notice of proposed rulemaking was published in the D.C. Register on January 3, 1997 for a 30-day public notice and comment period. The proposed rulemaking was referred to the Zoning Administrator, (ZA) and the OP for review and comment.

The Commission did not receive additional comments as a result of the publication of the notice of proposed rulemaking or the referrals.

In consideration of the reasons set forth in this order, the Zoning Commission for the District of Columbia ORDERS APPROVAL of the amendment to the Zoning Regulations.

The specific proposed amendment is as follows:

1. Add a new Subsection 1706.21 as follows:

1706.21 A reduced residential requirement shall apply to property that was formerly in a highway right-of-way; Provided, that:

- (a) The housing that is built shall include affordable dwelling units as defined in this chapter;
- (b) The gross floor area of the affordable dwelling units shall constitute not less than sixty percent (60%) of the total FAR of the project;
- (c) The remainder of the project shall consist substantially of other residentially related development, such as child development, senior or elder care, community center and other neighborhood-serving social services that are offered by a nonprofit, religious or charitable organization, but may also include in commercial districts, ground floor commercial uses; and

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(d) Where an improved right-of-way divides a project, the entire project shall be considered as if on one lot for the purposes of determining compliance with this section.

2. Renumber existing Subsections 1706.21 through 1706.26 to Subsections 1706.22 through 1706.27.

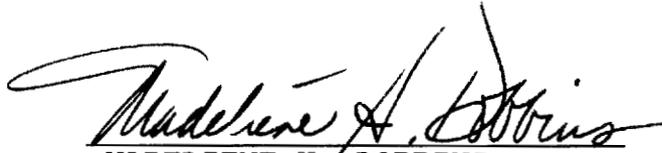
Vote of the Commission taken at the close of the public hearing on December 9, 1996: 4-0 (John G. Parsons, Herbert M. Franklin, Howard R. Croft and Jerrily R. Kress to approve; Maybelle Taylor Bennett, not present, not voting, not having heard the case).

This order was adopted by the Zoning Commission at its regular monthly meeting on May 12, 1997, by a vote of 3-0 (Jerrily R. Kress, John G. Parsons and Herbert M. Franklin, to adopt - Maybelle Taylor Bennett not voting, not having participated).

In accordance with the provisions of 11 DCMR 3028, this order is final and effective upon publication in the D.C. Register, that is on

~~JUN 6 1997~~

  
MAYBELLE T. BENNETT  
Chairperson  
Zoning Commission

  
MADELIENE H. DOBBINS  
Director  
Office of Zoning

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