

April 8, 2016

VIA ELECTRONIC FILING

Anthony J. Hood, Chairman
Zoning Commission for the District of Columbia
441 Fourth Street, NW, Suite 210S
Washington, DC 20001

**Re: Zoning Commission Case No. 14-07A: First-Stage and Consolidated PUD for
1270 4th Street, NE (Square 3587, Lot 9; formerly Parcels 129/77, 129/95, and
129/96 in Square 3587¹) (the “Property”)
Application for Minor Modification of the South Building**

Dear Chairman Hood and Members of the Commission:

On behalf of 1250 4TH ST (EDENS), LLC and Union Market Apartments, LLC (collectively, the “**Applicant**”²), we hereby submit the attached applications for a minor modification to Zoning Commission Order No. 14-07 and the plans approved thereby to allow for revisions to the design of the above-referenced project as described below. The proposed revisions do not seek to alter the project’s height, floor area ratio, or design intent.

Enclosed please find the following:

- Modification Application Forms (Form 151).
- A Copy of the Order (Exhibit A).
- Authorization Letters Authorizing this Application (Exhibit B).
- Revised Plans Comparison Set (Exhibit C).

¹ Following the issuance of the order, the Applicant combined the three parcels previously comprising the Property into one single record lot, Lot 9, and then further divided up the Property into separate assessment and taxation lots. Since this application affects only the South Building, only A&T Lots 823-828 and 7006-7013 are subject to this minor modification request.

² We note that 1250 4TH ST (EDENS), LLC was the sole applicant for the original application and, since that time, portions of the Property have been transferred to Union Market Apartments, LLC.

- The requisite filing fee for this request of Five Hundred Twenty and 00/100 Dollars (\$520.00) made payable to the DC Treasurer, in accordance with 11 DCMR § 3040.4.

Accordingly, the Applicant requests that this minor modification application be placed on the Zoning Commission's Consent Calendar, and reviewed in accordance with 11 DCMR §3030 et seq.

I. Background

The Property is located at 1270 4th Street, NE, and is located in the western half of the Union Market / Florida Avenue Market district. The Property is in Advisory Neighborhood Commission ("ANC") 5D in Ward 5. It is less than 1/3 mile from the entrance to the NoMA-Gallaudet University Metrorail station to the southwest. The PUD site consists of approximately 67,200 square feet of land area.

By Z.C. Order No. 14-07 (the "**Order**"), the Commission approved a consolidated PUD and related Zoning Map amendment for the "South Building" (located on former Parcels 129/95 and 129/96) from C-M-1 to C-3-C to allow the construction of a structure with approximately 384,351 gross square feet (including approximately 29,042 gross square feet of retail use and 355,309 gross square feet of residential use), and a maximum building height of 110 feet (the "**Project**").³

II. Summary of Minor Modifications

Following the Commission's approval in June 2015, the Applicant entered into an agreement with Union Market Apartments, LLC, an affiliate of Level 2 Development and Trammel Crow Residential, to construct the residential component of the South Building. Since such time, the development team has continued to refine the design of the Project to create the ideal residential unit configuration. The Applicant has also refined other design details in the course of the development of the construction drawings.

As a result of these design improvements, the Applicant respectfully requests that the Commission approve certain minor changes to the Order and approved plans. The changes are depicted on the revised plans attached as Exhibit C. For the Commission's convenience, the changes to the plans have been printed side-by-side with the original approved plans.

The Applicant notes that while a range of approximately 415 to 510 residential units and approximately 400-550 parking spaces was approved by the Order, it will be constructing

³ The Order also approved a first stage PUD and related map amendment for the "North Building" (located on former Parcel 129/77) from C-M-1 to C-3-C to allow the construction of a structure with approximately 153,249 gross square feet (including approximately 12,000 gross square feet of retail use and 141,249 gross square feet of residential use), and a maximum building height of 110 feet. The North Building, subject to the First Stage PUD approval, is not affected by this minor modification request.

approximately 430 residential units and approximately 400-430 parking spaces at the South Building. Therefore, both ranges will be significantly narrowed.

An overview of each element of the requested modification is described below:

A. Façade Refinements

Due to the updated residential unit demising and layouts within the South Building (an example floor revised floor plan is enclosed as Page 13 of Exhibit C), the Applicant requires minor modifications to the façade.

Specifically, as shown on Pages 2 and 3 of Exhibit C, the fenestration and balconies were slightly reconfigured to allow for the internal unit shifting. As can be seen by a review of Page 4 of Exhibit C, the aesthetics of the proposed facade appear the same as those of the approved project. The materials also remain constant. The Applicant believes that these minor design changes are permitted by the flexibility language approved by the Commission in Condition A(8) of the Order and within the approved plans, in order to allow for the exact type of design refinements as proposed herein.

The proposed 4th Street elevation, shown on Page 2 of Exhibit C, now will contain balconies on odd floors only, as opposed to the balconies previously proposed for each floor along such elevation. The extent of the projection of such balconies also changed from approximately 4 feet to 1.5 feet.

The refinements to the western façade of the building are shown on Page 4 of Exhibit C. In addition to refinements to the fenestration and balconies on the upper floors above the brick base of the building, the Applicant also added fenestration along the ground and second floor on the building's western façade, along with the addition of louvers and doors to activate such façade and accommodate operational needs.

The updated layout of the residential units also required a shifting of the building's courts – away from 4th Street and towards the alley. This resulted in a decrease in the width and area of the western-facing closed courts. A drawing showing the changes to the courts is enclosed as Page 5 of Exhibit C. The width of the court at the south of the South Building will be increased from 5 feet to 10 feet.

The Applicant received flexibility to allow for the construction of non-compliant courts under the Order. The instant minor modification would retain such element of court relief, while increasing the degree of relief needed on the three courts on the western façade and decreasing the degree of relief needed along the southern façade. Such measurements are detailed on Page 5 of Exhibit C. The lot occupancy of the proposed modified Project (84.50%)⁴ remains similar to

⁴ This figure excludes the consideration of the "North Parcel" of the Property, which was subject to a Stage One PUD approval, since the lot area of the proposed building is not yet known.

the lot occupancy shown on the plans approved by the Order (83.56%). We note that lot occupancy was not limited or conditioned in the original Order or approved plans.

B. Roof Structure Modification

The Applicant also requests a minor modification in accordance with the minor modification provision set forth in Section 411.24 to allow for the incorporation of the newly approved occupiable penthouse concept in the Project. The penthouse structure was slightly reconfigured to incorporate habitable space, combine the Project's two cores into one, reconfigure the trellis at the covered pool deck, and add fenestration and doors for the increased habitable space. The heights of the penthouse changed from 13 feet and 18 feet, 6 inches to 11 feet, 6 inches (for the habitable penthouse level) and 20 feet (for the mechanical level). The Applicant is not proposing habitable space above the 11 foot, 6 inch penthouse level.

The entirety of the penthouse is setback from all exterior walls on a one-to-one basis as shown on Pages 8 and 9 of Exhibit C. Also included as Page 7 of Exhibit C is a perspective that illustrates the appearance of the proposed roof structure elements at nighttime. This demonstrates that while the rooftop will be properly lit at night, similar to the previously approved roof plan shown on Page 6 of Exhibit C, it will not provide excess light into the industrial and mixed use neighborhood.

Under the prior approval, the roof structure comprised approximately 22,519 square feet of space. Under the proposed plan, the roof structure comprises approximately 31,751 square feet of space, with 15,280 square feet being residential habitable space⁵. In accordance with Section 2603.2 of the Zoning Regulations, the inclusion of habitable space within the penthouse will generate an additional amount of affordable housing, at 50% of the Washington, D.C. Area Median Income ("AMI"). Therefore, an additional approximately 1,222 gross square feet of affordable residential space at 50% AMI will be provided within the South Building. Such affordable units will be distributed among the floors and unit types of the South Building in accordance with the distribution approved under the Order.

The Applicant notes that under the Order, the Zoning Commission granted the Project relief to allow for multiple roof structure heights. Such variation is maintained by the Applicant and the area requiring such height relief is shown on Pages 8, 9, and 10 of Exhibit C. Such relief is still required since the layouts of the residential units and location of the building core, required the elevator shafts to be located nearer to the building's courtyard. The resulting adjacency disallowed the inclusion of the elevator override in the mechanical screening wall (which would have allowed the elevator override to be a uniform height rather than a lower height). To include the elevator override within such screening wall would have violated the required one-to-one setback.

⁵ Such space is well below the 26,880 square feet of habitable space permitted within the roof structure for the Property.

C. Improved Operations of Loading and the Parking Garage

Through design development, the Applicant has also refined the design of the parking garage and subgrade space. Specifically, as shown on Page 11 of Exhibit C, the Applicant has eliminated the express ramp originally intended for residential users of the garage. Instead, all residential and retail parking is accessed from the same ramps within the parking garage. Such change will improve garage efficiency, while also allowing for an improved location and layout for the bicycle parking area on the B1 level. As also shown on Page 11 of Exhibit C, the Applicant has reduced the size of the parking garage aisle from 24 feet to 22 feet. Such modification will allow for a more efficient garage layout.

As shown on Page 12 of Exhibit C, the Applicant has modified the configuration of the loading facilities. Rather than being located perpendicular to the alley behind the Project, the loading facilities have been rotated from 90 degrees to 30 degrees allow for easier ingress and egress and more favorable vehicular turning radii. The same number of loading facilities and trash receptacles are proposed as previously approved.

D. Construction of the Neal Place Extension

As part of the approval of the Project, Applicant agreed to construct the portion of Neal Place running over the Property from 4th Street to 3rd Street, NE at a future point, once certain triggers evidencing development in the western portion of the Union Market district occurred. Based on the planned developments of the western portion of the Union Market district, as demonstrated by the submission for Consolidated PUD approval for three buildings on such property, the development of the western portion of the Union Market is happening now. Therefore, the Applicant proposes to construct the Project's Neal Place segment contemporaneously with its construction of the South Building on the Property. As such, the Applicant will complete the construction of the Neal Place extension and open such road segment to vehicular traffic prior to the issuance of the first Certificate of Occupancy for the South Building. The other Neal Place construction trigger mechanisms described in Condition B(4) of the Order would be deleted and replaced by such concept, greatly simplifying the implementation of the Neal Place extension.

III. Satisfaction of Standards of 11 DCMR §3030.13 and Impact of Modification

As discussed in this submission and as shown in the attached materials, the proposed modifications to the approved PUD project satisfy the standards of 11 DCMR §3030.13. The proposed minor modifications are consistent with the intent of the Zoning Commission in approving the original PUD and approving the minor modifications will not substantially impair the intent, purpose, or integrity of the zone plan. Further, the proposed modification is consistent with the Generalized Land Use Map, which designates the Property in the high density mixed use and production, distribution and repair land use category.

The proposed Project would have no greater impact on the surrounding community than the originally approved concept. In fact, the proposed Project will narrow the range of residential units and parking spaces, resulting in a number of both well below the maximums approved by the Order. The Project will be the same size. The proposed minor modification to the approved PUD does not impact the approved PUD's amenities package, including the provision of affordable housing.

The Applicant is sending this application simultaneously to ANC 5D (which was the only party to the original application) and the ANC will have at least 30 days to respond.

IV. Conclusion

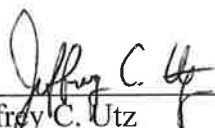
The modifications described above do not affect the building height, FAR or design concept that was approved by the Commission. Rather, they are minor changes driven by the reconfiguration of the residential units, the new penthouse regulations, and the development and refinement of the project designed.

With these changes, the Applicant will be able to move forward with construction of the Project, which is expected to commence in Q3 of 2016 and is anticipated to open in Q4 of 2018.

Applicant requests that the consideration of this request is placed on the Commission's schedule at the earliest opportunity.

If you have any questions or comments regarding the proposed modification, please contact the undersigned. Thank you for your attention to this application.

Respectfully submitted,

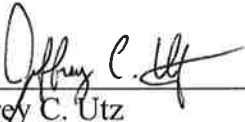


Jeffrey C. Utz

cc: Robert Brooks, Trammel Crow Residential
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CERTIFICATE OF SERVICE

I certify that on April 8, 2016, I delivered a copy of the foregoing document via electronic mail, hand delivery, or first class mail to the addresses listed below.



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