

**BEFORE THE ZONING COMMISSION
OF THE DISTRICT OF COLUMBIA**

**Application of
Hillel at The George Washington University
Square 42, Record Lot 12 (Lots 820 & 840)**

**ZC Application No. _____
ANC2A, SMD05**

**STATEMENT OF THE APPLICANT FOR A
MODIFICATION OF SIGNIFICANCE**

INTRODUCTION

Hillel at The George Washington University (the “**Applicant**” or “**Hillel**”), by the Applicant’s attorneys, Greenstein DeLorme & Luchs, P.C., by John Patrick Brown, Jr., Esq. and Kate M. Olson, Esq., hereby submits this application for review and approval of a Modification of Significance (“**Modification**”) to the approved plans of Zoning Commission Order 06-11L (“**Order**”) which approved a new four-story building to include worship space, a dining facility, and academic and student life space to further the Applicant’s mission and operations (“**Project**”) at the property located at 2300 H Street NW (Square 42, Lots 820 and 840) (“**Property**”). The Property is currently improved with the three-story Hillel facility. The Property is located in Ward 2 and consists of approximately 4,575 square feet. The Property is zoned RA-4 (formerly R-5-D)¹ and is located within the boundaries of the 2007 Foggy Bottom Campus Plan (“**Campus Plan**”) of The George Washington University (“**University**”).

Since the issuance of the Order, Hillel has undergone a change of leadership, specifically the hiring of a new Executive Director. In addition, the Board of Hillel approved and engaged a new development team (including a new project manager, land use counsel, architect, and landscape architect) to re-evaluate the proposed building design, size, and mass. This decision to

¹ The Order was issued under the 1958 Zoning Regulations and the Property was zoned R-5-D.

further examine other design options is an effort by Hillel to be sympathetic to the concerns of its neighbors. While Hillel's organizational mission remains unchanged, it will be accommodated in a redesigned building with a building footprint that is approximately 20% smaller than what was previously approved.

As a result, the Applicant seeks a modification of the approved plans in order to incorporate design changes to the Project. These changes will allow Hillel to continue to meet its program needs while also further addressing community concerns that were the subject of an appeal to the DC Court of Appeals (the appealed zoning relief was subsequently affirmed by the Court, as discussed in more detail below).

First, Hillel proposes to revise the design of the Project. While the Project will remain within the overall building height approved in the Order, the Applicant has eliminated the need for three areas of zoning relief (floor area ratio ("FAR"), lot occupancy, and rear yard area variances) that were approved in the Order. The lot occupancy and rear yard relief were contested in an appeal to the DC Court of Appeals, but subsequently affirmed.

Second, Hillel proposes to revise the architectural design and materials to be more appropriate with the revised building massing and comply with the public space restrictions on bay window projections.

Third, the Applicant proposes to modify the penthouse design to accommodate the revised building footprint. The revised penthouse will require additional special exception approval from the setback requirements.

The proposed changes do not seek to increase the Project's height and density and, in fact, eliminate the previous need for zoning relief from the lot occupancy, rear yard, and FAR requirements. The proposed uses within the Project will not change. The Project will continue to

incorporate the parking variance as well as the university use approved in the Order through a Campus Plan amendment and further processing approval.

I. NATURE OF RELIEF SOUGHT

The Applicant seeks a Modification of Significance to Zoning Commission Order 06-11L and the approved plans pursuant to 11 DCMR Subtitle Y § 704. In addition, the Applicant seeks special exception relief from the penthouse setback requirements pursuant to 11 DCMR Subtitle C § 1504 and 11 DCMR Subtitle X § 901.

II. JURISDICTION OF THE BOARD

The Zoning Commission (“**Commission**”) has the authority to grant this Modification of Significance. At a regularly-scheduled public meeting on May 12, 2014, the Commission voted to consolidate Hillel's then-pending BZA application,² regarding the variance and special exception relief for the Project, with the University's application for special exception approval of the University's use. As a result of the Commission hearing and deciding the underlying case, it has jurisdiction to hear and decide this proposed Modification of Significance of the approved Order.

III. DESCRIPTION OF THE PROPERTY AND SURROUNDING AREA

The Property is located at the southwest corner of the intersection of 23rd and H Street, NW and is currently improved with Hillel's existing structure. The Property consists of approximately 4,575 square feet of land and is located within the University's Campus Plan Boundary. The property immediately to the west, along H Street, is owned by the University and improved with an eight-story residence hall (Amsterdam Hall). The property immediately to the

² BZA Case 18764.

south, along 23rd Street, is owned by St. Mary's Episcopal Church and improved with a rowhouse structure, parish hall, and main sanctuary.

To the north of the Property, across H Street, is a seven-story academic building owned by the University. Property to the north and east contains University-related uses. The Foggy Bottom-GWU Metrorail station is approximately one block north of the Property.

IV. BACKGROUND

A. ZC Order 06-11L

Pursuant to the Order, attached as **Tab A**, the Zoning Commission granted certain variance and special exception approval in order to permit the construction of a new four-story building that included worship space, a dining facility, and academic and student life space to further Hillel's mission and operations. To accommodate Hillel's then forecasted needs, the Commission granted area variance relief from the FAR, lot occupancy, rear yard, and parking requirements of the Zoning Regulations as well as special exception approval from the roof structure setback requirements. In the near term, Hillel proposed to lease two floors of the Project to the University for University-related uses. To authorize the University use, the Commission also approved an amendment to the Campus Plan as well as a further processing of the Campus Plan.³ (The Commission also approved a minor modification to the campus-wide First-Stage PUD in Z.C. Order No. 06-11M in order to effectuate the University use within the Project.) Portions of the Order related to the lot occupancy and rear yard variances were appealed to the D.C. Court of Appeals.⁴

³ This Modification of Significance does not further amend the Campus Plan.

⁴ St. Mary's Episcopal Church, et al., Petitioners v. District of Columbia Zoning Commission, Respondent, and Hillel at The George Washington University, Intervenor. No. 16-AA-491. Argued June 14, 2017. Decided December 7, 2017.

B. DC Court of Appeals

Parties to the underlying zoning case, St. Mary's Episcopal Church (“**St. Mary's**” or “**Church**”) and the West End Civic Association (“**WECA**”) (together referred to as, “**Petitioners**”) petitioned the DC Court of Appeals (“**Court**”) to reverse the area variances granted for lot occupancy and rear yard.⁵ On December 7, 2017, the Court issued an opinion affirming the Order of the Zoning Commission. See the Court’s Opinion at **Tab B**.⁶

V. MODIFICATION OF SIGNIFICANCE TO THE APPROVED PLANS

Not only do the proposed changes not seek to increase the Project’s height and density, but the new design brings the Project into compliance with the applicable FAR, lot occupancy, and rear yard requirements and does not change the proposed uses within the Project. The Project will continue to incorporate the parking variance as well as the Campus Plan amendment and further processing approval approved in the Order. These areas of relief remain in effect pursuant to the Order. Although the Order granted relief for the penthouse setback, the new design requires additional relief for the penthouse setback.

The building design has been modified in an effort to create a design that is more sympathetic to neighborhood concerns. See Plans at **Tab C**. Hillel has worked diligently to reduce the lot occupancy (from 93% to 73.8%), gross floor area (from 3.69 FAR to 3.16 FAR) and height (from 56 ft. to 46 ft.) of the Project and increasing the depth of the rear yard from 4 feet to 15 ft. 4 in., while still preserving and accommodating its mission and operations.

⁵ The Petitioners did not appeal the area variances granted for FAR, parking, or the special exception granted for the penthouse setback.

⁶ Pursuant to Subtitle Z § 705.8, the two-year validity of the Order did not begin to run until December 7, 2017 when the Court issued its final determination.

The following zoning table provides a comparison between the approved design pursuant to the Order and corresponding plans under the 1958 Regulations and the 2018 proposed modification of that approval.

	1958 Zoning Requirements	2016 <u>Approved</u> Design Pursuant to ZC Order No. 06-11L (“Order”) ⁷ (1958 Zoning Regulations) Zone: R-5-D	Current Zoning Requirements	2018 <u>Modified</u> Design (Current Zoning Regulations) Zone: RA-4
LOT AREA	N/A	4,575 SF	N/A	4,575 SF
HEIGHT	90 ft./no limit on stories max	56 ft. 1 in. 4 stories (+1 below-grade story and penthouse) [Order, pg.9; Approved Plans, pg.A3] NO RELIEF NEEDED	90 ft./no limit on stories max [11-F DCMR 203.3]	46 ft. 0 in. 4 stories (+1 below-grade story and penthouse) NO RELIEF NEEDED
FAR	3.5 max	3.69 FAR [Order, pg.9; Approved Plans, pg.A3] VARIANCE RELIEF GRANTED	3.5 max [11-F DCMR 302.1]	Building: 2.95 Penthouse: 0.21 Total: 3.16 FAR NO RELIEF NEEDED
GROSS FLOOR AREA		Building: 16,897 SF Penthouse: 1,545 SF [Approved Plans, pg.A4]	16,012.5 SF Max 3.5 FAR = <u>16,012.5</u> 4,575 SF lot area	Building: 13,500 SF Penthouse: 954 SF Total: 14,454 SF NO RELIEF NEEDED
LOT OCCUPANCY	75% max	93% (4,275 SF) [Order, pg.10; Approved Plans, pg.A3] VARIANCE RELIEF GRANTED <i>(<u>appealed to, but affirmed by, the DC Court of Appeals</u>)</i>	75% max [11-F DCMR 304.1]	73.8% (3,375 SF) NO RELIEF NEEDED
PENTHOUSE FAR	0.37	0.36 [Approved Plans, pg.A3] NO RELIEF NEEDED	[11-C DCMR 1503]	0.21 NO RELIEF NEEDED

⁷ Per Condition No. 1 of ZC Order No. 06-11L, the Project shall be developed in accordance with the Plans marked as Exhibit 73A in the record (“**Approved Plans**”).

	1958 Zoning Requirements	2016 <u>Approved Design Pursuant to ZC Order No. 06-11L (“Order”)</u> ⁷ (1958 Zoning Regulations) Zone: R-5-D	Current Zoning Requirements	2018 <u>Modified Design</u> (Current Zoning Regulations) Zone: RA-4
PENTHOUSE HEIGHT	18 ft. 6 in.	18 ft. 6 in. [Approved Plans, pg.A3] NO RELIEF NEEDED	20 ft. max 1 story plus mezzanine; Second story permitted for penthouse mechanical space [11-C DCMR 1501] [11-F DCMR 303.2]	18 ft. NO RELIEF NEEDED
PENTHOUSE SETBACK	<p>(A min of 1:1 was required under the 1958 11 DCMR 400.7(b) regs, PRIOR to the 2016 Penthouse Amendments.</p> <p>Under those outdated regs 11 DCMR 400.7, “If housing for mechanical equipment or a stairway or elevator penthouse is provided on the roof of a building or structure, it shall be erected or enlarged as follows: (b) It shall be <i>set back from all exterior walls a distance at least equal to its height</i> above the roof upon which it is located.”</p>	<p>Penthouse Height = 18 ft. 6 in. Penthouse Width = 26 ft. 10 in.</p> <p>Relief granted for Penthouse Setback from the FRONT (along H Street) and REAR (adjacent to the St. Mary’s property) walls</p> <p>[Order, pg.16; Approved Plans, pg.A3]</p> <p><i>SPECIAL EXCEPTION RELIEF GRANTED</i></p>	<p>Penthouse Height = 18 ft. Penthouse Width = 44 ft. 10 in.</p> <p><u>FRONT (North - along H Street)</u>: distance equal to its height from the edge of the roof of the front building wall [11-C DCMR 1502.1(a)]</p> <p><u>FRONT (East – adjacent to 23rd Street)</u>: distance equal to its height from the edge of the roof of the 23rd Street building wall</p> <p><u>REAR (South - adjacent to St. Mary’s property)</u>: distance equal to its height from the edge of the roof of the rear building wall [11-C DCMR 1502.1(b)]</p> <p><u>SIDE (West - adjacent to the University’s Amsterdam Hall)</u>: None</p>	<p><u>FRONT (North - along H Street)</u>: 4 ft. 8 in. and 10 ft. setbacks provided.</p> <p>Special Exception Relief was previously granted for not having the required penthouse setback from H Street. The proposed modification provides a wider penthouse and therefore additional relief is requested. <u>RELIEF REQUESTED</u></p> <p><u>FRONT (East – adjacent to 23rd Street)</u>: 30 ft. 2 in. NO RELIEF NEEDED</p> <p><u>REAR (South - adjacent to St. Mary’s property)</u>: No setback provided.</p> <p>Special Exception Relief was previously granted for not having the required penthouse setback from St. Mary’s property. The proposed modification provides a wider penthouse and therefore additional relief is requested. <u>RELIEF REQUESTED</u></p> <p><u>SIDE (West - adjacent to Amsterdam Hall)</u>: None NO RELIEF NEEDED</p>

	1958 Zoning Requirements	2016 <u>Approved</u> Design Pursuant to ZC Order No. 06-11L (“Order”) ⁷ (1958 Zoning Regulations) Zone: R-5-D	Current Zoning Requirements	2018 <u>Modified</u> Design (Current Zoning Regulations) Zone: RA-4
REAR YARD	15 ft. min	4 ft. [Order, pg.10; Approved Plans, pg.A3] VARIANCE RELIEF GRANTED <i>(<u>appealed to, but affirmed by, the Court of Appeals</u>)</i>	Required: a distance equal to 4 ft. per 1 ft. of principal building height but not less than 15 ft. [11-F DCMR 305.1]	15 ft. 4 in. NO RELIEF NEEDED
SIDE YARD	NONE REQUIRED	NONE NO RELIEF NEEDED	NONE REQUIRED [11-F DCMR 306.2(b)]	NONE NO RELIEF NEEDED
PARKING	22 parking spaces required (1 for every 10 seats in 220 seat sanctuary)	NONE PROVIDED [Order, pg.10; Plans, pg.A3] VARIANCE RELIEF GRANTED	19 parking spaces are required 1 for each 10 seats of occupancy capacity in the main sanctuary; provided, that where the seats are not fixed, each 7 SF of usable for seating or each 18 in. of bench is benches are provided shall be considered 1 seat. [11-C DCMR 701.5 under “Institutional, Religious”]	NONE PROVIDED (19 spaces required but the previously granted variance eliminates this parking requirement. This relief vested with the property and can be applied to the modified project since the modified project requires only 19 spaces and the original project was granted a variance for 22 parking spaces.) NO RELIEF NEEDED
BICYCLE PARKING	N/A	N/A	Any non-residential uses with 4,000 sq. ft. or more of gfa shall provide bicycle spaces as follows: Long Term Spaces: 1 space for 7,500SF Short Term Spaces: 1 space for 2,500 SF but not less than 8 spaces. [11-C DCMR 802.1 under “Institutional, Religious”]	Long Term Spaces: 3 (located on the cellar floor) Short Term Spaces: 8 (located on public space within 20 feet of the lot and will need to obtain public space approval) NO RELIEF NEEDED
LOADING	NONE REQUIRED	NONE NO RELIEF NEEDED	NONE REQUIRED	NONE NO RELIEF NEEDED
GAR	0.3	0.303 [Plans, pg.A3]	0.3 required [11-F DCMR 307.1]	0.3 NO RELIEF NEEDED

	1958 Zoning Requirements	2016 <u>Approved Design</u> Pursuant to ZC Order No. 06-11L (“Order”) ⁷ (1958 Zoning Regulations) Zone: R-5-D	Current Zoning Requirements	2018 <u>Modified Design</u> (Current Zoning Regulations) Zone: RA-4
GW LEASED AREA	N/A	Top 2 Floors (3 rd and 4 th floors) Approx. 8,383 SF Restricted to only student life and academic uses only and shall refrain from using it for faculty and staff offices except for staff offices directly related to the uses within the project.	N/A	Top 2 Floors (3 rd and 4 th floors) Approx. 6,500 SF. Given reduced space, University is evaluating potential uses.

A. Area Variance Relief for FAR, Lot Occupancy, and Rear Yard are No Longer Needed

The modified design eliminates the need for the previously approved FAR, lot occupancy, and rear yard relief. The inclusion of a zoning compliant rear yard has advanced a design that has interwoven the elements of the building height and the building footprint to create a balance between indoor and outdoor spaces for the Hillel program. The resulting design provides a rear yard that is 15 ft. 4 in. wide and 75 ft. deep, an overall building height that has been reduced by 10 ft. to a height of 46 ft. and a smaller building footprint (approximately 20% smaller than the former design) eliminating the need for lot occupancy relief.

As a result of the inclusion of a 15 ft. 4 in. x 75 ft. rear yard, the north-to-south depth of the floor plan has been reduced on each floor resulting in a compliant 74% lot occupancy and a 3.16 FAR. The rear yard will act as a buffer between the Church and Hillel buildings to address daylight concerns raised by the Church and WECA with the previous design. The rear yard also allows for windows to be placed, unobtrusively, on the south façade. This modification eliminates the need for the more costly continuous glazing on the north and east facades to achieve a generous amount of daylighting and views within the new building design. The proposed design modification utilizes a storefront window system to reduce cost while achieving

a similar daylighting outcome as the original design, which consisted of a continuous ribbon of windows, screened with bronze panels arranged in a varied linear pattern.

B. Change of Building Materials

The materials in the previous design consisted of custom fabricated components including chiseled stone, bronze panels and screening. Availability, durability, cost effectiveness, and cohesiveness all played a role in the material selection for the modified design. The revised proposed materials are a combination of manufactured fiber cement panels, metal panels and energy efficient glass window systems and are shown on page A-023 of the Plans. See **Tab C**. Similar materials are found in adjacent buildings and the revised material palette is more contextually appropriate.

C. Building Projections

The modified plans remove the need for the code modification (previously approved by DCRA) for the originally designed building projections in public space.

Consistent with the intentions of the original design, the massing of the new building design remains one of simple moves, both literal and symbolic, where the strong base represents the history and the enduring commitment of the elders. The base once again contains the most formal spaces of the building. The upper floors, a modification of the original design's "perched box", continues to represent Hillel's optimism for the future generation, and houses the day to day program spaces. The monolithic appearance of the original "perched box" design was not in keeping with the Office of Planning's current strategic direction regarding bay window projections. Consistent with the recommendations of the Office of Planning, the massing of the building façade now accommodates breaks in the projections as well as an overall reduction in the width of the projections from the original design.

D. How the Modification will Affect Hillel's Programming

The modified design brings to life the vision of Hillel's new Executive Director. This vision includes creating a vibrant and dynamic environment in which the students can connect socially, culturally, and spiritually to their Judaic roots, while emboldening their own self-expression of their Jewishness. Hillel will accommodate its program requirements in the reduced footprint of the new building by integrating flexible elements into each of the program spaces as follows:

Formal spaces will be invigorated with a youthful enthusiasm through a logical convergence of both contemporary and modern design elements. Open ceilings and minimalistic finishes will combine with warm, textural materials to create a dynamic and welcoming atmosphere. The lost space on the 2nd floor for staff and student activities will be recaptured through the flexible design envisioned for the penthouse and the lower level, as well as use of the exterior spaces during temperate weather days. Spaces once reserved for Holiday Services will now also accommodate the more relaxed day-to-day Jewish life experiences of Hillel's students.

1. Auditorium

The new design will house a smaller auditorium on the ground floor that will accommodate worship services for the University's Jewish population, particularly during Holidays, by expanding into the pre-function area through the innovative use of retractable partitions allowing for the unification of the spaces. Folding glass doors, opening from the auditorium to the rear yard, will provide additional space on temperate weather days. To maximize Hillel's program space, the storage area has been moved from the ground floor to the lower level.

2. Lower Level – Kitchens, Dining Area and Storage

The lower level will house two slightly smaller kitchens that will accommodate Kosher food preparation rules and provide Kosher food services to Jewish students. The Kosher food needs of Hillel will be met within these smaller kitchen footprints by utilizing a combination of catering services and meals prepared on premise. By pushing the 2nd stairwell to the exterior of the building footprint, as it was done in the existing building, additional space is available for the dining area. The lower level dining area will incorporate elements, reminiscent of the Russ & Daughters café at the Jewish Museum in NY, that are both inviting for young students and reverent enough for Holiday gatherings. The reduced storage room footprint is now located solely on this lower level.

3. Roof/Penthouse

The Penthouse, with its flexible gathering space, once envisioned solely for formal functions, will be designed to provide an engaging atmosphere for both student gatherings and more formal functions. The original design had contemplated two sets of egress stairs on the roof, one of which was an open stairwell concept that was never fully developed. The current design proposes both means of stairwell egress from the roof to be fully enclosed to eliminate many of the issues and challenges presented by an open fire evacuation stair.

4. Rear Yard

The rear yard provides an opportunity to bring outdoor experiences to the more formal auditorium and lower level dining area with its preferred location at street level. This wonderfully envisioned outdoor space provides the perfect setting for the sukkah and services, as well as providing a beautiful garden overflow for gatherings in the auditorium.

VI. CONDITIONS OF THE ORDER

The Order granted approval, subject to conditions. The Applicant proposes to retain the previous conditions with Condition 1 being updated to incorporate the modified plans and Condition 4 revised to reflect the new Construction Management Agreement. As modified, the Conditions will read as follows:

- 1. The Project shall be developed in accordance with the plans and materials submitted by the Applicant marked as Exhibit ~~73A~~ of the record, as modified by the guidelines, conditions, and standards herein;**
- 2. The University shall be permitted to use the third and fourth floors of the Project for student life and academic uses only, and shall refrain from using the space within the Project for faculty and staff offices except for staff offices directly related to the uses within the Project;**
- 3. The University shall forgo the development of approved development on Site 77D;**
- 4. During construction of the Project, Hillel shall abide by the provisions of the Construction Management ~~Plan~~ Agreement dated March 7, 2018 marked as Exhibit ~~73B~~ of the record; and**
- 5. For the life of the Project, the Applicant shall use trash bins rather than carts, unless DDOT specifically approves the use of carts through the public space process.**

VII. ADDITIONAL SPECIAL EXCEPTION RELIEF REQUIRED FOR PENTHOUSE SETBACK

The revised penthouse will require additional special exception approval from the penthouse setback requirements. The Order granted penthouse setback relief. That design required special exception relief because it did not comply with the setback requirement from the north wall (closest to H Street) and south wall (closest to St. Mary's Church). See Order, par. 66.

Under the current Zoning Regulations, a penthouse is required to be setback one-to-one (1:1) from the north (front), east, and south (rear) walls. 11-C § 1502.1(a-b). The modified

penthouse is 18 ft. in height and therefore needs to be setback 18ft. from H Street, 23rd Street and from the rear, facing the Church's property.

While the special exception relief for not providing the required penthouse setbacks from the north and south walls carries over from the previous approval, the modified project requests additional penthouse setback relief from the north and south wall. The approved penthouse was 18 ft. 6 in. in height and 26 ft. 10 in. wide. The proposed penthouse will be shorter (18 ft.), but the footprint will be larger (44 ft. 11 in. wide). As a result, Hillel requests additional penthouse setback relief along the north and south walls as shown on page A-011 of the Plans. See Plans at **Tab C.**

The size and location of the penthouse is driven by the need to provide multiple stairways, elevators, and accessory space on the roof, as described in more detail below.

VIII. PENTHOUSE SETBACK: THE APPLICATION MEETS THE REQUIREMENTS FOR A SPECIAL EXCEPTION UNDER SUBTITLE X § 901

A. Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;

The penthouse regulations are intended, in part, to minimize the visibility from the street. The enlarged width of the penthouse along the northern and southern walls extends the nonconformity of the penthouse setback. The visibility from the street will be minimized as a result of the 18 ft. penthouse being setback 30 ft. 2 in. from 23rd Street coupled with the 15 ft. 4 in. rear yard.

B. Will not tend to adversely affect the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and

The added relief to permit a wider penthouse with nonconforming penthouse setbacks from the north and south walls is minor and will not affect the use of the neighboring properties.

C. Will meet such special conditions as may be specified in this title.

Pursuant to 11-C DCMR Section 1504.1, relief to the penthouse setback requirements may be granted subject to the special exception regulations in Subtitle X, Chapter 9 and subject to the following considerations:

- (a) **The strict application of the requirements of this chapter would result in construction that is unduly restrictive, prohibitively costly, or unreasonable, or is inconsistent with building codes;**

The previous design requested (and received) penthouse setback relief since it moved the building core from east to west to mitigate the design impact of the penthouse as a result of comments from the Commission and the Church. Construction of a compliant roof structure is impractical given the small size of the lot and the needs within the building.

- (b) **The relief requested would result in a better design of the roof structure without appearing to be an extension of the building wall;**

The relief requested will result in a better design and will be mitigated by the fact that there will be a 30 ft. 2in. setback from the east wall (23rd Street) and a 15 ft. 4 in. wide rear yard creating a buffer on the south side closest to the Church.

- (c) **The relief requested would result in a roof structure that is visually less intrusive;**

The modified design of the building results in a building that is almost 10 feet shorter than the approved design.

- (d) **Operating difficulties such as meeting D.C. Construction Code, Title 12 DCMR requirements for roof access and stairwell separation or elevator stack location to achieve reasonable efficiencies in lower floors; size of building lot; or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly or unreasonable;**

The small lot size limits the ability to locate the building core elements, elevator shafts, and stairwells within the limits of the penthouse setback regulations. In order to provide the two required egress stairs and maintain stairwell separation per the building code the compliant configuration places the egress stairs at the building perimeter resulting in the inability to maintain the desired setbacks.

- (e) **Every effort has been made for the housing for mechanical equipment, stairway, and elevator penthouses to be in compliance with the required setbacks; and**

The small building footprint requires careful planning and organization of spaces to allow the building to function for the intended use. The type and size of the mechanical equipment has been carefully analyzed to keep the space as compact as possible. While every effort was made to develop a layout which meets the setback requirements, it is not reasonably possible to achieve compliance.

- (f) **The intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.**

The relief requested will result in a better design and will be mitigated by the fact that there will be a 30 ft. 2in. setback from the east wall (23rd Street) and a 15 ft. 4 in. wide rear yard creating a buffer on the south side closest to the Church.

IX. STATEMENT OF SATISFACTION OF BURDEN OF PROOF FOR ZONING RELIEF SOUGHT

The Applicant submits that, based upon (i) its Application and the materials submitted in conjunction herewith, (ii) the evidence to be presented at the public hearing and (iii) other evidence to be submitted hereto, it will satisfy and comply with the applicable legal standards and burdens for the special exception requested.

X. COMMUNITY AND DC AGENCY OUTREACH

A. Campus Plan Advisory Committee

In connection with this Modification, the Applicant presented the design changes to the The George Washington University's "Campus Plan Advisory Committee" at its September 12, 2017 quarterly meeting. The general concept plans showing the reduced footprint, lower building height and required rear yard along the south property line were well received by the community, including representatives from St. Mary's, WECA, Foggy Bottom Association and the ANC 2A.

B. ANC 2A

The Applicant has also presented to the Advisory Neighborhood Commission ("ANC") 2A on January 17, 2018 and plans to return to the ANC prior to the hearing. The Plans and general concepts were well received by members of the ANC 2A. The ANC expressed particular interest in how Hillel's programming may be accommodated in the proposed smaller building. In addition, ANC applauded Hillel's willingness to work with the Church and, to that end, develop the approved Construction Management Plan into a fully executed Construction Management Agreement.

C. WECA and the Church

Hillel has agreed to work with WECA and the Church to create a final design in an effort to satisfy both the concerns of Hillel and its neighbors. The Applicant has met with WECA and the Church to discuss the design and the Construction Management Agreement. The conceptual plans were well received with minor concerns raised in regards to the rear yard wall and gate design. The landscaping plans have also been reviewed by WECA and the Church and Hillel has made modifications, as requested.

D. Construction Management Agreement

The Applicant has finalized and executed a Construction Management Agreement with the Church that incorporates and enhances the Construction Management Plan⁸ that was a condition of the Order. **Tab D.**

E. DC Agencies

In addition, the Applicant has also met with the Zoning Administrator, Office of Planning, Department of Transportation, and Department of Consumer and Regulatory Affairs regarding the proposed modifications.

XI. WITNESSES EXPECTED TO TESTIFY

Applicant's Representatives: Adena Kirstein, Hillel
Peter Chew, Prospera – U.S.

Architect's Representatives: Stefan Dytrt, Powers Brown Architecture
Reinaldo Venancio, Powers Brown Architecture

⁸ Condition No. 4 of the Order required Hillel to abide by the provisions of the Construction Management Plan marked as Exhibit 73B in the record.

XII. EXHIBITS


Tab A: Zoning Order 06-11L.
Tab B: DC Court of Appeals Order.
Tab C: Architectural Plans, Elevations, Grading Plan, and Landscape Plan.
Tab D: Construction Management Agreement (March 7, 2018).
Tab E: Outlines of Testimony.
Tab F: Expert Witness Resumes.

XIII. CONCLUSION

For the reasons set forth above, the Applicant is entitled to, and respectfully requests approval of the Modification of Significance and special exception relief to allow for the development of the Property.

Respectfully submitted,
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