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June 21, 2019

VIA IZIS AND HAND DELIVERY

Zoning Commission for the
District of Columbia
441 4th Street, N.W., Suite 210S
Washington, D.C. 20001

**Re: Application for a Modification of Consequence to an approved PUD
Z.C. Case Nos. 07-18 and 07-18D
1000 F Street, NW (Square 347, Lot 23)**

Dear Members of the Commission:

On behalf of Jemal's Up Against the Wall LLC (the "Applicant"), the owner of property located at 1000 F Street, NW (Square 347, Lot 23) (the "Property"), we hereby submit an application for a Modification of Consequence to the above-referenced planned unit development ("PUD") approved pursuant to Z.C. Order No. 07-18, as modified by Z.C. Order No. 07-18D. As described below, the Modification of Consequence is requested to install two new rows of windows located on the third and fourth floors of the building's south façade. The south façade does not face a street but abuts a lower building owned by an entity related to the Applicant.

This application is submitted pursuant to Subtitle Z § 703 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"), which allows the Zoning Commission to approve Modifications of Consequence without a public hearing. As further described below, the application is properly reviewed as a Modification of Consequence because it involves "a redesign or relocation of architectural elements... from the final design approved by the Commission," which are "examples" of Modifications of Consequence identified in 11-Z DCMR §§ 703.4. Moreover, there are no factual issues in this case that would require a public hearing to resolve.

Attached hereto is Zoning Commission Form 105 (Exhibit A) and a letter from the Applicant authorizing Holland & Knight LLP to file and process the application (Exhibit B). Also included is a check in the amount of \$520.00 for the filing fee.

I. The Property and Approved PUD

A. The Property

The Property is located in the northwest quadrant of the District and is bounded by F Street to the north, 10th Street to the east, private property to the south, and a public alley to the west. The Property has a land area of approximately 11,790 square feet and is rectangular in shape.

As described below, the Property is improved with an existing office building that was approved as a PUD in Z.C. Order Nos. 07-18 *et seq.* The PUD was zoned DD/C-4 under the 1958 Zoning Regulations (the D-7 zone under the 2016 Zoning Regulations) and is located within the Pennsylvania Avenue National Historic District.

B. Previous Zoning Commission Approval

Pursuant to Z.C. Order No. 07-18, dated April 14, 2008, and effective on May 16, 2008 (Exhibit C), the Zoning Commission granted consolidated approval of a PUD for the Property that consisted of a new 11-story office building with approximately 97,872 square feet of gross floor area, including 7,813 square feet devoted to retail uses. The approved PUD has a density of 8.3 floor area ratio (“FAR”) and a maximum building height of 120 feet, as measured from F Street, NW. The approved PUD included four levels of below-grade parking with approximately 19 zoning-compliant parking spaces, four compact spaces, and 38 vault spaces.

Pursuant to Z.C. Order Nos. 07-18A and 07-18B, the Zoning Commission granted time extensions relating to the PUD.

Pursuant to Z.C. Order No. 07-18D (Exhibit D), the Zoning Commission approved a modification to the approved PUD to reduce the number of parking levels from four to two, and to permit minor modifications to the approved building design (e.g. revised loading entrance; shift in the location of core service areas; terra cotta façade replaced with brick on the south façade).

II. Requested Modification of Consequence

As shown on the south elevation of the PUD plans approved in Z.C. Order No. 07-18D (included on the left-hand side of Exhibit E), the building included five sets of windows on the fifth floor of the south façade. Floors 1-4 of the south façade are not depicted in the approved PUD plans, but the approved building permit plans did not include any windows on Floors 3-4, and windows are not provided in those locations on the constructed building.

As shown on the proposed south elevation (included on the right-hand side of Exhibit E), the Applicant proposes to install two new rows of windows on the building’s south elevation – one on the third floor and one on the fourth floor. The lack of windows in this location created leasing challenges for the Applicant, and more natural light will help to increase leasability and improve the overall workspace environment. No changes to the floorplan or uses of the building are proposed. The proposed new windows will look onto the roof of an existing building to the south of the Property located on Lot 822, which is operated as a retail souvenir shop and owned by an entity related to the Applicant. Thus, the proposed new windows will not result in any reduced privacy for

adjacent neighbors. Moreover, given that the Applicant's parent development company owns Lot 822, it is comfortable with adding at-risk windows on the Property's southern lot line.

Given the Property's location within an historic district, the Applicant has already shown the proposed window design to staff at the Historic Preservation Office, who stated preliminarily that they had no concerns with the window installation.

III. Application Properly Filed as a Modification of Consequence

Pursuant to 11-Z DCMR §§ 703.3 and 703.4, the term "modification of consequence" shall mean a modification to a contested case order or the approved plans that is neither a minor modification nor a modification of significance. Examples of a modification of consequence include, but are not limited to, a proposed change to a condition in the final order, a change in position on an issue discussed by the Commission that affected its decision, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Commission. The proposed modification includes a redesign of architectural elements on the building's south façade to replace the approved brick material with glass windows, and is therefore properly filed as a modification of consequence.

IV. Status of Community Engagement

The Applicant reached out to the affected Advisory Neighborhood Commission ("ANC") 2C at the time of filing this application. The Applicant will work with the ANC to formally present the application at an upcoming public meeting and will provide an update for the record prior to the Zoning Commission's decision on this matter.

V. Service on All Parties

Pursuant to 11-Z DCMR § 703.13, the Applicant is required to formally serve a copy of the subject application on all parties to the original proceeding at the same time that the request is filed with the Office of Zoning. Other than ANC 2C, there were no other parties to the original proceeding. As noted in the Certificate of Service attached hereto, the subject application was served on ANC 2C in compliance with 11-Z DCMR § 703.13.

VI. Conclusion

The Applicant respectfully requests approval of this Modification of Consequence application to permit the installation of two new rows of windows on the south façade of the approved PUD at the Property. The request is consistent with the intent of the Zoning Commission in approving the original application; accordingly, approval of the Modification of Consequence is appropriate.

Respectfully submitted,

HOLLAND & KNIGHT LLP



Norman M. Glasgow, Jr.

Jessica R. Bloomfield

Enclosures

cc: Certificate of Service
Joel Lawson, D.C. Office of Planning (w/enclosures, via Email)
Anna Chamberlin, DDOT (w/enclosures, via Email)

CERTIFICATE OF SERVICE

I hereby certify that on June 21, 2019, copies of the foregoing application for a Modification of Consequence were served on the following via email, with hard copies sent on the following business day.

Jennifer Steingasser
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VIA HAND DELIVERY & EMAIL

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