



## MEMORANDUM

**TO:** District of Columbia Zoning Commission

**FROM:** <sup>JLS</sup> Jennifer Steingasser, Deputy Director for Development Review & Historic Preservation

**DATE:** June 28, 2019

**SUBJECT:** ZC 12-02A, Modification of Consequence, 50 Florida Avenue, N.E.

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### **I. APPLICATION AND RECOMMENDATION**

50 Florida Avenue Development Associates, LLC (applicant) requests a Modification of Consequence, pursuant to Subtitle Z § 703, to Z.C. Order No. 12-02, Decision No. B. (4) for the PUD located at 50 Florida Avenue, N.E. The Office of Planning (OP) recommends approval of the requested modification of consequence to modify Decision No. B. (4) of the order as follows (new text in **BOLD**):

a. The Applicant provided **at least \$220,000** to Cultural Tourism DC for the development, **fabrication**, and installation of **at least** eight signs for an Eckington Heritage Trail in the neighborhood.

b. The Applicant paid a contractor or otherwise incurred costs of **up to** \$65,000 for the fabrication and installation of three-sided perimeter tree enclosures ("commonly referred to as "tree boxes") and mulch at the locations on the north and south sides of Q Street, **Quincy Street**, and R Street, N.E. between North Capitol Street and Eckington Street; ~~and~~

c. The ~~eight~~ heritage trail signs have been installed or are in the process of being developed, **fabricated, and installed**, and that **the Applicant has secured permits for the installation of** the tree boxes and mulch **at the location adjacent to the properties of owners who have provided the requisite fully executed, notarized covenant for maintenance** have been installed; ~~and~~

**d. In the event the Applicant is unable to incur costs of \$65,000 and secure permits for the installation of tree boxes and mulch at the locations on the north and south sides of Q Street, Quincy Street, and R Street, N.E. between North Capitol Street and Eckington Street, the Applicant shall provide any remaining funds to Cultural Tourism DC for the development and installation of additional signs for an Eckington Heritage Trail in the neighborhood. The Applicant's total contribution for the heritage trail signs, tree boxes, and mulch shall be \$285,000.**

The building was constructed according to ZC Order 12-02 (2013) as a mixed-use building to include ground floor retail with below grade parking and residential uses above. As part of the PUD's approval the order included that prior to the issuance of a certificate of occupancy, evidence that the amenities of the order had been satisfied must be submitted to DCRA, including that the applicant:

- Provided \$220,000 to Cultural Tourism DC for development and installation of 8 signs for an Eckington Heritage Trail in the neighborhood;



- Paid a contractor \$65,000 for the fabrication and installation of tree boxes and mulch north and south of Q Street and R Street (Between North Capitol Street and Eckington Street); and
- Completed installation of eight heritage trail signs with tree boxes and mulch installed.

The applicant has stated that for the prescribed 65 tree boxes, each adjacent owner must record a deeded covenant for tree box maintenance, and to date only 5 property owners have committed to the recordation. In addition, some locations have been since identified as unable to accommodate tree boxes. Therefore, the applicant in collaboration with the ANC 5E and Cultural Tourism DC have agreed to assign remaining funds from the \$65,000 to Cultural Tourism DC, maintaining the overall contribution of \$285,000 stated in the approved PUD.

## II. ANALYSIS

### Modification of Consequence

To accommodate the proposed changes to ZC Order No. 12-02 the applicant requested a Modification of Consequence pursuant to Subtitle Z § 703:

703.3 *For the purposes of this section, 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*

703.4 *Examples of 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.*

## III. COMMENTS

ANC/Community:

The applicant stated to OP that the proposed changes were discussed with original parties to the application, including the ANC 5E. The formal ANC meeting was held on June 18, 2019, when ANC 5E voted unanimously to support the requested modification (Exhibit 2).

## IV. SUMMARY AND RECOMMENDATION

OP agrees that the proposed modification can be addressed as a modification of consequence as the applicant has not proposed changes to the approved plans under the order.

OP therefore recommends approval of the proposed modification of consequence and that the ZC Order 12-02 be modified as requested (Exhibit 1).

JLS/kt