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**MEMORANDUM**

**TO:** District of Columbia Zoning Commission

**FROM:** *JL for* Jennifer Steingasser, Deputy Director Development Review & Historic Preservation

**DATE:** September 11, 2015

**SUBJECT:** ZC 12-18A – Modification to Approved Consolidated PUD and related Map Amendment from the R-4 and HS/C-2-B to R-5-B and HS/C-2-B districts for specified lots in Square 858 600 Block of H Street, N E

**I. RECOMMENDATION**

After a review of the request, including a comparison of the modified plans against the approved plans and the Order (ZC 12-18), OP has no objection to the proposed modifications. Therefore, OP concurs that the proposed refinements are consistent with the intent of the Commission in approving the PUD, and fall within the scope of Section 2409.6 for review as a minor modification.

As such, OP has no objections to the applicant's request and considers the proposed changes minor modifications, which would not change the material facts upon which the original decision and order was based. Including office uses in the redevelopment project would add to the diversity of uses and users, in support of the emerging retail along the corridor.

**II. BACKGROUND**

ZC Order 12-18 approved the consolidated PUD and related map amendment from the split R-4 and HS/C-2-B District to the R-5-B District and the HS/C-2-B District. Two mixed-use options were approved for the site's redevelopment, including a development containing residential and retail uses and another option which would include a grocery option in that mix (Grocery Alternate). The latter option is currently under construction.

**III. CURRENT MODIFICATION REQUEST**

The applicant, H Street NE Owner, LLC seeks to revise the gross floor area and use assignments of the approved PUD (Order ZC 12-18), pursuant to 11 DCMR § 2409.6 and § 3030 of the Regulations. In summary, the requested modification involves the revisions to Condition #2 (in part) and Condition 7(d) of the Order, including

- An adjustment to the total gross floor area originally provided (490,134 sf) due to final design changes, which increased the gross floor area by 0.03% (491,761 sf), and
- A reallocation of assigned areas (sf) among retail, grocery and residential uses to now include 31,908 sf for office use on the second floor of the project.

The approved height, bulk, number of parking spaces and loading area would not be changed, no additional or expanded relief from the zoning requirements would result, and no other changes to the building's frontage are proposed with this modification.

Flexibility was granted with the design of the PUD to reduce the total retail gross floor area on the second floor of the PUD to convert it to residential use, in the event the applicant was unable to fully lease out the retail space (Condition 7(d)). A potential tenant has now shown interest in acquiring office space for shared workspaces, start-ups and small businesses and desires more room than originally assigned to the retail space. Thus, the area assigned to retail would be reduced to accommodate the requested office uses and not residential uses as originally intended under the approved Condition 7(d) of the Order.

#### IV. MINOR MODIFICATION – OP’S RESPONSE

The modification reflected in the reallocation of the assigned areas and corrections in the gross floor area would result in an increase to the gross floor area by 1,627 sf. (490,134 GFA, approved; 491,761 GFA proposed), which does not exceed the 2% of the gross floor area that is within the the Zoning Administrator’s authority to approve. Therefore, this would be a minor change.

Section 3030.2 states that for purposes of this section, *"minor modifications" shall mean modifications of little or no importance or consequence.*" The proposed changes are consistent with this intent as the proposed office space is allowed in the C-2-B District. No other change or additional flexibility is requested to accommodate this request. In addition, the parking and loading requirements would not be altered to accommodate this request as the site was already approved to provide excess parking, where 247 parking spaces would be required (includes 18 spaces for the office uses) and 424 spaces would be provided. Similarly, the loading requirements would remain within the parameters of the approved PUD, including the granted flexibility to eliminate one service/delivery loading space (Order 12-18, page 7 #43 (a)). No adverse impact on the on-street parking and loading within the immediate neighborhood would be affected by the requested change to permit office space on the second floor.

Therefore, the changes would also be consistent with Section 3030.13, which provides that *"all relief granted by the Commission under this section shall be consistent with the intent of the Commission in approving its original order, map, plan, rulemaking, or other action or relief proposed to be modified or corrected and shall not substantially impair the intent, purpose, or integrity of the zone plan as embodied in the Zoning Regulations and Zoning Map."* The procedural elements of Section 3030, including §§ 3030.3 through 3030.12 have been satisfied. Thus, the conditions of the Order should be amended to reflect the changes as follows:

| Approved Condition – 7(d)                                                                                                                                                                                                                                                                                                                                                         | Proposed/ Revised Condition – 7 (d)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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| To reduce the total amount of retail gross floor area provided on the second floor of the project in the event that the Applicant is unable to lease such space and to convert the space into residential units in addition to the flexibility requested in Item 3;                                                                                                               | To reduce the total amount of retail gross floor area provided on the second floor of the project in the event that the Applicant is unable to lease such space and <b><u>to use the space for residential and/or office use or</u></b> to convert the space into residential units in addition to the flexibility requested in Item 3;                                                                                                                                                                                                                       |
| Approved Condition – 2 (in part)                                                                                                                                                                                                                                                                                                                                                  | Proposed/ Revised Condition – 7 (e)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| ...If the Grocery Alternate is selected, then the project shall include approximately 388,069 square feet of gross floor area devoted to residential uses, approximately 42,108 square feet of gross floor area devoted to grocery use, approximately 54,440 square feet of gross floor area devoted to retail uses, and approximately 5,517 square feet within the loading area. | ...If the Grocery Alternate is selected, then the project shall include approximately <del>388,069</del> <b><u>394,250</u></b> square feet of gross floor area devoted to residential uses, approximately <del>42,108</del> <b><u>60,086</u></b> square feet of gross floor area devoted to <b><u>retail and</u></b> grocery use, <b><u>approximately 31,908 square feet devoted to office uses,</u></b> <del>approximately 54,440 square feet of gross floor area devoted to retail uses,</del> and approximately 5,517 square feet within the loading area. |

#### V. ANC COMMENTS

The applicant’s proposal was presented to the ANC 6C on June 10, 2015. The ANC voted unanimously to support the modification. The report is included with the applicant’s submission as Exhibit E.