



Delegated Action of the Executive Director

PROJECT

**Consolidated PUD and Related Map
Amendment at Square 772, Lots 1, 2, 6, 7, 19,
801 and 802 (M Street Development Group, LLC
and Square 772 Development Group, LLC)**
300-320 M Street, NE
Washington, DC

REFERRED BY

Zoning Commission of the District of Columbia

NCPC FILE NUMBER

ZC 14-19

NCPC MAP FILE NUMBER

42.00(06.00)44208

DETERMINATION

Approval of report to the Zoning
Commission of the District of Columbia

REVIEW AUTHORITY

Advisory per 40 U.S.C § 8724(a) and
DC Code § 2-1006(a) and § 11-
3012.1(a)

On July 30, 2015, the Zoning Commission of the District of Columbia took a proposed action to approve a Planned Unit Development (PUD) on an L-shaped lot with frontage along 3rd Street, M Street, and 4th Street in Northeast Washington. The project site consists of the southern half of Square 772, which sits immediately south of Florida Avenue. The site is located between the rapidly developing areas of NOMA and Union Market, with commercial/industrial uses to the west and north, and rowhouses to the east and south.

The applicant proposes an approximate 419,000 square-foot structure with approximately 416 residential units and ground floor retail along 4th Street. Approximately 187 underground parking spaces are also planned for the project. The applicant also requests a property rezoning from C-M-1, which does not permit residential, to C-3-C, which permits residential use. The proposed PUD is similar to other new developments in the area in its size, massing, and materials.

Per the applicant's submission, the proposed structure, with 12 stories, reaches a maximum height of 110.00 feet at the top of a parapet¹, with the top of the parapet at an elevation of 176.69 feet above sea level (the roof slab itself is below the parapet and at an elevation of 174.31 feet). In consideration of the 90-foot rights-of-way of both 3rd Street and M Street, the proposed maximum 110.00-foot height at the top of the parapet is the maximum allowable height under the Act to Regulate the Height of Buildings in the District of Columbia (Height Act)². The proposed structure also includes multiple penthouse structures that reach a maximum allowable height per the zoning regulations of 18.50 feet above the roof slab. The applicant is requesting setback flexibility for, among other penthouses and rooftop elements, the east side of a northeast penthouse located on the western portion of the structure. Allowance of this flexibility will, however, cause a minor violation of the penthouse setback requirements of the Height Act.

¹ The building height's measuring point, at an elevation of 66.69 feet, is located at the center of the property line on 4th Street, NE at the top of the curb.

² D.C. Code § 6-601.5 (West 2001) as amended by 128 Stat. 1155 (2014).

The Height Act requires that penthouses and other rooftop elements that exceed the maximum roof height allowable under the Height Act be set back from exterior walls at distances equal to their respective heights above the adjacent roofs. The northeast penthouse on the western section of the structure has a proposed maximum height of 18.50 feet at the roof elevation (or elevation of 192.81 feet). As such, it is 16.12 feet above the maximum allowable roof height under the Height Act and thus should be set back a minimum of 16.12 feet from the building's exterior walls. On its east side the penthouse is only set back 10.00 feet from the edge of an exterior wall that fronts a 30-foot public alley and thus it is in violation of the Height Act setback requirements (reference sheet number A-31 of Zoning Commission case exhibit number 35A).

The impact of this decreased setback of the penthouse may be visually minimal from the public streets immediately surrounding the site; however, it may be visually impactful when the building is viewed from the adjacent properties to the east. Limited setbacks for penthouses in general may also affect light and air to the building's tenants and adjacent property users. Since the proposed penthouse exceeds the 110-foot height allowable under the Height Act, it must be set back to meet the one-to-one requirement. As such, the proposed PUD is inconsistent with the Comprehensive Plan for the National Capital as it is minimally inconsistent with the requirements of the Height Act. Furthermore, Section 2510.1 of the Zoning Regulations also requires all buildings within the District of Columbia to comply with the Height Act; relief from the setback requirements within the zoning regulations for the penthouse above the maximum building height allowable under the Height Act would be inconsistent with the requirement of Section 2510.1.

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Pursuant to delegations of authority adopted by the Commission on August 6, 1999 and 40 U.S.C. §8724(a) and DC Code §2-1006(a), I find that the proposed Consolidated Planned Unit Development and Related Map Amendment at Square 772, Lots 1, 2, 6, 7, 19, 801 and 802 (M Street Development Group, LLC and Square 772 Development Group, LLC) is inconsistent with the Comprehensive Plan for the National Capital and other federal interests, due to a minimal violation of the penthouse setback requirements of the Act to Regulate the Height of Buildings in the District of Columbia.

Marcel Acosta
Executive Director

[Date]