

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION ORDER NO. 15-01A
Z.C. Case No. 15-01A
Level 2 Development
(Minor Modification to PUD @ Square 3587)
May 23, 2016

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia ("Commission") was held on May 23, 2016. At the meeting, the Commission approved an application of Level 2 Development ("Applicant") for minor modifications to an approved planned unit development ("PUD") for property located at 320 Florida Avenue, N.E. (Square 3587, Lot 4) ("Property"). Because the modifications were deemed minor, a public hearing was not conducted. The Commission determined that this modification request was properly before it under the provisions of 11 DCMR §§ 2409.9 and 3030.

FINDINGS OF FACT

1. Pursuant to Z.C. Order No. 15-01, the Commission approved a PUD and a related Zoning Map amendment to rezone the Property from the C-M-1 Zone District to the C-3-C Zone District. The approved PUD includes approximately 227,089 square feet of gross floor area (a density of 8.0 floor area ratio ("FAR")), with approximately 217,243 square feet of gross floor area devoted to residential use and approximately 9,880 square feet of gross floor area devoted to retail use. The approved PUD includes 313 residential units (plus or minus 10%) and 143 off-street parking spaces located in a below-grade parking garage. The maximum approved building height for the PUD is 120 feet at its highest point.
2. By letter dated March 25, 2016 (Exhibit ["Ex."] 1), the Applicant requested modifications to the architectural drawings approved in Z.C. Order No. 15-01 to revise: (i) the penthouse design and use; (ii) the park design; (iii) the east and west building facades; and (iv) the on-site parking configuration and number of parking spaces. The Applicant submitted revised architectural drawings showing the proposed modifications at Exhibit 2B ("Original Minor Modification Plans").
3. Minor Modifications to the Penthouse Design and Use. Pursuant to 11 DCMR § 411.24, the Applicant requested approval for minor modifications to revise the design and use of the building's penthouse to incorporate habitable space and to provide a maximum penthouse height of 20 feet, as permitted by the recently adopted penthouse regulations (Z.C. Order No. 14-13). The revised penthouse design replaces the previously approved indoor amenity space with four residential units and relocates the building's mechanical

equipment to a second penthouse level. The modified penthouse requires flexibility from: (i) 11 DCMR § 411.9 to provide multiple penthouse heights (12 feet for the residential use and 20 feet for both residential and mechanical uses); and (ii) 11 DCMR § 411.18 to provide a penthouse enclosing mechanical equipment that is not set back 1:1 from the building's court walls in certain locations.

4. The addition of penthouse habitable space increases the overall net residential area in the building by approximately 4,303 square feet. The result is an increase of approximately 345 net square feet required to be devoted to Inclusionary Zoning ("IZ") units. Thus, the Applicant will provide one additional IZ unit on-site, which will be devoted to households earning up to 50% of the area median income ("AMI").
5. The modified roof plan also includes new windows/louvers, a guardrail, trellis, and a modified landscape plan with reallocated green area ratio ("GAR") components and a relocated green roof. The GAR for the PUD is unchanged as a result of the modifications and continues to comply with the requirements of Chapter 34 of the Zoning Regulations.
6. Minor Modifications to the Park Design. The Applicant proposed modifications to the design of the approved park located on District-owned land abutting the Property to the west ("Park"). The revised design incorporates improved accessibility options with wider stairs and fewer switch-backs for the accessible ramp. The revised design maintains the previously approved plaza and park space, community herb garden, ornamental plantings, and future pedestrian connection to Morse Street to the north, and now also includes new lawn space and seating areas on the Applicant's private property, which will be open to the public.
7. Minor Modifications to the East and West Building Façades. The Applicant proposed the following minor modifications to the building's west elevation: (i) a refined window and facade treatment on the upper floors to create better unit functionality at those levels; and (ii) a revised masonry wall at the base of the building that allows for an integrated pedestrian sequence from the Park to Union Market. The Applicant modified the building's east façade by relocating certain windows to better accommodate construction of a new building on the adjacent property.
8. Minor Modifications to the On-site Parking Configuration and Number. The Applicant proposed a shift in the building's north foundation wall by approximately 20 inches to the south (into the Property), which increases the building's compact parking space ratio from 63% to 86% and reduces the total number of on-site parking spaces from 143 to 139. Pursuant to Z.C. Order No. 15-01, the Commission granted flexibility from 11 DCMR § 2115.2 to provide a compact parking space ratio of 63%. (See Z.C. Order No. 15-01, Decision No. A(3)(d)).) As part of this modification application, the Applicant requested additional flexibility to provide a compact parking space ratio of 86%, to which the Commission agreed. Pursuant to Z.C. Order No. 15-01, the Commission also granted flexibility to reduce the total number of on-site parking spaces approved for the Property, so long as the number was not reduced below the minimum number of parking spaces

required by the Zoning Regulations (in this case, 90 spaces). (See Z.C. Order No. 15-01, Decision No. A(4)(c).) Thus, additional flexibility is not required to reduce the total number of on-site parking spaces to 139.

9. On April 18, 2016, the Applicant submitted a revised streetscape and second-level materials plan showing additional updates to the Original Minor Modification Plans. (Ex. 5A, 2B.)
10. The Office of Planning (“OP”) reviewed the request for minor modifications, and by report dated April 18, 2016, OP recommended approval of the minor modifications, provided that the Commission finds acceptable the resultant flexibility needed for penthouse walls of unequal heights (11 DCMR § 411.9) and an increase in the percentage of compact parking spaces (11 DCMR § 2115.2). (Ex. 6A.)
11. On April 25, 2016, the Commission held a public meeting wherein it indicated its willingness to approve as Consent Calendar items the Applicant’s request for revisions to the park design, east and west building façades and on-site parking. However, the Commission raised concerns about granting flexibility for the revised penthouse design.
12. On May 4, 2016, the Applicant submitted further revised architectural drawings in response to concerns raised by the Commission. (Ex. 9A.) The revised plans eliminated the previously proposed penthouse mezzanine level, reduced the overall size of the penthouse, and removed the penthouse outdoor terraces that adjoined the mezzanines. In its cover letter submitting the revised drawings, the Applicant formally requested relief from 11 DCMR § 411.9 to provide penthouse walls of unequal heights. (Ex. 8.)
13. On May 5, 2016, OP submitted a supplemental report that indicated its support for the requested relief from 11 DCMR § 411.9. The OP report also noted that the proposed rooftop guardrails along the north and east walls of the building did not meet the 1:1 setback requirement, and recommended that the Applicant further modify its plans to provide a compliant setback. (Ex. 10.)
14. On May 9, 2016, the Applicant submitted further revised architectural drawings (Ex. 11A) that provided a fully compliant setback for the rooftop guardrails.
15. At its public meeting on May 12, 2016, the Commission reviewed the Applicant’s revisions to the application and requested that the Applicant further revise its plans to comply with the 1:1 setback requirement in all locations for the penthouse and/or provide a rationale for setbacks that are required to have less than a 1:1 setback.
16. On May 19, 2016, the Applicant submitted another set of revised architectural drawings. (Ex. 12A.) The revised drawings indicated a compliant 1:1 setback for the entire first level of habitable space in the penthouse, but a non-compliant setback in four distinct locations on the second level of the penthouse in the center of the building between the court wall and: (i) the west elevator; (ii) the shaft; and (iii) two locations for the east

elevator bank. Each of the mechanical components that require setback relief are pushed as far as back as possible from the edge of the court wall. The elevator cannot be pushed farther away from the court wall due to the stair tower located immediately to its south, which cannot be shifted without severely impacting the layout of all residential floors below. The shaft and the elevator banks are also set back as far as possible and cannot be pushed away from the court walls without negatively affecting the layout of every residential floor below and the circulation in the below-grade parking garage. Moreover, the Commission previously approved the proposed height and setbacks for this mechanical equipment in Z.C. Case No. 15-01.

17. On May 19, 2016, OP submitted a third report indicating support for the Applicant's request for flexibility to provide penthouse walls of unequal heights and non-compliant penthouse setbacks in four locations to accommodate the elevator and shafts for the building. (Ex. 13.)
18. The Applicant served the minor modification request on Advisory Neighborhood Commissions ("ANC") 5D and 6C. Single Member District Commissioner Peta-Gay Lewis (5D01) submitted a letter to the record wherein she expressed support for the proposed modifications and commended the Applicant for improving the project. (Ex. 4.)
19. On May 23, 2016, at its regular monthly meeting, the Commission reviewed the application for a third time and granted approval of the minor modifications as a Consent Calendar matter.
20. The Commission finds that the requested modifications as depicted in Exhibit 12A are minor, and further finds that approval of the modifications is appropriate and not inconsistent with its approval of the original PUD.

CONCLUSIONS OF LAW

Upon consideration of the record in this application, the Commission finds that the proposed modifications are consistent with the intent of the previously approved Z.C. Order No. 15-01 and are not inconsistent with the Comprehensive Plan. The Commission further finds that flexibility is appropriately granted from 11 DCMR §§ 2115.2, 411.9, and 411.18.

The Commission concludes that approving the modifications is appropriate and not inconsistent with the intent of 11 DCMR §§ 2409.9 or 3030. Moreover, the Commission finds that this application meets the filing requirements of 11 DCMR §§ 411.24 and 411.25 to permit penthouse habitable space to be added to a building approved by the Commission as a PUD prior to January 8, 2016.

The Commission concludes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations and Zoning Act.

Finally, the Commission finds that the modifications do not affect the essential impact of the approved PUD, including use, height, bulk, parking, or lot occupancy. The modifications are minor such that consideration as a Consent Calendar item without public hearing is appropriate.

DECISION

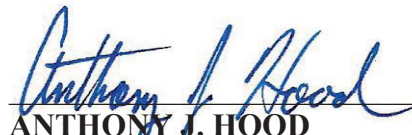
In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the application for minor modifications to the approved PUD, subject to the architectural plans and elevations submitted at Exhibit 9A, as modified by the architectural plans and elevations submitted at Exhibit 12A.

On May 23, 2016, upon the motion of Chairman Hood as seconded by Commissioner Miller, the Zoning Commission took **FINAL ACTION** to **APPROVE** this application by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Marcie I. Cohen, and Peter G. May to approve; Michael G. Turnbull to approve by absentee ballot).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is on April 14, 2017.

BY THE ORDER OF THE D.C. ZONING COMMISSION

A majority of the Commission members approved the issuance of this Order.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING