

**MEMORANDUM**

**TO:** District of Columbia Zoning Commission

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

**DATE:** July 24, 2018

**SUBJECT:** **ZC Case 15-15A** - Office of Planning Report on a Request for a Minor Modification of Consequence for Zoning Commission Order 15-15 for a Consolidated PUD at 1500 Harry Thomas Way, NE (Square 3567, Lots814 and 2001-2008)

**I. RECOMMENDATION**

**OP recommends the Commission consider the application as a Modification of Consequence.**

**II. SUMMARY OF APPLICATION AND APPROVED PUD**

<p><b>Application Summary,</b> (updated to Exhibit 13A2, filed July 24, 2018):</p>	<p>The Consolidated PUD approved by the Zoning Commission in Order ZC 15-15 would consist of four mixed use structures comprising a single building south of R Street, NE in the Eckington neighborhood, between Eckington Place, NE and Harry Thomas Way, NE.</p> <p>To respond to fire code requirements, the applicant seeks approval, for a Modification of Consequence, to change the approved open-air corridor design on the building's south side (<i>Exhibit 13A1, Sheets A2.10, A2.18, A3.12</i>) to an enclosed corridor design on the first five floors. (<i>Exhibit 13A1, Sheets A2.10B, A2.18B; Exhibit 13A2, Sheet A3.12B</i>)</p>
<p><b>Property Location and Legal Address</b></p>	<p>1500 Harry Thomas Way, NE (Square 3567, Lots814 and 2001-2008), north-adjacent to The Gale residential PUD 05-23 in the southern portion of the Eckington neighborhood.</p>
<p><b>Ward, ANC</b></p>	<p>Ward 6, ANC 6C</p>
<p><b>Applicant</b></p>	<p>JBG Boundary 1500 Harry Thomas Way, LLC and JBG/Boundary Eckington Place, LLC, LLC</p>
<p><b>Underlying Zone</b></p>	<p>M (1958); PDR-4 (2016), Industrial / Commercial</p>
<p><b>PUD-Related Zone</b></p>	<p>CR (1958); MU-10 (2016), Medium to High-Density Mixed Use</p>

<p><b>Existing Conditions</b></p>	<p>The generally rectangular 135,099 site has frontage on Eckington Place and Harry Thomas Way. It is within the Eckington neighborhood, just north of The Gale residential project, which was constructed under PUD 05-23 and which included a related map amendment from M to C-3-C. The NoMA/Gallaudet Metro station is ½ mile to the south, accessible from the Metropolitan Branch Trail.</p>
<p><b>Comprehensive Plan Map:</b></p>	<p><u>Future Land Use Map:</u> medium density residential/medium density PDR.  <u>Generalized Policy Map:</u> Land Use Change Area</p>
<p><b>Approved Project</b></p>	<p>A mixed-use building with four connecting structures totaling 703,362 SF, with a 5.2 FAR and height ranging from 54 ft. to 102 ft.; 695 residential units, 77,184 SF of commercial, retail and PDR space, and 331 parking spaces          Approximately 56 Inclusionary Zoning (IZ) residential units, including one 446 SF IZ unit for a 50% AMI household, and 55 other IZ units, with approximately half at 50% AMI and half at 80% AMI. Other public benefits and mitigation measures are noted on pages 26 – 31 of the PUD Order (<i>Exhibit 1A, Tab A</i>).</p>

**III. SITE LOCATION**

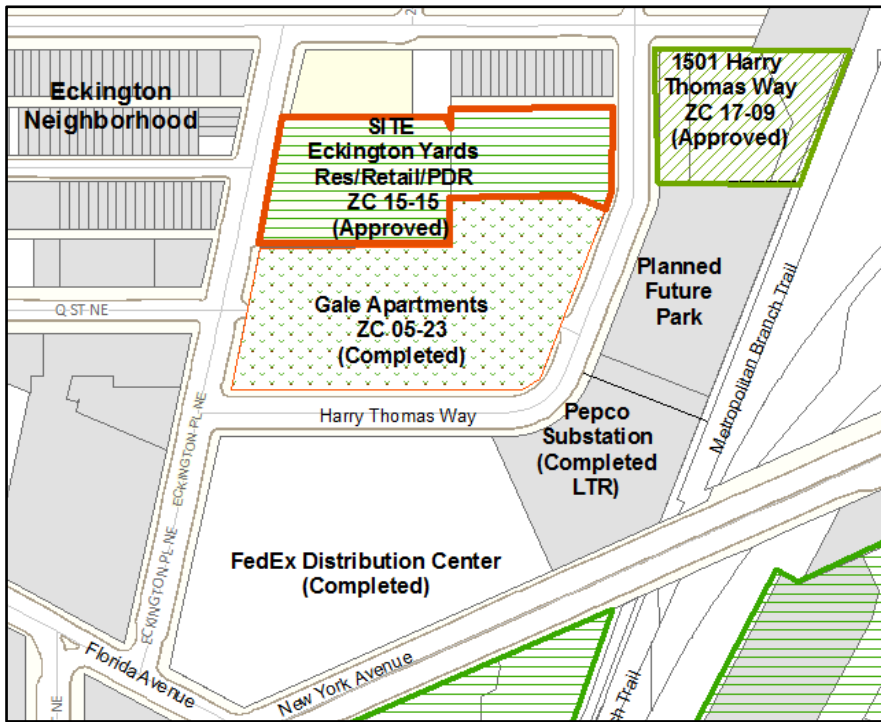


Figure 1. Location

#### IV. REQUESTED MODIFICATION

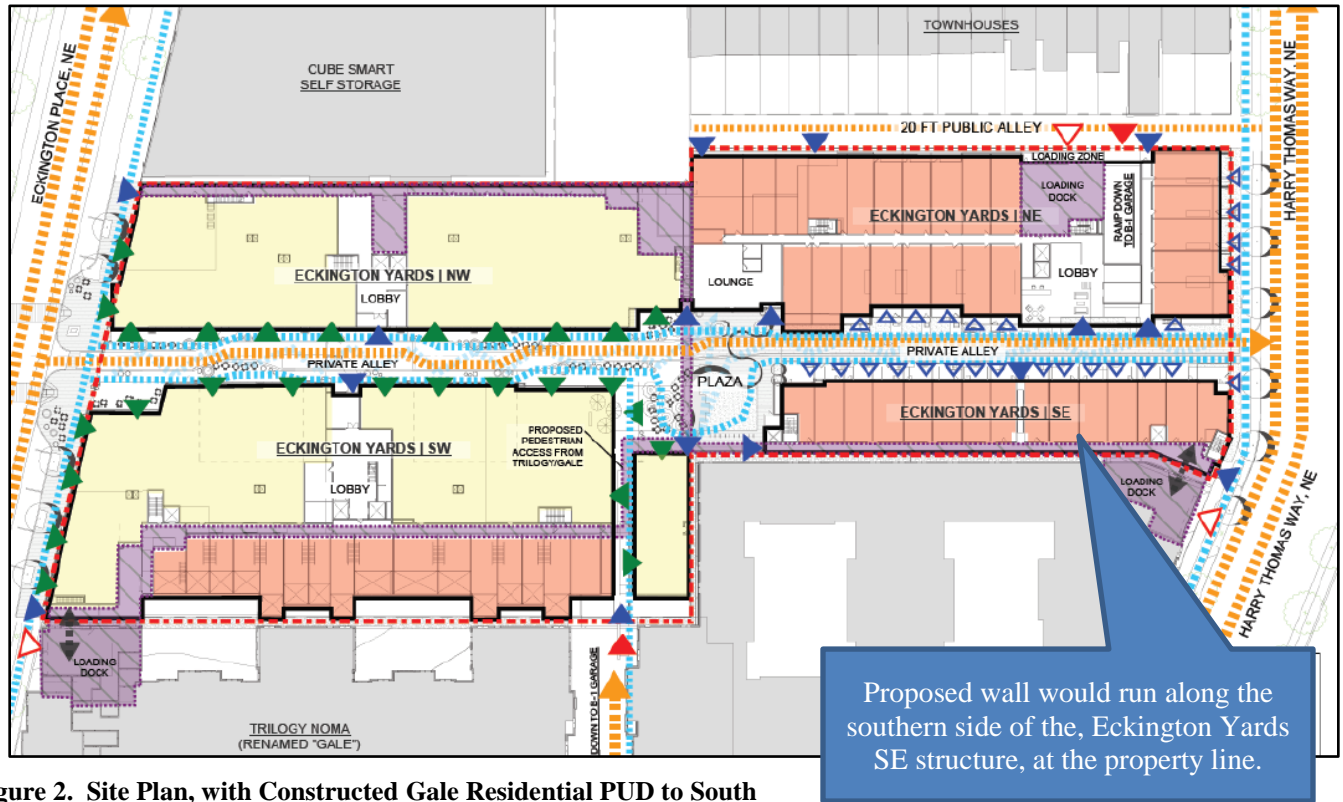


Figure 2. Site Plan, with Constructed Gale Residential PUD to South

The approved design provides for the apartments in the southwestern structure to be entered from exterior covered walkways, with security railings, along floors 1, 3 and 5 of the south side of the building. Floors 2, 4, 6 and 7 are to have balconies for the double- height and triple-height apartments entered from the 1<sup>st</sup>, 3<sup>rd</sup> or 5<sup>th</sup> floors.

Under the approved design, the southern enclosure wall of the PUD’s southeast structure would be approximately 10 feet from the northern façade of The Gale apartment building to the south. The unenclosed exterior walkways and balconies would extend to the southern property line, which is 6 feet, 2 inches north of the façade of The Gale apartment building. However, Section 1019.4 of the D.C. Fire Code requires such unenclosed exterior egress balconies and corridors to be at least 10 feet from the property line. The approved design would thus be 3 feet 10 inches too close to The Gale to comply with the fire code.

The applicant proposes to solve this problem by constructing a wall on the property line, with clear fixed windows, to convert the planned exterior walkways and balconies into an enclosed corridor on the 1<sup>st</sup> through 5<sup>th</sup> floors of the structure. There would continue to an exterior corridor on the sixth floor, which would provide access to upper-level units, which would be three stories tall.

## V. ANALYSIS

OP has analyzed the request change for a modification of consequence under Subtitle Z.§ 703. Subtitle Z §§ 703.3 and 703.4 describe a modification of consequence to a Zoning Commission decision as follows:

*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*

The applicant states that consideration of the application as a Modification of Consequence would be appropriate because Order 15-15 Condition D.1. (b) gives the applicant flexibility:

*To make minor refinements to exterior details, dimensions, and locations, including belt courses, sills, bases, cornices, railings, balconies, trim, frames, mullions, spandrels or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit or that are needed to address the structural, mechanical, or operational needs of the building uses or systems.*

While the proposed changes are being proposed to respond to code requirements relating to fire and safety, they would likely be more substantial than the “minor refinements” envisioned in Condition D.1. (b). OP’s recommendation that the Commission consider the application as a Modification of Consequence is based on the applicant’s having demonstrated that the proposal is not likely to have a significant impact on the appearance of the structure from a public way (Exhibit 13A1, Sheet A2 10B), and that the proposed design would provide greater privacy for the residents of the apartment building to the south than would have the approved exterior corridor design (Exhibit 13A2, Sheets N1.01, N2.02 and A1.24).

Since the original filing the applicant has provided additional information responding to questions raised in meetings with OP.

- The proposed south wall would not affect approved dimensions for side or rear yards;
- The corridor would be fully enclosed, but would have open areas outside of the recessed doors at the east and west ends;
- While the enclosure would count toward FAR the requested change would not result in the project’s exceeding the approved FAR;
- The cladding would be cementitious and painted a light grey and light brown, to reflect light to the south;
- The windows on the proposed wall would be at-risk, and would require a covenant;

- The placement of the windows has been regularized into a coherent pattern of fenestration;
- The applicant has demonstrated that the proposed enclosure would provide greater privacy for the residents of The Gale apartments than the previously approved design;
- The applicant met with residents of The Gale apartments on July 18, 2018.

The proposed modification affects only the south-facing façade of one of the four structures in the PUD. It does not appear there would likely be any impact on other aspects of the project's design, site plan, use and unit mix, affordable housing, or other public benefits or proffers.

## **VI. OTHER DISTRICT AGENCY REPORTS, AND COMMUNITY COMMENTS**

There were no comments from other agencies District at the time OP completed this report.

The applicant certifies it has circulated the application to OP and to ANC 5E. The Single Member District Representative for ANC5E03 filed a letter in support of the application (Exhibit 8).

There were letters of support for the project from three individuals. Each lives in The Gale apartments.

Jls/slc  
Stephen Cochran, project manager