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July 24, 2018

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BY ELECTRONIC (IZIS) AND HAND DELIVERY

District of Columbia Zoning Commission
441 4th Street, NW
Second Floor
Washington, DC 20001

Re: Zoning Commission Order No. 11-17
Adams Morgan Hotel Owner LLC
Request for Modification of Consequence
Square 2560, Lot 135 (former Lots 127, 872, 875)(the “Property”)

Dear Members of the Zoning Commission:

On behalf of Adams Morgan Hotel Owner LLC, owner of the Property (the “Owner”), we submit this request for modification of consequence, pursuant to 11-Z DCMR §703, to modify a condition of a contested case order of the Zoning Commission approving a planned unit development and related Zoning Map Amendment (collectively, the “PUD”). This modification request is made pursuant to the Zoning Commission's authority established in 11-Z DCMR §703.1, which allows the Commission to approve minor modifications and modifications of consequence.

I. BACKGROUND

By Order No. 11-17, dated February 15, 2013, and published March 15, 2013 (the “PUD Order”)(Exhibit A), the Zoning Commission approved the PUD in Square 2560 in the Adams Morgan neighborhood, which included renovation of the existing First Church of Christ, Scientist building into a hotel, with frontage on Euclid and Champlain Streets and Columbia Road, NW (the “Project”). The PUD also included an extensive list of community benefits. Among those benefits, the Owner committed to complete a list of tasks to improve the grounds surrounding the Marie Reed Learning Center on Champlain Street, NW, said tasks estimated to cost approximately \$200,000 to complete. At the time this amenity was offered, the District had not indicated that it would be renovating and improving the Learning Center.

More specifically, the PUD Order includes the following details with respect to this community benefit:

B. 18. *Prior to the issuance of the certificate of occupancy for the Project, the Applicant will complete the tasks below on the grounds of the Marie Reed Learning Center, at an estimated cost of \$200,000. If necessary permissions cannot be obtained from the applicable government agencies, the Applicant and RCNA will work cooperatively to identify alternative tasks on the grounds of the Marie Reed Learning Center of comparable economic value for the Applicant to complete instead. If, due to unforeseen circumstances, the completion of any of these tasks would require additional work that is materially beyond the scope of what is specified herein, then the Applicant and RCNA will work cooperatively to identify alternative tasks on the grounds of the Marie Reed Learning Center of comparable economic value for the Applicant to complete instead:*

- a. Remove selected plants (to be identified, not to include the three mature trees immediately south of the indoor swimming pool on Champlain Street) on the exterior perimeter of the ball field from Champlain Street south of the indoor swimming pool, along Florida Avenue, and along California Street. RCNA will generate a Community Tree Planting ("CTP") plan for replacement greenery to be provided by Casey Trees or other organizations;*
- b. Remove the chain link fencing on the perimeter of the ball field from Champlain Street south of the indoor swimming pool, along Florida Avenue, and along California Street to the tennis courts;*
- c. Repair the damaged portion of the cement retaining wall that has sagged on the Champlain Street side of the ballpark due to erosion, so that it is structurally sound and level with the rest of the retaining wall;*
- d. Install new fencing (of same style and quality as existing at Marie Reed Learning Center grounds, height to be determined) on the perimeter of the ball field from Champlain Street south of the indoor swimming pool, along Florida Avenue, and along California Street to the tennis courts. Installation to include two gates on Champlain Street, a gate on Florida Avenue, and a gate on California Street; '*
- e. Install a new plastic/vinyl-coated chain link backstop for the ball field;*
- f. Provide movable adult- and youth-sized soccer goal posts for the ball field;*
- g. Remove the railroad ties at the southern end of the tennis courts on Champlain Street. Replace them with a new supporting structure that integrates beds for planting shrubbery;*
- h. Replace the missing bar in the chain link fencing of the tennis courts on the 18th Street side;*
- i. Remove the chain link fencing on 18th Street and install new fencing (height to be determined);*
- j. Remove the chain link fencing on the southern edge of the middle tier of the grounds that divides the middle tier of the grounds from the ball field and install new fencing (height to be determined);*

- k. *Remove the chain link fencing on the southern edge of the upper tier of the grounds that divides the upper tier of the grounds from the middle tier of the grounds, install new fencing (height to be determined) and remove the old steel fence support structures attached to the cement base;*
- l. *Remove the chain link fencing on the eastern edge of the basketball courts on the upper tier of the grounds, install new fencing (height to be determined), and adjust the gates to the north and south of this new fencing to appropriate heights as necessary;*
- m. *Remove the chain link fencing enclosing the water pumping station and the outdoor pool and install new fencing (height to be determined);*
- n. *Remove all stair and ramp handrails, repair the cement bases as necessary, and install new handrails in a style that coordinates with the new fencing;*
- o. *Provide three benches near the basketball courts matching the benches found on the middle tier of the grounds and paint all benches;*
- p. *Paint the posts for the basketball nets; and*
- q. *Repair all light posts anywhere on the grounds and paint them.*

II. MODIFICATION OF CONSEQUENCE REQUESTED

Modification of Condition B.18 is required because the District's ownership, control and construction contract at the Marie Reed Learning Center have prevented the Owner from completing the list of tasks enumerated in the PUD Order. Subsequent to the Zoning Commission's approval of the PUD in 2013, the District of Columbia Public Schools ("DCPS") and District of Columbia Department of General Services ("DC DGS") engaged Quinn Evans Architects and Gilbane Construction to undertake extensive renovation of the Learning Center and its grounds, which included a complete gutting and build-out of the interior, extensive façade work, minor additions, and major site improvements. This scope of work required temporary closure of the Learning Center and relocation of its programs during the 2016-2017 school year. This renovation affected virtually all of the items listed in Condition B.18 of the PUD Order.

The Owner, DCPS, and DC DGS agreed that, because Owner would not be in a position to complete the proffered site improvements at the Learning Center given the DC DGS contract with Gilbane Construction, the Owner would transfer funds in the amount of \$200,000 to DC DGS as agent for the Learning Center property, to be used toward completion of the renovation work being undertaken by Gilbane Construction under contract with DC DGS, to be completed by the end of 2017. The parties entered a letter agreement formalizing this arrangement in January 2017 (Exhibit B).

The Zoning Administrator confirmed in May 2017 that this letter agreement satisfied Condition B.18 of the PUD Order because of the impossibility of the Owner to go on-site to do the work at the Learning Center identified in the PUD given the District's contract and site control. To complete its obligation, the Owner made payment of \$200,000 in June 2017 to the DC Treasurer through DC DGS pursuant to a Donation Agreement entered into by the parties (Exhibit B). Renovation work proceeded at the Learning Center, however, Gilbane Construction has not yet completed the renovation scope of work for the Learning Center.

Over the past months, the Owner has worked to finalize construction of the PUD project so as to be able to obtain a final Certificate of Occupancy for the project. DCRA has recently stated to the Owner that as a part of obtaining the final Certificate of Occupancy, the Owner should seek modification of the PUD Order to reflect the actual state of the ability to provide the Marie Reed Learning Center improvements. This direction was provided by DCRA, understanding the Owner's letter agreement with DC DGS and DCPS, the Owner's payment of \$200,000 to the DC Treasurer, and the Zoning Administrator's confirmation. The Owner and DCRA have agreed that Owner shall pursue this Modification of Consequence to the Zoning Commission to modify Condition B.18 to reflect the Commission's satisfaction with the \$200,000 payment given the circumstance at the Marie Reed Learning Center, and further agreed that DCRA will issue the final Certificate of Occupancy for the hotel upon the Owner's submission of this request.

With this background, the Owner requests that the Commission approve modification of Condition B.18 to read as follows:

18. *Prior to the issuance of the certificate of occupancy for the Project, the Applicant will make a contribution in the amount of \$200,000 to the DC Treasurer pursuant to agreement with the DC Department of General Services that such funds will be designated toward renovation work at the Marie Reed Learning Center. The Commission recognizes that the \$200,000 payment already has been made.*

III. THE REQUEST FOR MODIFICATION OF CONSEQUENCE MEETS THE STANDARDS OF 11-Z DCMR § 703, AND NO HEARING IS NECESSARY

Subtitle Z, Section 703, of the Zoning Regulations provides for an expedited "Consent Calendar" procedure, in the interest of efficiency, for minor modifications, modifications of consequence, and technical corrections to previous approvals without need for a public hearing.

Modifications of consequence is defined in Section 703.2 to include modifications to conditions of Zoning Commission contested case orders.

The modification of consequence requested here is not a substantial change to the condition as originally approved. The original condition estimated the proposed scope of work to be completed by the Owner at a cost of \$200,000. Given superseding events at the donation site, the Owner is unable to undertake the proposed scope of work and has resolved with DC DGS, the District agency in charge of the site and renovation work, to make, and has made, full payment of \$200,000 to be used for renovation work at the Learning Center site, which


work will include items as permitted pursuant to Condition B.18 of the PUD Order. Further, as previously stated, the Owner has fully paid these funds to the DC Treasurer more than one year ago.

V. CONCLUSION

In light of this demonstration of good cause and for the reasons stated herein, the Owner respectfully requests approval of its request for modification of consequence to Condition B.18.

Respectfully submitted,

HOLLAND & KNIGHT LLP



Norman M. Glasgow, Jr.



Dennis R. Hughes

Attachments

cc: Advisory Neighborhood Commission 1C
DC Office of Planning
Kalorama Citizens Association
Champlain Street Neighbors
Melinda Bolling, Director, DCRA

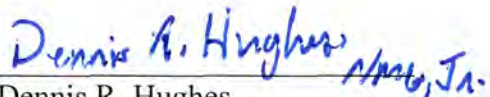
CERTIFICATE OF SERVICE

I hereby certify that on July 24, 2018, a copy of this request for Modification of Consequence to Zoning Commission Order No. 11-17 was served by First Class Mail on the following in accordance with 11-Z DCMR § 703.13.

Advisory Neighborhood Commission 1C
P.O. Box 21009
Washington, DC 20009

Kalorama Citizens Association
P.O. Box 21311
Washington, DC 20009

Champlain Street Neighbors
2384 Champlain Street
Washington, DC 20009


Dennis R. Hughes