

## OP Staff Report

**TO:** District of Columbia Zoning Commission

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

**DATE:** July 20, 2018

**SUBJECT:** ZC Case 15-32A - **OP Report** –Modification of Consequence to approved PUD at 1126 9<sup>th</sup> ST NW

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Subtitle Z § 703 provides for Zoning Commission consideration of a modification of consequence to an approved Planned Unit Development (PUD) as follows:

### **703 CONSENT CALENDARS – MINOR MODIFICATION, MODIFICATION OF CONSEQUENCE, AND TECHNICAL CORRECTIONS TO ORDERS AND PLANS**

- 703.1 This procedure shall allow the Commission, in the interest of efficiency, to make, without public hearing, minor modifications, **modifications of consequence**, and technical corrections to previously approved final orders and plans.
- 703.2 For purposes of this section, “minor modifications” shall mean modifications that do not change the material facts upon which the Commission based its original approval of the application or petition.
- 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.

A more substantive “modification of significance” requires the holding of a public hearing, in accordance with Subtitle Z § 704.

## **I. RECOMMENDATION**

After a review of the request, including a comparison of the modified plans against the approved plans and the Order (ZC 15-32); OP concurs with the applicant’s submission that the proposed refinements are a modification of consequence and recommends approval.

The new proposal includes a change to conditions A.1, A.2, and A.4 of the approved final order. These conditions require the project to be built according to the approved plans so amending the plans also means amending these conditions. The proposal also redesigns and reallocates some of the architectural elements from the final design of the original plans.

## II. BACKGROUND and PROPOSAL

The proposal would reduce the size of an approved plan for a mixed-use multifamily residential building with ground floor commercial uses. The building would be located at the corner of 9<sup>th</sup> ST NW and M ST NW, which is immediately across from the Washington Convention Center. The original version of the project included a 100-foot tower and a total of 33 residential units with 2 affordable units at 50% and 80% AMI. Due to rising construction costs, the Applicant has decided to reduce the size of the project by redesigning the building and removing the tower. The proposal would now have 15 residential units. The Applicant is still committed to providing the two affordable units at the same level of affordability.

## III. MODIFICATION REQUEST

In summary, the proposal would modify the approved PUD by reducing the building’s size, altering and eliminating some of the relief and flexibility originally approved, and reallocating and redesigning various development and architectural elements shown in the plans.

### *Proposed changes to the approved PUD standards:*

The project was approved under the 1958 regulations so it is within the C-2-A and C-2-C zones.

Issue	Matter of Right	Approved (consolidated) PUD	Proposed Modification
<u>Height Maximum Permitted</u>	C-2-C: 110’ C-2-A: 24’11	C-2-C: 100’ C-2-A: 24’11	C-2-C: 74.33 ft. C-2-A: 24’11
<u>Height Permitted</u>	M Street NW: 60’ height limit	61.33’	61.58’
<u>FAR Permitted</u>	C-2-C: unlimited w/residential C-2-A: 2.5 FAR	C-2-C: 5.5 FAR C-2-A: 2.0 FAR	C-2-C: 4.4 FAR C-2-A: 2.0 FAR
<u>Courts Permitted</u>	Commercial: 3”/ft. & 2x sq. of width, less than 250 sq.ft., no less than 12’ Residential: 4’/FT & 2X sq. of width, less than 350 sq.ft., no less than 15’	Court 1: 9’; 108sq.ft. (relief approved) Court 2: 9’; 108sq.ft. (relief approved) Court 3: 18’5” (no relief needed)	Court 1: 16’ ; 176 sq.ft. Court 2: 9’; 108 sq.ft. Court 3: 18’5”
<u>Penthouse Setback</u>	<u>Required</u> 1:1 Setback	Relief Approved	No relief needed

### *Benefits and Amenities*

None of the proffered public benefits and amenities would be impacted by the revisions. This includes maintaining the same level of affordability for the affordable housing units as the original larger project.

### ***Changes in Previously Approved Relief and Flexibility Requests***

This proposal would bring the project more into conformance with the zoning requirements by reducing or removing some of the approved relief and design flexibility. The penthouse setback relief approved for the original plans would no longer be needed under this proposal. The amount of court size relief would be reduced, as one of the two nonconforming courts would be increased in size to be closer to conforming. The proposal would also no longer need flexibility to vary the bedroom count or unit size of the affordable units.

The proposal would slightly increase the amount of relief needed for the building's height along M Street, NW. There is a 60-foot height limit for new construction along M Street, NW. Originally the building would have been 1.33 feet above the limit. The proposed modification would result in the building height 1.58 feet above the limit.

#### ***Additional reallocations and redesigns:***

- An enlargement of the light wells
- Reconfiguration of rooftop mechanicals and rooftop green areas
- The reconfiguration of internal demising walls of individual units
- The partial reallocation of density from the Original Project's 100-foot tower to the rear portion of the building by addition more residential units to the rear and increasing the height of the rear from 4 to 5 stories.

#### **IV. ANALYSIS**

The proposal would significantly reduce the size of the project and require less relief and design flexibility than the original project. Therefore, the building would have less of an impact on the surrounding area and be more in conformance with the zoning regulations. The slight increase in height along M Street, NW would be too minimal to have a significant impact on the surrounding area. The project is not reducing its amenity package, though the size of the project is being reduced. Notably the project is still providing two affordable units at the level of affordability as originally approved when the project was larger in size.

#### **V. ANC/ COMMUNITY COMMENTS**

As of the writing of this report, there are no comments in the record from ANC 2F or from the community.

#### **VI. AGENCY REFERRALS**

As of the writing of this report, there are no comments in the record from other District agencies.