

MEMORANDUM

TO: District of Columbia Zoning Commission

FROM: *JL for* Jennifer Steingasser, Deputy Director Development Review & Historic Preservation

DATE: May 1, 2020

SUBJECT: **OP Report** – ZC Case 17-05C - Request for a Modification of Consequence to approved Design Review 17-05 at 2121 2nd Street SW

I. RECOMMENDATION

After a review of the request, including a comparison of the modified plans against the approved plans and the Order (ZC 17-05); the Office of Planning (OP) concurs with the Applicant’s submission that a proposed use change typically constitutes a modification of significance pursuant to Z § 703.6. However, OP does not object to the Applicant’s request that the Commission process the proposed change in use as a modification of consequence, and recommends **approval** of the request.

The Applicant is proposing a service use in place of the previously approved ground floor retail, along with an associated 0.01 increase in the project Floor Area Ratio (FAR). The proposed use change would not result in modifications to the exterior of the building but would include the construction of an area of second floor where a double-height retail space had been contemplated.

II. BACKGROUND

Subtitle Z § 703 provides for Zoning Commission consideration of a modification of consequence to previously approved orders and plans as follows:

703 CONSENT CALENDAR – MINOR MODIFICATION, MODIFICATION OF CONSEQUENCE, AND TECHNICAL CORRECTIONS TO ORDERS AND PLANS

...

- 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.
- 703.5 For the purposes of this section, a “**modification of significance**” is a modification to a contested case order or the approved plans of greater significance than a modification of consequence. Modifications of significance cannot be approved without the filing of an application and a hearing pursuant to Subtitle Z § 704.

703.6 Examples of **modifications of significance** include, but are not limited to, a change in use, change to proffered public benefits and amenities, change in required covenants, or additional relief or flexibility from the zoning regulations not previously approved.

A “modification of consequence” requires the establishment of a timeframe for the parties in the original proceeding to file comments on the request and the scheduling of a date for Commission deliberations, while a more substantive “modification of significance” requires the holding of a public hearing, in accordance with Subtitle Z § 704.

III. MODIFICATION REQUEST

In summary, the Applicant is proposing to modify the approved Design Review by modifying the ground floor use from retail to service to accommodate DC Central Kitchen. The proposed use change also would result in a small increase in the building Floor Area Ratio (FAR) as the Applicant is proposing to construct a second floor in a portion of the double-height retail space.

Development Parameters:

Item	Approved Design Review	Proposed Design Review Modification	Plans Sheet #
FAR	514,010 sq. ft. 4.45 FAR	529,696 sq. ft. 4.46 FAR	Exhibit 2
Change in Use	19,442 sq. ft. retail	34,410 sq. ft. service use on first and second floor	Exhibit 2H

Changes in Previously Approved Relief and Flexibility Requests

The proposed project is an adaptive reuse of an existing office building, which was nonconforming with respect to FAR. Although the requested modification results in a small increase in FAR from the original approval (4.45 FAR), the proposed FAR (4.46 FAR) is still less than what existed when the building was constructed (6.0 FAR) and is within the 5.0 FAR permitted in the CG-5 zone. No additional relief is necessary because of the proposed modifications.

IV. OP ANALYSIS

The original Design Review approval was for a mixed-use building with approximately 480 dwelling units and 71,120 square feet of retail (ZC Case 17-05). At the time of approval, the Applicant did not request flexibility with respect to proposed ground floor uses. Subsequent modifications related to the redesign and relocation of building architectural elements (ZC Order 17-05A, November 9, 2018) and the proposed use of certain upper level floors (pending ZC Case 17-05B) for a temporary lodging use .

DC Central Kitchen, a nonprofit and social enterprise that combats hunger and poverty through job training and job creation, currently operates out of multiple locations and seeks to consolidate its operations at the subject property. The proposed use of the space at 2121 2nd Street SW would allow for training areas, the production kitchen, food storage, volunteer assembly, and meeting space on the ground floor with office space for full-time employees on the second-floor. The Applicant’s request to process the application as a modification of consequence stems in part from the timeline that is being driven by DC Central Kitchen leases that are set to expire in October 2020.

Service is a permitted use in the CG-5 zone pursuant to K § 507.1(a)(16). The parking and loading requirements for a service use are the same as the retail requirements; therefore, adequate parking and loading should be provided at the property.

Should the Commission approve the request, DC Central Kitchen is proposed to take the ground floor retail space at the northwest corner of the building. The Applicant continues to propose three restaurants on the ground floor, which would front on the Anacostia River, as well as a community-serving market space at the northeast corner of the building. No additional changes to the ground floor uses are anticipated at this time. In fact, there are opportunities for synergies between the proposed DC Central Kitchen use and the other restaurant uses in the building.

V. ANC COMMENTS

ANC 6D voted 6-0-0 at its April 13, 2020 regularly scheduled and properly noticed meeting, to support the Modification of Consequence for DC Central Kitchen (Exhibit 3).

VI. COMMUNITY COMMENTS

Letters in the support of the requested modification were received from DC Public Schools (Exhibit 4) and Ward 6 Councilmember Charles Allen (Exhibit 5).

VII. AGENCY REFERRALS

The District Department of Transportation (DDOT) has coordinated with the Applicant and reviewed the Transportation Statement at Exhibit 2E and does not object to the requested modification of consequence.

Comment from the District Department of Energy and Environment (DOEE) had not been received at the time this report was drafted.