

MEMORANDUM

TO: District of Columbia Zoning Commission

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

DATE: January 5, 2022

SUBJECT: Office of Planning (OP) Report on Application ZC 20-34A -- Request for a Modification of Consequence to approved PUD 20-34 at

I. RECOMMENDATION

Zoning Commission Case 20 – 34, approved in March, 2021, was for the mandatory Special Exception Review in the D-8 Zone, pursuant to Subtitle I Section 581, of a development at 300 12th Street, S.W (Cotton Annex). After a review of this modification request, including a comparison of the proposed change against the approved Order ZC 20-34 OP:

Does not object to the applicant's request being considered as a **Modification of Consequence** under Subtitle Z § 703; and

Recommends approval of the requested modifications to the following Project Development Conditions of the Order, with deletions ~~struck through~~ and additions underlined:

Condition A.1 Number of Units *To provide a range in the total square footage of residential dwelling units and the approved number of residential dwelling units of 564 plus or minus five percent.*

(Finding of Fact No. 10 had noted that there would be approximately 610 rental units in the project)

Condition A.2: *The Project shall be designed to meet the threshold for designation as LEED Gold pursuant to either the LEED For Home V4 Multifamily Mid-Rise or LEED For New Construction standards. The Applicant will pursue certification for the Project at the LEED Gold level.*

If granted the changes would result in fewer but larger, residential units and would provide the applicant greater flexibility in methods and procedures to achieve the required LEED Gold certification.

The change to Condition A.1 would retain the same percentage of the total residential square footage as Inclusionary Zoning (IZ) units, although the number and type of units may change as a result changes to the size of the market rate units.

II. INFORMATION REQUESTED PRIOR TO COMMISSION CONSIDERATION

The applicant should provide an estimate of the number and type of IZ units that would result from approval of the requests and should revise previous drawings showing the distribution of the IZ units. The applicant may also wish to respond to DOEE staff comments (attached to this report) which note a preference for the approved LEED HMM process over the proposed LEED NC process.

III. BACKGROUND FOR REQUESTS

The approved building will consist of the existing historically designated Cotton Annex and an addition to the historic building's east and south. The preserved building and its new addition would contain 452,582 square feet, have an FAR of 7.34, and would be 118.6-feet high. It would have 12 stories plus a penthouse with amenity space. The finished building was to have contained approximately 610 residential units and will, if the requested modifications are approved, contain approximately 564 apartments. 8% of the residential gross floor area (~ 36,300 SF) is required by the zoning regulations to be affordable to households earning no more than 60% of area's median family income and an additional 1,000 square feet must be provided at 50% MFI due to penthouse regulations. There will be 1,268 square feet of retail space.

The applicant states that since the issuance of the Order, a more detailed analysis of site and the proposed plans have indicated that providing the approximately 610 units could result in several overly small and awkwardly configured apartments. Accordingly, the applicant is requesting permission to provide a lesser number of units within the same previously approved residential square footage.

The applicant remains committed to achieving the required LEED Gold certification. However, it is requesting the ability to achieve that Gold level through either of two LEED categories: LEED HMM (LEED Home V4 Multi-Family Mid-rise or the LEED); or LEED NC (LEED New Construction). The applicant states that while the LEED NC includes some standards that are stricter than those in LEED HMM, LEED NC allows a building greater flexibility in the process for achieving the LEED Gold certification.

IV. ANALYSIS OF MODIFICATION REQUEST

Subtitle Z § 703 provides for Zoning Commission consideration of a modification to an approved PUD 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.

Approval of the requested changes would not result in any changes to the uses or exterior design of the project. It would continue to conform with Subtitle I § 581’s special exception criteria for a building in the D-8 zone and with the general special exception review criteria of Subtitle X, Chapter 9. With no exterior changes being proposed, the building would continue to conform with the variances granted from Subtitle I § 207.1’s open court requirements and from Subtitle I § 200.3’s limitations on density within the footprint of an historic building.

Inclusionary Zoning requirements would continue to be met and the square footage of space required to be devoted to IZ units would not change. However, the applicant should provide information about the likely number, type and distribution of the IZ units within the requested reduced overall number of units in the building.

LEED Gold certification would also continue to be met. However, in OP conversations with staff at the Department of Energy and the Environment (DOEE) that staff expressed a preference that the applicant pursue LEED Gold through the LEED HMM standards and processes rather through LEED NC. In DOEE’s staff opinion, which is attached to this report, while LEED NC may have more stringent standards in some respects, the overall testing and verification process employed in LEED HMM is targeted to residential projects and gives the agency greater confidence that a residential building will perform to LEED Gold standards in the long run

V. OTHER GOVERNMENT AGENCY COMMENTS

The application has not been circulated to agencies other than OP and no government agency had filed comments to the record at the time OP completed this report. However, as noted above, OP has spoken with DOEE staff about the application and that staff’s comments to OP are attached to this report.

VI. ANC COMMENTS

The applicant has circulated the application to ANC 6D, in which the site is located. The ANC had not commented to the record at the time OP completed this report.

VII. COMMUNITY COMMENTS

There were no public comments in the record at the time OP completed this report.

VIII. LOCATION MAP



I. Fig. 1. Site is in red

Attachment: DOEE Comments

DOEE Development Review Comments ZC 20-34A: Cotton Annex

DOEE acknowledges the applicant's request for flexibility to the LEED rating system used on the project; the applicant would like the flexibility to pursue LEED Gold under the LEED for Homes Multifamily Midrise (HMM) rating system or LEED for New Construction (NC). While DOEE commends the team for their commitment to certify the building to LEED at the Gold level, DOEE believes LEED HMM to be a better fit for the project than LEED NC. Additionally, DOEE does not agree with the applicant's assertion that LEED NC is more stringent than LEED HMM.

DOEE favors the use of LEED HMM for this project because of the valuable field testing and verification process involved in the LEED HMM certification process that does not exist in the LEED NC certification process. LEED HMM requires inspections and performance testing by a third-party Green Rater. The Green Rater verifies various claims about the building. For example, to verify water savings, they inspect and photograph plumbing fixtures and landscape/irrigation design to confirm that they match what is shown in project design documents. They conduct a pre-drywall inspection to verify components like insulation and air sealing materials. They also perform a number of valuable performance tests, including:

- blower-door test of air leakage in residential units
- water leakage
- local exhaust air flow (kitchen and bathroom)
- whole unit ventilation air flow
- duct leakage
- fundamental commissioning of central HVAC systems

DOEE believes that these tests, which are typically conducted on a sample of 7-15% of a project's residential units, benefit tenants by ensuring a well-constructed, high-performance building.

LEED has rating systems available for a number of specific project types, including residential, school, retail, data center, hospitality, and healthcare projects, among others. While most projects are eligible to use the generic New Construction rating system, they are encouraged to use the specialized rating system that was designed for their building type. In fact, the latest version of LEED, version 4.1 (v4.1), restricts the use of the New Construction rating system; in LEED v4.1, projects may only use the New Construction rating system if they are not eligible to use one of the specialized rating systems.

The LEED for Homes Multifamily Midrise rating system was designed specifically for this project's building type, and therefore its credits and prerequisites are more directly relevant to this project. The LEED HMM rating system includes seven prerequisites in the Indoor Environmental Quality category that are specifically designed to prioritize the comfort and wellbeing of residential tenants. LEED HMM even includes a requirement to educate tenants about how to use and operate equipment in their units, among other things.

