

**BEFORE THE ZONING COMMISSION
FOR THE DISTRICT OF COLUMBIA**

**APPLICATION FOR A
MODIFICATION OF SIGNIFICANCE
TO AN APPROVED PUD**

**PROVIDENCE PLACE PUD
ZC ORDER NO. 17-08**

STATEMENT IN SUPPORT

June 28, 2021

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LIST OF EXHIBITS

<u>Exhibit</u>	<u>Description</u>
A	Zoning Commissioner Order No. 17-08
B	Portion of the Zoning Map
C	Surveyor's Plat
D	Authorization Letters
E	Relevant Sheet from Approved Plans (Sheet A11, Ex. 27A2 in public record for Z.C. Case No. 17-08)
F	Gorove Slade Technical Memorandum Dated June 16, 2021
G	Certificate of Notice, Notice of Intent, and Property Owners List
H	Correspondence to the Zoning Commission dated June 9, 2021, regarding Limited Waiver Request from Subtitle Z § 300.7 (approved on June 24, 2021)
I	Certificate of Proficiency

I. INTRODUCTION

This statement and the attached documents are submitted on behalf of Providence Place I LP (the “**Applicant**”) in support of an application to the Zoning Commission for the District of Columbia (the “**Commission**”) for a Modification of Significance to the planned unit development (“**PUD**”) approved pursuant to ZC Order No. 17-08, dated November 27, 2017 and effective on March 9, 2018 (the “**Order**”). The development is an apartment house with 93 units, all of which will be affordable for households with incomes not exceeding 60% of the median family income (“**MFI**”). Of the 93 units, 35 will be replacement units for the Lincoln Heights and Richardson Dwellings communities controlled by the DC Housing Authority.

The Applicant seeks to modify the PUD to include flexibility from the loading requirements in 11-C DCMR 905.2. Specifically, the Applicant requests the Zoning Commission grant flexibility to permit a vertical clearance of 12 feet – 6 inches where a vertical clearance of 14 feet is required.

This application is submitted in accordance with Subtitle X, Chapter 3 and Subtitle Z of the 2016 District of Columbia Regulations, Title 11 of the District of Columbia Municipal Regulations (“**DCMR**”), except that the application is being filed less than 45 days from the date that the Notice of Intent was mailed to owners of property within 200 feet of the PUD as required under 11-Z DCMR § 300.7. The Commission waived this requirement at its public meeting on June 24, 2021.

II. BACKGROUND

The subject property is identified as Lot 827, Square 5194 (the “**Property**”).¹ It consists of approximately 1.6 acres and is located on the east side of 50th Street, NE, between Nannie Helen Burroughs Avenue and Fitch Place. To the east of the PUD site is the Progressive National Baptist Convention (“**PNBC**”) campus.²

The Order approved a PUD and related Zoning Map amendment from the RA-2 to the RA-2 zone in order to facilitate the development of the Property with a 5-story apartment house with 100 units and a gross floor area of 101,047 square feet or, in the alternative, a 4-story apartment house with 93 units and a gross floor area of 94, 277 square feet. All of the units within the building are affordable for households within incomes not exceeding 60% of MFI and a minimum of 35 units are reserved as replacement units for the Lincoln Heights and Richardson Dwellings communities controlled by the DC Housing Authority.

The apartment building, with 93 units, is currently under construction.

¹ The original PUD approval applied to Lot 824. Lot 824 was divided into two lots – 825, the PUD site, and Lot 826, the remainder of the Progressive National Baptist Convention campus. Lot 825 was subsequently divided into two lots – 827, which is the site of the apartment house, and Lot 828, which will be dedicated to the District for the 50th Street right of way.

² The PNBC campus was formerly Lot 826. Lot 826 was divided into Lot 829, which is the adjusted PNBC campus site, and Lot 830, which will be dedicated to the District for the 50th Street right of way.

III. PROPOSED MODIFICATION OF SIGNIFICANCE

The Applicant seeks a Modification of Significance to the approved Providence Place PUD in order for the project to have flexibility from the loading requirements. Specifically, the Applicant proposes a vertical clearance of 12 feet – 6 inches where Subtitle C, Sec. 905.2 of the Zoning Regulations requires a minimum vertical clearance of 14 feet. During construction of the apartment house, the Applicant discovered that, due to a structural drop panel in the concrete slab, the project is unable to achieve the 14 feet vertical clearance.

Attached as Exhibit F is a memorandum from Gorove Slade dated June 16, 2021, which concludes that a vertical clearance of 12 feet – 6 inches is sufficient to accommodate trucks typically used for move-in/move-out activity, furniture and parcel deliveries and trash pick-up for an apartment house. The memorandum states that taller trucks can load/unload curbside along 50th Street, NE, subject to the proposed Loading Management Plan.

IV. THE REQUESTED MODIFICATION MEETS THE STANDARDS OF A MODIFICATION OF SIGNIFICANCE

Pursuant to Subtitle Z § 703.5, a “modification of significance” is a modification to a contested case order or the approved plans of greater significance than a modification of consequence. 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. 11-Z DCMR § 703.6. Modifications of significance also cannot be approved without a hearing pursuant to Subtitle Z § 704. The scope of a hearing conducted for a modification of significance to a PUD is limited to the impact of the modification on the approved PUD; and the Commission is not permitted to revisit its original decision. 11-X DCMR § 704.4.

This application constitutes a Modification of Significance because it includes a request for flexibility from the Zoning Regulations not previously approved – a loading berth with a vertical clearance of 12 feet – 6 inches where 14 feet is required under Subtitle C § 905.2. Notably, the original PUD did not include any other flexibility from the development standards in the Zoning Regulations.

The requested flexibility does not alter the Commission’s findings regarding consistency with the Comprehensive Plan; nor is the flexibility unreasonable when judged against the PUD benefits and amenities. The primary PUD benefit is the construction of 93 affordable units, including 35 replacement units for DC Housing Authority properties. Granting the flexibility would allow for construction of the all-affordable project to continue without incurring significant costs to modify the loading area. Finally, the requested modification will not result in unacceptable impacts on the surrounding area or on the operation of city services or facilities. As stated in the memorandum by Gorove Slade, the requested vertical clearance of 12 feet – 6 inches is sufficient to accommodate the trucks that will regularly serve the apartment house. On those occasions that taller trucks arrive to the site, they can load/unload on 50th Street and impacts can be mitigated in accordance with the provided Loading Management Plan.

V. CONCLUSION

For all of the reasons stated herein, the Applicant submits that the proposed flexibility is appropriate. Accordingly, the Applicant respectfully requests that the Commission schedule a public hearing on this application and grant the requested modification.

Respectfully submitted,

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Leila M. Jackson Batties, Esq.



Christopher S. Cohen, Esq.