

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

Application of CP VII Cotton Annex, LLC
Z.C. Case No. 20-34

ANC 6D

Applicant's Request for Modification of Consequence

This is the application of CP VII Cotton Annex, LLC (“**Applicant**”) for a modification of conditions approved in Order No. 20-34 (“**Order**”), attached as Exhibit A.¹ The Order approved a special exception review and two variances to allow the renovation of a historic building and construction of an addition at 300 12th Street SW (Square 326, Lot 806) (“**Property**”). The Property is located in the D-8 zone.

I. Nature of Request

The Applicant requests that the Zoning Commission (“**Commission**”) approve a Modification of Consequence, pursuant to Subtitle Z § 703 of the Zoning Regulations, to allow a reduction in the number of residential units and to allow flexibility in the LEED criteria for the project.

II. Background

Pursuant to the Order, on March 18, 2021, the Commission approved a mandatory special exception review in the D-8 zone and two variances to allow the renovation of the historic Cotton Annex building and the construction of an addition to create a 12-story residential building with ground-floor retail, underground

¹ Since the approval of the application, a new owner acquired the site.

parking, and associated site improvements (“**Project**”). The addition will be constructed to the south and east of the historic building, and an interior courtyard will be located in the center of the Project between the historic building and the addition. As approved in the Order, the Project contains approximately 610 residential units and approximately 110 parking spaces. The Project’s approved FAR is 7.38 and height is 118’-8”. The Project includes other beneficial attributes such as affordable housing in accordance with the Inclusionary Zoning requirements, a high-quality design and site plan, and a LEED Gold rating.

III. Modification Request and Applicant’s Satisfaction of the Standards for Approving a Modification of Consequence

The Order contains two conditions concerning the number of residential units and the LEED criteria. Condition No. A.1 in the Order grants flexibility of plus or minus 5% in the number of residential units, which amounts to a range of 579 – 641 units. Also, Condition No. A.2 in the Order requires that the Project satisfy the standards for LEED Gold under LEED for Home V4 Multifamily Mid-Rise (“**LEED HMM**”) criteria. With this request, the Applicant proposes to reduce the number of residential units to 564, plus or minus 5%, and to add flexibility to the LEED condition so that LEED Gold may be satisfied under either the LEED HMM or LEED For New Construction (“**LEED NC**”) criteria.

Subtitle Z § 703 of the Zoning Regulations establishes the standards and requirements for approval of a Modification of Consequence, without a public hearing. Section 703.4 notes that examples of Modifications of Consequence

[i]nclude, 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 (emphasis added in bold).

The proposed modifications in this application are modest and are consistent with the standards for a Modification of Consequence.

First, the Applicant proposes to decrease the number of units in the Project to 564 with a range of plus or minus 5%. Accordingly, the Applicant proposes to modify Condition A.1 (Number of Units) in the Order as follows:

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.

The Applicant is requesting this modification to improve the quality of the units. Once they started to refine the demising and interior layouts of units, the Applicant realized that to attain the current minimum unit count, many of the units would be low on the “quality of life scale” and undesirable. Due to the issues of protecting the historic building and joining it to the new addition and the resulting numerous corners, many of the units would be small, oddly configured, and have limited windows. By decreasing the overall unit count, the Applicant will be able to achieve larger, regularly-configured, and better lit units that will be more desirable and better for residents. The proposed number of units will remain consistent with the intent of the original approval because it will still result in substantially the same Project with many new residential units in the neighborhood that equally satisfies the standards for approval described in the Order. The requested modification will

affect only the interior configuration of the Project and will not otherwise change any other aspect of the Project's plans that the Zoning Commission approved, including the design and massing. Further, with the proposed modification, the amount of floor area devoted to Inclusionary Zoning units will not change. Accordingly, the Applicant requests that the Commission approve, as a Modification of Consequence, a decrease in the number of units within the proposed range.

Second, the Applicant proposes to change the Project's LEED standard to LEED Gold under either the LEED HMM or the LEED NC criteria. Accordingly, the Applicant proposes to modify Condition No. A.2 in the Order as follows:

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.

Overall, the standards for achieving a Gold rating under LEED NC are more stringent than under LEED HMM, meaning that the threshold for achieving a Gold rating under LEED NC is higher than under LEED HMM. In some of the specific criteria, such as Sustainable Sites and Water Efficiency, the standards are similar for both. In others, such as Energy and Atmosphere, the standards under LEED NC are more stringent. However, despite having more stringent criteria, LEED NC affords more flexibility in achieving the standards, so the Applicant would like more flexibility in how it attains a Gold rating for the Project. The proposed flexibility will remain consistent with the intent of the original approval because it will still result in a Gold rated Project, and the Project will have an equal or greater number of

sustainable features than under the originally-approved LEED HMM criteria. The requested modification will not otherwise change any aspect of the Project's plans that the Zoning Commission approved. Accordingly, the Applicant requests that the Commission approve, as a Modification of Consequence, flexibility to attain a Gold rating for the Project under either LEED HMM or LEED NC.

IV. Service on Parties

The only other party in Case No. 20-34 was ANC 6D, who is being served with this application pursuant to Subtitle Z § 703.13.

V. Conclusion

The proposed modifications are modest and consistent with the Commission's original approval. The proposed lower number of units will still result in a significant addition of new housing, but it will allow for larger and better units. Further, the flexibility to apply either the LEED HMM or LEED NC criteria will still result in a Gold rated building but with more options to attain it. Given the nature of the modifications proposed, use of the Modification of Consequence process outlined in Subtitle Z § 703 is appropriate for this application. All other aspects of the Project will remain as approved.

Respectfully submitted,
GOULSTON & STORRS PC

/s/

Cary R. Kadlecek

Certificate of Service

I hereby certify that copies of the foregoing document and attachments were sent to the following by email no later than December 21, 2021:

Steve Cochran
D.C. Office of Planning
stephen.cochran@dc.gov

ANC 6D
6d@anc.dc.gov

/s/ _____

Cary R. Kadlecek