

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 03-12V/03-13V
Z.C. Case No. 03-12V/03-13V
Square 769, LLC
(PUD Modification of Consequence @ Square 769)
June 25, 2018

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (“Commission”) was held on June 25, 2018. At that meeting, the Commission approved the application of Square 769, LLC (“Applicant”) for a modification of consequence to Z.C. Order No. 03-12F/03-13F (“Order”). The property that is the subject of this modification comprises Lot 824 and a portion of Lot 825 in Square 769 (“Property”). The modification request was pursuant to § 703 of the Commission’s Rules of Practice and Procedure, which are codified in Subtitle Z of Title 11 of the District of Columbia Municipal Regulations (“DCMR”).

As discussed below, no party, person, or entity appeared in opposition to the application at the public meeting or filed anything in the record. Accordingly, a decision by the Commission to grant this application would not be adverse to any party, and pursuant to 11-Z DCMR § 604.7, the Commission waives the requirements for findings of facts and conclusions of law. As set forth below, the Commission hereby approves the application.

Application, Parties, and Public Meeting

1. Pursuant to Chapter 24 of the 1958 Zoning Regulations, the Commission approved a phased, mixed-use planned unit development (“PUD”) for a large area of multiple properties located in the southeast quadrant of Washington, D.C. This approval is reflected in Z.C. Order No. 03-12/03-13. The Order included preliminary approval for an office building to be constructed at 250 M Street, S.E. on the southern portion of Square 769 (“Project”). Subsequently, the Commission approved Z.C. Case No. 03-12C/03-13C, which granted second-stage PUD approval of an office building at the Property. A modification of the second-stage PUD for the office building was approved by the Commission, pursuant to Z.C. Order No. 03-12F/03-13F. More specifically, the Commission approved a 130-foot-tall building with approximately 234,182 gross square feet, including 10,661 square feet of retail uses, 197 parking spaces, and three loading berths. Thereafter, the Commission extended approval of the Project pursuant to Order Nos. 03-12K/03-13K, 03-12N/03-13N, 03-12S/03-13S, and 03-12U/03-13U. (Exhibit [“Ex.”] 1-1B.)

441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001

Telephone: (202) 727-6311

Facsimile: (202) 727-6072

E-Mail: dcoz@dc.gov

Web Site: www.dcoz.dc.gov
ZONING COMMISSION
District of Columbia
CASE NO.03-12V/03-13V
EXHIBIT NO.8

2. On June 4, 2018, the Applicant submitted an application for a modification of consequence related to the redesign and relocation of architectural elements of the building and revision to some conditions contained in the PUD Orders in order to accommodate the proposed tenant of the Project, the District Department of Transportation (“DDOT”). The application sought relief to make changes to the a) ground floor, b) height and gross floor area, c) vehicular parking spaces, d) bicycle parking spaces, and e) loading spaces. The Applicant included a set of plans depicting each of the following proposed modifications with the application: (Ex. 1C.)
 - a. Ground Floor Modifications: Use part of the ground floor as space for DDOT, including a multi-purpose conference room along M Street, S.E., which reduced the overall amount of ground-floor retail space provided in the Project;
 - b. Height and Gross Floor Area Reduction: Reduce the height and gross floor area of the building from 130 feet to 110 feet and from 234,182 square feet to approximately 189,000 square feet, respectively;
 - c. Vehicular Parking Reduction: Reduce the number of parking spaces from 235 spaces on four below-grade levels to 177 spaces on three below-grade levels;
 - d. Bicycle Parking Modification: Revise the bicycle parking amount and plans to meet the requirements of the Regulations; and
 - e. Loading Reduction: Reduce the number of loading berths from three berths and one delivery space to two loading berths and one delivery space, consistent with the requirements of the Regulations.
3. The Office of Planning (“OP”) submitted a report dated June 18, 2018, recommending approval of the modification of consequence as requested, and requested additional information regarding relief and conditions related to the Project. OP supported the modifications, as they do not otherwise diminish the benefits and amenities associated with the original PUD approval, including the flexibility granted in the Order. (Ex. 5.)
4. Advisory Neighborhood Commission (“ANC”) 6D, the ANC within which the property is located, submitted a letter dated June 14, 2018, in support of the modifications. It specifically approved the changes to the building and noted its continued support for office use at the Property. The ANC requested assurance from the Applicant regarding loading times and locations. (Ex. 4.)
5. The Applicant submitted a response to OP and the ANC’s reports on June 19, 2018, providing the additional information OP requested and agreement to the conditions outlined in ANC 6D’s report. (Ex. 6.)
6. No opposition to the modification application was filed in the record of this case.
7. The Commission, at its June 25, 2018 public meeting, determined that the application was properly a modification of consequence within the meaning of 11-Z DCMR §§ 703.3 and

703.4, and that no public hearing was necessary pursuant Subtitle Z § 703.1. The Commission was therefore required by Subtitle Z § 703.17(c)(2) to establish a timeframe for the parties in the original proceeding to file a response in opposition to or in support of the request and for the application to respond thereto; and schedule the request for deliberations. Because the ANC was the only party to the original proceeding, and had filed its report as noted above, the Commission noted there was no need for a further schedule, as there were no outstanding items to address, and it was appropriate to render a decision on the modification application.

8. The Commission, at its June 25, 2018 public meeting, voted to approve the modification of consequence.

Pursuant to 11-Z DCMR § 703.1, the Commission, in the interest of efficiency, is authorized to make “modifications of consequence” to final orders and plans without a public hearing. A modification of consequence means a “modification to a contested case order or the approved plans that is neither a minor modification nor a modification of significance. (11-Z DCMR § 703.3.) Examples of modifications of consequence “include but are not limited to, a proposed change to a condition in 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.” (11-Z DCMR § 703.4.)

The Commission concludes that the refinement of plans as described above is a modification of consequence and therefore can be granted without a public hearing.

The Commission finds that the proposed modifications are entirely consistent with the Commission’s previous approval of the PUD and the Order. The refinements are supported by the OP and the affected ANC.

The Applicant is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

The Zoning Commission for the District of Columbia **ORDERS APPROVAL** of a modification of consequence to the second-stage PUD project approved in Z.C. Case No. 03-12F/03-13F. The conditions in Z.C. Order No. 03-12F/03-13F remain unchanged except as follows (deletions noted by ~~striketrough~~ text, additions in **bold** and underline text):

2. The PUD shall be developed in accordance with the plans prepared by Hickok Cole Architects, submitted May 8, 2008, marked as Exhibit 21, as amended by the plans submitted on May 28, 2008, marked as Exhibit 27 **of the record of Case 03-12F/03-13F, as amended by the plans submitted on June 4, 2018, marked as Exhibit 1C of the record of Case No. 03-12V/03-13V.**
3. The building may have a maximum height of ~~130~~ **110** feet, not including roof structures.

4. The building may have a maximum gross floor area of ~~234,182~~ **189,000** square feet.
8. Square 769, LLC shall also have flexibility with the design of the PUD in the following areas:
 - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the building;
 - b. To vary the sustainable design features of the building, provided the total number of LEED points achievable for the project does not decrease below 28 points;
 - c. ~~To make refinements to the garage configuration, including layout, number of parking spaces, and/or other elements, provided the number of striped parking spaces is not reduced below 150 spaces~~ **To provide a range in the number of vehicular parking spaces plus or minus 10%;** and
 - d. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and to make minor refinements to exterior details and dimensions, including curtainwall mullions and spandrels, window frames, glass types, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with the District of Columbia Building Code, or that are otherwise necessary to obtain a final building permit.
- 11. For the life of the Project, the Applicant will allow ANC 6D to utilize the ground-floor conference room/training center for public meetings or programs, subject to the approval of an annual schedule by the District for so long as the conference room/training center constitutes a portion of the premises leased by the District. No costs will be associated with such use unless due to negligence or willful misconduct.**
- 12. All loading activity will be accessed from the shared private alley. The Applicant shall prevent cars and trucks from parking in the shared private alley and will prohibit any loading or deliveries before 7:00 a.m.**
- 13. The use of the ground-floor training and conference room shall be consistent with uses described on page 4 of Exhibit 1 of Case No. 03-12V/03-13V. The exterior appearance of the ground-floor training and conference room shall be similar to the materials included in pages 17-18 of Exhibit 1C of the record of Case No. 03-12V/03-13V.**

On June 25, 2018, upon the motion of Vice Chairman Miller, as seconded by Commissioner Turnbull, the Zoning Commission took **FINAL ACTION** to **APPROVE** the application at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Michael G. Turnbull, and Peter G. May to approve; Peter Shapiro, not present, not voting).

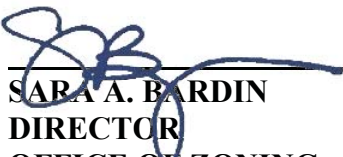
In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is on August 3, 2018.

BY THE ORDER OF THE D.C. ZONING COMMISSION

A majority of the Commission members approved the issuance of this Order.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING