



## **MEMORANDUM**

**TO:** District of Columbia Zoning Commission

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

**DATE:** February 20, 2018

**SUBJECT:** ZC Case 04-13B - **OP Report** – Minor Modification to approved PUD at 1210 R Street, N.W.

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### **I. BACKGROUND**

ZC Order 04-13, effective May 13, 2005, approved a PUD and PUD-related map amendment for the construction of a 63-unit apartment building with a 3,479-square foot community room for use by Metropolitan Baptist Church for the provision of church programs as a part of the applicant's benefits and amenities package. Pursuant to ZC Order 04-13A, effective May 26, 2017, the Commission approved a Modification of Consequence to repurpose the community room into three additional dwelling units, including a one-bedroom, one-bathroom universal design unit at 80 percent AMI.

Subsequently the applicant determined it is not feasible to construct the one-bedroom one-bathroom universal design unit as approved, due to financial hardships and structural and other practical difficulties, and filed the subject application for a minor modification to the Order to relocate the accessible, affordable unit to 721 Kennedy Street, N.W.

Subtitle Z § 703 provides for Zoning Commission consideration of a modification to an approved Planned Unit Development (PUD) as follows:

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

- 703.1 This procedure shall allow the Commission, in the interest of efficiency, to make, without public hearing, **minor modifications**, modifications of consequence, and technical corrections to previously approved final orders and plans.
- 703.2 For purposes of this section, “**minor modifications**” shall mean modifications that do not change the material facts upon which the Commission based its original approval of the application or petition.
- 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.

## II. RECOMMENDATION

The applicant filed a Minor Modification request pursuant to Subtitle Z § 703 primarily to allow the relocation of the universal design unit affordable at 80 percent AMI to 721 Kennedy Street, N.W. This unit was a proffer as part of the Modification of Significance approved pursuant to ZC Order 04-13A which allowed the conversion of the community room to residential units.

OP does not oppose the relocation of this affordable universal design unit outside of the community to another part of the city, subject to the conditions listed below. However, the application does not meet the regulations for consideration as a Minor Modification. It could be considered a Modification of Consequence, as it results in a change to a condition of the final order, or a Modification of Significance, as it results in a change to a proffered public benefit or amenity.

Although OP does not oppose the proposal, OP recommends any Commission approval of the proposal be subject to the following conditions:

1. The level of affordability for the affordable universal design proposed to be located at 721 Kennedy Street, N.W. shall be provided at 50 percent MFI;<sup>1</sup>
2. The off-site affordable unit shall not be an affordable unit otherwise required for the development at 721 Kennedy Street, N.W.;
3. The applicant shall identify the location of the proposed unit within the building at 721 Kennedy Street, N.W.;<sup>2</sup>
4. No certificates of occupancy (C of O) shall be issued for any of the three new apartment units at 1210 R Street, N.W. until a C of O has been issued for the affordable universal design unit at 721 Kennedy Street, N.W.; and
5. Twenty-two on-site parking spaces shall be reserved for sale to residents in the community.

## III. MODIFICATION REQUEST

The applicant proposes to modify the approved PUD, as previously modified by the Commission pursuant to ZC Order 04-13A, effective May 26, 2017, as shown in the table below.

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<sup>1</sup> The application proposes offering the relocated unit at 80 percent AMI.

<sup>2</sup> No location was identified in the application.

Item	Approved Consolidated PUD	Proposed Modification
1	One universal design unit (Apt. B08) within the basement of the building	Relocate the universal design unit to 721 Kennedy Street, N.W. (unit not yet determined). Apt. B08 to be converted to a standard apartment dwelling.
2	451 square-foot one-bedroom one bathroom apartment	551 square-foot off-site one-bedroom one bathroom apartment
3	80 percent AMI	80 percent AMI unit to be provided at 721 Kennedy Street, N.W. Unit B08 at 1210 R Street, N.W. to be converted to market rate.
4	20 on-site parking spaces reserved for sale to residents in the community	22 on-site parking spaces to be reserved for sale to residents in the community

#### IV. OP ANALYSIS

The applicant proposes to relocate the affordable universal design unit from the subject property to 721 Kennedy Street, N.W., a row house in the MU-4 zone located approximately 3.3 miles away. Building permit B1802957 was filed for the conversion of the Kennedy Street property to a ten-unit, four-story apartment building. However, the specific unit proposed as a replacement has not been identified and no building permits have been issued. Therefore, prior to the issuance of certificates of occupancy of any of the new units to be constructed within the former community space at 1210 R Street, the specific location of the replacement unit must be identified, and a certificate of occupancy must be issued for that unit at 721 Kennedy Street, N.W.

As the subject unit is now proposed to be located outside of the community in which the PUD is located, OP, following discussions with the Department of Housing and Community Development (DHCD), recommends the affordability level be reduced to 50 percent AMI in exchange for the ability to locate the affordable unit elsewhere within the city.

The application also proffers to contribute \$15,000 to the Shaw Dog Park Association in support of its capital and/or operating budget and \$10,000 to the Garrison School PTA Foundation/Association in support of its capital and/or operating budget. Subtitle X § 305.3 (d) states that “*Monetary contributions shall only be permitted if ... the applicant agrees that no certificate of occupancy for the PUD may be issued unless the applicant provides proof to the Zoning Administrator that the items or services funded have been or are being provided.*” In this case, the funds are designated for capital and/or operating budgets. This should be clarified and made for specific improvements that can be assessed by the Zoning Administrator, or not accepted as PUD proffers.

#### V. ANC AND COMMUNITY COMMENTS

ANC 2F, at its regularly scheduled meeting of January 3, 2018, voted to support the application.

No other community comments were received.

## **VI. AGENCY REFERRALS**

DHCD commented on the application in emails to OP dated February 15, 2018.

No comments were received from other District agencies.

JS/  
Case Manager: Stephen J. Mordfin, AICP