

MEMORANDUM

TO: District of Columbia Zoning Commission

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

DATE: January 4, 2019

SUBJECT: **OP Report** –Request for a Modification of Consequence to approved PUD 15-03 at 1315 Clifton Street NW

I. RECOMMENDATION

After a review of the request, including a comparison of the modified plans against the approved plans and the Order (ZC 15-03); OP **concurs** with the applicant’s submission that the proposed refinements are a **modification of consequence**. The Applicant is seeking to modify a condition in the final order.

As such, OP has no objections to the applicant’s request being considered a modification of consequence and recommends that the proposed modifications be **approved**.

II. BACKGROUND

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

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

...

703.3 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.

III. MODIFICATION REQUEST

In summary, the applicant is proposing to modify the approved PUD by substituting a different operator for the child development center identified in Condition B(3)(a) of the order.

Benefits and Amenities

The Applicant proffered that it would renovate the Mazique Child Development Center at Wardman Court with upgraded flooring, paint, furniture, child care equipment, and educational materials. The child development center operator decided to not renew its lease. Creative Minds, another child development center operator, has leased the space and plans to open in February 2019. Creative Minds has different needs; therefore, the scope of renovations provided as part of the proposed benefit would be revised as follows.

The Applicant will renovate the ~~Mazique~~ **Creative Minds** Child Development Center at Wardman Court with ~~upgraded flooring, paint, furniture, child care equipment, and educational materials~~ **landscaping, lead paint removal, exit ramp installation, new equipment and furniture, new interior lighting, identifying signage, and exterior door repair/replacement;**

IV. OP ANALYSIS

Because Mazique will no longer operate in the facility identified in Condition B(3)(a), the Applicant cannot satisfy the condition as written. The provision of daycare services for children is a priority for ANC 1B and the Applicant can provide renovation services for Creative Minds, another child development center provider, in the same location. The Applicant states that it would spend the same amount of money on renovation services for Creative Minds as it would have spent for Mazique.

V. ANC / COMMUNITY COMMENTS

Comments from ANC 1B had not been received at the time this report was written.