

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
OFFICE OF THE ZONING ADMINISTRATOR**



September 3, 2014

Ms. Christine Moseley Shiker  
Holland & Knight LLP Suite 1100  
800 17<sup>th</sup> Street, N.W. -  
Washington, DC 20006

Re: Zoning Commission Case No. 12-18 Consolidated PUD in Square 858; Modification  
Per § 2409.6

Dear Ms. Shiker:

This is to confirm the substance of our discussion on December 18, 2013, the follow up discussion with Norman M. Glasgow, Jr. on March 19, 2014, and subsequent email correspondence with you on April 25, 2014, regarding requested refinements permitted by § 2409.6 to the consolidated planned unit development ("PUD") approved in Zoning Commission Case No. 12-18. The property is located in Square 858 along H Street, N.E., between 6<sup>th</sup> and 7<sup>th</sup> Streets, N.E., and is currently known as Lots 860, 861, 862, 864 and portions of a public alley to be closed in Square 858 (the "Property").

By Order No. 12-18, dated June 10, 2013, and effective as of July 5, 2013, the Zoning Commission approved the consolidated PUD for the development of a residential building with ground floor retail on the Property and approved a related Zoning Map amendment. Order No. 12-18 approved two development scenarios for the Property: the "Original Submission" and the "Grocery Alternate". The Original Submission is a mixed-use development with residential and retail uses. The Grocery Alternate is a mixed-use development including residential and retail uses as well as a grocery store on the ground floor. You informed me that your client intends to proceed with the Grocery Alternate at this time.

You advised that your client and its team are in the process of preparing construction drawings for the project in accordance with Order No. 12-18. You have requested approval of refinements to the design of the project.

First, the project was proposed to be set back five feet from the property line along H Street (the "Set Back Area"). As the Applicant has furthered developed the retail street level plans, especially as it relates to the grocery store tenant, the H Street retail façade now includes some projections into the Set Back Area at the ground level only. As shown on the Building Projection Study Plans and the Retail Façade Renderings attached hereto, the grocery store

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tenant will have one bay that will extend one foot into the Set Back Area and two bays that will extend three feet into the Set Back, with limited decorative elements extending four feet into the Set Back Area. These projections provide for additional circulation at the top of the escalators and cartolator for customers using and returning carts. The projections also hide the escalators, cartolator and elevators from view from H Street, but still allow significant light into the store and views into the store from the street. At the eastern end of the project, the retail facades will have limited projections of between two and three and one-half feet into the Setback Area in order to provide for varied entries.

On the approved plans, the Set Back Area was intended to provide green space and seating areas for potential retail tenants which would not otherwise be available given the limited width of the H Street sidewalk. The projections into the Set Back Area do not adversely impact this goal. Green space and seating areas are provided in the Set Back Area that remains, and they are sufficient to provide the needed area for the grocery store tenant. Furthermore, the pedestrian clear space exceeds 10 feet, which is what the minimum dimension shown on Sheet L1.01 of the Final PUD Plans.

Second, the building footprint has been slightly modified as shown on the Building Footprint Comparison Plan attached hereto. In most cases, walls of the building on both the lower level and upper levels are being moved within the footprint (i.e., the building is becoming smaller or further setback). In a few instances, building walls are being moved outward. In no case does a building wall move more than 5 feet outward from the approved footprint of the project. The movements within the building footprint are primarily to coordinate the structural elements of the project as the building is being further designed.

According to Section 2409.6, the Zoning Administrator shall have the authority to approve minor modifications in the final plans as approved by the Commission. These modifications shall be limited to those areas identified in subsections (a) through (d), including the relocation of any building within five feet of its approved location, in order to retain flexibility of design, or for reasons of unforeseen subsoil conditions or adverse topography. In addition, Section 2409.7 states that in reviewing and approving any modification requested pursuant to § 2409.6, the Zoning Administrator shall determine that the proposed modification is consistent with the intent of the Commission in approving the PUD.

I find that the proposed refinements fall within this Section 2409.6(d). In addition, I find that the proposed refinements are consistent with the intent of the Commission in approving the PUD. Furthermore, Condition No. 7(h) of Order No. 12-18 states that the Applicant shall have flexibility of design of the PUD to locate retail entrances in accordance with the needs of the retail tenants and vary the façades as necessary within the general design parameters proposed for the project. The modifications to the retail façade on H Street fall within this area of flexibility as well.

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I am copying the Secretary of the Zoning Commission as a report of my decision regarding this modification per Section 2409.8.

Sincerely,   
Matthew Le Grant  
Zoning Administrator

cc: Sharon Schellin, Office of Zoning

Attachments:

Building Projection Study Plans  
Building Footprint Comparison Plan