

Waterfront Station PUD – Compliance with Conditions of First-Stage PUD

Condition	Description of Obligation	Consistency
1.	The Modified Project shall be developed substantially in accordance with the plans prepared by Shalom Baranes Associates, dated May 18, 2007, in the record at Exhibit 25, as supplemented by subsequent plan pages in the record at Exhibit 54 (Updated Cross Walk Plan), at Exhibit 68 (Revised Sheet 2.0 and Sheet 2.1), and at Exhibit 93 (Proposed Alternative Plan for M Street Buildings) (collectively the “First-Stage Plans”), as modified by the guidelines, conditions, and standards herein.	This Application is consistent with this Condition.
2.	The Second-Stage Project shall be developed substantially in accordance with the plans prepared by Shalom Baranes Associates, dated May 18, 2007, in the record at Exhibit 26, as supplemented by subsequent plan pages in the record at Exhibit 68 (Revised Sheets 1.9 and Sheet 1.10), and Exhibit 80 (New Sheet 1.19) (collectively the “Second-Stage Plans”), as modified by the guidelines, conditions and standards herein.	This Condition is not applicable (“N/A”) to this Application.
3.	The Modified Project shall have an approximate gross floor area of 2,526,500 square feet, or 4.33 FAR based on the Land Area within the existing record lot. As shown on the First-Stage Plans, the Modified Project shall include approximately 1,296,895 square feet of gross floor area devoted to office and retail uses and approximately 1,229,605 square feet of gross floor area devoted to residential uses. The Applicant shall have flexibility to modify this allocation of density if it chooses to develop the Northwest Building for office use in place of the proposed residential use. In that alternative, the project shall include approximately 1,688,500 square feet of gross floor area devoted to office and retail uses and approximately 838,000 square feet of gross floor area devoted to residential uses, as shown Sheet 2.1 of the First-Stage Plans.	This Application is consistent with this Condition, as modified through the pending Z.C. Case No. 02-38I. Total GFA: 737,688 sf commercial, 1,774,229 sf residential, and 6,000 sf community use.
4.	The lot occupancy of the Modified Project shall be a maximum of 63% based on the Land Area.	This Application is consistent with this Condition. Total PUD Lot Occupancy: 55%

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5.	The maximum height of the East and West 4th Street Office Buildings shall be 94 feet, as shown on the Second-Stage Plans.	N/A
6.	The maximum height of the East and West Residential Towers shall be the height of those existing structures, with the addition of penthouse structures as shown on the Second-Stage Plans.	N/A
7.	The maximum height of the Northeast and Northwest Buildings shall be 114 feet, as shown on the First-Stage Plans.	This Application is consistent with this Condition, with a max. height of 114 ft.
8.	The East and West M Street Office Buildings shall have a maximum height of 127 feet, with setbacks of approximately 45 feet on the exterior sides generally as shown on the plan in the record at Exhibit 93.	N/A
9.	The Modified Project shall include a minimum of 1,087 parking space in a below-grade parking garage or multiple parking garages.	This Application is consistent with this Condition. The PUD has a total of 1,570 spaces including those in the instant Application and in the pending Z.C. Case No. 02-38I.
10.	The Second-Stage Project shall include a minimum of 505 parking spaces and a maximum of 745 parking spaces in the below-grade parking garage.	N/A
11.	The Applicant shall construct a minimum of 50,000 square feet of public open spaces in substantial conformity with the Second-Stage Plans.	Complete. ¹ In addition, this Application contributes approximately 13,774 square feet of public open space in the private drive and adjacent plaza.

¹ Documents filed in Z.C. Case No. 02-38I note that this Condition has been satisfied or is in the process of being satisfied. *See* Z.C. Case No. 02-38I, Ex. 28 at 2 and Ex. 64 at 14.

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12.	The Applicant shall provide a 90-foot right-of-way for 4th Street, S.W., through the Site as shown on the First-Stage Plans.	Complete
13.	The Modified Project shall include a minimum of 110,000 square feet of gross floor area which the Applicant shall target for neighborhood-serving retail and service uses, including, but not limited to, uses such as restaurants, coffee shops, flower shops, video stores, grocery stores, drug stores, banks, electronic stores, bakeries, dry cleaners, and other similar types of uses. Such floor area shall be located at the ground floor level along the M Street frontage and on both sides of the re-opened 4th Street from M Street to the northern property boundary, as generally depicted in the First-Stage Plans.	This Application is consistent with this Condition. Previous filings indicate that the current total space provided in fulfillment of this condition is approximately 130,644 sf of either approved or pending uses satisfying this condition. ² This application proposes an additional 29,743 sf.
14.	The Applicant shall use best commercially reasonable efforts to provide opportunities for local and small businesses, as certified by RLARC, to occupy 12,500 square feet of retail space included within the Modified Project.	This Application is subject to this Condition to the extent of 2,500 square feet of the retail space within the Project. ³

²Z.C. Case No. 02-38I, Ex. 62C at 24 provides a floor plan of the existing and proposed retail on all parcels of the Waterfront Station PUD except for the NE Parcel. Z.C. Order 02-38A approved 76,000 sf of retail (including the Safeway) in the two commercial buildings along 4th Street, SW (see the approved plans in Ex. 26A1 at 1.2 of that proceeding); Z.C. Order 02-38D at Condition 2 approved 5,304 sf of retail in the Northwest Building; the pending Z.C. Case No. 02-38I includes 21,103 sf and 18,830 sf in respectively, the East and West buildings along M Street, SW; and the instant application includes the above-referenced 29,743 sf.

³The obligations contained in this Condition 14 of the first-stage PUD are allocated among the parcels of the Waterfront Station PUD pursuant to Section 11.7 of that certain Land Disposition and Development Agreement, dated as of November 21, 2006 (the “LDDA”) by and between RLA Revitalization Corporation, an instrumentality of the District of Columbia (“RLA”) and Waterfront Associates, LLC, a District of Columbia limited liability company (“Waterfront”) and recorded in the land records of the District of Columbia Recorder of Deeds. Section 11.7 of the LDDA provides that (1) Waterfront, as owner of all of the parcels within the Waterfront Station PUD *except* for the NE Parcel, must comply with Condition 14 as to 10,000 square feet of retail tenant spaces (exclusive of any retail GFA to be occupied by a supermarket, bank or drug store) within the parcels it controls, and (2) the Applicant, as successor-in-interest to RLA, must comply with Condition 14 as to “a targeted 2,500 square feet of the retail tenant space in the [Project].”

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15.	<p>The Applicant shall use best commercially reasonable efforts to negotiate a lease with the existing grocery store tenant until August 18, 2007. If a lease is executed, the Applicant shall maintain the space for the existing grocery store to operate while the new store is under construction. In the event that the Applicant is unable to successfully negotiate a lease within the above timeframe, the Applicant shall do the following:</p> <p>a. Honor the existing grocery store lease expiring in 2020; and</p> <p>b. Reserve the proposed grocery location on the east side of the Second-Stage Project and use best commercially reasonable efforts to lease such space to a full- service grocery store (approximately 55,000 square feet) for a term commencing upon the earlier of the termination of the existing grocery store lease or the vacation of such space for any other reason.</p>	Complete
16.	<p>In the event that the Second-Stage Project is constructed in accordance with the Interim Site Plan Option shown on Sheet 1.11 of the Second-Stage Plans, no additional construction between the East 4th Street Office Building and the East Residential Tower shall be permitted for any use other than the grocery store as shown on Sheet 1.10 of the Second-Stage Plans unless the Applicant returns to the Zoning Commission for approval.</p>	N/A
17.	<p>During construction of the Second-Stage Project, the Applicant shall maintain the operation of a bank, drug store, and grocery store on the Site.</p>	N/A

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18.	<p>The Applicant shall provide a minimum of 160,000 square feet of affordable housing, with at least eight percent of the gross floor area within the East and West Residential Towers in the Second-Stage Project (which equals approximately 32,000 square feet) being available to households earning 80% of AMI or less. The affordable housing shall be generally evenly distributed between the East and West Residential Towers (a total of approximately 80,000 square feet of gross floor area) and the Northeast Residential Building (approximately 80,000 square feet of gross floor area). The affordable housing units shall be approximately the same proportion of bedroom type and size as the market rate residential units and generally evenly distributed between and within the East and West Residential Towers, with the exception of the top two floors of each building. No affordable housing is required for the Northwest Building. All affordable housing units shall be maintained as affordable for a period of twenty years, regardless of whether the units are rental or for sale. All other aspects of the affordable housing for the Modified Project shall be as set forth in the Applicant's Prehearing Submission.</p>	<p>This Application is consistent with this Condition.</p> <p>The current total amount of affordable housing is approximately 84,033 sf in the East and West Residential Towers, all at 50% AMI.⁴ The amounts provided in the pending second-stage PUDs on M Street (i.e., in Z.C. Case No. 02-38I) are in addition to the above requirements.</p> <p>This application provides approximately 111,077 sf⁵ of affordable housing all at levels below 50% AMI, which greatly exceeds the first-stage PUD's minimum requirement of 80,000 sf of affordable housing at 80% AMI.</p>

⁴ See Z.C. Case No. 02-38A. See also Affordable Housing Covenant Waterfront Station West Residential Building, dated May 1, 2014 by 1151-4th Street SW LLC recorded in the Land Records of the District of Columbia Registry of Deeds as Instrument No. 2014038849 and Affordable Housing Covenant Waterfront Station East Residential Building, dated May 1, 2014 by 1150-4th Street SW LLC recorded in the Land Records of the District of Columbia Registry of Deeds as Instrument No. 2014039291.

⁵ Note that the affordable housing contribution in the instant application will be on the basis of 30 percent of the total units rather than as a percentage of gross floor area, but an approximate gross floor area equivalent is provided here for tabulation purposes.

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19.	The Second-Stage Project’s East and West 4th Street Office Buildings shall include the sustainable design features set forth in Tab A to the Applicant’s Supplemental Prehearing Submission. The Second-Stage Project’s East and West Residential Tower shall include the sustainable design features set forth in record at Exhibit 54.	N/A
20.	The Applicant shall provide approximately 1,000 square feet of office and meeting space for ANC 6D, the Southwest Neighborhood Assembly and other local community groups for a minimum of a 10-year term commencing upon the initial occupancy of the East 4 th Street Office Building. Within this designated space, the Applicant shall provide approximately 350 square feet of office space to ANC 6D and approximately 350 square feet of office space to the Southwest Neighborhood Assembly. The remaining space shall be used as a shared conference room.	N/A
21.	The Applicant shall abide by the Security and Construction Mitigation Plan to be in place throughout the development of the Second-Stage Project. The Applicant shall continue to work with the community and District government as is necessary throughout construction. The Applicant shall enter into plans similar to the Security and Construction Mitigation Plans as necessary for each subsequent second-stage application for the Modified Project.	N/A
22.	The Applicant shall abide by the Transportation Management Plan. The Applicant shall continue to work with DDOT as necessary to refine the Transportation Management Plan [“TMP”].	The instant application will be subject to a TMP developed with input from DDOT.
23.	The Applicant shall maintain the Park Site immediately to the north of the Site as a public park amenity. The Applicant’s obligation to maintain the Park Site shall begin after the 4th Street right-of-way is constructed from the Site to Eye Street, S.W., and shall continue for the life of the Modified Project.	N/A

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24.	<p>The Applicant shall enter into an agreement to participate in the Department of Employment Services [“DOES”] First Source Employment Program that promotes and encourages the hiring of District residents. Furthermore, in order to further policies established in D.C. Law 1-95, the Applicant shall enter into a Memorandum of Understanding with the District of Columbia Department of Small and Local Business Development to utilize local, small and disadvantaged business in the development of this project. The fully executed agreements shall be filed with the Office of Zoning and the Office of the Zoning Administrator prior to the issuance of the first building permit for the project.</p>	<p>The Applicant has entered into a new First Source Employment Agreement with DOES prior to filing this Application.</p>

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25.	<p>The Applicant shall have flexibility with the design of the PUD in the following areas:</p> <p>a. To vary the location and design of all interior components, including but not limited to partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not materially change the exterior configuration of the buildings.</p> <p>b. 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.</p> <p>c. To make minor refinements to exterior materials, details, and dimensions, including 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 or any other applicable approvals.</p> <p>d. To make refinements to the garage configuration, including layout, location, number, and design of parking spaces and/or other elements, so long as the total minimum number of parking spaces is provided.</p> <p>e. To use the Northwest Building for either residential or commercial use, based on market conditions, with such use being specified in the second-stage approval for that building.</p> <p>f. To vary the final alignment and design of the 4th Street right-of-way in consultation with and as approved by DDOT. This flexibility includes the right to make changes to locations of curb cuts, bulb outs, crosswalks, traffic calming measures, parking spaces, and parking meters, as well as the flexibility to make changes to the design and location of paving materials.</p> <p>g. To vary the design and components of the proposed streetscape within the 4th Street right-of-way, including the flexibility to modify paving materials and design, street lights, street furniture, trees, landscaping, and other streetscape elements. This flexibility also includes the right to make changes to the overall design of the streetscape to comply the streetscape standards of the Anacostia Waterfront Initiative, in consultation with DDOT.</p>	<p>This Application is consistent with this Condition.</p> <p>Proposed design flexibility for the instant PUD is included in the statement to which this exhibit is attached and conforms to the flexibility contemplated in subsections a-d. Subsections e-g are N/A.</p>

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26.	No building permit shall be issued for this PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the owner of the Site and the District of Columbia that is satisfactory to the Office of the Attorney General and DCRA. Such covenant shall bind the Applicant and all successors in title to construct on and use this property in accordance with this Order or amendment thereof by the Zoning Commission.	Complete
27.	The Office of Zoning shall not release the record of this case to the Zoning Division of DCRA until the Applicant has filed a copy of the covenant with the records of the Zoning Commission.	Complete
28.	The Second-Stage PUD approved by the Zoning Commission shall be valid for a period of two (2) years from the effective date of this Order. Within such time, an application must be filed for a building permit as specified in 11 DCMR § 2409.1. Construction shall begin within three (3) years of the effective date of this Order.	N/A
29.	The First Stage Approval for the Modified Project approved by the Zoning Commission shall be valid for a period of five (5) years from the effective date of the order granting the same. Within such time, the second-stage PUD application(s) for the Northwest Building, the West M Street Building, and the Northeast Building shall be filed. These second-stage applications may be submitted individually, at the same time, or in any combination thereof. In the event that the grocery store is constructed in the Second-Stage Project or that the existing grocery store surrenders its premises under the existing lease, the Applicant shall file second-stage PUD application for the East M Street Building within five (5) years of the date that the existing grocery store vacates the Site, but no later than December 31, 2020.	This Application is consistent with this Condition, as modified by Z.C. Order No. 02-38H.

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30.	<p>The Applicant is required to comply fully with the provisions the D.C. Human Rights Act of 1977, D.C. Law 2-38, as amended, D.C. Official Code § 2-1401.01 et seq., (“Act”). This Order is conditioned upon full compliance with those provisions. In accordance with the Act, the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant to comply shall furnish grounds for denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.</p>	<p>This Application is consistent with this Condition.</p>