GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 06-11AA/06-12AA
Z.C. Case No. 06-11AA/06-12AA
BXP 2100 Penn LLC
(Modification without Hearing to an Approved PUD @ Square 75, Lot 52
[2100 Pennsylvania Avenue, N.W.])
September 24, 2026

Pursuant to notice, at its September 24, 2026 public meeting, the Zoning Commission for the District of Columbia ("Commission") considered the application ("Application" or "Modification") of BXP 2100 Penn LLC ("Applicant") for a Modification without Hearing to allow retail use in the ground floor space previously reserved for daycare use for the property located at 2100 Pennsylvania Avenue, N.W. (Square 75, Lot 52) ("Property"). The Commission reviewed the Application pursuant to the Commission's Rules of Practice and Procedures, which are codified in Subtitle Z of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations ("DCMR"), to which all subsequent regulatory citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

PRIOR APPROVALS

1. Pursuant to Z.C. Order No. 06-11/06-12 ("Original Order"), the Commission approved a Campus Plan and First-Stage Planned Unit Development ("Campus Plan/First-Stage PUD") for The George Washington University Foggy Bottom Campus, which identified the Property for Commercial/Investment use.

2. Pursuant to the Z.C. Order No. 06-11O/06-12O ("Order"), effective in 2018, the Commission approved a Modification of the First-Stage PUD, a related Zoning Map Amendment, a Second-Stage PUD, and an Amendment to the Campus Plan, authorizing development of a mixed-use office and retail building ("Building" or "Project") on the Property.

3. Condition B.6 of the Order requires that, for the life of the Project, the Project include a daycare facility available to both tenants of the Building and the general public as a public benefit of the PUD.

4. Condition A.3(a) of the Order authorizes a broad range of uses in the areas of the Project marked "Retail" on the approved plans, including arts, design, and creation; daytime care;

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eating and drinking establishments; entertainment, assembly, and performing arts; retail; and general or financial service use.

5. Since approval of the Order, the Commission has approved two modifications affecting the Project. In Z.C. Order No. 06-11V/06-12V, effective March 11, 2022, the Commission approved a modification to replace the public fountain/spigot proffer for the 26th Street Park with (i) a $100,000 contribution to the Foggy Bottom Association ("FBA") to fund future watering needs in the park, and (ii) a green wall along the sidewalk at 26th and I Streets and/or additional landscaping to replace foliage that had been removed to accommodate a sidewalk extension. The purpose of the green wall and/or additional landscaping was to ameliorate the unintentional adverse impact of the removal of foliage which had previously served as a buffer from the adjacent highway. The Applicant credited the West End Citizens Association ("WECA") for the idea to broaden the range of uses for these replacement benefits. In Z.C. Order No. 06-11Y/06-12Y ("Campus Store Order"), effective June 2, 2023, the Commission approved a modification to adjust the location of tenant signage and eliminate an entrance on 21st Street, N.W. to accommodate a retail tenant.

PARTIES AND NOTICE

6. Other than the Applicant, Advisory Neighborhood Commission ("ANC") 2A, the FBA, and the WECA were parties to the original Campus Plan/First-Stage PUD proceeding.

7. On July 13, 2026, the Applicant served the Application on ANC 2A, FBA, and WECA, as well as on the Office of Planning ("OP") and the District Department of Transportation ("DDOT"), as attested by the Certificate of Service submitted with the Application. (Exhibit ["Ex."] 2).

THE APPLICATION

8. On July 13, 2026, the Applicant filed the Application requesting a Modification without Hearing to the Order to permit an approximately 2,800-square-foot space along the Project's Pennsylvania Avenue frontage previously reserved for daycare use ("Space") to instead be used for retail use, and to delete Condition B.6 of the Order in its entirety. The Applicant also proposed to modify Condition A.3(a) of the Order to add a restriction that a nightclub shall not be located along the Project's Pennsylvania Avenue ground-floor frontage (Ex. 2).

9. The Applicant explained that, despite diligent efforts over approximately five years, including outreach to more than a dozen potential daycare operators, it has been unable to secure a daycare tenant for the Space. The Applicant attested, by affidavit, that the COVID-19 pandemic shifted demand away from downtown daycare locations, that remaining daycare operators now seek larger spaces of approximately 8,000 to 10,000 square feet with a connection to an outdoor play area, and that increased operating costs and concerns about government layoffs and instability in the District have further reduced demand for daycare space of the type and size available at the Property (Ex. 2, 2B).

10. The Applicant noted that the Foggy Bottom/West End neighborhood remains served by existing daycare operators located approximately one block to the west, at 2200 Pennsylvania Avenue, N.W. (operated by an affiliate of the Applicant), and approximately two blocks to the north, at 2101 L Street, N.W., both of which are closer to the residential portions of the neighborhood (Ex. 2, 2B).

11. To offset the loss of the daycare benefit, the Applicant proposed two substitute public benefits, to be delivered prior to the issuance of a certificate of occupancy for the retail space on Pennsylvania Avenue: (i) a $20,000 contribution to the West End Library Friends to support library programming, including workshops, speakers, performances, and children's interactive spaces, and related equipment; and (ii) a Foggy Bottom/West End retail study, valued at approximately $20,000 to $25,000, to be contracted for and managed by the Applicant, evaluating retail trends and dynamics and developing a neighborhood-specific retail strategy, prepared with input from WECA, FBA, ANC 2A, and the Foggy Bottom/West End Main Street, with a copy of the final study to be provided to each of those stakeholders (Ex. 2).

12. The Applicant stated that it engaged in extensive community outreach regarding the proposed Modification, beginning with a presentation to the Campus Plan Advisory Committee on January 20, 2026, and including subsequent discussions with FBA, WECA, and ANC 2A, through which the Applicant identified the two proposed substitute benefits as responsive to neighborhood priorities (Ex. 2).

RESPONSES TO THE APPLICATION

13. OP submitted a report dated September 14, 2026 ("OP Report"), concluding that the Application could appropriately be considered as a Modification without Hearing due to the nature of the use as an already approved use within the PUD and the Applicant's community outreach. OP concluded that the level of benefit conveyed through the revised proffers would be comparable to the level of benefit of the original daycare proffer. OP noted that the change in use to retail use should in and of itself be considered a benefit as it could result in street activation in lieu of the existing vacant storefront. OP further noted the Order found that ground level retail and street activation were benefits of the PUD and the proposal is consistent with and furthers those goals of the PUD. OP recommended approval of the Application (Ex. 5).

14. DDOT submitted a report dated September 11, 2026 ("DDOT Report"), stating no objection to approval of the Application, and noting that retail use was approved as a public benefit in the Order, that the Applicant has been unsuccessful in securing a daycare operator for the Space, and that any future sidewalk café associated with ground-floor retail in the Space will require a public space occupancy permit (Ex. 4).

15. ANC 2A did not submit a report in response to the Application.

16. FBA and WECA did not submit reports in response to the Application.

CONCLUSIONS OF LAW

1. Subtitle Z § 703.1 authorizes the Commission, in the interest of efficiency, to make modifications without a public hearing to approved contested case final orders and plans approved by such orders.

2. Subtitle Z § 703.6 defines a "modification without hearing" as "a modification in which impact may be understood without witness testimony, including, but 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. Determination that a modification can be approved without witness testimony is within the Commission's discretion."

3. The Commission concludes that the Application qualifies as a Modification without Hearing within the meaning of Subtitle Z § 703.6, as a proposed change to conditions of the Order. The Commission concludes that the impact of the Application may be understood without witness testimony because the proposed retail use is an approved use and was considered a benefit of the PUD, and it therefore can be granted without a public hearing pursuant to Subtitle Z § 703.1.

4. The Commission concludes that the Applicant satisfied the requirement of Subtitle Z § 703.10 to serve the Application on all parties to the original proceeding, in this case ANC 2A, FBA, and WECA, as well as OP, at the time the Application was filed with the Office of Zoning.

5. The Commission concludes that all parties were allowed 30 days after the Application was filed and served on July 13, 2026, to file responses to the Application in accordance with Subtitle Z § 703.12.

6. The Commission concludes that the Application was filed at least 35 days prior to the September 24, 2026 public meeting at which the Application was considered by the Commission, in accordance with Subtitle Z § 703.13.

7. The Commission concludes that the Application is consistent with the Order because retail use was identified as a public benefit of the Order and the use will activate the Project's Pennsylvania Avenue frontage.

8. The Commission concludes that the proposed Modification maintains the balance of public benefits approved as part of the Order, because it replaces one public benefit with substitute benefits of comparable value, including the contributions to both the West End Library Friends and the neighborhood retail study. The Space will no longer sit vacant and will instead be activated with a retail use that is itself a public benefit identified in the Order.

"Great Weight" to the Recommendations of OP

9. The Commission must give "great weight" to the recommendation of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.)) and Subtitle Z § 405.9 (*Metropole Condo. Ass'n. v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)).

10. The Commission finds OP's recommendation to approve the Application persuasive and concurs in that judgment.

"Great Weight" to the Written Report of the ANC

11. The Commission must give "great weight" to the issues and concerns raised in a written report of the affected ANC that was approved by the full ANC at a properly noticed meeting that was open to the public pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.)) and Subtitle Z § 406.2.

12. ANC 2A did not submit a report on the Application. Therefore, there are no ANC issues or concerns for the Commission to address.

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof and, therefore, **APPROVES** the Applicant's request for a Modification without Hearing to Z.C. Order No. 06-11O/06-12O to permit ground floor space previously reserved for daycare use to be used for retail use and to restrict a nightclub from being located along the Project's Pennsylvania Avenue ground-floor frontage.

The conditions of Z.C. Order No. 06-11O/06-12O remain unchanged and in effect except as modified by Z.C. Order No. 06-11V/06-12V and Z.C. Order No. 06-11Y/06-12Y and as follows (deletions shown in ~~**bold and strikethrough**~~ text; additions in **bold and underlined** text):

Condition A.3(a) is hereby modified to add the following phrase:

". . . **and a nightclub shall not be located along the Project's Pennsylvania Avenue ground-floor frontage**)."

Condition A.3(b) is hereby deleted in its entirety as follows:

~~**"The Applicant may adjust the location of the daycare facility within the Project over the life of the Project;"**~~

Condition B.6 (the daycare requirement) is hereby deleted in its entirety as follows:

~~**"Social services and facilities. For the life of the Project, the Project shall include a daycare facility available to both the tenants and the general public, subject to the granted flexibility for its location within the Project."**~~

New Condition B.3(e) is added as follows:

"Prior to the issuance of a Certificate of Occupancy for the retail space on Pennsylvania Avenue, the Applicant shall provide letters to the Zoning Administrator to evidence that the benefits described below have been or are being provided along with photographs and/or copies to demonstrate the completed benefits:

(a) Contribute $20,000 to the West End Library Friends ("Friends") for programming (e.g., workshops, speakers, performances, and children's interactive spaces) as well as equipment to support such programming at the West End Library; and

(b) Contribute a new Foggy Bottom/West End retail study, to be contracted for and managed by the Applicant (BXP 2100 Penn, LLC) and valued at approximately $20,000 – $25,000, that evaluates retail trends and dynamics and develops a neighborhood-specific strategy for the Foggy Bottom/West End neighborhood. The study will be prepared with input from representatives of WECA, FBA, ANC 2A, and the Foggy Bottom/West End Main Street, and a copy of the final study will be provided to WECA, FBA, ANC 2A, and the Foggy Bottom/West End Main Street."

FINAL ACTION

VOTE (September 24, 2026): 5-0-0 (Anthony J. Hood, Gwen Wright, Robert E. Miller, Joseph S. Imamura, and Christine Bruins to approve)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 06-11AA/06-12AA shall become final and effective upon publication in the *District of Columbia Register*; that is, on November 27, 2026.

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

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (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 WHICH 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.