

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 07-26G
Z.C. Case No. 07-26G
(899 Lodging Group, LLC – PUD Modification with Hearing
@ Square 398, Lot 7006 and part of Lot 32 (899 O Street, N.W.))
February 3, 2025

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on February 3, 2025, to consider an application (“Application”) from 899 Lodging Group, LLC (“Applicant”) for a modification with hearing to a previously approved consolidated planned unit development (“PUD”) and related Zoning Map amendment for property located at 899 O Street, N.W. (Square 398, Lot 7006 and part of Lot 32) (the “Property”) for the following:

- Special exception relief pursuant to Subtitle C § 1501.1(d) and Subtitle X § 901.2 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR” or “Zoning Regulations” and to which all subsequent section references refer unless otherwise specified), to establish an eating and drinking establishment in existing penthouse habitable space;
- Special exception relief from the penthouse setback requirements of Subtitle C § 1504, pursuant to Subtitle C § 1506.1 and Subtitle X § 901.2, to increase the height of an existing elevator override from 18.5 feet to 20 feet (i.e., 1.5 feet); and
- Approval to expand the existing penthouse structure by approximately 40 square feet to add a new enclosed elevator lobby.

The Commission considered the Application pursuant to the Commission’s Rules of Practice and Procedures, which are codified in Subtitle Z of the Zoning Regulations. For the reasons stated below, the Commission hereby **APPROVES** the Application.

FINDINGS OF FACT

I. BACKGROUND

The Overall PUD Site and the Property

1. The Property is known as 899 O Street, N.W., and is part of Record Lot 32 in Square 398 (the “Overall PUD Site”). The Overall PUD Site is bounded by P Street, N.W. to the north, 7th Street, N.W. to the east, O Street, N.W. to the south, and 9th Street, N.W. to the west. The Overall PUD Site has approximately 149,600 square feet of land area and is rectangular in shape. The Property is located on the southwest corner of the Overall PUD Site.

The Original PUD Approval

2. The Overall PUD Site is improved with existing buildings that were constructed in accordance with Z.C. Order No. 07-26, effective July 18, 2008 (Exhibit [“Ex.”] 2D) (the “Original Order”), as modified and extended. The Original Order approved a consolidated PUD and a related Zoning Map amendment from the C-2-A zone to the C-3-C zone or the CR Zone for the Overall PUD Site under the 1958 Zoning Regulations that were in place at the time.¹
3. The Original Order approved redevelopment of the Overall PUD Site, which included the historic O Street Market, with new residential, retail, service, hotel, and grocery store uses. The Original Order included approval of development of a hotel building on the Property (the “Hotel Building”). All of the buildings approved pursuant to the consolidated PUD, including the Hotel Building, have been constructed and are occupied.²

Parties

4. Pursuant to Subtitle Z § 403.5(a), the Applicant is automatically a party to the Application.
5. Pursuant to Subtitle Z §§ 101.8 and 403.5(b), Advisory Neighborhood Commission (“ANC”) 2G is automatically a party to the Application as the ANC in which the Property is located.³
6. The Commission received no other requests for party status.

Notice and Setdown

7. Pursuant to Subtitle Z §§ 300.7 and 300.8, on June 24, 2024, the Applicant mailed a Notice of Intent to file the Application to the owners of all property located within 200 feet of the perimeter of the Property and to ANC 2G (Ex. 2C).
8. Pursuant to Subtitle Z § 300.9, subsequent to the mailing of such notice and prior to filing the Application with the Commission on September 27, 2024, the Applicant presented the Application to ANC 2G at its regularly scheduled public meeting of July 2, 2024.
9. Pursuant to Subtitle Z §§ 400.9-400.12, on November 14, 2024, at its duly noticed public meeting, the Commission considered the Application and voted to set the case down for a public hearing.
10. Pursuant to Subtitle Z §§ 402.1-402.2 and 402.6, on December 9, 2024, the Office of Zoning (“OZ”) sent notice of the February 3, 2025, public hearing concerning the Application to:

¹ At the time that the Original Order was approved, the Overall PUD Site was known as Lots 829 and 830 in Square 398. Under the current Zoning Regulations, the C-2-A zone converted to the MU-4 zone, the C-3-C zone converted to the MU-9B zone, and the CR zone converted to the MU-10 zone. The Property where the Hotel Building is located is within the MU-9B zone per the PUD related map amendment granted in the Original Order.

² In Z.C. Orders No. 07-26A, 07-26B, 07-26C, 07-26D, 07-26E, and 07-26F, the Commission approved a time extension and various modifications to the approved consolidated PUD.

³ At the time that the Original Order was approved, the Overall PUD Site was located within ANC 2C.

- Applicant;
 - ANC 2G;
 - Office of ANCs;
 - Councilmember in whose district the Property is located and the At-Large Councilmembers;
 - Office of Planning (“OP”);
 - District Department of Transportation (“DDOT”);
 - Department of Buildings (“DOB”);
 - OZ Legal Division (“OZLD”);
 - District Department of Energy and the Environment (“DOEE”); and
 - Owners of property within 200 feet of the Property.
- (Ex. 11, 11A).

11. Pursuant to Subtitle Z § 402.1(a), OZ published notice of the February 3, 2025, public hearing concerning the Application in the December 20, 2024, issue of the District of Columbia Register (71 DCR 015859 *et seq.*; Ex. 10).
12. Pursuant to Subtitle Z §§ 402.3-402.4, 402.8-402.10, on December 17, 2024 and on January 28, 2025, the Applicant submitted evidence that it had posted notices of the public hearing on the Property and thereafter maintained such notices (Ex. 12-12B, 16).

II. THE APPLICATION

13. On September 27, 2024, the Applicant filed the Application requesting a modification with hearing, pursuant to Subtitle Z § 704. The Application stated that modifications to the Hotel Building were requested because the Hotel Building was recently sold and was undergoing a rebranding and renovation effort. The rebranded hotel would repurpose the existing penthouse area by filling in the existing swimming pool to provide additional conference space, a small warming kitchen with a bar, and seating areas for an eating and drinking establishment for hotel guests. This proposed use would serve as a meeting and function space and provide an extension to the existing second-floor restaurant.

PUD Modifications

14. As shown on the Architectural Plans and Elevations (the “Architectural Plans and Elevations”) (Ex. 9C), the Application proposed the following modifications to the approved and existing Hotel Building, requesting:
 - A special exception, pursuant to Subtitle C § 1501.1(d) and Subtitle X § 901.2, to establish an eating and drinking establishment use within the existing penthouse structure on the Hotel Building ;
 - A special exception from the penthouse setback requirements of Subtitle C § 1504, pursuant to Subtitle C § 1506.1 and Subtitle X § 901.2, to increase the height of an existing elevator overrun from 18.5 feet to 20 feet to bring it to the Hotel Building

- roof, which would result in a penthouse setback in one location that is non-compliant with the 1:1 penthouse setback required⁴; and
- To expand the existing enclosed penthouse structure on the Hotel Building by approximately 40 square feet to accommodate a new elevator lobby.
15. The Application did not propose any other modifications to the Hotel Building. Other than the two areas of zoning relief requested, the Hotel Building would continue to comply with all applicable zoning standards.

Applicant's Submissions and Testimony

16. Initial Application. On September 27, 2024, the Applicant filed its initial application materials, which included the following:
- A Statement in Support of the Application that provided an overview of the modifications proposed, justifications relating to the special exception and PUD evaluation criteria, and a discussion of the Applicant's community outreach and engagement efforts;
 - An initial set of architectural plans and elevations; and
 - Procedural materials required by the Zoning Regulations.
- (Ex. 1-4).
17. Comprehensive Plan. On November 4, 2024, the Applicant filed an evaluation of how the proposed modifications are not inconsistent with the Comprehensive Plan, including when evaluated through a racial equity lens. (Ex. 7) The Applicant stated that the proposal would further Comprehensive Plan policies within the Land Use Element, Economic Development Element, and Near Northwest Area Element along with objectives of the Convention Center Area Strategic Development Small Area Action Plan (*Id.*); and *Community Outreach and Engagement* – The Applicant's statement in support stated that it introduced the Application to ANC 2G at its regularly scheduled meeting on July 2, 2024, and the ANC expressed no concerns about the proposal. (Ex. 2) The Applicant stated that the ANC received comments from neighbors residing at a condominium building across O Street, citing concerns about the proposal's potential negative impacts on condominium unit values, noise, privacy, traffic, crime, homeowners' insurance, and security (*Id.*). The Applicant provided written responses to the cited concerns (*See id.* at 8-11).
18. Prehearing Submission. On November 22, 2024, the Applicant filed its Prehearing Submission and supporting materials responding to comments raised by OP in its November 4, 2024, Setdown Report and by the Commission at its November 14, 2024, public meeting (Ex. 8-9D). The Prehearing Submission included the following information from the Applicant:
- The only additional information requested by OP was to further address concerns raised by the condominium community across O Street, N.W., to the south of the Property, and to describe any agreed upon mitigation (Ex. 6, p. 5). The Prehearing Submission

⁴ The existing and proposed penthouse setback is 9 feet, 8 inches, so the 1.5-foot addition to the mechanical penthouse height will increase the existing non-conformity necessitating penthouse setback relief.

stated that the Applicant was continuing to engage with the community and would provide an update on its engagement efforts prior to the public hearing;

- At its public meeting, the Commission asked the Applicant to confirm that the penthouse height for the new elevator overrun would not exceed 20 feet. The Prehearing Submission confirmed that the new elevator overrun would have a maximum height of 20 feet;
- At its public meeting, the Commission asked the Applicant to provide more information on why the portion of the penthouse for which additional height was proposed could not be setback farther on the roof. The Prehearing Submission stated that the elevator shaft is an existing condition that runs vertically within the Hotel Building and could not be relocated. To improve access and decrease elevator wait times, the Applicant proposed to extend the elevator to the roof level, which required increasing the height of the overrun to accommodate required mechanical equipment; and
- Finally, at its public meeting the Commission asked the Applicant to provide additional information about its outreach efforts to neighbors and the ANC. The Prehearing Submission stated that the Applicant was working with ANC 2G to schedule a community “meet and greet” at the Property and was scheduled to present at the ANC’s Zoning, Planning, and Historic Preservation Committee meeting and at the full ANC 2G public meeting. The Prehearing Submission stated that the Applicant would provide more information on continued engagement prior to the public hearing.

The Prehearing Submission also included updated Architectural Plans and Elevations and additional materials required by the Zoning Regulations (Ex. 8-9D).

19. Applicant’s Direct Presentation. In advance of the February 3, 2025, public hearing, the Applicant filed a PowerPoint presentation (Ex. 17). At the public hearing, the Applicant presented the Application through a review of the PowerPoint presentation and testimony from a representative of the Applicant and from Mr. Manish Patel, who the Commission qualified as an expert in architecture.
20. Draft Findings of Fact and Conclusions of Law. Pursuant to Subtitle Z § 601.1, the Applicant filed draft findings of fact and conclusions of law (Ex. 19).

Applicant’s Justification for Relief

21. The Application requested that the Commission approve a modification with hearing to the approved PUD for the Property.
22. As part of the Application, the Applicant requested special exception relief pursuant to Subtitle C § 1501.1(d) and Subtitle X § 901.2, to permit an eating and drinking establishment use in the penthouse. The Applicant’s Statement in Support explained that the special exception standards were met as follows:
 - The proposed eating and drinking establishment use would be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps because this use is consistent with the underlying MU-4 zoning, which permits eating and drinking establishments as a matter-of-right;

- The proposed use would advance the general intent of the Zoning Regulations by enabling the hotel to offer a use that complements the surrounding mixed-use neighborhood and serves as an amenity for hotel guests;
- The proposed use would not adversely affect neighboring properties. The intensity of the eating and drinking establishment use would be nominal and appropriate within the context of the mixed-use PUD. The use in the penthouse would accommodate approximately 157 individuals and the space would be fully enclosed within the existing penthouse. The limited size and interior location would mitigate any potential impacts on the neighborhood and would ensure compatibility with adjacent uses. Thus, there would be no adverse impact to hotel guests or to nearby residents. Furthermore, the proposed use would not trigger increases in traffic to or from the Property, as the use would predominantly serve guests of the hotel; and
- As a result of the foregoing, the proposed eating and drinking establishment use in the penthouse would be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and would not tend to affect adversely the use of neighboring property.

23. The Application also requested special exception approval pursuant to Subtitle C § 1506.1 from the penthouse setback requirements of Subtitle C § 1504. The relief was requested for the elevator overrun, which would have an overall height of 20 feet with a non-compliant setback of nine feet, eight inches in one location. The Applicant's Statement in Support explained that the special exception standards were met as follows:

- The relief requested would be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. The purpose of the setback requirement is to minimize visibility of rooftop structures while allowing for necessary mechanical equipment and habitable and amenity space at the penthouse level. The proposed relief would not undermine this intent because the increased height is necessary to provide safe and efficient vertical circulation to the penthouse level. The location of the elevator overrun on the southwest corner of the rooftop would minimize its visibility from the street and ensure that it would not detract from the character of the surrounding area;
- The penthouse is an existing condition on the Hotel Building and was originally approved through the PUD process. Other than the minimal increase in height to the overrun and a small elevator lobby, no other exterior changes will be made. Thus, the penthouse massing and height would be largely undisturbed and would comply in all other respects with the approved design parameters;
- Granting the setback relief would allow for improved access to the penthouse without altering the building's overall appearance or disrupting the harmonious relationship between the hotel and its neighboring structures. The request is consistent with the goals of the underlying MU-4 zone, which encourage mixed-use development while promoting efficient use of space and minimal visual impacts;
- The relief requested would not affect adversely the use of neighboring property. The increased elevator overrun height would not be visible from the street and would have minimal impact on the view of the southern building façade. The Hotel Building is separated from the closest residential properties to the south by O Street, N.W., which provides a significant buffer. The overall massing of the Hotel Building and its existing

rooftop structures would otherwise be unchanged, thus ensuring that the modification would not alter the visual character of the area in a way that would negatively affect adjacent properties;

- The elevator enclosure would not generate noise or activity that could disturb neighboring properties. The elevator would operate within its shaft and would be designed with materials that match those of the existing structure. Since the rooftop space is already part of the hotel's operational area, the modifications would not introduce any new or abnormal levels of activity beyond what is already permitted and existing;
- The penthouse modifications would enhance the hotel's functionality without introducing any adverse effects that would disrupt the surrounding uses. The penthouse and rooftop space are already approved as part of the Hotel Building's use, and the proposed elevator improvements are necessary to provide safe and functional access to the roof. These improvements would benefit hotel guests without imposing negative externalities on neighboring properties;
- The proposed modifications are modest in scale and designed to minimize visual impact while enhancing functionality. The separation provided by O Street, combined with the careful placement and design of the rooftop elements, would ensure that the proposed penthouse will not adversely affect the use or enjoyment of neighboring properties;
- Strict application of the setback requirement would undermine the functionality of the Hotel Building. The elevator overrun must extend to 20 feet in height to accommodate the mechanical systems required for safe and reliable vertical circulation. Compliance with the setback requirement would necessitate a complete redesign of the building's existing vertical circulation system, leading to higher costs and a longer construction timeline, all of which are unreasonable given the minor nature of the proposed modifications;
- Strict application of the setback requirement would also be inconsistent with building codes and modern accessibility standards. The increased height of the elevator overrun is necessary to meet current safety and accessibility codes, which prioritize functionality and user safety. Restricting the elevator's height in order to fully meet the setback requirements would create practical challenges and potentially result in non-compliance with critical building code requirements; and
- Taken together, strict application of the setback requirements would be unduly restrictive and unreasonable given the structural constraints of the existing Hotel Building. It would impose significant construction challenges, increase costs, and compromise the functionality and safety of the building, making setback relief necessary to achieve a reasonable, code-compliant design that also mitigates visual impact through thoughtful design choices.

III. RESPONSES TO THE APPLICATION

OP

24.

On November 4, 2024, OP filed a setdown report recommending that the Commission setdown the Application for a public hearing ("OP Setdown Report") (Ex. 6). The OP

Setdown Report concluded that the requested PUD modifications meet the applicable special exception criteria and PUD evaluation criteria and included the following comments on the Application:

- The proposed eating and drinking establishment “is a permitted use in the MU-4 base zone where the hotel is located, and in the MU-9 [PUD] zone for this site.” (Ex. 6, p. 2);
- Granting relief to permit an eating and drinking establishment use in the penthouse “would not be contrary to the intent of the Regulations, as the proposed establishment would be within an existing enclosed penthouse” and “[w]ith respect to privacy of neighbors, the existing rooftop structure will remain fully enclosed, which should mitigate potential privacy concerns for nearby residents.” (Ex. 6, p. 2);
- Given the existing structure’s internal configuration, “shifting the elevator shaft to satisfy the one-to-one setback for the newer elevator installation within the penthouse” would be “unduly prohibitive” and “[m]oving the elevator location would also create unnecessary reconstruction of the building’s interior.” (Ex. 6, p. 3);
- OP further found that “the proposed vertical extension of the overrun would not result in a significant increase in its visibility from the sidewalk” nor would it materially change the Commission’s determination in the original PUD that the “requested roof structure design would not adversely impact the light and air of adjacent buildings since each element has been located to minimize their visibility. Therefore, the intent and purposes of the Zoning Regulations will not be materially impaired, and the light and air of adjacent buildings will not be adversely affected.” (Ex. 6, p. 4);
- The use of neighboring property “would not be adversely impacted due to noise or visibility from a neighbor’s residence” and the “elevator equipment would not generate noise to disturb the hotel guests, nor should it disturb neighbors since it would be enclosed within the penthouse building.” (Ex. 6, p. 4);
- Approval of the Application “would not significantly advance or impede the stated policies of the Comprehensive Plan related to equity since the requested special exception relief is related to an interior renovation of the existing facility that would not adversely impact the light and air to neighboring properties, nor result in loss of affordable housing, nor lead to other inequities for the neighborhood or planning area as a whole. The addition of the eating and drinking establishment would create some additional employment opportunities for area residents.” (Ex. 6, p. 4);
- An analysis of the Comprehensive Plan does not indicate any policies related to racial equity that would be significantly impaired by the proposed modification to the PUD. (Ex. 6, p. 4); and
- The OP Setdown Report also provided a racial equity analysis not inclusive of disaggregated race and ethnicity data for the Near Northwest Planning Area (Ex. 6, pp. 4-5).

25. On January 22, 2024, OP filed a hearing report recommending that the Commission approve the Application (“OP Hearing Report”). (Ex. 14) The OP Hearing Report largely reiterated the findings and conclusions from the OP Setdown Report.

26. At the February 3, 2025 public hearing, OP testified in support of the Application by referencing the OP Setdown and Hearing Reports filed in the case record.

DDOT

27. On January 24, 2025, DDOT filed a report stating no objection to the Application (Ex. 15).
28. DDOT did not testify at the public hearing.

Other District Agencies

29. No District agencies other than OP and DDOT submitted comments on the Application or testified at the public hearing.
30. ANC 2G submitted a resolution dated January 9, 2025, stating that at its duly noticed and regularly scheduled public meeting held on December 12, 2024, with a quorum of five out of six commissioners present, ANC 2G voted unanimously 5-0-0 to support the Application (“ANC Report”). The ANC Report did not cite any issues and concerns (Ex. 13).
31. ANC 2G did not testify at the public hearing.

Organizations and Individuals in Support

32. No organizations or individuals filed written comments or testified in support of the Application at the public hearing.

Organizations and Individuals in Opposition

33. No organizations or individuals filed written comments or testified in opposition to the Application at the public hearing.

CONCLUSIONS OF LAW

Authority

1. Pursuant to the authority granted by the Zoning Act of 1938 (June 20, 1938, 52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2018 Repl.)), the Commission may approve a PUD and modifications to an approved PUD consistent with the requirements of Subtitle X, Chapter 3, and Subtitle Z § 704.
2. Pursuant to Subtitle X § 300.1, the purpose of the PUD process is to provide for higher quality development through flexibility in building controls, including building height and density, provided that a PUD: (a) results in a project superior to what would result from the matter-of-right standards; (b) offers a commendable number or quality of meaningful public benefits; and (c) protects and advances the public health, safety, welfare, and convenience, and is not inconsistent with the Comprehensive Plan.
3. Pursuant to Subtitle X § 303.1, as part of the PUD process, the Commission may grant relief from any development standards established in the corresponding zone, which shall be considered a type of development flexibility against which the Zoning Commission shall weigh the benefits of the PUD.

4. Pursuant to Subtitle X § 303.12, a PUD-related zoning map amendment shall be considered flexibility against which the Zoning Commission shall weigh the benefits of the PUD.
5. Pursuant to Subtitle X § 303.13, as part of any PUD, the applicant may request approval of any relief for which special exception approval is required. The Zoning Commission shall apply the special exception standards applicable to that relief, unless the applicant requests flexibility from those standards.
6. Pursuant to Subtitle X § 304.3, in deciding a PUD application, the Commission shall judge, balance, and reconcile the relative value of the public benefits and project amenities offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case.
7. Pursuant to Subtitle X § 304.4, to approve a proposed PUD, the Commission shall find that the proposed development (a) is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site; (b) does not result in unacceptable project impacts on the surrounding area or on the operation of city services and facilities but instead shall be found to be either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the project; and (c) includes specific public benefits and project amenities of the proposed development that are not inconsistent with the Comprehensive Plan or with other adopted public policies and active programs related to the subject site.
8. Pursuant to Subtitle Z § 704.4, the scope of a hearing for a Modification with Hearing shall be limited to the impact of the modification on the subject of the original application and shall not permit the Commission to revisit its original decision.

Special Exception Relief

9. The Commission finds that the Application meets the applicable special exception criteria for the requested modifications to establish an eating and drinking establishment in the existing Hotel Building penthouse; and to increase the height of an existing elevator overrun resulting in a non-compliant penthouse setback in one location and expand the existing enclosed penthouse structure for a new elevator lobby (*See Finding of Fact* ["FF"] Nos. 2, 6, 10, 11, 12, 13).

Not Inconsistent with the Comprehensive Plan and Other Adopted Public Policies Related to the Property (Subtitle X § 304.4(a)).

10. The Commission finds that the Application is not inconsistent with the Comprehensive Plan, including when viewed through a racial equity lens. The Commission finds that the Application would further policies within the Land Use, Economic Development, and Near Northwest Area Element of the Comprehensive Plan, and goals and policies of the Convention Center Area Strategic Development Small Area Action Plan. (FF No. 5) The Commission concludes that to the extent the Application is potentially inconsistent with specific policies within the Comprehensive Plan, that such inconsistencies are outweighed by the Application's consistencies with policies of the Elements noted immediately above.

11. The Commission finds that the Application is not inconsistent with the Comprehensive Plan when evaluated through a racial equity lens. The Commission reaches this conclusion based on the case record and the racial equity analyses provided by the Applicant, inclusive of community outreach and engagement information, and the OP Setdown and Hearing Reports. The Commission finds the Applicant's community outreach and engagement regarding the Application adequate and finds the Applicant's responses to the concerns about potential negative impacts raised by neighbors at a condominium building across O Street sufficient (FF Nos. 4, 5). The Commission agrees with OP that the Application would not significantly advance or impede policies of the Comprehensive Plan related to racial equity since the requested special exception relief is related to an interior renovation of the existing penthouse that would not (i) adversely impact use of neighboring properties due to noise or visibility; (ii) result in loss of affordable housing; or (iii) lead to other inequities for the neighborhood or planning area as a whole (FF Nos. 12, 13). For these reasons, the Commission finds OP's omission of disaggregated race and ethnicity data for the Near Northwest Planning Area from its racial equity analysis acceptable in this case. The Commission believes the data is not necessary for the Commission's Comprehensive Plan consistency evaluation of the Application given the limited scope of the proposed modifications.
12. The Commission further finds that with respect to racial equity, the Application:
- Would not result in any direct or indirect displacement of existing residents within the surrounding neighborhood;
 - Would not result in changes to market rate, affordable, or replacement housing; and
 - Would not result in changes to the physical environment;
- (FF Nos. 12, 13).

Potential Adverse Impacts of the Project (Subtitle X § 304.4(b))

13. The Commission previously found that the consolidated PUD could be "approved with conditions to ensure that any potential adverse effects on the surrounding area from the development [would] be mitigated." (Z.C. Order No. 07-26, Conclusion of Law No. 6). Based on the case record and the Findings of Fact above, the Commission concludes that the Application will not result in any unacceptable impacts on the surrounding area or on District services or facilities that cannot be mitigated or that are not acceptable given the overall PUD's public benefits and amenities. Given the limited scope of the Application, the Commission does not find conditions of approval necessary in this case.

PUD Flexibility Balanced Against Public Benefits and Project Amenities (Subtitle X § 304.4(c) and 304.3)

14. The Commission previously found that the Applicant's request for flexibility from the Zoning Regulations was "consistent with the Comprehensive Plan" and that the benefits and amenities were "reasonable tradeoffs for the requested development flexibility, and any potential adverse effects." (Z.C. Order No. 07-26, Conclusion of Law No. 7). The Commission need not revisit this conclusion because the Application did not request additional PUD flexibility or propose any modifications to the approved public benefits or amenities.

“Great Weight” to Recommendations of OP

15. The Commission is required to 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)).
16. The Commission finds persuasive OP’s analysis of the Application, its conclusion that the Application satisfies the applicable special exception criteria and the PUD evaluation criteria and is not inconsistent with the Comprehensive Plan, including when reviewed through a racial equity lens; and its recommendation to approve the Application persuasive, and concurs with this judgment.

“Great Weight” to Written Reports of the Affected ANC

17. The Commission must give “great weight” to the issues and concerns raised in the written report of the affected ANC 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. To satisfy the great weight requirement, the Commission must acknowledge the ANC’s issues and/or concerns, then articulate with particularity and precision the reasons why the affected ANC does or does not offer persuasive advice under the circumstances (*Spring Valley-Wesley Heights Citizens Ass’n v. District of Columbia Zoning Comm’n*, 856 A.2d 1174, 1180 (D.C. 2004)). The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Bd. of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (D.C. 1978) (citation omitted)).
18. The Commission finds persuasive and concurs with ANC 2G’s support for the Application. The Commission notes that the ANC Report did not raise any issues or concerns with the Application (FF No. 18).

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained herein, the Commission **ORDERS APPROVAL** of the Application for a Modification with Hearing to the approved consolidated PUD in Z.C. Order No. 07-26 *et seq.* for the following:

- A special exception pursuant to Subtitle C § 1501.1(d) and Subtitle X § 901.2 to establish an eating and drinking establishment use in the existing penthouse structure on the Hotel Building;
- A special exception from the penthouse setback requirements of Subtitle C § 1504, pursuant to Subtitle C § 1506.1 and Subtitle X § 901.2, to increase the height of an existing elevator override to bring it to the Hotel Building roof resulting in a non-compliant penthouse setback in one location; and
- Approval to expand the existing enclosed penthouse structure on the Hotel Building by approximately 40 square feet to add a new elevator lobby.

Condition No. 1 of Z.C. Order No. 07-26 is hereby amended to read as follows (new text is shown as **bold and underlined** text). All other conditions in Z.C. Order No. 07-26, as modified, remain unchanged and in effect.

1. **The portion of the PUD located at 899 O Street, N.W. (Lot 7006 and part of Lot 32 in Square 398) and known as the Hotel Building shall be developed in accordance with the plans marked as Exhibit 9C of Z.C. Case No. 07-26G.** The portion of the PUD known as the West Residential Building shall be developed in accordance with the plans marked as Exhibit 17 of Z.C. Case No. 07-26F. The remainder of the PUD shall be developed in accordance with the plans prepared by Shalom Baranes Associates, dated February 15, 2008, and as amended or supplemented by drawings dated March 6, 2008, marked as Exhibits 29A and 42 [as amended by the plans marked as Exhibit 1 to Z.C. Case 07-26B], respectively, in the record, and as further modified by the guidelines, conditions, and standards herein.

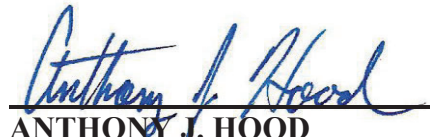
This approval shall be valid for a period of two years from the effective date of this Order. Within that time, the Applicant shall file a building permit application for the renovations to the Hotel Building approved herein and shall begin construction of such renovations within three years of the effective date of this Order.

Final Action

VOTE (February 3, 2025): 5-0-0

(Anthony J. Hood, Joseph S. Imamura, Robert E. Miller, Tammy Stidham, & Gwen Wright to approve.)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 07-26G shall become final and effective upon publication in the *District of Columbia Register*; that is, on May 9, 2025.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING

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., (THE “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 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. 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.