

September 1, 2020

BY IZIS

Mr. Anthony Hood, Chairperson
D.C. Zoning Commission
441 4th Street NW, Suite 200-S
Washington, DC 20001

Re: Z.C. Case No. 09-03F: Application of Skyland Holdings, LLC (the “Applicant”) to the District of Columbia Zoning Commission for a Modification of Significance to an Approved Planned Unit Development (“PUD”) at Skyland Town Center (Square 5633, Lot 22, the “Property”) — Applicant’s Post-Hearing Submission

Dear Chairperson Hood and Members of the Commission:

On behalf of the Applicant, we hereby submit this post-hearing submission for the above-referenced application for a Modification of Significance to the Skyland Town Center (the “**Project**”). This post-hearing Submission includes the following exhibits:

- Exhibit A: Updated Plans and Materials in Response to Requests for Additional Information;
- Exhibit B: Comprehensive Plan Analysis; and
- Exhibit C: Applicant’s Proposed Findings of Fact and Conclusions of Law.

I. Updated Project Details

At the public hearing on July 23, 2020, the Zoning Commission (“**Commission**”) asked the Applicant to consider several things regarding the Project. The Applicant provides the following Project updates in response to the Commission’s comments:

Block 4 – First Stage Approval and Affordable Housing Requirement

First Stage PUD Approval

The Applicant wishes to clarify that the consolidated PUD, which is everything outside of the Block 4 mixed-use building, includes the overall site improvements, including the retaining walls along Block 4 and Block 1. The only part of the Project receiving Stage One approval is the building in Block 4. The Applicant is requesting the Block 4 building be approved for its general massing and residential use with ground-floor retail. However, the Applicant proposes the final design of the building and related operational details be determined upon its future second stage application. Additional details requested regarding the appearance of the retaining walls in Block 4 are addressed below.

Affordable Housing Requirement

The Commission requested the Applicant consider revising the affordable housing proffer in Block 4. The Applicant recognizes that the approval of the original PUD application occurred prior to the adoption of the Inclusionary Zoning requirements, but the Applicant notes that the total number of residential units approved in the original PUD application has not yet been achieved. ZC Order No. 09-03 approved the development of 450-500 residential units on the entirety of the PUD site. The proposed development of Block 4 will result in the potential creation of 500-515 residential units in the new Skyland Town Center project. The Applicant believes that the Zoning Commission's recent decision in ZC Case No. 06-10D (effective March 20, 2020), which was also a multi-block mixed-use PUD project with residential uses that were approved prior to the adoption of the Zoning Regulations, should be followed in this case. In ZC Case No. 06-10D, the Zoning Commission determined that IZ requirements should only apply to those units that are in excess of what was originally approved by the Zoning Commission¹. Applying that decision to the present case, the Applicant should only be required to provide additional units that satisfy the IZ requirements (or residential units at deeper levels of affordability) if the total number of residential units in the entire Skyland Town Center project exceeds 500 residential units.

In addition to the affordable housing requirements established for the Project in the original PUD approval, the development of the Project is subject to the terms of a Land Disposition Agreement with the District of Columbia. That Land Disposition Agreement acknowledged a package of economic development benefits and amenities that would be achieved as a result of the development of the Skyland Town Center. In addition to affordable housing, the economic development benefits included new jobs (during and after construction), enhanced sales tax revenue, and enhanced real estate tax revenue. In addition, the Applicant, the Office of the Deputy Mayor for Planning and Economic Development, and the City Council have crafted and agreed to tax increment financing legislation that is necessary to make the Skyland Town Center project a reality. The financial underpinnings of the tax increment financing legislation are based on the affordable housing requirements that were previously approved by the Zoning Commission and the City Council. If the affordable housing requirement for the future development of Block 4 was to be enhanced (either by requiring more

¹ See p. 35 of ZC Order No. 06-10D, **Condition F. Benefits and Amenities: I. Affordable Housing**. "The Overall PUD Order's 929 maximum residential units (up to 520 in Block A and 409 in Block C, location modified by this Order) are vested and so not subject to IZ requirements, but any additional residential units shall be subject to the IZ regulations applicable at the time of the second-stage PUD application proposing the additional residential units."

affordable units or at deeper levels of affordability), the Applicant believes that it would be necessary to seek more financial subsidy from the District.

Block 1 – Medical Office Building and Associated Parking Structure:

Parking Garage Stairwell Lighting

The Applicant has revised the design and exterior appearance of the parking garage stairwells in order to limit the amount of light that will be emitted from the stairwells onto adjacent areas, buildings, and properties. Elevations and renderings which depict these changes are provided in Exhibit A.

In order to assure that the lighting provided is safe for patrons of the parking garage, the lighting design for the stairwells will be in accordance with the Illuminating Engineering Society (IES) requirements. IES and Life Safety Code recommended foot-candle levels will be maintained throughout the stairwells under normal and power loss conditions. Lights will be on at all times under normal power conditions. Light level will be automatically reduced by 50% within 20 minutes of all occupants leaving the space. Emergency lights will automatically turn on upon loss of power to the area.

Underlighting of Solar Array

The lighting design for top level of the parking garage will be in accordance with IES guidelines. IES and Life Safety Code recommended foot-candle levels will be maintained throughout the area under normal and power loss conditions. Light trespass will be controlled by the following measures:

- Light fixtures will be LED parking garage type with light trespass BUG ratings for control of backlight, uplight, and glare;
- Fixtures will be placed on the underside of the canopy and away from the building perimeter as much as possible;
- House side shields will be used on individual fixtures if required to control aiming of light; and
- Lighting will be automatically turned off when sufficient daylight is available and the light level will be reduced by at least 30% during any period when no activity has been detected for a time no longer than 15 minutes.

Ventilation of Arts Walk Shadow Boxes

The area of the arts walk shadow boxes will be conditioned in the same manner as the rest of the ground level of the parking structure.

Block 3 – Bike Parking Shower and Locker Facilities in the Lidl Building

The Applicant and representatives of Lidl have been able to refine the footprint and interior components of the Lidl building to include the required number of long-term bike parking spaces and shower/locker facilities. Therefore, the Applicant is no longer seeking flexibility from the shower/locker requirements for the Lidl building as described in Exhibit 29 of the record.

Response to Comments from the Department of Energy and Environment (“DOEE”)

DOEE submitted comments suggesting the Applicant consider additional sustainability and environmental measures in regard to energy efficiency, solar, and electric vehicle charging stations. The DOEE report also requested confirmation that the Project will satisfy Green Area Ratio (“GAR”) and stormwater requirements, as well as potential wetlands issues.

The Applicant notes that the Project includes the following sustainability attributes, in addition to the LEED Silver and Parksmart certifications that are described in detail in Exhibit 13A of the record:

- 125,000 square feet of landscaped area;
- The preservation of 235 existing trees and the planting of 387 new trees on the site;
- The creation of an on-site stormwater retention system that will retain up to 120,000 gallons of stormwater; and
- The creation of a 25,000 square foot solar array on the garage of the medical office building.

The Applicant acknowledges that DOEE has requested that it use electric systems in lieu of gas (fossil fuel) powered systems for the various buildings in the Project. The Applicant does not believe that such electric systems are economically viable, but will use systems that are energy efficient. Similarly, the Applicant has reviewed the ability to include more solar arrays on the buildings to be constructed on Block 3 and has determined that it is not economically feasible at this time. The Applicant will continue to look at the possibility of including solar on roof of the Block 4 building.

Additionally, the Applicant agrees to DOEE’s suggestion that the Project in total provide 18 electric vehicle charging stations (18 stations) spread out throughout the Project. The Applicant confirms it is meeting the GAR and stormwater management requirements for the Project and that all applicable requirements regarding wetlands will be satisfied.

II. Updated Architectural Plans

Attached as Exhibit A are updated sheets to refine the architectural plans and drawings for the Project (the “Plans”). The adjustments to the Plans are as follows:

Overall Town Center:

- Sheets A105g-A105h provide additional detail on the proposed retaining wall outside of Block 4 adjacent to the tree preserve and the appearance of the retaining wall and future building on Block 4 from Ft. Baker Drive and 28th Street.

Block 1 – MOB

- Revised Sheets A208 and A211 showing the modified corner tower on the MOB, which has been simplified.
- Section through the MOB showing the parking garage as Sheet A210A.
- Sheet A210B showing how the MOB and parking garage intersect in greater detail.

- Sheets A208, A212, A213, A213A, and A217 depicting the updated treatment of the parking structure stair towers.

Block 3 – Lidl, Starbucks, and In-Line Retail

- Additional Sheet G13b providing site plan diagrams and elevation detail on the loading and trash area for the in-line retail building and the Starbucks.
- Final elevations of the Starbucks as Sheet A114.

Block 4 – Stage 1 Residential and Retail Building

- Lower level floor plans of the building illustrating how parking and loading are accessed and utilized as Sheets A102 and A104.
- The Applicant acknowledges the question raised by the Commission regarding the ability to include alternative materials for the fire access road at the rear of the building. The Applicant continues to investigate the various alternatives and assures the Commission that this issue will be addressed when the Applicant returns to the Commission for the Second-Stage PUD application for Block 4.

III. PUD Balancing

When the Commission examines a Modification of Significance application, the Commission’s review is limited to the Modification’s consistency with the original PUD approval. The Commission originally found that the Skyland Town Center PUD project satisfied the balancing test by providing a superior project with significant benefits and amenities that outweighed the overall development flexibility proposed. While this modification application proposes the modification of the original layout of the development and the introduction of medical office use, the Project remains consistent with the overarching Town Center concept of the original PUD. The Project maintains the same general development density, building heights, and degree of flexibility requested as the original PUD. Importantly, the Applicant remains committed to the benefits and amenities package that was previously proposed and approved. Therefore, the Project continues to satisfy the balancing test the Commission employs in reviewing PUDs.

The Project includes a similar level of development density as the original PUD approval. Specifically, the Project proposes an overall FAR of 1.63, which is consistent with the approved PUDs FAR of 1.75. As detailed to the Commission, the Project includes similar uses to those originally approved, including equivalent residential units to the original approval. The main change was a reduction in the overall retail square footage which has been replaced by the medical office use. The Project still includes a full-service grocery store as well as a significant ground floor retail component of approximately 154,510 square feet. As noted in the Applicant’s initial statement (Exhibit 3), the addition of the medical office building² will help achieve the Comprehensive Plan policies associated with: Policy CSF-2.1.1: Primary and Emergency Care; Policy CSF-2.1.6: Health Care Planning, and Policy FNS-1.2.7: Health Care Facilities.

² The Applicant anticipates that the medical office building may include any uses that are defined in the Zoning Regulations as “Medical Care”, including primary and emergency care facilities, doctor and dentist offices, and/or clinics.

The original approval included flexibility from the rear yard, side yard, lot occupancy, roof structure, court, and loading requirements under the regulations. The Project now requests flexibility from the location of parking spaces in Block 3, the loading requirements for the in-line retail building, and the roof structure setback requirements. The specific areas of flexibility that are requested in the Project are not different in scale or degree from the original flexibility that was granted by the Zoning Commission.

The Commission previously approved the PUD, noting that the original project was “fully justified by the superior benefits and amenities offered by this project.” As detailed in its filings, the Applicant’s commitment to the previous benefits and amenities remains unchanged, except for minor re-allocation of funds away from programs that are no longer applicable or desired by the community. Importantly, the Applicant’s overall financial commitment remains the same. Further, the major benefits that were initially proposed for this development, including the infrastructure improvements and the funding of the Skyland Workforce Center, have already been implemented and have been a huge success within the community. Therefore, the Project continues to meet the balancing standards the Commission must examine given its similar level of development density (including number of residential units) proposed, the developmental flexibility requested, and its continued commitment to the benefits and amenities previously approved.

IV. Comprehensive Plan

The Commission requested additional analysis detailing how the Project is not inconsistent with the Comprehensive Plan, including the Future Land Use Map (“**FLUM**”) and the Generalized Policy Map (“**GPM**”). The Commission previously determined that the overall Town Center concept and uses; and the siting, height, and massing of the various buildings were consistent with the Comprehensive Plan, including the FLUM and GPM. However, given the reversion to stage one approval for Block 4, the Commission requested that the Applicant re-analyze the Project, particularly Block 4, with respect to the Comprehensive Plan. Attached as Exhibit B is a memo which addresses the Project’s consistency with the overall Comprehensive Plan, including the FLUM and the GPM. As detailed in this memo, the Project, and in particular the proposed mixed-use residential building with ground floor retail in Block 4, is not inconsistent with the Comprehensive Plan, including the FLUM and GPM.

V. Continued Dialogue with ANC 7B and Community Stakeholders

Representatives of the Applicant have continued their dialogue with representatives of ANC 7B, including ANC 7B02 Commissioner Tiffany Brown (the Single Member District Commissioner for this Property) as well as former ANC 7B Commissioner Robin Marlin and members of the Skyland Development Task Force. Based on this dialogue, it is the Applicant’s understanding that the issues raised by Ms. Marlin during the July 23, 2020 public hearing regarding the benefits and amenities proposed by the Project have been appropriately resolved.

VI. Proposed Findings of Fact and Conclusions of Law

The Applicant’s proposed Findings of Fact and Conclusions of Law are attached as Exhibit C.

VII. Conclusion

Please feel free to contact Paul at (202) 721-1157 or Meghan at (202) 721-1138 if you have any questions regarding this submission. We look forward to the Commission's consideration of the Project at its public meeting on September 14, 2020.

Sincerely,

_____/s/_____
Paul Tummonds
Goulston & Storrs

_____/s/_____
Meghan Hottel-Cox
Goulston & Storrs

Certificate of Service

I certify that on or before September 1, 2020, I delivered a copy of the foregoing document and attachments via e-mail, hand delivery or first-class mail to the addresses listed below.

Maxine Brown-Roberts
Office of Planning
1100 4th Street, SW
Suite E650
Washington, DC 20024
Maxine.BrownRoberts@dc.gov

Aaron Zimmerman
District Department of Transportation
55 M Street, SE, Fourth Floor
Washington, DC 20003
aaron.zimmerman@dc.gov

Advisory Neighborhood Commission 7B
3200 S Street SE
Washington, DC 20020
7B@anc.dc.gov

Tiffany Brown, ANC 7B02
2918 Akron Place, SE
Washington, DC 20020
7B02@anc.dc.gov

Advisory Neighborhood Commission 8B
c/o Charles Wilson, Chairperson
1808 Morris Road SE
Washington, DC 20020
8B03@anc.dc.gov

Joanne Harris
c/o Ft. Baker Drive Party
2929 Ft. Baker Drive, SE
Washington, DC 20020

/s/ Meghan Hottel-Cox