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VIA IZIS AND HAND DELIVERY

Zoning Commission for the District of Columbia
441 4th Street, N.W.
Suite 210S
Washington, D.C. 20001

**Re: Applicant's Post-hearing Submission – Z.C. Case No. 11-03F
First-Stage Planned Unit Development Modification and
Second-Stage Planned Unit Development for
Pier 4 at the Southwest Waterfront
Southwest, Washington, DC
Post-hearing Submission**

Dear Members of the Commission,

On behalf of the Applicant for the above-referenced application, we hereby submit the following post-hearing information in advance of the Zoning Commission's consideration of the above referenced application on June 16, 2016.

Background

On May 26, 2016, the Commission held a public hearing on the subject application which requests a modification to the first-stage PUD to change the previously approved residential use on Pier 4 to commercial use, and second-stage PUD approval for the redevelopment of Pier 4 as an office building consisting of approximately 31,936 gross square feet (0.13 FAR) and a maximum height of approximately 43 feet and three stories. As described in the Applicant's filings and discussed at the public hearing, the proposed Pier 4 Building will be used primarily by the existing tenant, Entertainment Cruises, which currently maintains its offices and cruise vessels on Piers 3 and 4, as commercial office and support space for its cruise operations. Upon completion, Pier 4 will provide Entertainment Cruises a single new facility for all of its operations, including cruise docking, boarding, staging/waiting areas, support functions, and sales and administrative office functions at the Southwest Waterfront. In addition, the office

space that is not occupied by Entertainment Cruise will be leased to a third party tenant that has not yet been identified.

While in unanimous support of the application, Advisory Neighborhood Commission 6D (the “ANC”) expressed concerns related to the use of the outdoor terrace proposed on the third floor of the Pier 4 Building, and the need for an enforcement mechanism should issues related to the use of the terrace arise. Since the public hearing, the Applicant has worked diligently with the ANC, and specifically Commissioner Andy Litsky, Single Member District 6D04, to develop a draft set of agreed upon rooftop terrace restrictions that the Applicant has committed to including in the lease for the Pier 4 office space that has access to the rooftop terrace. In addition, the Applicant and the ANC have developed a process by which the Applicant will be required to address issues related to the use of the rooftop terrace raised by the homeowners associations of the adjacent residential uses closest to Pier 4. In addition to the general summary provided below, the latest draft of the rooftop terrace restrictions and enforcement process that has been shared with the ANC is attached as Exhibit A. While substantial progress has been made since the public hearing on reaching a final agreement, the Applicant and the ANC continue to work through a few remaining details. The Applicant is confident these remaining details will be finalized in advance of the Commission taking final action on the application.

In addition, for the Commission’s convenience the Applicant has prepared, and submits herewith as Exhibit B, additional information concerning the spatial relationship between the proposed Pier 4 Building and the surrounding context, and the existing District noise control regulations that are applicable to this project. This additional information is provided to assist the Commission in gaining a full understanding of the relationship of the Pier 4 property and rooftop terrace to the surrounding context.

Rooftop Terrace Restrictions and Enforcement Process

As stated above, the Applicant has worked closely with Commissioner Andy Litsky, Single Member District 6D04, to develop an agreed upon set of rooftop terrace restrictions that the Applicant has committed to including in the lease for the Pier 4 office space that has access to the rooftop terrace. These restrictions address, among other things, the maximum occupancy of the terrace at any one time, frequency and duration of events on weekdays and weekends, and compliance with all applicable District noise regulations. Further, the agreed upon office lease language also includes a default provision that describes the steps that must be taken in the event the office tenant is informed by the Applicant that it is in breach of the rooftop restrictions.

In addition to its commitment to include the aforementioned rooftop restrictions and default provision in the Pier 4 office lease, the Applicant has also agreed to having these restrictions included as conditions to the final Commission order issued for this application. Further, as set forth in Exhibit A, the Applicant fully intends to use commercially reasonable efforts to promptly enter into an agreement with the Board of Directors of the three adjacent residential homeowners associations consistent with the terms noted in Exhibit A, page 2. The three adjacent residential buildings include the recently constructed residential building located on Parcel 11b of the Southwest Waterfront redevelopment project, the Harbour Square Owners, Inc., and the Tiber Island Cooperative Homes (the “Boards”). The purpose of the agreement

would be to document the Applicant's commitment to adhering to the rooftop restrictions that have been developed in coordination with the ANC, to prescribe the required steps the Applicant must take to resolve applicable breaches of the rooftop restrictions, when prompted, and to describe the rights that would be afforded to the Boards to enforce the timely resolution of breaches of the rooftop restrictions or implementation of temporary noise abatement measures, if ever necessary.

Relationship of Pier 4 Property and Rooftop Terrace to Surrounding Context

The information provided in Exhibit B includes a diagram showing several distances between the Pier 4 rooftop terrace and the Harbour Square Owners, Inc. cooperative development, the closest residential development to the proposed rooftop terrace. In addition, the diagram includes information regarding the maximum daytime and nighttime noise levels, measured in decibels (dB(A)), permitted under the existing District of Columbia Noise Control Act (the "Noise Ordinance"), as well as a noise level conversion chart published by the United States Occupational Safety and Health Administration (OSHA) that shows a wide range of common noise generating activities in relation to their typical decibel levels.

Pursuant to the Noise Ordinance, the maximum daytime and nighttime noise levels permitted within a waterfront zone, as measured at the property line of the property on which the noise source is located, is limited to 60 dB(A) and 55 dB(A), respectively. 20 DCMR 2701.1. As shown on the OSHA noise level conversion chart, a decibel level ranging between 55 – 60 dB(A) would fall somewhere between the typical noise levels experienced by an individual within an urban residence or within one (1) meter of a typical conversation.

As shown on Exhibit B, the distance between the Pier 4 property line and the Harbour Square property line is approximately 260 feet, between which is located the new Waterfront Park, a new 3.5 acre public open space that is currently under construction. Furthermore, the closest portion of the actual Harbour Square building is located approximately an additional 70 feet from the Harbour Square property line, or approximately 330 feet from the Pier 4 property line and 500 feet from the Pier 4 rooftop terrace.

The Applicant appreciates and recognizes the concerns raised by the ANC and the neighboring Southwest community regarding the use of the Pier 4 rooftop terrace. While, the Applicant believes that any noise generated by the use of the Pier 4 rooftop terrace will be adequately regulated/mitigated by the strict limitations of the Noise Ordinance, the substantial distance between Pier and nearby residential properties, and the additional buffering provided by Waterfront Park, it is committed to working with the ANC to finalize the rooftop terrace restrictions and enforcement process described above to further ensure that use of the rooftop terrace does not adversely impact neighboring properties. Thus far, the Applicant and the ANC have worked diligently and successfully, and have made substantial progress. Based on these

discussions, the Applicant is confident the few remaining details that remain can be resolved prior to the Commission taking final action on the application, and thus, respectfully requests the Commission to take proposed action at its June 16, 2016, special public meeting.

Respectfully submitted,

HOLLAND & KNIGHT LLP



Norman M Glasgow, Jr.

Enclosures

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