

## AREAS OF MINOR DESIGN FLEXIBILITY

1. To vary the location and design of interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration or appearance of the building; and
2. To make refinements to exterior materials, details and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylight, architectural embellishments and trim, venting, window mullions and spacing, and any other changes that otherwise do not significantly alter the exterior design to comply with the District of Columbia Building Code or that are necessary to obtain a final building permit or other applicable approvals. Such refinements shall not substantially change the exterior configuration, appearance, proportions, or general design intent of the building; and
3. To vary the final selection of exterior building materials within the color ranges of the material types shown in the [approved plans] based on availability at the time of construction. Any such variations shall not reduce the overall quality of materials, nor substantially change the exterior appearance, proportions, or general design intent of the building; and
4. Notwithstanding the flexibility granted in items #2 and #3 above, the Oculus of the Parcel 6/7 Building shall be constructed in a manner that is (i) similar in character with the precedents shown in Exhibit X, Sheet X (Oculus Soffit Cladding); (ii) consistent with the aesthetic intent of the ceiling panels shown in Exhibit X, Sheet X (Material Palette); and (iii) consistent with an integrated lighting solution consistent with the intent shown in Exhibit X, Sheet X (Material Palette); and
5. Notwithstanding the flexibility granted in items #2 and #3 above, the facade of the office portion of the Parcel 6/7 Building shall be constructed in accordance with the plans shown in Exhibit 21A with the following design flexibility: (i) glass panels shall tilt outward in a manner that is consistent with that the intent shown in Exhibit X, Sheet X, should the angle of glass panels need to be varied due to design and fabrication issues the exterior configuration, appearance, proportions, and general design intent of the building shall be maintained; and (ii) the corners of the building shall be maintained and consist of curved glass expression as shown in Exhibit X, Sheet X. Minor variations to the radius of the corner shall be permitted provided the exterior configuration, appearance, proportions, and general design intent of the building is maintained; and
6. To vary the final selection of landscaping materials utilized based on availability at the time of construction; and
7. To provide a range in the number of residential dwelling units within the Parcel 8 Building and the Parcel 9 Building by plus or minus 10% from the number depicted on the [approved plan], provided that the proportion of 30%, 60%, 100%, 120% and

market rate MFI units to total units remains consistent with the intent shown on Sheets 3.2 and 3.3 of Exhibit 21A, Overall Plan Elements, and provided that all minimum market-rate, workforce and affordable housing requirements under the Z.C. Order No. 11-03 are satisfied; and

8. To vary the number and location of market-rate and workforce housing units within the redevelopment project provided the minimum amount of gross floor area required for market-rate and workforce housing under the Z.C. Order No. 11-03 is provided; and
9. To vary the number and location of 30%, 60%, 100%, and 120% MFI units, provided that: (i) the minimum amount of gross floor area required under Z.C. Order No. 11-03 for each income range is provided; (ii) all 30% MFI units shall be on floors 3 through 9, with no more than eight (8) units on any of those floors and no fewer than one (1) units on any of those floors; s; (iii) all 60% MFI units shall be on floors 3 through 9, with no more than six (6) units on any of those floors and no fewer than one (1) units on any of those floors;; (iv) the proportion of affordable studio, efficiency, and one-bedroom units to all affordable units throughout the redevelopment project will not exceed the proportion of market-rate studio, efficiency, and one-bedroom units to all market-rate units throughout the redevelopment project; and
10. To vary the number of hotel guestrooms in the Parcel 8 Building by plus or minus 15%; and
11. To vary the final design of retail frontages, including the location and design of entrances, show windows, signage, and size of retail units, in accordance with the needs of the retail tenants. Retail signage shall be located within the potential retail signage zones shown in the [approved plans]; and
12. To vary the design and location of upper-level building signage located above the first-story within the limits of the potential tenant signage zones shown in the [approved plans], and in accordance with the District of Columbia sign regulations in effect at the time of permitting; and
13. To vary the garage layout and the number, location, and arrangement of vehicle and bicycle parking spaces provided the number of spaces, for both vehicles and bicycles, is not reduced by more than five percent of the number shown on the [approved plans], and the total number of vehicle and bicycle parking spaces provided is consistent with that which is required under Z.C. Order No. 11-03; and
14. To construct the [approved plans] in multiple stages, including construction on Parcel 6 relative to Parcel 7, based upon site constraints, infrastructure needs, market conditions, and other factors that may influence the ability to fund, design, and construct the buildings and structures included in the [approved plans], provided that any interim improvements constructed shall be set back a minimum of 60 feet from the bulkhead line to match existing and proposed buildings, and to maintain views along the Wharf; and

15. To vary the sequencing and timing of construction of Wharf Marina, as shown in the [approved plans], including associated bulkhead, piers, docks, fueling station(s), and other related buildings and structures.

### **AREAS OF TECHNICAL ZONING FLEXIBILITY**

1. From the requirements of Section 411.4(c) of ZR58 to allow bar, restaurant, and/or lounge uses within the Parcel 8 Building penthouse and on the penthouse terrace consistent with the [approved plans]; and
2. From the requirements of Sections 411.9 and 411.10 of ZR58 for the Parcel 9 Building to allow multiple heights of penthouse habitable space, penthouse mechanical space, and screening walls; and to allow penthouse walls with a slope that exceeds 20% from vertical; and
3. From the minimum loading requirements of Section 2201.1 of ZR58 to adjust the number of loading berths, loading platforms, and service delivery spaces, consistent with the [approved plans].
4. From the requirements of Section 2517 of ZR58 to allow the construction of two or more principal buildings or structures on a single subdivided lot that is located within 25 feet of a residential zone district.
5. From the requirements of Section 2408.8 and 2408.9 of ZR58 to extend the validity of the Commission's final approval and time within which an application for a building permit shall be filed. The validity of the Commission's final approval shall be valid for a period of two years from the effective date of this Order. Within such time, an application for a building permit must be filed for construction of Garages 2 and/or 3 (the "Garages"), as shown in Exhibit X, Sheets 1.19 and 1.20. Construction of the Garages shall begin within three years of the effective date of this Order. Within two years of completion of the Garages, the Applicant shall apply for a building permit for construction of the [approved plans]. The Applicant shall commence construction of the [approved plans] within three years of the completion of the Garages.

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3. To vary the final selection of exterior building materials within the color ranges of the material types shown in the [approved plans] based on availability at the time of construction. Any such variations shall not reduce the overall quality of materials, nor substantially change the exterior appearance, proportions, or general design intent of the building; and
4. [Notwithstanding the flexibility granted in items #2 and #3 above, the Oculus of the Parcel 6/7 Building shall be constructed in a manner that is \(i\) similar in character with the precedents shown in Exhibit X, Sheet X \(Oculus Soffit Cladding\); \(ii\) consistent with the aesthetic intent of the ceiling panels shown in Exhibit X, Sheet X \(Material Palette\); and \(iii\) consistent with an integrated lighting solution consistent with the intent shown in Exhibit X, Sheet X \(Material Palette\); and](#)
- 3.5. [Notwithstanding the flexibility granted in items #2 and #3 above, the facade of the office portion of the Parcel 6/7 Building shall be constructed in accordance with the plans shown in Exhibit 21A with the following design flexibility: \(i\) glass panels shall tilt outward in a manner that is consistent with that the intent shown in Exhibit X, Sheet X, should the angle of glass panels need to be varied due to design and fabrication issues the exterior configuration, appearance, proportions, and general design intent of the building shall be maintained; and \(ii\) the corners of the building shall be maintained and consist of curved glass expression as shown in Exhibit X, Sheet X. Minor variations to the radius of the corner shall be permitted provided the exterior configuration, appearance, proportions, and general design intent of the building is maintained; and](#)
- 4.6. To vary the final selection of landscaping materials utilized based on availability at the time of construction; and
- 5.7. To provide a range in the number of residential dwelling units within the Parcel 8 Building and the Parcel 9 Building by plus or minus 10% from the number depicted on the [approved plan], provided that the proportion of 30%, 60%, 100%, 120% and

market rate MFI units to total units remains ~~as currently consistent with the intent~~ shown on Sheets 3.2 and 3.3 of Exhibit 21A, Overall Plan Elements, and provided that all minimum market-rate, workforce and affordable housing requirements under the Z.C. Order No. 11-03 are satisfied; and

~~6.8.~~ To vary the number and location of market-rate and workforce housing units within the redevelopment project provided the minimum amount of gross floor area required for market-rate and workforce housing under the Z.C. Order No. 11-03 is provided; and

~~7.9.~~ To vary the number and location of 30%, 60%, 100%, and 120% MFI units, provided that: (i) the minimum amount of gross floor area required under Z.C. Order No. 11-03 for each income range is provided; (ii) all 30% MFI units shall be on floors 3 through 9, with no more than ~~seven-eight (78)~~ units on any of those floors and no fewer than ~~twoone (21)~~ units on any of those floors; ~~no fewer than 35% of the 30% MFI units shall be 2-bedroom units~~; (iii) all 60% MFI units shall be on floors 3 through 9, with no more than ~~fivesix (56)~~ units on any of those floors and no fewer than ~~twoone (21)~~ units on any of those floors; ~~no fewer than 35% of the 60% MFI units shall be 2-bedroom units~~; (iv) the proportion of affordable studio, efficiency, and one-bedroom units to all affordable units throughout the redevelopment project will not exceed the proportion of market-rate studio, efficiency, and one-bedroom units to all market-rate units throughout the redevelopment project; and

~~8.10.~~ To vary the number of hotel guestrooms in the Parcel 8 Building by plus or minus 15%; and

~~9.11.~~ To vary the final design of retail frontages, including the location and design of entrances, show windows, signage, and size of retail units, in accordance with the needs of the retail tenants. Retail signage shall be located within the potential retail signage zones shown in the [approved plans]; and

~~10.12.~~ To vary the design and location of upper-level building signage located above the first-story within the limits of the potential tenant signage zones shown in the [approved plans], and in accordance with the District of Columbia sign regulations in effect at the time of permitting; and

~~11.13.~~ To vary the garage layout and the number, location, and arrangement of vehicle and bicycle parking spaces provided the number of spaces, for both vehicles and bicycles, is not reduced by more than five percent of the number shown on the [approved plans], and the total number of vehicle and bicycle parking spaces provided is consistent with that which is required under Z.C. Order No. 11-03; and

~~12.14.~~ To construct the [approved plans] in multiple stages, including construction on Parcel 6 relative to Parcel 7, based upon site constraints, infrastructure needs, market conditions, and other factors that may influence the ability to fund, design, and construct the buildings and structures included in the [approved plans], provided that any interim improvements constructed shall be set back a minimum of 60 feet from

the bulkhead line to match existing and proposed buildings, and to maintain views along the Wharf; and

- 13.15. To vary the sequencing and timing of construction of Wharf Marina, as shown in the [approved plans], including associated bulkhead, piers, docks, fueling station(s), and other related buildings and structures.

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4. From the requirements of Section 2517 of ZR58 to allow the construction of two or more principal buildings or structures on a single subdivided lot that is located within 25 feet of a residential zone district.
- 3.5. From the requirements of Section 2408.8 and 2408.9 of ZR58 to extend the validity of the Commission's final approval and time within which an application for a building permit shall be filed. The validity of the Commission's final approval shall be valid for a period of two years from the effective date of this Order. Within such time, an application for a building permit must be filed for construction of Garages 2 and/or 3 (the "Garages"), as shown in Exhibit X, Sheets 1.19 and 1.20. Construction of the Garages shall begin within three years of the effective date of this Order. Within two years of completion of the Garages, the Applicant shall apply for a building permit for construction of the [approved plans]. The Applicant shall commence construction of the [approved plans] within three years of the completion of the Garages.