

Holland & Knight

800 17th Street, NW, Suite 1100 | Washington, DC 20006 | T 202.955.3000 | F 202.955.5564
Holland & Knight LLP | www.hklaw.com

KYRUS L. FREEMAN
202-862-5978
kyrus.freeman@hklaw.com

January 26, 2017

VIA IZIS AND HAND DELIVERY

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

**Re: Z.C. Case No. 15-27 – Post-hearing Submission
Consolidated PUD, First-Stage PUD, and Related Map Amendment @ Square 3587,
Lots 805, 814 and 817**

Dear Members of the Commission:

On behalf of KF Morse, LLC (the “Applicant”), we hereby submit the following information requested by the Zoning Commission at the January 12, 2017 public hearing regarding the above-referenced case.

I. Updated Architectural Plans and Elevations

At the public hearing, the Zoning Commission requested revisions to the Architectural Plans and Elevations to clarify certain aspects of the project. In response, the Applicant has provided the following sheets, attached hereto as Exhibit A:

A. Building A1:

1. As shown on Sheets 64 and 104 of Exhibit A, the Applicant clarified that the upper level on mid-rise portion of Building A1 are a residential mezzanine level, not penthouses;
2. As shown on Sheet 64 of Exhibit A, the Applicant corrected the setback line to confirm that the entire penthouse meets the setback requirements;
3. As shown on Sheet 51 of Exhibit A, the Applicant clarified that the proposed amenity deck is 3.5 feet above the roof, with a 4-foot guard rail around it (total height of 7.5 feet). The platform and railing are setback 8 feet from edge of roof ; and
4. As shown on Sheets 52, 52A, 53, and 53A of Exhibit A, the Applicant does not propose to plant any landscaping rear the edges of the roof. All rooftop

enclosures and railings will be setback at least 1:1 from the edge of the roof upon which they are located.

B. Building B:

1. As shown on Sheets 69 and 76 of Exhibit A, the Applicant revised the building elevation numbers so that they are consistent throughout the drawings; and
2. As shown on Sheet 69 of Exhibit A, the Applicant clarified the elevation and corresponding section to confirm that the proposed façade extension is an architectural embellishment.

C. Building C1:

1. As shown on Sheets 84, 86 and 88 of Exhibit A, the Applicant confirmed all measurements and that the penthouse meets the setback requirements; and
2. As shown on Sheets 80 and 86 of Exhibit A, the Applicant submitted updated building materials and elevations for Building C1. The Applicant proposes to use either tonal masonry or warm-tone-terracotta cementitious panels for the building material, and requests flexibility to vary the final selection of colors within the color ranges shown on Sheet 80.

D. Overall:

1. As shown throughout Exhibit A, the Applicant removed language requesting flexibility for the penthouse heights and locations;
2. As shown on Sheets 106-120 of Exhibit A, the Applicant incorporated signage plans that include the approximate locations and dimensions for building signage, awnings, and canopies. The proposed signage is consistent with the Union Market street design guidelines for signage. As shown on Sheet 68, the Applicant also provided an enlarged elevation and section showing the Market Terminal sign facing the rail tracks. Sheet 68 also includes information about the down-lighting proposed for this sign; and
3. As shown on Sheets 122-133 of Exhibit A, the Applicant added the locations of the affordable housing units on the buildings floor plans.
4. Updates to the Plaza:
 - a. The Zoning Commission requested that the Applicant provide information regarding how the Plaza would serve as a destination or attraction for the public. As shown and described on Sheet L1.14 of Exhibit A, the proposed Gantry within the Plaza will include a fog

feature consisting of hundreds of emitters that produce blooms of fog that rise, envelop the Gantry, and then slowly dissipate. Release of the fog will be orchestrated to activate at controlled intervals. The fog feature will animate the Gantry and activate the Plaza by interacting with the environment—concealing and revealing wind currents, surfaces, and views. Each burst of fog will be interactive, exciting, and dynamic, creating intrigue for children and adults alike as the fog moves through the Plaza. Thus, the proposed Gantry installation will be unique in the District, and will serve as an iconic and vibrant landmark destination.

- b. In order to minimize potential bicycle and pedestrian conflicts in the Plaza, the Applicant proposes to install “CYCLISTS DISMOUNT” signage at the intersection of the Plaza, Morse Street, and 3rd Street. See Sheet C203 of Exhibit A.

II. Value of Public Benefits and Amenities

As requested by the Zoning Commission, attached hereto as Exhibit B is a chart indicating the value of the public benefits and project amenities proposed for the project. As shown on Exhibit B, the project benefits include (i) 11% affordable housing across the PUD Site, with half at 50% AMI and half at 80% AMI; (ii) subsidized maker space; (iii) public improvements, including new roads and streetscapes, traffic signals and cameras, and bicycle infrastructure; (iv) parks and open spaces on the PUD Site; (v) a \$150,000 contribution to be used in connection with improvements to the Florida Avenue Park; (vi) LEED Gold certification; and (vii) other contributions, including a contribution to the NOMA BID and carshare/bikeshare memberships.

III. Penthouse Affordable Housing Contribution

Building C1 includes approximately 6,347 square feet of habitable penthouse space, which triggers a contribution of approximately \$78,702.80 to the Housing Production Trust Fund, as required by 11 DCMR §§ 414.13-414.16. Pursuant to 11 DCMR § 414.14, the assessed value used to calculate the total contribution will be the fair market value of the PUD Site as indicated in the property tax assessment records of the Office of Tax and Revenue (“OTR”) no earlier than 30 days prior to the date of the building permit application to construct the penthouse habitable space. However, based on the 2017 assessed value of the PUD Site, the estimated calculation for the required contribution is set forth below.

- 2017 Total Assessed Value: \$42,696,750 for Lots 805, 814 and 817 (according to OTR records)
- $(\$42,696,750 \text{ assessed value}) / (215,247 \text{ sf total land area for Lots 805, 814 and 817}) = 198.4$
- $(198.4) / (8.0 \text{ max. permitted non-residential FAR in C-3-C PUD}) = 24.8$

- $(24.8) \times (6,347 \text{ sf proposed habitable penthouse space}) = \$157,405.60$
- $(\$157,405.60) / (2) = \mathbf{\$78,702.80 \text{ total estimated contribution}}$

The actual amount of the contribution will be calculated and submitted no earlier than 30 days prior to the date of the building permit application to construct the penthouse habitable space, as required by 11 DCMR § 414.14.

IV. Response to DOEE Report

On January 3, 2017, DOEE submitted a report to the record (Ex. 63), which provided comments on the application. Attached hereto as Exhibit C is a letter that the Applicant sent to DOEE on January 11, 2017, responding to the comments and recommendations in DOEE's report. As set forth in the Applicant's letter, the project incorporates a number of sustainability features, including stormwater management and retention techniques, significant greenspaces and trees, bioretention facilities, and energy efficient systems, among others.

Moreover, following issuance of the Applicant's letter to DOEE, and in response to comments at the public hearing, the Applicant has increased the amount of permeable paving in the Plaza by 2,400 square feet. *See* Sheet L1.05-L1.06 of Exhibit A. Thus, the Applicant believes that the project incorporates a number of features that will help to ensure the sustainability of the project.

V. Conditions Negotiated with the Party in Support

At the public hearing, the representative of the party in support of the Application submitted two proposed conditions relating to timing for development of the Alley, which separates the PUD Site from the PUD approved in Z.C. Case No. 14-07. *See* Ex. 69. The Applicant has agreed to these conditions, as set forth in its proposed proffers and corresponding conditions, included in the record at Ex. 71A.

VI. Inclusionary Zoning Proffer

The Applicant proposes to provide 11% of the project's residential gross floor area as affordable housing. As shown on the affordable housing chart attached hereto as Exhibit D, the overall project will include approximately 1,091,201 square feet of residential gross floor area (1,103 units). Of that, a minimum of 120,036 square feet of gross floor area will be dedicated to affordable housing, with 60,018 square feet dedicated to households earning up to 50% of the area medium income ("AMI") and 60,018 square feet dedicated to households earning up to 80% of the AMI.

As indicated on the alternative affordable housing chart attached hereto as Exhibit E, the Applicant is seeking flexibility such that if Building A2 is developed as for-sale housing, then 8% of Building A2's residential gross floor area will be dedicated to households earning up to 80% of the AMI within Building A2, and an area equal to 13,712 square feet of Building A2's residential gross floor area will be distributed evenly between Buildings A1 and B, all of which

will be dedicated to households earning up to 50% of the AMI. This proposal would result in a total of 60,018 square feet of affordable housing at 50% of the AMI and 60,018 square feet of affordable housing at 80% of the AMI for the entire PUD Site, which is the same square footage per AMI that would be provided if Building A2 was developed as a rental building (*see Exhibit E*).

The Zoning Commission has recognized the financing complexities associated with developing condominium projects with affordable units reserved for households earning less than 80% of the AMI. Therefore, the Applicant believes that the requested flexibility will enable the Applicant to move forward with Building A2 as either a rental or for-sale building, while also providing the same overall amount of affordable housing under either structure.

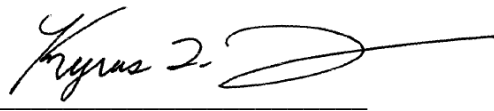
The Applicant notes that it has revised this affordable housing proffer since filing its initial list of proffers and corresponding conditions (Ex. 71) in response to comments from the Office of Planning. The proffer described above and detailed on Exhibits D and E represents the updated information.

VI. Compliance with the Comprehensive Plan

Attached hereto as Exhibit F is a detailed analysis regarding the Project's compliance with numerous policies and actions set forth in the Citywide Elements of the Comprehensive Plan.

Thank you for your attention to these matters.

Respectfully Submitted,

By: 

Kyrus L. Freeman
Jessica R. Bloomfield
800 17th Street, N.W. #1100
Washington, DC 20006
(202) 955-3000

cc: Advisory Neighborhood Commission 5D (with enclosures, via email)
Peta-Gay Lewis, Single Member District 5D01 (with enclosures, via U.S. Mail)
Matthew Jesick, D.C. Office of Planning (with enclosures, via Hand Delivery)
Joel Lawson, D.C. Office of Planning (with enclosures, via Hand Delivery)
Jonathan Rodgers, DDOT (with enclosures, via Hand Delivery)
David Avitable, Goulston & Storrs (with enclosures, via email)