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July 15, 2020

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. 15-27B
Modifications to Buildings C1 and C2 and Second Stage PUD for Building C2**

Dear Members of the Commission:

On behalf of Carr Properties OC, LLC (the "Applicant"), we herein submit the additional information and materials requested by the Zoning Commission at the July 6, 2020, virtual public hearing regarding the above-referenced case.

1. First Source Employment Agreement Update

At the public hearing the Commission requested that the Applicant provide a status update regarding implementation of the First Source Employment Agreement. A copy of the fully-executed First Source Employment Agreement for Building C1 is attached hereto as Exhibit A; a current First Source Cumulative Company Statistics log is attached hereto as Exhibit B; and signed letters from subcontractor companies regarding compliance with the First Source commitment are attached as Exhibit C. As demonstrated by these materials, the Applicant has executed a First Source Employment agreement for Building C1 and is hiring District residents as required by the agreement. As shown on the Cumulative Company Statistics log, 29 of the 59 new hires are District residents (49%) and the project is on track to meet the requirement that 51% of new hires are District residents by the time Building C1 is delivered.

2. Response on PUD Balancing Test

At the conclusion of the public hearing the Commission gave the Applicant the opportunity to submit a further explanation as to whether there was a need to rebalance the overall PUD's benefits and incentives as a result of the proposed modification to convert Building C2 from residential to office use. The Applicant believes that the record is already clear on this point (*see, e.g.* Applicant's Supplemental Prehearing Submission at Ex. 26, pp. 4-5 and the OP Hearing

Report at Ex. 28, pp. 1, 3, 9, 13). To the extent that the Commission feels that an additional explanation is needed, the Applicant submits the following:

There is no need for a rebalancing pursuant to 11-X DCMR § 304.3 because (i) the requested change in use does not require any additional development incentives or flexibility; and (ii) the Applicant will satisfy the approved housing and affordable housing obligations such that it will not alter the approved public benefits other than to proffer an additional benefit of a \$1,500,000 contribution to the Housing Production Trust Fund (“Trust Fund”). The \$1,500,000 contribution is an amount that was determined in close coordination with the Office of Planning and is simply an additional benefit to the PUD that will assist the District in achieving its affordable housing goals.

Pursuant to 11-X DCMR § 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 requests, and any potential adverse effects according to the specific circumstances of the case.*” The Commission carried out the requisite balancing test as part of its original approval in Z.C. Order No. 15-27 (the “Original Order”). See Original Order, Conclusions of Law (“CL”) No. 6, stating that “[t]he Commission has judged, balanced, and reconciled the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects, and concludes approval is warranted for the reasons detailed below.” The reasons provided by the Commission included the following:

- “*The PUD complies with the applicable height and bulk standards of the Zoning Regulations and will not cause a significant adverse effect on any nearby properties. The residential, retail, office, and potential hotel uses for this PUD are appropriate for the PUD Site’s location.*” (Original Order, CL No. 7.)
- “*The PUD provides superior features that benefit the surrounding neighborhood to a significantly greater extent than a matter-of-right development on the PUD Site would provide. The Commission finds that the urban design, site planning, efficient and safe transportation features and measures, housing and affordable housing, ground-floor retail uses, and uses of special value are all significant public benefits. The impact of the PUD is acceptable given the quality of the public benefits of the PUD.*” (Original Order, CL No. 8.)
- “*The impact of the PUD on the surrounding area and the operation of city services is not unacceptable.*” (Original Order, CL No. 9.)

In carrying out the balancing test the Commission took into consideration the flexibility granted to change the use of Building A2 from residential to hotel and to change the use of Building D from residential to hotel or office based on market demand. See Original Order, Decision No. A.8(c). Based on this flexibility, the overall PUD’s residential program was approved to contain a range of between 720,394 to 1,091,201 square feet of housing, of which 79,246 to 120,036 square feet would be devoted to affordable housing. As described in the case record, despite the flexibility granted to Buildings A2 and D, these buildings are in the process of being developed as residential buildings. As a result, even with the requested modification to convert Building C2 to office use,

the overall PUD remains within the approved housing and affordable housing ranges stated above, thus satisfying the housing and affordable housing obligations under the Original Order.

As currently proposed, the overall PUD will contain approximately 897,127 square feet of residential use, of which approximately 98,684 square feet (11%) will be devoted to affordable housing at the income levels prescribed under the Original Order. In its report dated June 22, 2020 (Ex. 28), the Office of Planning confirmed that the overall housing and affordable housing obligations of the PUD have been met. *See OP Hearing Report at p. 3 stating “[t]he applicant has clarified that housing requirements for the overall PUD would be met, and that the \$1.5 million contribution to the Housing Production Trust Fund would be an additional benefit to the PUD.” See also OP Hearing Report at p. 9.*

In addition to satisfying the housing and affordable housing obligations, the Applicant will also fulfill all other benefits and amenities required under the Original Order. At the same time, modifying the use of Building C2 does not require any additional development incentives or flexibility beyond what was granted in the Original Order. Thus, the subject application does not in any way disturb the Commission’s prior conclusion that the overall PUD’s benefits and incentives are balanced.

Notwithstanding the foregoing, to the extent that the Commission still believes that the request to modify the use of Building C2 triggers a need to rebalance the benefits and development incentives pursuant to 11-X DCMR § 304.3, the Applicant submits that the \$1.5 million contribution to the Trust Fund outweighs the requested modification to the use of Building C2.


3. Applicant’s Draft Findings of Fact and Conclusions of Law

Attached hereto as Exhibits D and E are copies of the Applicant’s draft Findings of Fact and Conclusions of Law for Buildings C1 and C2, respectively, as requested by the Commission at the close of the July 6, 2020 public hearing.

The Applicant appreciates the Commission’s continued review of this application.

Sincerely,

HOLLAND & KNIGHT LLP

By: 
Norman M. Glasgow, Jr.
Jessica R. Bloomfield

Attachments

cc: Certificate of Service
Joel Lawson, Office of Planning (via Email w/ attachments)
Brandice Elliot, Office of Planning (via Email w/ attachments)
Aaron Zimmerman, DDOT (via Email w/ attachments)

CERTIFICATE OF SERVICE

I hereby certify that on July 15, 2020, a copy of the Applicant's Post Hearing Submission was served on the following via email:

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