

# Holland & Knight

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October 31, 2016

## **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. 16-07 - Post-hearing Submission  
Consolidated PUD and Related Map Amendment @ Square 399**

Dear Members of the Commission:

On behalf of W-G 9th & O, LLC (the “Applicant”), we hereby submit the following information requested by the Zoning Commission at the October 24, 2016 public hearing regarding the proposed planned unit development (“PUD”) and Zoning Map amendment at 810 O Street, NW (the “PUD Site”).

### **1. Updated Architectural Drawing Sheets**

At the public hearing, the Zoning Commission requested several additional architectural drawings to help clarify certain aspects of the project. In response the Applicant has provided the following sheets attached hereto as Exhibit A:

- a. Plan and sections through the building’s roof showing a “proof of scheme” for the penthouse setback and confirming that the penthouse is setback 1:1 in all locations except for the small location for which the Applicant has requested flexibility;
- b. Roof lighting plan showing the location, type, and wattage/lumens for proposed lighting;
- c. A blow-up image of the rooftop trellis;

- d. Views looking south down the alley adjacent to the PUD Site and showing the rear of the building and the loading area; and
- e. A sheet confirming the final proposed materials for the column balcony dividers.

## **2. Confirmation of Project Numbers**

As requested by the Office of Planning, the Applicant hereby provides confirmation on the project's development data:

- a. Proposed Gross Floor Area
  - 90,558 square feet of gross floor area, comprised as follows:
    - i. 81,650 sf residential units (66 total units, including four penthouse units)
    - ii. 2,008 sf residential amenity space
    - iii. 6,900 sf retail
- b. Proposed Inclusionary Zoning
  - 6,996 square feet of gross floor area, comprised as follows:
    - i. 3,583 sf at 80% AMI (3 units)
    - ii. 3,413 sf at 50% AMI (3 unit) (386 sf required at 50% AMI, so the Applicant is providing 3,027 sf more GFA at 50% AMI than is required)
- c. Proposed on-site Parking
  - 71 total spaces, comprised as follows:
    - i. 56 zoning compliant spaces
    - ii. 12 vault spaces
    - iii. 3 tandem spaces

### 3. Confirmation of Project Benefits and Amenities

As discussed at the public hearing, the Applicant committed to several new public benefits and amenities, including increasing the subsidy for the IZ units, certifying the building as LEED Gold, and removing the previously-proposed \$80,000 cap on the contribution for the installation and one year's maintenance of a new Capital Bikeshare station. Thus, the Applicant's updated list of public benefits and amenities is as follows:

#### a. Inclusionary Zoning

The required and proposed IZ square footages and subsidy levels are set forth in the chart below:

C-2-A Matter-of-Right (Existing IZ Regs)	C-2-A Matter-of-Right (New IZ Regs)	C-2-B Matter-of-Right with IZ	C-2-B PUD (Using Proposed GFA) Required	PUD Proposal	(+) or (-) from C-2-A Matter-of-Right
15,093 sf x 3.0 FAR = 45,279 sf x 10%  = 4,528 sf req'd IZ 2,264 sf at 50% AMI 2,264 sf at 80% AMI	15,093 sf x 3.0 FAR = 45,279 sf x 10%  = 4,528 sf at 80% AMI	15,093 sf x 4.2 FAR = 63,391 sf x 8%  = 5,071 sf at 80% AMI	82,403 sf resid. in <u>building</u> x 8% = 6,593 at 80% AMI  4,822 sf resid. in <u>penthouse</u> x 8% = 386 sf at 50% AMI  = 6,978 sf total req'd IZ	3,583 at 80%  3,413 at 50%  = 6,996 sf total proposed IZ	Providing 3,027 sf at 50% AMI <u>more</u> than is required as a matter of right.  Providing larger 50% AMI units than DHCD standard sizes as follows: -1 BR unit -2 BR + den unit -3 BR unit  All IZ units offered for-sale

#### b. Other Public Benefits and Amenities

- **Prior to issuance of a Certificate of Occupancy**, the Applicant shall demonstrate to the Zoning Administrator that it has registered the Project with the USGBC to commence the LEED certification process under the USGBC's LEED 2009 for New Construction rating system. **Prior to the issuance of a Certificate of Occupancy**, the Applicant shall also furnish a copy of its LEED certification application submitted to the USGBC to the Zoning Administrator. The application shall indicate that the building has been designed to include at least the minimum number of points necessary to achieve LEED-Gold certification under the USGBC's LEED for New Construction v2009 standards.
- **Prior to issuance of a Certificate of Occupancy**, the Applicant shall demonstrate to the Zoning Administrator that it has provided funding to DDOT for the installation and first year's operation expenses of a new Capital Bikeshare station, to be located within the boundaries of ANC 6E and in a mutually acceptable location to the Applicant and DDOT. The fee for the

installation and first year's operation costs shall be determined at the time of issuance of a Certificate of Occupancy for the Project.

- **Prior to issuance of a Building Permit**, the Applicant shall demonstrate to the Zoning Administrator that it has executed and submitted a First Source Employment Agreement to DOES, consistent with the First Source Employment Agreement Act of 1984.
- **Prior to issuance of a Certificate of Occupancy**, the Applicant shall demonstrate to the Zoning Administrator that it has done the following:
  - i. Contributed \$35,000 to Bread for the City to support its feeding program and provide monthly grocery bags for seniors and low income families, and provide proof to the Zoning Administrator that the feeding program services are being provided and the grocery bags have been purchased;
  - ii. Contributed \$15,000 to Emmaus Services for the Aging for 20 iPads to support the workforce development program for seniors age 55 and over, and provide proof to the Zoning Administrator that the iPads have been purchased;
  - iii. Contributed \$15,000 to FLCF to support its Champion for Children anti-human trafficking awareness program, and provide proof to the Zoning Administrator that the contribution is being used to further development and activities within the Champion for Children program;
  - iv. Contributed \$15,000 to DC Artspace for materials, framing, staffing, and other costs for its after-school youth arts program, and provide proof to the Zoning Administrator that materials have been purchased and that the contribution is being provided to staff and generally improve the youth arts program;
  - v. Contributed \$15,000 to BCLL for equipment for the T-ball league, including but not limited to bats, baseballs, helmets, gloves, pitching machines, pop-up nets, tees, batting cages, and provide proof to the Zoning Administrator that the equipment has been purchased;
  - vi. Contributed \$15,000 to Friends of Kennedy Playground, Inc. for uniforms for its youth basketball and football teams, and provide proof to the Zoning Administrator that the uniforms have been purchased; and
  - vii. Contributed \$15,000 to Shaw Main Streets for training and employing ex-offenders to maintain public space along 7th and 9th Streets, NW as part of the Shaw Clean + Safe Team program, and provide proof to the Zoning Administrator that the contribution is being provided to train and employ ex-offenders.

- Expended up to \$500,384 on the streetscape improvements on 9<sup>th</sup> and O Streets, NW, as shown on the Plans and subject to DDOT approval, and provide proof to the Zoning Administrator that the improvements have been installed.
- **Prior to issuance of a Certificate of Occupancy**, the Applicant shall demonstrate to the Zoning Administrator that it has installed two 240-volt electric car charging stations in the below-grade parking garage.

c. Transportation Benefits

- **Prior to issuance of a Certificate of Occupancy**, the Applicant shall demonstrate to the Zoning Administrator that it has undertaken the following actions with respect to implementation of the TDM plan:
  - i. Installed bicycle parking facilities for at least 23 long term bicycles (secure, interior) and at least six short-term bicycles (exterior), as shown on Sheets A14 and L01 of the Plans;
  - ii. Identified TDM leaders for planning, construction, and operations of the PUD. The TDM leaders shall work with residents and employees of the building to distribute materials and market various transportation alternatives and options;
  - iii. Prepared TDM materials to distribute to new residents in the Residential Welcome Package;
  - iv. Installed a bicycle repair station in the bicycle storage room;
  - v. Installed a bicycle cleaning facility in the bicycle storage room;
  - vi. Purchased a cargo bicycle for use by residents of the building;
  - vii. Installed a TransitScreen in the residential lobby area; and
  - viii. If any units within the PUD are rental units, unbundle the cost of the associated parking space from the cost of the residential lease.
- **For the first year of operation of the Project**, the Applicant shall offer each unit's incoming residents a one-year membership to Capital Bikeshare.

4. **Response to Email in Opposition to Project**

During the public hearing on October 25, 2016, an email was submitted to the case record by Chris Otten, a member of DC for Reasonable Development ("DC4RD") (Ex. 34), stating that

some of DC4RD's members live and work near the PUD Site. The email asserted that the PUD "disconnects with the Comprehensive Plan across several key policies, particularly the lack of any significant levels of affordable housing and the lack of housing for families." *See* Ex. 34, p. 1. The email also stated that the PUD's proposed "density and height fails the Future Land Use Map" and that the Office of Planning made few efforts to conduct a comprehensive review of the PUD's impacts on the surrounding neighborhood, particularly regarding water and sewer pipes, utilities, and public transportation. The email further alleged that other relevant District agencies did not weigh in on the Project's critical impacts.

In response, the Applicant notes that the PUD is not inconsistent with the Comprehensive Plan, given the PUD Site's designation in the medium-density commercial and medium density residential categories on the Future Land Use Map. The Office of Planning conducted a thorough review of the Comprehensive Plan, finding that the "requested C-2-B zone, 8 stories and 6.0 FAR are well within even the by-right parameters of the medium density commercial category noted in § 225 of the Comprehensive Plan's Citywide Element." *See* Ex. 13, p. 3. The OP report also noted that the Project would be "not inconsistent with written elements of the Comprehensive Plan," and that "the Guiding Principles, and the Land Use, Transportation, Housing, Environmental, Urban Design and the Near Northwest Area Elements include policies and recommended actions with which the proposal is congruent." *Id.* at 3-4. Moreover, the Department of Transportation indicated in its report that it had no objection to the application, subject to four conditions related to the proposed transportation demand management measures. *See* Ex. 27, p. 2. At the public hearing, the Applicant agreed to all of DDOT's conditions.<sup>1</sup>

In addition, the significant housing and affordable housing created by the project is consistent with the Comprehensive Plan's housing goals, particularly because the PUD includes more square footage devoted to IZ units at 50% of the AMI than is required by the Zoning Regulations, and also includes units that are larger than average in order to accommodate families. Thus, the Applicant is providing significant affordable housing in the Project, which is considered a public benefit as part of the PUD and will create an opportunity for low income households to purchase family-sized units.

In conclusion, the record clearly demonstrates that the PUD is not inconsistent with the Comprehensive Plan, including policies related to affordable housing; (ii) the PUD is not inconsistent with the Future Land Use Map designation for the PUD Site; (iii) that the Office of Planning thoroughly reviewed the PUD's impacts on the surrounding neighborhood; and (iv) other District agencies were given a full and fair opportunity to review and comment on the Project.

## **5. Proposed Findings of Fact and Conclusions of Law**


As requested by the Commission, the Applicant also hereby submits proposed findings of fact and conclusions of law (Exhibit B).

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<sup>1</sup> One of DDOT's conditions was to "unbundle parking from leases of all units and charge market rate, defined as the average cost for parking within a quarter mile of the site on a weekday." The Applicant noted at the hearing that since the units in the Project would be for-sale condominiums, the condition related to unbundling of cost of parking from leases was inapplicable.

Thank you for your attention to these matters. We look forward to your further consideration of this project at the November 14, 2016 public meeting.

Very truly yours,

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cc: Advisory Neighborhood Commission 6E (with enclosures, via U.S. Mail)  
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