

**BEFORE THE ZONING COMMISSION
FOR THE DISTRICT OF COLUMBIA**

**APPLICATION FOR A
MODIFICATION OF SIGNIFICANCE
TO AN APPROVED PUD**

**Z.C. CASE NO. 17-08A
PROVIDENCE PLACE I, LP**

PREHEARING STATEMENT

August 3, 2021

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Certification of Compliance with Subtitle Z § 401 of the Zoning Regulations

The undersigned hereby certifies that, in accordance with Subtitle Z § 401 of the Zoning Regulations, ten (10) copies of the architectural drawings and two (2) copies of all of the other information listed below were filed with the Zoning Commission on August 3, 2021, and in accordance with Subtitle Z § 401.5, the application shall not be modified less than twenty (20) days prior to the public hearing.

<u>Subtitle Z Subsection</u>	<u>Description</u>	<u>Page / Exhibit</u>
401.1(a)	Information Requested by the Zoning Commission and the Office of Planning	N/A
401.1(b)	List of witnesses prepared to testify on the Applicant's behalf	Exhibit A
401.1(c)	Summary of witness testimony and resume of expert witnesses	Exhibit B
401.1(d)	Additional information introduced by the Applicant	N/A
401.1(e)	Reduced plan sheets	N/A
401.1(f)	List of maps, plans, or other documents readily available that may be offered into evidence	Exhibit C
401.1(g)	Estimated time required for presentation of Applicant's case	Exhibit A
401.3(a)	Names and addresses of owners of all property within 200 feet of the Property	Exhibit D
401.3(b)	Name and address of each person having a lease with the owner for all or party of any building located on the Property	N/A

List of Exhibits

- Exhibit A: List of Witnesses and Estimated Time Required for Presentation of Applicant's Case
- Exhibit B: Outlines of Witness Testimony and Resume of Expert Witnesses
- Exhibit C: List of Maps, Plans, or Other Documents Readily Available that may be Offered into Evidence
- Exhibit D: List of Names and Addresses of All Owners of Property Within 200 Feet of the Property
- Exhibit E: Hearing Fee Calculator Form

I. INTRODUCTION

This Prehearing Statement and accompanying documents are submitted on behalf of Providence Place I LP (the “**Applicant**”) in support of an application to the Zoning Commission for the District of Columbia (the “**Commission**”) for a Modification of Significance to the planned unit development (“**PUD**”) approved pursuant to ZC Order No. 17-08, dated November 27, 2017, and made effective on March 9, 2018 (the “**Order**”). The Applicant seeks to modify the PUD to include flexibility from the loading requirements in 11-C DCMR 905.2. Specifically, the Applicant requests that the Zoning Commission grant flexibility to permit a vertical clearance of 12 feet – 6 inches where a vertical clearance of 14 feet is required.

This application is submitted in accordance with Subtitle X, Chapter 3 and Subtitle Z of the 2016 District of Columbia Regulations, Title 11 of the District of Columbia Municipal Regulations (“**DCMR**”), except that the application was filed less than 45 days from the date that the Notice of Intent was mailed to owners of property within 200 feet of the PUD as required under 11-Z DCMR § 300.7. The Commission waived this requirement at its public meeting on June 24, 2021. *See* Z.C. Case No. 17-08, Ex. 48A.¹

II. BACKGROUND AND CURRENT STATE OF APPROVED PUD

The subject property is identified as Lot 827, Square 5194 (the “**Property**”).² The Property consists of approximately 1.6 acres and is located on the east side of 50th Street, NE, between Nannie Helen Burroughs Avenue and Fitch Place. To the east of the PUD site is the Progressive National Baptist Convention (“**PNBC**”) campus.³

¹ The Applicant filed the present application on June 28, 2021. The Zoning Commission granted a limited waiver of the 45-day notice period required under Subtitle Z § 300.7. *See* Z.C. Case No. 17-09, Ex. 48A.

² The original PUD approval applied to Lot 824. Lot 824 was divided into two lots – 825, the PUD site, and Lot 826, the remainder of the Progressive National Baptist Convention campus. Lot 825 was subsequently divided into two lots – 827, which is the site of the apartment house, and Lot 828, which will be dedicated to the District for the 50th Street right of way.

³ The PNBC campus was formerly Lot 826. Lot 826 was divided into two lots -- Lot 829, which is the adjusted PNBC campus site, and Lot 830, which will be dedicated to the District for the 50th Street right of way.

As detailed in the Applicant's Statement in Support (Ex. 3) the Order approved a PUD and related Zoning Map amendment from the Residential Apartment (RA)-1 to the RA-2 zone in order to facilitate the development of the Property with a 5-story apartment house with 100 units and a gross floor area of 101,047 square feet or, in the alternative, a 4-story apartment house with 93 units and a gross floor area of 94,277 square feet. All of the units within the building are affordable for households within incomes not exceeding 60% of MFI, and a minimum of 35 units are reserved as replacement units for the Lincoln Heights and Richardson Dwellings communities controlled by the DC Housing Authority.

The Applicant elected to proceed with the 4-story apartment house alternative (with 93 units), which is currently under construction. During construction of the apartment building, the Applicant discovered that, due to a structural drop panel in the concrete slab, the project is unable to achieve the 14-foot minimum vertical clearance required for a loading berth pursuant to Subtitle C § 905.2. Thus, the Applicant is seeking a PUD modification to include flexibility from this provision of the Zoning Regulations.

III. REQUESTED MODIFICATION OF SIGNIFICANCE

The Applicant seeks a Modification of Significance to the approved Providence Place PUD in order for the project to have flexibility from the loading requirements. Specifically, the Applicant proposes a vertical clearance of 12 feet – 6 inches where Subtitle C, Sec. 905.2 of the Zoning Regulations requires a minimum vertical clearance of 14 feet.

The loading configuration for the approved PUD is included in the case record at Exhibit 3E. The configuration would remain the same should the Zoning Commission grant the requested flexibility. The Applicant has provided a memorandum from its traffic consultant, Gorove Slade, dated June 16, 2021, which concludes that a vertical clearance of 12 feet – 6 inches is sufficient to accommodate trucks typically used for move-in/move-out activity, furniture and parcel deliveries, and trash pick-up for an apartment house that is the size of the subject PUD. *See* Z.C. Case No. 17-08, Ex. 3F. Gorove Slade's memorandum also advises that taller trucks can load/unload curbside along 50th Street, NE, subject to the proposed Loading Management Plan. At the public

hearing, the Applicant's traffic consultant will offer expert testimony in support of these conclusions. *See* attached Exhibit B.

The Commission is permitted to grant the requested loading flexibility pursuant to Subtitle X §§ 303.1 and 303.11. Notably, the original PUD approval did not include any other flexibility from the development standards in the Zoning Regulations. In its Statement in Support (Ex. 3), the Applicant offered a detailed justification for approving its request as a Modification of Significance. In sum, the requested flexibility does not alter the Commission's findings regarding consistency with the Comprehensive Plan; nor is the flexibility unreasonable when judged against the Providence Place PUD benefits and amenities, or any potential adverse effects according to the specific circumstances of this case. *See* 11-X DCMR §§ 304.3, 304.4 and 704.4.

IV. OP REPORT AND SETDOWN

The Office of Planning ("OP") filed its Setdown Report into the case record on July 13, 2021, wherein "OP recommend[ed] setdown of the requested modification related to Condition A of the Order 17-08. *See* Exhibit 11 at p. 1. OP also stated that "[t]he requested flexibility is not an unreasonable request when the cost of retrofitting the structural encumbrance is balanced against the PUD benefits and amenities." *Id.* at p. 2. Further, OP found that "[t]he approved and almost completed apartment building would remain consistent" with the Commission's original PUD approval. *Id.* OP did not request any additional information in its Setdown Report, however OP did note that it would "coordinate between the [A]pplicant and the District Department of Transportation to confirm the feasibility of on-street loading for larger trucks." *Id.*

The Zoning Commission set down the case for public hearing at its public meeting on July 26, 2021. In doing so, the Zoning Commission did not make any requests for additional information during deliberations.

V. COMMUNITY OUTREACH

The Applicant mailed a Notice of Intent to file the present application to the owners of all property within 200 feet of the perimeter of the Property on June 8, 2021 (Ex. 3G), Advisory Neighborhood Commission ("ANC") 7C, the affected ANC in this case, and Commissioner

Patricia Malloy, the Single Member District Representative for the Property. The Applicant will continue to engage with ANC 7C throughout the processing of this Modification of Significance.

VI. CONCLUSION

This Prehearing Submission along with the original application meets the filing requirements for a modification of significance to an approved PUD, as required by Subtitle X, Chapter 3 and Subtitle Z of the Zoning Regulations. In light of the foregoing, the Applicant respectfully requests that the Zoning Commission schedule a public hearing on the application.

We appreciate your favorable consideration of this application.

Respectfully submitted,

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