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January 12, 2023

## VIA IZIS

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

**Re: Applicant's Response to ANC Resolution, dated November 10, 2022 (Exhibit 82)  
Z.C. Case No. 22-11  
Consolidated PUD and Related Zoning Map Amendment from the MU-12 Zone to the  
MU-10 Zone at 807 Maine Avenue, SW (Square 439-S, Lot 15)**

Dear Members of the Zoning Commission:

On behalf of MCRT Investments LLC (the "Applicant"), and in response to the Commission's request at its December 15, 2022 public meeting, we submit the following responses to the conditions stated in the resolution of Advisory Neighborhood Commission ("ANC") 6D, dated November 10, 2022 (Exhibit 82):

- ANC Condition No. 1: The Applicant should provide at least 21% of the residential units (no less than 42 units) as affordable housing at 60%-80% of the MFI, consistent with the recommendation of the Office of the Attorney General ("OAG").

Applicant's Response to ANC Condition No. 1: OAG's recommendation to provide 21% affordable housing is inconsistent with the Zoning Regulations, which specifically state that IZ Plus "shall not apply to a map amendment that is related to a PUD application." Subtitle X § 502.2(a). Moreover, OAG presented incorrect IZ Plus calculations in arriving at the purported 21% IZ requirement and erroneously treated building projections and penthouse habitable space as PUD bonus density. The Applicant provided the correct IZ analysis at Exhibit 88, pp. 2-3, which sets forth the amount of affordable housing being provided in the PUD that exceeds the amount of IZ that would have been required under existing zoning. *See* Subtitle X § 305.5(g).

Finally, the PUD's overall benefits and amenities package, including the Applicant's proffer of 15% IZ, far outweighs the degree of development incentives and technical zoning flexibility requested. Therefore, the Applicant does not agree with this condition.

- ANC Condition No. 2: The Applicant should continue to pare back the FAR so the project falls within the required limits.

Applicants Response to ANC Condition No. 2: The Applicant reduced the proposed density from 8.64 FAR when the application was initially filed, to 8.21 FAR as currently proposed, which is less than the maximum permitted density of 8.64 FAR for a PUD in the MU-10 zone.

With respect to lot occupancy, the initial proposed lot occupancy for the Project was 88.7%, which the Applicant reduced to 82%, whereas 80% maximum lot occupancy is permitted. Although zoning relief of 2% is required, this is a nominal degree of relief, the relief is supported by the Office of Planning, and the relief will not result in any adverse impacts. Moreover, as thoroughly described by the Applicant at the public hearing and as shown on Sheet 41 of the Architectural Plans and Elevations (Exhibit 69A), the proposed building design does not result in a lot occupancy of more than 80% on any individual floor of the building. In short, the Applicant has significantly reduced the FAR and lot occupancy since the Application was initially filed.

- ANC Condition No. 3: The ANC's conditional support does not alter its commitment to the SW Plan.

Applicants Response to ANC Condition No. 3: The Applicant acknowledges this commitment.

- ANC Condition No. 4: Rather than providing \$100,000 to Habitat for Humanity ("Habitat") as a public benefit, the Applicant should reallocate this contribution to the PTOs of Amidon-Bowen Elementary School ("Amidon") and the Richard Wright Public Charter School ("Richard Wright"), and the Applicant should make the contributions immediately upon recordation of the PUD.

Applicants Response to ANC Condition No. 4: The Applicant is committed to making a \$100,000 contribution to Habitat, which will advance the District's goals of providing more for-sale, family-sized affordable housing in Ward 6. The contribution will help subsidize down-payment assistance for future homeowners and/or lower the costs of construction, and will directly benefit District households at 50% and 60% of the MFI who would not otherwise qualify to purchase a new home in Ward 6, which has a high medium home value. Habitat submitted a letter in support of this proposal (Exhibit 69B) and is anticipating receipt of the funds. Moreover, the Amidon and Richard Wright schools have not participated in the subject case and have not indicated a specific need that this PUD should address. The only school that is impacted by the PUD is Jefferson Middle School ("Jefferson"). The Applicant has engaged significantly with the Jefferson PTO and is making a contribution to the Jefferson PTO. A letter in support of the application from the Jefferson PTO is included at Exhibit 83.

Regarding the timing for issuance of the contributions, the Applicant's proposal of demonstrating compliance prior to the issuance of a Certificate of Occupancy for the Project is consistent with the timing in all other recently approved PUDs and with the Zoning Regulations. *See* 11-X DCMR § 305.3.

- ANC Condition No. 5: If the Applicant's contribution to MYLY for public art is directed through a management entity, any such involvement should be a pro-bono contribution by the Applicant with no additional fees extracted.

Applicants Response to ANC Condition No. 5: The Applicant will make the proffered contribution directly to MYLY, the artist for the design, fabrication, and installation of the public art. The contribution will not be directed through an entity for management purposes.

- ANC Condition No. 6: The final order should include a Construction Management Plan ("CMP") with Jefferson, Town Square Towers ("TST"), The Wharf, The Banks, and the Applicant, in addition to a dog waste management plan.

Applicants Response to ANC Condition No. 6: The Applicant will abide by the CMP submitted to the case record on August 26, 2022 (Ex. 28E). The CMP will establish a community advisory committee to oversee and coordinate community concerns during construction of the project. The Applicant will work with ANC 6D to establish this committee and coordinate quarterly meetings (or on an as-needed basis) between the Applicant and community to discuss and resolve any concerns not already addressed in the CMP. Neither the ANC nor TST has responded to the CMP submitted at Ex. 28E, and the Applicant welcomes such dialogue

The Applicant is also in the process of finalizing a separate CMP with Jefferson Middle School as it relates to the project's specific interaction with and impact on the Jefferson property during construction, and it would not make sense to transfer those specific items to other property owners. *See* discussion of the Applicant and Jefferson's work on developing a CMP together in Jefferson's support letter at Ex. 83.


In addition, the Applicant received a letter of support for the project from The Wharf and the Banks developer Hoffman & Associates ("Hoffman") (Ex. 68), and there has been no request from Hoffman to enter into a CMP for the project. Furthermore, the Applicant believes that including various communities on both sides of Maine Avenue with potentially competing interests would be impractical.

Finally, all project residents will be expected to abide by all District regulations that require dog walkers to pick up dog waste. *See, e.g.* 24 DCMR § 900.

The Applicant appreciates the ability to provide the foregoing responses and the Zoning Commission's continued review of this application.

Sincerely,

HOLLAND & KNIGHT LLP

By:   
Kyrus L. Freeman  
Jessica R. Bloomfield

#### Attachments

cc: Certificate of Service  
Joel Lawson, Office of Planning (via Email)  
Karen Thomas, Office of Planning (via Email)  
Aaron Zimmerman, DDOT (via Email)  
Emma Blondin, DDOT (via Email)

**CERTIFICATE OF SERVICE**

I hereby certify that on January 12, 2023, a copy of the Applicant's Response to the ANC 6D Resolution was served on the following via email:

1. Ms. Jennifer Steingasser  
D.C. Office of Planning  
[jennifer.steingasser@dc.gov](mailto:jennifer.steingasser@dc.gov)
  
2. Advisory Neighborhood Commission 6D  
c/o Commissioner Rikki Kramer, Chair (2023)  
[6D@anc.dc.gov](mailto:6D@anc.dc.gov)  
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3. Commissioner Bob Link  
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