

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 586B
Z.C. Case No. 88-02
7K 2401 LLC
2401 Pennsylvania Avenue, NW (Lot 11, Square 26)

Pursuant to notice at its March 13, 2025 public meeting, the Zoning Commission for the District of Columbia (“Commission”) considered the application (“Application”) of 7K 2401 LLC (the “Applicant”) for a Modification Without Hearing to the planned unit development (“PUD”) approved pursuant to Z.C. Order Nos. 586 and 586A for property located at 2401 Pennsylvania Avenue, NW (Square 26, Lot 11) (the “Property”). The Commission reviewed the Application pursuant to the Commission’s Rules of Practice and Procedures, which are codified in Subtitle Z of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations (“DCMR”), to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

BACKGROUND

The Property

1. The Property is located at 2401 Pennsylvania Avenue, NW (Square 26, Lot 11), which is bounded by 24th Street, NW to the east, Pennsylvania Avenue, NW to the southwest, and L Street, NW to the north. The Property has approximately 18,368 square feet of land area¹ and is zoned MU-6B.
2. The Property is currently improved with a mixed-use building containing retail use on the ground floor, office use on floors two through four, and residential use on floors five through eight (the “Existing Building”).
3. The Existing Building has 40 residential units, approximately 58,000 square feet of office space, and a variety of retail and service uses on the ground and lower levels. A total of 163 on-site parking spaces, both within private property and vault space, are located in a below-grade parking garage accessed from L Street. Existing loading facilities include two loading berths at 30 feet deep and five service/delivery spaces at 20 feet deep, also accessed from L Street. The primary pedestrian entrance to the residential portion of the Existing Building is located on Pennsylvania Avenue, and the primary pedestrian entrance to the office portion of the Existing Building is located at the intersection of Pennsylvania Avenue and 24th Street. Pedestrian entrances to the individual ground floor retail and service uses are provided on all three street frontages.

¹ The Subdivision Plat for the Property, recorded in the Office of the Surveyor for the District of Columbia on February 16, 1989, at book 181, page 123, shows the Property as having a total land area of 18,368.40 square feet. The approved PUD shows the total land area as 18,625 square feet.

4. The Property is located in the West End/Foggy Bottom area of the District, approximately a half block to the northwest of Washington Circle. The area surrounding the Property contains a wide variety of uses, including residential, office, hotel, retail, and service establishments. George Washington University is located to the south.

Prior Zoning Commission Approvals

5. Pursuant to Z.C. Order No. 586, dated August 8, 1988, the Zoning Commission approved a consolidated PUD for the Property pursuant to Section 2400 of the then-applicable 1958 Zoning Regulations (“ZR58”). The approved project was for a mixed-use building consisting of retail, office, and residential uses, with a maximum density of 7.66 floor area ratio (“FAR”), a maximum building height of 92 feet, and a maximum lot occupancy of 97% for residential use and 100% for commercial use. *See* Z.C. Order No. 586, Decision Nos. 2-5. The original approval did not include a zoning map amendment for the Property, which was zoned C-2-C under ZR58.²
6. Pursuant to Z.C. Order No. 586A, dated March 13, 1989 (and with Z.C. Order No. 586, the “Orders”), the Zoning Commission approved a modification to Z.C. Order No. 586 to (i) increase the approved number of on-site parking spaces to 167 total spaces within an additional partial level of below-grade parking; and (ii) make minor design changes to the building façade.
7. A building permit application for the approved PUD was required to be filed within two years of the effective date of Z.C. Order No. 586, with construction to commence within three years. The Existing Building on the Property was completed within these timeframes pursuant to the conditions of the Orders and has been occupied since that time.

PARTIES AND NOTICE

8. The only party to Z.C. Case Nos. 88-02 other than the Applicant was Advisory Neighborhood Commission (“ANC”) 2A, the “affected” ANC pursuant to Subtitle Z § 101.8.
9. On January 21, 2025, the Applicant served the Application on ANC 2A as well as on the D.C. Office of Planning (“OP”) and the District Department of Transportation (“DDOT”), as attested by the Certificate of Service submitted with the Application. (Exhibit [“Ex.”] 2.)

THE APPLICATION

10. On January 21, 2025, the Applicant filed the Application requesting a Modification Without Hearing to the approved PUD to convert floors two through four from office to residential use. The Application explained that the modification would be accomplished without any changes to the Existing Building’s height or density and with only limited

² The C-2-C zone became the MU-6 zone by virtue of Z.C. Order No. 08-06A, and then became the MU-6B zone by virtue of Z.C. Order No. 18-16/19-27-19-27B.

changes to the Existing Building's exterior façade to accommodate the residential use. No zoning relief was needed to accommodate the modification; thus, the Zoning Commission was able to understand the proposal without witness testimony.

11. The Application explained that the proposed modification would advance the District's policies of supporting residential conversions because it would create new market rate and affordable housing units.
12. The Application included architectural drawings (the "Architectural Drawings") (Ex. 2C) showing the proposed modifications to the Existing Building to accommodate the residential use. Such modifications included the following:
 - Modifications to floor plans:
 - At the lower level, some of the existing retail use would be converted to residential amenity space, and bike parking and tenant storage would be incorporated;
 - At the ground level, the existing pedestrian entrance to the office use at the corner of Pennsylvania Avenue and 24th Street would be converted to retail/service entry; and
 - At floors two through four, the office space would be converted to approximately 60 new residential units, of which approximately six units would be Inclusionary Zoning ("IZ") units.
 - Window replacements. The windows for the three floors that would be converted from office to residential use would be replaced at the time of the conversion with windows that are similar to the existing window design. The windows for the existing residential floors would be replaced with the new windows as tenants move out. As shown on Sheet A2.05 of the Architectural Drawings, the new windows would have the same general appearance as the existing windows such that the Existing Building would continue to have a consistent appearance from the street.
 - Roof/Penthouse/Guardrail: No exterior changes to the roof or penthouse were proposed, and all of the existing improvements would be maintained in their existing configuration. Mechanical equipment upgrades and modifications would be located within the existing screenwall, which would include the removal of one of the two existing elevator overrides. To the extent that the guardrail must be updated to comply with current codes, it would be replaced in kind in the same location.
13. Pursuant to Subtitle G § 200.4, an existing building may convert existing gross floor area to residential use as a matter of right, even if the building or portion thereof to be converted does not comply with the applicable development standards for courts, FAR, GAR, height, lot occupancy, waterfront setback, or yards. The existing building, as modified and as shown in the Architectural Drawings, complies with the Zoning Regulations as a matter of right due to the provisions of Subtitle G § 200.4, and no additional relief from any other applicable development standards of the Zoning Regulations is required.

14. The Application included a chart (Ex. 2D) showing the approved PUD conditions as set forth in the Orders and the proposed modifications thereto. The updated conditions are included in this Order.
15. The Application included an analysis of how the modifications would meet the PUD evaluation standards, including how the modifications would not change the following conclusions made by the Zoning Commission in the Orders:
- “The Commission concurs with the Applicant’s proposal and finds that [the project] is consistent with the PUD guidelines for the C-2-C zone and with the land use designations on the Generalized Land Use Map of the Comprehensive Plan for the National Capital.” Z.C. Order No. 586, Finding of Fact (“FF”) No. 4.
 - “The Commission finds that the PUD project is in conformance with the Comprehensive Plan which designates the site for mixed-use high-density residential and medium-density commercial uses. The Commission finds that the increased FAR requested by the Applicant will ensure the development of the site for residential uses. The Commission has the authority to increase the FAR in exchange for the provisions of certain amenities.” Z.C. Order No. 586, FF No. 43.
 - “The approval of this application is not inconsistent with the Comprehensive Plan for the National Capital.” Z.C. Order No. 586, Conclusions of Law No. 4.
 - “The Zoning Commission further believes that the proposed modifications are in the best interest of the District of Columbia, are consistent with the intent and purpose of the Zoning Regulations and Zoning Act, and are not inconsistent with the Comprehensive Plan for National Capital.” Z.C. Order No. 586A, p. 2.
16. The Application stated that the modifications proposed would not change the conclusions stated above, and that the project continues to be not inconsistent with the Comprehensive Plan. While the Property was designated mixed-use high-density residential and medium-density commercial at the time that Z.C. Order No. 586 was approved, the FLUM was changed to the high-density residential designation in 2006 due to the District’s efforts to encourage residential use in this area. The current FLUM continues to designate the Property as high-density residential. Accordingly, the Application asserted that the building’s original mix of office, retail, and residential uses was appropriate given the FLUM in effect when the project was originally approved, and that the modification to convert the office space to residential use would be fully consistent with the current high-density residential FLUM designation for the Property.
17. The Application also stated that the Comprehensive Plan Generalized Policy Map (“GPM”) designated the majority of the Property within a Main Street Mixed Use Corridor (along Pennsylvania Avenue) and a small portion of the Property’s northeast corner as a Neighborhood Conservation Area. The Application stated that the residential conversion would be fully consistent with these designations, which encourage “[c]onversion and enhancement... to foster economic and housing opportunities and serve neighborhood needs.” *See* 2021 GPM.
18. The Application also asserted that the modifications proposed were not inconsistent with the Comprehensive Plan as evaluated through a racial equity lens. The additional

residential units, including six IZ units, would lead to favorable outcomes for the District and would help to advance many Comprehensive Plan policies of the Land Use, Housing, Transportation, Economic Development, and Environmental Protection City-Wide Elements, and the Near Northwest Area Element. The Application included an evaluation of how the modifications were not inconsistent with the Comprehensive Plan. (Ex. 2E.)

19. The Application further explained that the proposed residential use would not result in unacceptable project impacts. The Application submitted a transportation study (Ex. 2F), which found that there would be no adverse impacts to traffic as a result of the conversion. Specifically, the transportation study found that the proposed project with residential use would result in an estimated 48 fewer AM peak hour vehicle trips and 54 fewer PM peak hour vehicle trips. The transportation study also found that the proposed loading facilities would meet the minimum requirements and anticipated demand, and the Applicant would implement a Loading Management Plan in accordance with DDOT requirements to promote the safe and efficient use of the loading facilities. The Application also affirmed that the Applicant would implement a Transportation Demand Management Plan, commensurate with DDOT's current guidelines, with strategies to promote and incentivize non-auto modes of transportation.
20. Finally, the Application explained that there were no changes proposed to the previously-approved PUD public benefits and amenities or development incentives requested, and that there were no unacceptable adverse impacts. Accordingly, the public benefits and project amenities did not need to be reevaluated.

RESPONSES TO THE APPLICATION

OP Report

21. On February 12, 2025, the Office of Planning submitted a report ("OP Report") stating that it "supports this application being considered a Modification Without Hearing" and that it "recommends that the Commission approve the modification as requested." (Ex. 5, p. 1.)
22. The OP Report also stated that the "modifications proposed are consistent with the intent of the MU-6B zone and the Comprehensive Plan, providing new housing opportunities including affordable units consistent with IZ, and resulting in no major alterations to the exterior of the building." (Ex. 5, p. 1.)
23. The OP Report included an analysis concluding that the requested modifications are not inconsistent with the Comprehensive Plan FLUM and GPM designations or with the Citywide and Area Elements, including when evaluated through a racial equity lens. (Ex. 5, p. 3.)

ANC Report

24. No ANC report was filed in the case record due to a lack of a quorum on ANC 2A.
25. The Applicant's Statement in Support (Ex. 2) stated that (i) prior to filing the Application, the Applicant engaged with ANC 2A commissioners, including the ANC Single Member

District commissioner for the Property; and (ii) on January 15, 2025, the Applicant presented the Application at a public community meeting hosted by the ANC. The Statement in Support explained that ANC 2A was unable to achieve a quorum due to the number of vacant commissioner seats and was therefore unable to take an official position on the Application. However, the Statement in Support noted that the ANC commissioners and community were supportive of the Application and appreciated the additional housing and affordable housing for the community. The Statement in Support affirmed that no issues or concerns were raised at the ANC community meeting.

CONCLUSIONS OF LAW

1. Subtitle Z § 703.1 authorizes the Commission, in the interest of efficiency, to make, without public hearing, modifications to approved contested case final orders and plans approved by such orders (modifications without hearing).
2. Subtitle Z § 703.6 describes “Modification Without Hearing” as a “modification in which impact may be understood without witness testimony, including, but not limited to a proposed change to a condition in the final order, a change in position on an issue discussed by the Commission that affected its decision, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Commission. Determination that a modification can be approved without witness testimony is within the Commission’s discretion.”
3. The Commission concludes that the Application qualifies as a Modification Without Hearing within the meaning of Subtitle Z § 703.6, as a request to change certain conditions of the final orders and to redesign certain architectural elements to accommodate the proposed residential use, and therefore the modification can be granted without a public hearing.
4. The Commission concludes that the Applicant satisfied the requirement of Subtitle Z § 703.10 to serve the Application on all parties to the original proceeding, in this case ANC 2A.
5. The Commission concludes that the requirement of Subtitle Z § 703.12 to provide a minimum of 30 days for parties to respond to the Application has been met, and therefore the Commission could consider the merits of the Application at its March 13, 2025, public meeting.

“GREAT WEIGHT” TO THE RECOMMENDATIONS OF OP

6. The Commission must give “great weight” to the recommendations of the OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990. (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.) and Subtitle Z § 405.8; *Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)
7. The Commission finds OP’s recommendation to approve the Application persuasive and concurs in that judgment.

“GREAT WEIGHT” TO THE RECOMMENDATIONS OF THE ANC

8. The Commission must give “great weight” to the issues and concerns raised in a written report of the affected ANC that was approved by the full ANC at a properly noticed meeting that was open to the public pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978).)
9. Although the ANC 2A did not have an opportunity to vote on the Application due to the lack of a quorum, the Application stated that the Applicant had engaged with ANC 2A on several occasions, including presenting the Application at a public community meeting hosted by the ANC. The Statement in Support explained that ANC 2A was unable to achieve a quorum due to the number of vacant commissioner seats and was therefore unable to take an official position on the Application. However, the Statement in Support noted that the ANC commissioners and community were supportive of the Application and appreciated the additional housing and affordable housing for the community. The Statement in Support also confirmed that no issues or concerns were raised at the ANC community meeting.
10. The Commission finds that the Applicant’s summary of its engagement with the ANC, although not technically entitled to great weight, is persuasive under the circumstances, particularly combined with OP’s recommendation and given that the ANC was unable to establish a quorum.

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Applicant’s request for a Modification Without Hearing to to the planned unit development (“PUD”) approved pursuant to Z.C. Order Nos. 586 and 586A, subject to the following conditions:

1. The conditions in Z.C. Order Nos. 586 and 586 remain unchanged and in effect, except as follows (deletions shown in **bold** and ~~striketrough~~ text; additions in **bold** and underlined text):

Decision No. 1. The Planned Unit Development (“PUD”) shall be developed in accordance with the plans prepared by the architectural firm of Keyes, Condon and Florance, marked as Exhibits No. 5, 16B, 19B, 43, ~~and 50~~, **and 63³ of the record of Z.C. Case No. 88-2, as modified by the revised architectural drawings dated January 21, 2025, and marked**

³ A reference to Exhibit 63 was added, which are the architectural drawings approved by Z.C. Order No. 586A.

as Exhibit No. 2C in Z.C. Case No. 88-2A (“Approved Plans”), and as modified by the guidelines, conditions and standards of this Order.

Decision No. 2. The PUD site shall be developed as a mixed-use building consisting of retail, office and/or residential, as shown on the Approved Plans.

Decision No. 3. The floor area ratio for the building shall not exceed 7.66.

Decision No. 4. The height of the building shall not exceed ninety-two (92) feet.

Decision No. 5. The lot occupancy of the ~~residential component of the project shall not exceed 97%. The lot occupancy for the commercial component shall be 100%~~ project shall be 100%, as shown on the Approved Plans.

Decision No. 6. The project shall be developed with approximately forty (40) residential units on Floors 5 through 8.

Decision No. 7. The applicant may ~~combine space in the units of the proposed development to create large apartments in response to market conditions~~ provide a range in the approved number of residential dwelling units of plus or minus ten percent (10%), except that (1) the total square footage of the residential dwelling units shall not be reduced, and (2) the number of units and the square footage reserved for affordable housing shall not be reduced.

Decision No. 8. The project shall be ~~developed with office use~~ permitted to convert office to residential use on Floors 2 through 4. The ground floor shall be devoted to residential lobby, amenity and support spaces, and neighborhood serving retail and service uses permitted in the MU-6B zone district. The types of retail and service uses may include but not be limited to the following use categories set forth in 11-B DCMR § 200.2: retail; service, general; service, financial; eating and drinking establishments; animal sales, care and boarding; arts, design and creation; daytime care; and medical care.

Decision No. 9. ~~There shall be a minimum of 140 on-site parking spaces, provided that the applicant is permitted to use the vault space to locate the sixty (60) additional parking spaces, not required by the Regulations.⁴~~ The project shall include the existing three levels of below-grade parking, which currently include approximately 163 parking spaces, located within private property and vault space.

Decision No. 10. The applicant ~~must include in each tenant's lease package information regarding a transportation management program such as ride sharing or other coordinated programs sponsored by the Council of Governments or the District of Columbia Government~~ shall comply with the Transportation Demand Management

⁴ Z.C. Order No. 586-A increased the total number of permitted parking spaces to 167.

measures set forth in the Transportation Statement dated January 21, 2025, and marked as Exhibit No. 2F in Z.C. Case No. 88-2A.

Decision No. 11. Recreation space shall be provided on the roof and penthouse of the building.

Decision No. 12. ~~The applicant shall register the proposed development from its inception as a condominium building, but may lease the units if market conditions do not permit condominium sales.~~ **The project will be a rental project. If the project becomes a for-sale project, a condominium regime may be created in accordance with applicable law.**

Decision No. 13. ~~If the units are leased, all leases shall be for a minimum of 12 months.~~ **For a rental project, all leases shall be for a minimum of 30 or more days.**

Decision No. 14. The subject property shall not be used for a hotel, motel, boarding house, inn, or tenement as defined in the District of Columbia Zoning Regulations.

Decision No. 15. ~~The loading areas, driveways and walkways shall be located on the site. Five service delivery spaces measuring 10 x 20 feet shall be provided. Two loading berths measuring 12 x 30 feet shall be provided. Two loading platforms, each 100 square feet shall be provided. The project shall provide one loading berth measuring 12 x 30 feet, one loading platform having 100 square feet, and one service/delivery space measuring 10 x 20 feet.~~

Decision No. 16. The applicant shall improve and provide landscaping and streetscaping, pursuant to the requirements of the DPW.

Decision No. 17. The applicant shall have flexibility with respect to the following matters:

- a. Varying the location and design of all interior components, including partitions, structural, slabs, doors, hallways, columns, stairways, location of elevators, electrical and mechanical rooms, provided that the variations do not change the exterior configuration of the building including the penthouse;
- b. Making minor adjustments in the facade, window and balcony detailing, including the flexibility to shift the location of the doors to the retail uses on the ground floor and vary the type of paneling used on the retail frontage in order to accommodate the different types of retail uses;
- c. Varying the location and type of exterior lighting fixtures;
- d. Varying the species of plant materials;
- e. Varying the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction; and
- f. Varying the arrangement of the parking spaces and modification to the below-grade space to provide the opportunity for storage and other space to serve the proposed users of the building, so long as such modification does not reduce below 74 the number of below-grade parking spaces to be provided.

- g. Increase the minimum recreation space on the roof top in response to refinements to the mechanical penthouse plans.

~~Decision No. 23. No building permit shall be issued for the site until the applicant has recorded a covenant in the land records of the District of Columbia between the owner and the District of Columbia satisfactory to the Office of Corporation Counsel and the Zoning Regulatory Divisions of the Department of Consumer Regulatory Affairs (DCRA). The covenant shall bind the owner and all successors in title to construction and use of the property in accordance with this Order and amendments thereto of the Zoning Commission modifications approved by this Order until the Applicant has recorded in the Land Records of the District of Columbia a notice of modification to the previously recorded Planned Unit Development Covenant. The Applicant shall file a certified copy of the covenant modification with the records of the Office of Zoning.~~

~~Decision No. 25. The PUD approved by the Zoning Commission shall be valid for a period of two years from the effective date of this Order. Within such time, application must be filed for a building permit as specified in Subsection 2407.1 DCMR Title 11. Construction shall start within three years of the effective date of this Order. With the exception of window and balcony replacement for the existing residential use on floors 5 through 8, approval of the application shall be valid for a period of two years from the effective date of this Order. Within that time, the Applicant shall file a building permit application for the modifications, and the Applicant shall begin construction of the modifications within three years of the effective date of this Order. Building permit applications for the window and balcony replacements for floors 5 through 8 may be phased to provide flexibility to accommodate existing tenants and are not subject to this timing condition.~~

2. Decision Nos. 18-22 and 24 have been deleted in their entirety. The benefits associated with such conditions were provided at the time of original project delivery.
3. New Decision No. 26 is added as follows:

The Applicant shall provide affordable housing for the project in accordance with this condition:

- a. For the life of the project, the affordable housing for the project shall be administered by the D.C. Department of Housing and Community Development through the IZ program. The affordable housing shall comply with all development standards, tenancy regulations and implementation requirements for IZ units as set forth in DCMR Chapter 10 of Title 11-C and Chapter 22 of Title 14;
- b. For the life of the project, the Applicant shall provide the affordable housing for the project as set forth in the following chart:

Residential Unit Type	Gross Floor Area (converted to Net Residential Area)	Appx Number of Units	MFI Level	Affordable Control Period	Affordable Unit Type
Existing Residential Space	73,460 sf	40 units	Market Rate	N/A	Rental
Total Converted Space	42,569 net sf	60 units	N/A	N/A	Rental
Market Rate Space in Converted Space	39,163 net sf	54 units	Market Rate	N/A	Rental
IZ Space	3,406 net sf	6 units	Up to 60% MFI	Life of the project	Rental

VOTE (March 13, 2025): 5-0-0 (Anthony J. Hood, Joseph S. Imamura, Robert E. Miller, Tammy Stidham, Gwen Wright to **APPROVE**).

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 586B shall become final and effective upon publication in the District of Columbia Register; that is, on _____.