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July 13, 2026

VIA IZIS

Chairman Anthony Hood
District of Columbia Zoning Commission
441 4th Street, Suite 200-S
Washington, DC 20001

RE: Z.C. Case No. 06-11AA & 06-12AA – Request for Modification without Hearing to Z.C. Order No. 06-11O & 06-12O – 2100 Pennsylvania Avenue, NW (Square 75, Lot 52) (the "Property")

Dear Chairman Hood and Members of the Commission:

BXP 2100 Penn LLC (the "**Applicant**"), the ground lessee of the Property, hereby requests a modification without hearing (the "**Modification**") to Z.C. Order No. 06-11O/06-12O. The Modification would permit space previously reserved for daycare use to be used for retail use. Both uses were approved for the space in question and are identified as public benefits of the PUD, and so the change does not affect the grounds on which the PUD was approved. Notwithstanding the foregoing, the Applicant is proffering two additional supplemental public benefits—a contribution of $20,000 to the West End Library Friends for programming for workshops, speakers, performances, and children's interactive spaces, and a new retail study that evaluates retail dynamics and develops a neighborhood-specific strategy for the Foggy Bottom/West End neighborhoods, valued at $25,000.

I. Background

The Property is located in the Foggy Bottom neighborhood and is bounded by Pennsylvania Avenue, NW to the north, 21st Street, NW to the east, and I Street, NW to the south. In Z.C. Order No. 06-11/06-12, the Zoning Commission (the "**Commission**") concurrently approved a Campus Plan and First-Stage PUD (the "**Campus Plan/First-Stage PUD**") for The George Washington University Foggy Bottom Campus. The Campus Plan/First-Stage PUD identified the Property for Commercial/Investment use. In 2018, Z.C. Order No. 06-11O/06-12O (the "**Order**") approved a Modification of the First-Stage PUD, Related Zoning Map Amendment, Second-Stage PUD, and Amendment to the Campus Plan and authorized development of a mixed-use office and retail building (the "**Building**" or "**Project**") on the Property, which delivered in 2021-2022.

Since approval of the Order, the Commission has approved two modifications for the Project. First, in Z.C. Order No. 06-11V/06-12V, the Commission approved a modification of consequence[1] to modify

[1] Now, a modification without hearing.

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EXHIBIT NO. 2

Condition 3.a of the Order to replace the public fountain/spigot in the 26th Street Park due to certain physical obstacles, including potential interference with a mature street tree's critical root zone, with a $100,000 contribution to the Foggy Bottom Association ("**FBA**") to fund future watering needs and other landscaping needs for the 26th Street Park. Second, in Z.C. Order No. 06-11Y/06-12Y (the "**Campus Store Order**"), the Commission approved a modification of consequence to adjust the location of tenant signage and eliminate an entrance on 21st Street, NW to accommodate a retail tenant.

II. Existing Daycare Condition and Proposed Modification

The Applicant originally proffered a daycare as both a project amenity to its office tenants and as a public benefit of the PUD. Condition B.6 of the Order requires that the Project include a daycare facility available to both tenants of the Building and the general public as a public benefit of the PUD. As shown on the plans approved as a part of the Order, an approximately 2,800 square foot space (the "**Space**") along the Pennsylvania Avenue frontage was identified as the potential space for the daytime care use. Despite significant effort, as described further below, the Applicant has been unable to find a daycare tenant and requests modification of the Order to replace the daycare with expanded retail, another public benefit of the Order.

As set forth on the Affidavit attached as Exhibit E, the Applicant has eagerly pursued daycare tenants but, after an exhaustive effort, has been unable to find a daycare tenant interested in the Space. The Applicant has extensive experience securing daycare tenants for other trophy-class office developments in the District. The Applicant has continuously marketed the Space at the Project since 2021 and had conversations with over a dozen potential operators, including both larger national groups as well as local operators.[2] Attached hereto as Exhibit F is a chart documenting the potential tenants and their feedback. The feedback is summarized below.

- The pandemic fundamentally reshaped the daycare market as the shift to remote and hybrid working arrangements altered demand from downtown to locations closer to residential neighborhoods with families more interested in daycare options close to home.
- Further, daycare providers now look for much larger spaces, in the range of 8,000 to 10,000 square feet and with a connection to an outdoor play area as remaining operators focus on fewer locations that offer a full range of services, including infant, toddler, and backup care.
- In addition, daycares have faced further challenges with increased operating costs due to changes in labor and staffing laws. These challenges were further compounded in the last year, with potential daycare tenants voicing concern to the Applicant about government layoffs and general instability in the District.

[2] The Applicant even assisted a potential tenant in applying for grants to rent the Space.

As a result of these factors, daycare providers no longer seek space in the downtown areas of the District. Indeed, affiliates of the Applicant have even experienced daycare operators shutting down operations at other downtown properties.

Notwithstanding these extensive efforts, after five years of diligent searching, it is clear that no daycare tenant is interested in the Space. Rather than allowing the Space to remain vacant indefinitely, the Applicant requests the Modification to replace the daycare benefit with additional retail or service space. Despite an overall decline in retail demand in the greater Golden Triangle area, demand for retail use at the Space is there. The Space is outfitted with mechanical, electrical, and plumbing connections that will accommodate a variety of retail and service uses, including food service use. The Applicant has soft-marketed potential retail users for the Space and identified that the space is marketable to potential retail tenants.

The switch from daycare to retail use is in and of itself a public benefit in that (1) the Space would otherwise remain vacant, (2) the provision of new retail would respond to community desires, and (3) retail was identified as a public benefit in the Order. Neighborhood-serving retail, including along Pennsylvania Avenue, was identified as a neighborhood priority during the original approval and it remains a priority based on positions taken by community stakeholders in other recent cases.[3]

However, as a part of the Modification, the Applicant is also proposing two additional benefits to support neighborhood-serving retail and social services. These additional benefits were selected after extensive discussion with neighborhood representatives from the FBA, the West End Citizens Association ("**WECA**"), and Advisory Neighborhood Commission 2A ("**ANC 2A**").

1) Contribute $20,000 to the West End Library Friends ("**Friends**") to support programming at the West End Library, including workshops, speakers, performances, and children's interactive spaces, as well as equipment to support the programming. Examples of programming include lectures and panels by local experts, presentations by authors, music programs, and workshops on arts, writing and storytelling, as well as children's storytellers, music educators, and puppeteers. Equipment includes projection screens, microphone sets, and seating for presentation and speaker events.

2) Contribute a new Foggy Bottom / West End retail study, to be contracted for and managed by the Applicant (BXP 2100 Penn LLC) and valued at approximately $20,000 - 25,000, that evaluates retail trends and dynamics and develops a neighborhood-specific strategy for the Foggy Bottom / West End neighborhood. The study will be prepared with input from representatives of WECA, FBA, ANC 2A, and the Foggy Bottom/West End Main Street, and

[3] See ANC 2A Report, Exhibit 12, Z.C. Case No. 06-11O and Letter in Support from the Foggy Bottom Association, Exhibit 15, Z.C. Case No. 06-11O. See also *West End Citizens Association v. District of Columbia Zoning Comm'n*, 320 A.3d 1034, 1040 (D.C. 2024).

> a copy of the final study will be provided to WECA, FBA, ANC 2A, and the Foggy Bottom/West End Main Street. The study will include an analysis of the physical, economic, and market conditions that impact retail performance in the neighborhood, including demand drivers, population trends, retailer trends, vacancies, rental rates, and so on. The study will also include a set of actionable recommendations to support retail attraction, increase foot traffic, and strengthen existing businesses.

Both benefits will be delivered prior the issuance of a certificate of occupancy for the retail tenant in the Space.

Finally, notwithstanding the lack of a daytime care use at the Project, the Foggy Bottom/West End neighborhood remains well-served by existing daycare uses at two other nearby locations. To the west of the Project, one block away, the Applicant's affiliate has maintained a daytime care operator at 2200 Pennsylvania Avenue NW that provides a full range of services from infant care to pre-school programs. To the north of the Project, two blocks away, is another daycare operator at 2101 L Street NW. Both locations are closer to the residential portions of the neighborhood and are thus more convenient than a daycare at the Property.

III. <u>Standard of Review</u>

The Modification is properly considered as a modification without hearing because its "impact may be understood without witness testimony" and it consists of "a proposed change to a condition in the final order." 11-Z DCMR § 703.6. Retail use is already an approved part of the PUD and considered a public benefit. Further, the approved plans expressly authorized the use of the Space for daycare use or other retail uses, so retail use has already been identified as an appropriate use for the Space. Thus, the scope of the Modification can be properly understood by the Commission without a need for public hearing.

The Modification is consistent with the approved PUD in that the ground-floor retail was considered an important public benefit. See Finding of Fact ("**FOF**") 43(i). The Order discusses how the retail space in the Building would permit the Applicant to attract "neighborhood-defining retail opportunities along I Street and Pennsylvania Avenue." FOF 32. Specifically, the Commission noted the "street-activating ground-level entrances and uses around the perimeter of the site" as a public benefit. FOF 43(b). The community was likewise focused on the retail benefit for the PUD. ANC 2A expressed its appreciation for the retail spaces in the Building. FOF 63. FBA, a party in opposition to the Campus Plan/First-Stage PUD, submitted a letter in support of the Project, specifically commending the retail space. FOF 66. Both parties noted a desire for retail space on Pennsylvania Ave and so extending retail to the Pennsylvania Avenue frontage responds to this goal. By contrast, none of the parties cited the daycare as a meaningful benefit at that time.

The proposed retail use for the Space will further the intent of the PUD by activating the Pennsylvania Avenue frontage even more so than the daycare might have. The daycare use would have likely been oriented toward internal access for tenants of the Building and the below-grade parking garage. The proposed retail use, on the other hand, will be external facing and better activate the Pennsylvania Avenue frontage. It will extend the ground-floor activation of the neighboring and related development site at 2112 Pennsylvania Avenue, NW, approved in Z.C. Case No. 06-11G/06-12G. The Modification is also consistent with the Campus Plan/First Stage PUD which designated "Commercial/Investment/Retail" uses for the Property. Accordingly, the Modification is consistent with both the First- and Second-Stage PUDs.

The Modification maintains the balancing of the PUD by replacing one public benefit with another, resulting in no net change to the public benefits, and it includes additional public benefits in the form of the contributions to both the Library and the neighborhood retail study. The Modification will otherwise have no adverse impacts on neighboring properties. Rather, it will provide additional retail in a neighborhood where the community has voiced strong concerns over the lack of retail, and it will also contribute to other neighborhood-serving services. Given the challenges facing the retail market downtown, the proposed Modification maintains the balance of public benefits with the development incentives approved as part of the original PUD.

IV. Community Engagement

The Applicant first raised the idea of the Modification with the various stakeholders, i.e., the FBA, WECA, and ANC 2A, in 2023 in connection with the Campus Store modification. Given the concerns expressed by WECA surrounding the Campus Store, the Applicant continued to pursue daycare providers in earnest. WECA again raised concerns about the daycare at the beginning of 2025. The Applicant met with WECA last summer to discuss its efforts and the challenges they have faced in finding a daycare tenant as well as to gather feedback on potential alternatives. After that meeting, the Applicant continued to search for a daycare tenant, but to no avail.

The Applicant then resolved forward to move forward with the modification early this year. The Applicant began its outreach on the Modification with a presentation to the Campus Plan Advisory Committee ("**CPAC**") on January 20, 2026 and then engaged in extensive meetings and discussions regarding the Modification as well as potential additional benefits with FBA, WECA, and the ANC. Based on these discussions, the Applicant identified the two contributions as additional benefits that were most appropriate given the scope of the Modification and aligned with the majority of neighborhood interests.

V. Proposed Conditions

To effectuate the proposed Modification, the Applicant proposes the following conditions of approval:

1. Condition A.3.A of Z.C. Order No. 06-11O/06-12O is hereby modified to add the following phrase ". . . **and a nightclub shall not be located along the Project's Pennsylvania Avenue ground-floor frontage** . . . "

2. Condition B.6 of Z.C. Order No. 06-11O/06-12O is hereby deleted.

3. Prior to the issuance of a Certificate of Occupancy for the retail space on Pennsylvania Avenue, the Applicant shall:

   a. Contribute $20,000 to the West End Library Friends ("**Friends**") for programming (e.g. workshops, speakers, performances, and children's interactive spaces) as well as equipment to support the programming at the West End Library.

   b. Contribute a new Foggy Bottom / West End retail study, to be contracted for and managed by the Applicant (BXP 2100 Penn, LLC) and valued at approximately $20,000 – 25,000, that evaluates retail trends and dynamics and develops a neighborhood-specific strategy for the Foggy Bottom / West End neighborhood. The study will be prepared with input from representatives of WECA, FBA, ANC 2A, and the Foggy Bottom/West End Main Street, and a copy of the final study will be provided to WECA, FBA, ANC 2A, and the Foggy Bottom/West End Main Street.

   Compliance with the above conditions shall be demonstrated by letters to the Zoning Administrator evidencing that the benefits have been or are being provided and/or photographs and copies of the completed benefits.

VI. Filing Requirements

The Applicant hereby submits the following materials. The filing fee of $520 will be sent under separate cover. Pursuant to Subtitle Z § 703.10, the Applicant will serve a copy of the application on ANC 2A, the FBA, and WECA, each of which were parties to the Campus Plan/First-Stage PUD.

- Exhibit A: Application Signature Page
- Exhibit B: Authorization Letters from the Applicant and Owner
- Exhibit C: Z.C. Order No. 06-11O/06-12O
- Exhibit D: Plan Showing Location of Daycare/Retail
- Exhibit E: Affidavit regarding Daycare Provider Leasing Efforts
- Exhibit F: List of Daycare Providers

VII. <u>Conclusion</u>

We look forward to the Commission's consideration of this request at its next public meeting. To the extent that the Commission has questions, the Applicant's representatives will be available to answer questions at the meeting.

Sincerely,

/s/ David M. Avitabile
David M. Avitabile

/s/ Lee S. Templin
Lee S. Templin

Certificate of Service

The undersigned hereby certifies that copies of the foregoing documents were delivered via electronic mail to the following on July 13, 2026.

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