

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

**APPLICATION FOR A
MODIFICATION OF SIGNIFICANCE
TO AN APPROVED FIRST-STAGE PUD**

**CAPITOL CROSSING
CENTER BLOCK**

JULY 1, 2019

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I.
INTRODUCTION

This statement and the attached documents are submitted on behalf of Capitol Crossing IV LLC (the “Applicant”)¹ in support of an application to the Zoning Commission for the District of Columbia (the “Zoning Commission”) for a modification of significance to an approved first-stage planned unit development (“PUD”) for property located at Square 566, Lot 861 (part of Record Lot 50) (the “Property”). Pursuant to Z.C. Order No. 08-34, the Zoning Commission approved the overall Capitol Crossing development project, which included approval of a first-stage PUD to develop a new commercial building containing office use with ground floor retail on the Property (the “Commercial Building”). As described herein, this application requests approval to permit hotel and/or college or university educational uses in addition to the already approved office and retail uses in the Commercial Building.

On April 16, 2019, the Applicant submitted a Modification of Consequence application that proposed the exact same modification as requested herein. At its public meeting on May 13, 2019, the Zoning Commission determined that the application did not fall within the standards for a Modification of Consequence and directed the Applicant to refile the application as a Modification of Significance. As a result, this application is submitted in accordance with Subtitle X, Chapter 3 and Subtitle Z of the 2016 District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”) as a Modification of Significance. As set forth in 11-A DCMR § 102.4, this application is processed under the procedural requirements of the 2016

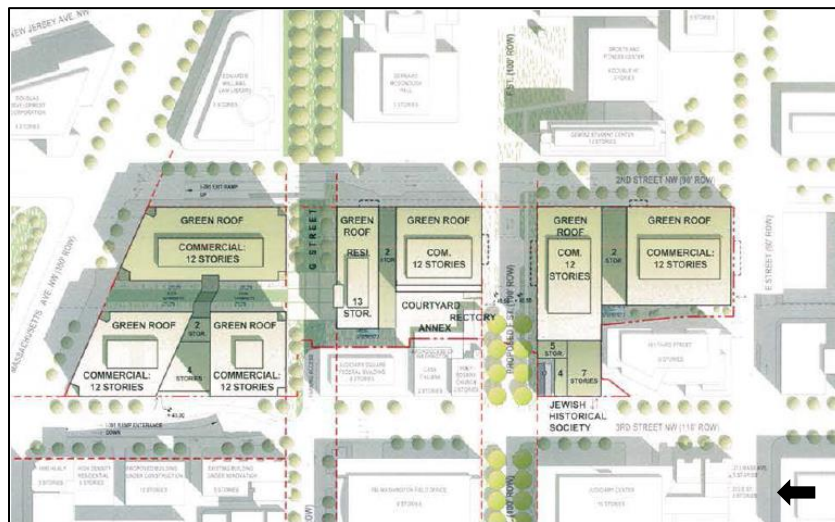
¹ The original applicant in Z.C. Case No. 08-34 was Center Place Holdings LLC, on behalf of the District of Columbia through the Office of the Deputy Mayor for Planning and Economic Development. Capitol Crossing IV LLC is the current owner of the Property.

Zoning Regulations and the substantive requirements of the 2016 Zoning Regulations as they apply to the requested change in use.

II. **BACKGROUND**

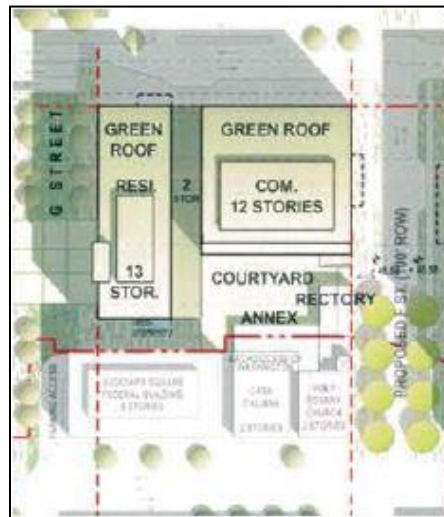
A. The Overall PUD Site and the Property

Pursuant to Z.C. Order No. 08-34 (Exhibit A), dated May 23, 2011, and effective on July 1, 2011, the Zoning Commission approved (i) a first-stage PUD for land and air rights above the Center Leg Freeway in an area generally bounded by Massachusetts Avenue, NW to the north, 2nd Street, NW to the east, E Street, NW to the south, and 3rd Street, NW to the west (the “Overall PUD Site”); (ii) a consolidated PUD for the platform and the North Block;² and (iii) a Zoning Map amendment to the C-4 District for the Overall PUD Site. A portion of the Zoning Map showing the Overall PUD Site is attached hereto as Exhibit B. The approved development of the Overall PUD Site is hereinafter referred to as the “Overall Project” and shown below:



² Specifically, the consolidated PUD included (i) the entire platform and base infrastructure; (ii) the mix of uses, height, and density of each building, and the site plan for the Overall Project; (iii) the North Block; (iv) the construction of all below-grade parking, concourse, and service levels; and (v) the landscaping and streetscape design for the Overall Project.

The PUD Site is divided into three segments: Square 564, Lots 858 and 859 (the “North Block”), Square 566, Lots 860-863 and 7000 (the “Center Block”), and Square 658, Lots 862-864 and 7000 (the “South Block”). The Center Block was approved as part of the first-stage PUD and included (i) the Commercial Building on the Property; (ii) a residential building with approximately 150 units and ground floor retail on Lot 862; and (iii) facilities for the Holy Rosary Church, and is shown below:



B. Vested Development Rights

The first-stage PUD for the Property was approved prior to the effective date of the 2016 Zoning Regulations and therefore has vested development rights under the 1958 Zoning Regulations. Modifications proposed for a vested project are required to conform to the 2016 Regulations only as the 2016 Regulations apply to those modifications. See 11-A DCMR § 102.4. The modification requested herein is to permit office, hotel, and/or college or university educational uses in addition to the already approved ground floor retail use within the approved Commercial Building on the Property. Under the 2016 Zoning Regulations, lodging and college/university educational uses are permitted as a matter-of-right. See 11-I DCMR § 302.1 and 11-U DCMR §§ 510.1(o), 512.1(a),

515.1(a), and 515.1(c). Therefore, the proposed modification conforms with the 2016 Zoning Regulations as they apply to the requested change in use.

III. PROPOSED MODIFICATIONS

A. Proposed Uses

Pursuant to Z.C. Order No. 08-34, the Property was approved to be developed with the Commercial Building containing approximately 297,311 square feet of gross floor area and a maximum building height of 130 feet and 12 stories. The Applicant requests approval to modify the first-stage PUD for the Property by permitting office, hotel, and/or college or university educational uses, in addition to the already approved ground floor retail use, in the Commercial Building. The overall height, bulk, and density of the Commercial Building will not change from that approved under the first-stage PUD. If the modification request is approved, the Applicant will prepare and submit architectural drawings as part of a second-stage PUD application for the Property, at which time the Applicant will also identify the selected use(s) for the Commercial Building.

The proposed commercial uses are consistent with the goals of the Overall Project to create a mixed use development. Both hotel and/or educational uses will contribute to daytime, evening, and weekend pedestrian activity in the area, and in the case of a hotel use, will help to satisfy the demand for overnight lodging in the downtown core. The proposed hotel and/or educational uses will complement the mix of existing uses within the Overall Project and will support the other commercial and institutional uses in the surrounding neighborhood. Moreover, hotel and/or educational uses will both bring economic benefits to the District through the generation of job growth for a wide-ranging workforce. These uses will create stable new jobs with fair wages and benefits for District workers, thus minimizing income inequality and helping to improve the city's

affordable housing crisis. Finally, under this proposal, the Applicant will continue to provide the on-site market rate and affordable housing that was approved in the original PUD application

As more fully set forth in the Comprehensive Plan Analysis (Exhibit C), permitting additional uses within the Commercial Building is not inconsistent with (i) the Comprehensive Plan's Future Land Use Map (Exhibit D), which designates the Overall PUD Site as High-Density Commercial; (ii) the Generalized Policy Map (Exhibit E), which designates the Overall PUD Site within Central Washington and in the Central Employment Area; or (iii) with a variety of guiding principles and major elements of the Comprehensive Plan's written component.

B. Modifications to Approved Conditions

In order to implement the proposed modification, the Applicant proposes revisions to the following conditions approved in Z.C. Order No. 08-34:

Decision No. A(4): The Overall Project shall have an approximate gross floor area of 2,226,625 square feet, or 8.74 FAR based on the Site Area. As shown on the Final First Stage PUD Plans, the Overall Project shall include approximately 1,910,386 square feet of gross floor area devoted to office uses of which up to 276,688 square feet of gross floor area may be devoted to "lodging" and/or "education, college/university" uses within the Center Block, a minimum of 62,687 square feet of gross floor area devoted to retail uses, approximately 180,384 square feet of gross floor area devoted to residential uses, and approximately 73,168 square feet of gross floor area devoted to institutional uses related to the Holy Rosary Church and the Jewish Historical Society.

IV.
FLEXIBILITY UNDER PUD GUIDELINES

A. Approved Zoning Flexibility

The PUD process was created to allow greater flexibility in planning and design than may otherwise be possible under conventional zoning procedures. As part of the first-stage PUD approval, the Zoning Commission granted flexibility from the loading requirements of the 1958 Zoning Regulations to allow for shared use of the loading facilities for the Overall Project within a single below-grade loading facility. The Applicant does not propose to change the approved

loading facilities or configuration, and as described herein, the approved loading facilities will adequately accommodate the anticipated demand generated by the proposed hotel and/or educational uses. Thus, no additional loading flexibility is needed.

B. Proposed Zoning Flexibility

The Applicant does not request any additional zoning flexibility as part of this application. If additional zoning relief is needed, the Applicant will submit that request as part of the second-stage PUD application for the Property.

C. Approved Design Flexibility

Pursuant to Z.C. Order No. 08-34, Decision No. A.10, the Commission granted design flexibility for the Overall Project, which was superseded in Z.C. Order No. 08-34E to the following:

- a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atria and mechanical rooms, provided that the variations do not change the exterior configuration of the building;
- b. To make refinements to the garage configuration, including layout, parking spaces and other elements, so long as the total number of parking spaces provided meets the number of spaces required by Z.C. Order No. 08-34 (i.e., 1,146 spaces in the below-grade, consolidated parking area);
- c. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of materials;
- d. To vary the location, attributes and general design of the public spaces and streetscapes incorporated in the project to comply with the requirements of and the approval by the District Department of Transportation Public Space Division.
- e. To locate retail entrances in accordance with the needs of the retail tenants and to vary the façades in accordance with the specifications for the Kit of Parts identified in Condition Nos. A.11 and A.12 and to locate retail or service uses where "retail" is identified and to locate retail, service or office uses where "retail/office" is identified;

- f. To vary components of the project to coordinate or comply with modifications to the I-395 ramp systems resulting from the environmental review process required by the National Environmental Policy Act, including but not limited to modifications to ramp systems and freeway configuration, so long as such changes do not change the exterior configuration of the buildings or modify the site plan for the Overall Project; and
- g. To make minor refinements to exterior materials, details and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylight, architectural embellishments and trim, window mullions and spacing, or any other changes to comply with the District of Columbia Building Code or that are necessary to obtain a final building permit or any other applicable approvals.

D. Proposed Design Flexibility

The Applicant does not request any modifications to the design flexibility approved in Z.C. Order No. 08-34E. If additional flexibility is needed, the Applicant will submit that request as part of the second-stage PUD application for the Property.

V.
THE PROJECT MEETS THE STANDARDS OF THE
ZONING REGULATIONS AND THE PUD REQUIREMENTS

The first-stage PUD was approved under the 1958 Zoning Regulations. As set forth in 11-A DCMR § 102.4, and as stated above, this modification is processed under the procedural requirements of the 2016 Zoning Regulations and the substantive requirements of the 2016 Zoning Regulations as they apply to the requested change in use.

A modification of significance to an approved first-stage PUD must meet the first-stage PUD application requirements. *See* 11-X DCMR § 302.2(a) and 11-Z DCMR § 300.11. However, the scope of a hearing for a modification of significance is limited to the impact of the modification on the subject of the original application, and does not permit the Zoning Commission to revisit its original decision. *See* 11-Z DCMR § 704.4. In this case, the modification is limited to the use of the Commercial Building and does not materially impact the design, planning, benefits and amenities, or impacts that formed the basis of the Commission's prior determination that the

project complied with the overall PUD evaluation standards. As set forth below, the modified project continues to comply with the evaluation standards approved in Z.C. Order No. 08-34 for the first-stage PUD.

A. Area Requirements Under Section 2401.1 (Subtitle X § 301.1)

Pursuant to 11 DCMR § 2401.1 of the 1958 Zoning Regulations, the minimum land area for a PUD in the C-4 District is 15,000 square feet. Pursuant to Z.C. Order No. 08-34, Conclusion of Law No. 4, the Zoning Commission found that the PUD Site met the minimum land area requirements of 11 DCMR § 2401.1. This application does not propose any changes to the land area for the PUD Site. Moreover, the land area for the Property itself is 32,718 square feet, which is greater than the minimum requirement.

B. Height and FAR Requirements Under Section 2405 (Subtitle X §§ 303.3, 303.4, 303.7)

Section 2405 of the 1958 Zoning Regulations set forth the maximum height and density standards for a PUD. Pursuant to Z.C. Order No. 08-34, Conclusion of Law No. 5, the Zoning Commission found that the PUD was within the applicable height, bulk, and density standards of the Zoning Regulations for a PUD within the C-4 Zone District. The Commission also found that the project reconnects the city, was appropriate for its site, and that the impacts of the Overall Project were not unacceptable. *Id.* The height and bulk of the Commercial Building has not changed in this application, and therefore will continue to meet the zoning standards and not create any unacceptable impacts.

C. Not Inconsistent with Comprehensive Plan Under Section 2403.4 (Subtitle X § 304.4(a))

Pursuant to 11 DCMR § 2403.4 of the 1958 Zoning Regulations, the Zoning Commission shall find that a proposed PUD is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site. In addition, a request for a

modification of significance to an approved first-stage PUD must meet the first-stage PUD application requirements, including an evaluation of the Comprehensive Plan. *See* 11-X DCMR § 302.2(a) and 11-Z DCMR § 300.11. As set forth in the Comprehensive Plan Analysis (Exhibit C), the proposed hotel and/or educational uses at the Property are not inconsistent with the Future Land Use and Generalized Policy Maps, comply with the guiding principles of the Comprehensive Plan, and further a number of the major elements of the Comprehensive Plan. *See* Z.C. Order No. 08-34, Finding of Fact (“FF”) No. 87.

D. Impacts of the Project Under Section 2403.3 (Subtitle X § 304.4(b))

Pursuant to 11 DCMR § 2403.3 of the 1958 Zoning Regulations (11-X DCMR § 304.4(b)), the Zoning Commission shall find that proposed developments do not result in unacceptable project impacts on the surrounding area or on the provision of city services and facilities but instead shall be found to be either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the project. Pursuant to Z.C. Order No. 08-34, Conclusions of Law No. 5-6, the Commission found the impacts of the Overall Project were not unacceptable and that the application could be approved with conditions to ensure that the potential adverse effects on the surrounding area from the development would be mitigated. As described herein, the proposed uses will not result in unacceptable project impacts on the surrounding area or on the operation of city services and facilities.

As set forth in the transportation assessment memorandum dated April 15, 2019, and prepared by Wells + Associates (Exhibit F), the proposed hotel and/or educational use will not have an adverse transportation impact as compared to the previous evaluation for office use at the Property. The anticipated trip generation for the hotel use will result in 12 more vehicle trips than the office use during the morning peak hours and 16 fewer vehicular trips than the office use during

the afternoon peak hours. If the Applicant moves forward with the hotel use at the Property, then it will work with DDOT during the second-stage PUD application to complete any required studies and determine what, if any, mitigation is required to ensure that there are no adverse impacts as a result of the change in use. The anticipated trip generation for the college/university educational use will generate three more vehicle trips than the office use during the morning peak hours and one more vehicle trip than the office use during the afternoon peak hours. This minimal increase in vehicle trip generation is below DDOT's threshold for a traffic impact analysis and is not considered significant. Therefore, no adverse traffic impacts are anticipated as a result of the proposed modification.

In addition, the approved parking and loading facilities will adequately accommodate the anticipated demand generated by the proposed hotel or educational uses. As set forth on pages 5-6 of Exhibit F, parking demand for hotels within the District is approximately 0.20 vehicles per room, compared to approximately 3.30 vehicles per 1,000 square feet of office space. Thus, the parking demand for a hotel use would be significantly lower than for the approved office use. For college/university uses, parking demand is based on the overall campus and individual buildings. If the Applicant moves forward with the college/university use at the Property, then it will work with DDOT at the time of filing the second-stage PUD application to complete any required studies to demonstrate that the parking allocated for the college/university use is adequate. As noted below, parking is not required for a college/university use in the C-4 district.

Moreover, according to the Zoning Regulations, the proposed hotel and educational uses generate lower parking and loading requirements than the approved office use. *See* Exhibit F, pp. 5-6, indicating that the hotel use generates a requirement of approximately 33 parking spaces, the college/university use generates no parking requirements, and the office use generates a

requirement of approximately 154 parking spaces. For loading, one 30-foot berth, one 55-foot berth, and one 20-foot service/delivery space are required for hotel use; one 30-foot berth, one 55-foot berth, and one 20-foot service/delivery space are required for college/university use; and three 30-foot berths are required for the office use. Thus, although the proposed hotel and college/university uses require a 55-foot berth, the total number of required berths is less than the number required for the approved office use, and with a 55-foot berth provided, the proposed facilities are adequate. Based on the foregoing, the approved garage facilities will adequately accommodate the anticipated parking and loading demand and required facilities for the proposed hotel and/or educational use.

The Applicant has met with DDOT to review the use modifications proposed herein and DDOT has indicated that they will work with the Applicant at the time that the second-stage PUD application is filed to evaluate the final design, operation, and program of the parking and loading facilities of the Commercial Building to ensure that no adverse impacts are created as a result of the final design, operation and program.

E. Public Benefits and Project Amenities Under Section 2403.5 (Subtitle X § 304.4(b))

Pursuant to 11-X DCMR § 304.3, the Zoning Commission “shall judge, balance, and reconcile the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case.”

In the first-stage PUD approval, the Zoning Commission determined that the “number and quality of the project benefits and amenities offered are a more than sufficient trade-off for the flexibility and development incentives requested.” Z.C. Order No. 08-34, Conclusion of Law No. 7. The Commission also found that the PUD offered “a high level of public benefits and project

amenities. When compared with the amount of development flexibility requested and project impacts, the Applications satisfy the balancing test required in § 2403.8 of the Zoning Regulations.” Z.C. Order No. 08-34, FF No. 82.

The approved public benefits included housing and affordable housing; historic preservation; exceptional urban design, landscaping, and the creation of open spaces; environmental benefits; transportation management measures; employment and training opportunities; space for technology incubators; benefits related to the construction of new facilities for the Holy Rosary Church; and most importantly construction of a platform over the Center Leg Freeway and the re-opening of F and G Streets, NW. *See* Z.C. Order No. 08-34, FF No. 79. This major infrastructure project has had the effect of linking District neighborhoods that have historically been separated, creating a more efficient use of underutilized land, and revitalizing the neighborhood. The infrastructure required to construct the platform represents an investment of over \$200 million. The platform and the related benefits are currently being delivered. The proposed modification to permit office, hotel and/or educational uses in the Commercial Building will not impact these approved benefits and amenities or the Commission’s original conclusion of law relating to the balancing of benefits and amenities to the development flexibility granted, and the Applicant does not propose to change any of the approved public benefits as part of this modification application.

VI.
WAIVER FROM SUBTITLE Z § 400.9

Pursuant to 11-Z DCMR § 400.9, a public meeting to consider setting down a contested case (other than a map amendment) shall not occur less than 35 days after the application is filed. Pursuant to 11-Z DCMR § 400.10, if an applicant seeks to waive the 35 day period between filing

the application and a public meeting to consider setdown, it shall obtain the consent of the Office of Planning and the affected ANC, and provide such proof to the Commission.

In this case, the Applicant is filing its application on July 1, 2019 and requests that the Commission waive the requirement of 11-Z DCMR § 400.9 and consider setdown of the application at its public meeting on July 29, 2019.

Consistent with 11-Z DCMR § 400.10, the Applicant has received consent for the waiver from the Office of Planning and the affected ANCs 2C and 6C, which will file letters in support of the waiver under separate cover.

VII. **ENGAGEMENT WITH THE COMMUNITY**

The Applicant mailed a Notice of Intent to file the subject application to the owners of all property within 200 feet of the perimeter of the PUD Site on May 16, 2019.³ The Applicant has also had extensive engagement with ANCs 2C and 6C since that time. Specifically, on June 5, 2019, the Applicant presented the application generally and requested support for its request to seek a waiver from 11-Z DCMR § 400.9 to ANC 6C's Planning, Zoning, and Environment Committee, and on June 12, 2019, ANC 6C voted to support the Applicant's waiver request. The Applicant presented the application and the waiver request to ANC 2C at its public meeting on June 11, 2019. ANC 2C voted to support both the modification application itself and the 35-day waiver request. As noted above, the ANCs will separately be filing letters of consent to the 35 day waiver request following the filing of this submission.

³ Although this application applies to Square 566, Lot 861 only, the Applicant sent the NOI to the owners of property located within 200 feet of the entire Capitol Crossing PUD Site in order to provide a broadest range of notice.


In addition to the extensive engagement already undertaken, the Applicant will continue to work closely with the community and with the affected ANCs throughout the application process.

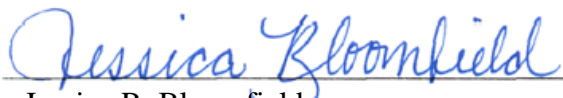
VIII.
CONCLUSION

For the reasons stated above, the Applicant submits that this application for a modification of significance to the approved first-stage PUD for the Commercial Building located at Square 566, Lot 861 meets the standards of 11-X DCMR, Chapter 3 and Subtitle Z of the 2016 District of Columbia Zoning Regulations; meets the standards and requirements of Z.C. Order No. 08-34; is not inconsistent with the purposes and intent of the Zoning Regulations and Zoning Map and with the land use objectives of the District of Columbia; will enhance the health, welfare, safety, and convenience of the citizens of the District of Columbia and provide significant public benefits and project amenities; and will advance important goals and policies of the District of Columbia. The Applicant therefore respectfully requests that the Zoning Commission set down the application for a public hearing.

Respectfully submitted:

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