

January 23, 2018

VIA IZIS

Anthony Hood, Chairman  
District of Columbia Zoning Commission  
441 4<sup>th</sup> Street NW, Suite 200S  
Washington, DC 20001

Re: Z.C. Case No. 07-13G – Application of Lowe for Approval of a Modification of Significance for an Approved Planned Unit Development for Lot 801 in Square 643-S (the “Property”) – Pre-Hearing Submission

Dear Chairman Hood and Members of the Commission:

On December 11, 2017, the Zoning Commission (the “Commission”) set down the above-referenced case for a public hearing. Lowe (the “Applicant”) hereby submits additional information into the record with respect to the project (the “Project”) in response to comments raised by the Commission at the public meeting held on December 11, 2017, and by the Office of Planning (“OP”) in its setdown report dated December 1, 2017.

**I. Building Design and Uses**

A. Building Appearance

OP requested additional detail regarding design of the building façade, including detailed drawings of the window systems. The Applicant is continuing to develop the details of the building façade, including the window reveal at the “glass and metal panel” portion of the façade as well as the window frame system at the “all glass” portion of the façade. The Applicant is focused on ensuring that the façade design incorporates aspects that provide depth to the overall appearance of the building and will submit detailed drawings to that effect prior to the public hearing.

OP also requested additional detail regarding the appearance of the museum's main eastern lobby and the design of the ground-floor residential units. The Applicant will provide detailed renderings of the lobby that accurately convey design detail as well as the types of activity anticipated at the museum's entrance. The Applicant is also continuing to refine the design of the ground-floor residential units and will provide the requested plans and renderings showing such details prior to the public hearing.

#### B. Balconies

The current design of the residential building incorporates 87 private balconies/terraces for approximately 18% of all residential units. At setdown, OP and the Commission requested that the Applicant consider increasing the amount of balconies in order to make the units "more livable" and add a level of activity to the public realm. From a façade design perspective, increasing the number of balconies would disrupt the design intent and approach of the building. Moreover, the expansive central courtyard and rooftop amenity spaces will provide residents with ample access to outdoor space. Finally, the courtyard as well as other design elements, such as the ground-level walkout units, will work together with the provided number of balconies to create "eyes on the street" within and surrounding the Project.

#### C. Uses

The uses proposed in the application are generally consistent with the uses outlined in the approved PUD. The east and central portions of the historic school will contain the proposed museum, which will be a new museum of contemporary art that draws from the Rubell Family Collection, one of the world's largest privately owned contemporary art collections.

OP has requested additional information refining those commercial uses within the Project. For the west wing of the historic school, the Applicant anticipates tenants that are complementary to the museum use (such as a non-profit or institutional user, or a collaborative office user – such as WeWork), which will increase daytime activity and support the other uses. To this end, the Applicant believes that the requested range of office, institutional, or arts/design/creation uses would adequately cover the range of potential uses.

For the ground floor of the residential building's east wing, the Applicant has requested flexibility to convert residential units to a compatible commercial use that would complement the museum and activate the courtyard. For example, an event-driven restaurant or café that integrates the traditional eating experience with an arts/entertainment aspect (e.g., art gallery with café, Busboys and Poets) would cultivate a cultural hub within the Project for both building

residents and visitors. This could also serve to activate the courtyard, which could incorporate outdoor seating related to this use. A range of retail, service, eating/drinking establishments, or arts/design/creation uses would cover the anticipated type of use proffered here. Although “maker uses” would not be precluded in this space, the Applicant is not specifically targeting such uses.

#### D. Courtyard

The Applicant intends to open the courtyard to the public daily between 8 A.M. and 5 P.M. The courtyard will be enclosed by gates outside of such hours. The Applicant is continuing to develop the design of such gates and will provide detailed drawings prior to the public hearing.

#### E. Rooftop

The Applicant is continuing to develop the details of the rooftop and will submit a revised rooftop plan depicting the height and setback of all structures prior to the public hearing.

#### F. Parking

OP requested the Applicant provide the range of flexibility that it is requesting with respect to vehicular parking spaces. After further review, the Applicant has further reduced the amount of parking within the Project, and the Applicant is requesting the flexibility to incorporate 249 – 275 vehicular parking spaces.

## II. Project Benefits and Amenities

### A. Corcoran Gallery of Art Replacement Amenities

The application continues to propose the same public benefits and amenities proffered in the approved PUD, with the exception of the benefits specifically related to the Corcoran Gallery of Art (“Corcoran”), which is no longer in existence. The conditions in the approved PUD tied to Corcoran specifically are:

(1) scheduling one day each year in which ANC 6D residents will receive free admission to Corcoran;

(2) providing five year-long individual memberships to both Corcoran and a special interest society to District public school teachers; and

(3) providing five annual full scholarships to ANC 6D residents to participate in Camp Creativity, a program run by Corcoran.

To replace these benefits, the Applicant proposes providing free admission to the museum for all residents of the District. The proposed benefit provides a much greater value to residents of ANC 6D as well as the District as a whole, and it will greatly improve access to and engagement with the arts.

#### B. Affordable Housing

At setdown, OP and the Commission requested clarity regarding the relationship between the Project's Inclusionary Zoning ("IZ") commitment and current IZ requirements. As background, the legislation authorizing the disposition of the Property from the District (the "Legislation"), as well as the Declaration of Covenants entered into between the District and the prior developer of the Project (the "Declaration"), require that the developer set aside, for the first 50 years of the Project, twenty percent of the residential units for households earning no more than 80% of the area medium income ("AMI"). This obligation was included in the original PUD, which was set down for a public hearing in May 2007 and therefore pre-dated the applicability of IZ. This commitment (and related grandfathering) maintained through the modifications and extensions of the PUD. Pursuant to 11-A DCMR §§ 102.3(a), and 102.4, the PUD continues to be vested under the 1958 Regulations with respect to its affordable housing commitment, since it has not been modified.

OP and the Commission have since requested that the Applicant consider (1) providing that a percentage of the affordable units remain affordable for the life of the Project, and (2) examining a deeper affordability level for a portion of the affordable units, consistent with the current IZ requirements. In response to this request, the Applicant is now proposing to set aside the following *for the life of the Project*:

- Eight percent (8%) of the residential units for households earning no more than 60% AMI; and
- Twelve percent (12%) of the residential units for households earning no more than 100% AMI.

Note that the changes to the affordability requirements will require amendments to the Legislation and the Declaration, as well as confirmation with OP and DHCD.

The Applicant's revised proposal meets the current IZ standard and provides a deeper affordability level that will greater reach the types of residents intended to be benefitted by

affordable housing. The reservation of 12% percent of the units for households earning no more than 100% AMI provides an additional aspect of affordability that will also extend for the life of the Project. Rent for a typical 2BR/2BA unit subject to the 100% AMI limit would be 30-35% below market-rate rent for the same unit, based on current rents and current affordability guidelines. Moreover, by maintaining units at 100% AMI, the Applicant will ensure a significant portion of the Project will remain within reach of a broad range of residents even if market rents otherwise rise significantly.

With respect to larger unit types, the current design includes a minimum of 19 two-level “townhouse-style” units, which are located on the ground floor of the Project. These units will be attractive to families, particularly because the ground level access for each unit facilitates mobilization with strollers and young children. These units are currently configured as two-bedroom plus den units. Depending on their final configuration and layout, some of these units may ultimately qualify as three-bedroom units if the lower-level den can be placed on the exterior wall so that it has direct window access. The Applicant will provide an update on these efforts prior to the public hearing.

Finally, the Applicant will comply with current requirements regarding the proportional ratio of unit types between affordable units and market rate units. This will ensure that a portion of the larger units will be set aside as and remain affordable.

#### C. Sustainability

The Project is currently required to achieve the equivalent of a Silver rating under the LEED-2009 standard. At setdown, OP and the Commission requested that the Applicant commit to LEED Gold v.4 certification. The Applicant is able to commit to achieving actual certifications at the Gold level under the LEED v.4 standard for the residential component of the Project and the Silver level under the LEED v.4 standard for the historic portion of the Project. Achieving LEED Gold v.4 certification for the historic building is impractical due to the limitations of the existing building and its historic nature. The Applicant’s commitment is a meaningful upgrade to the previous commitment of LEED Silver-2009 standard. The applicant is also exploring the feasibility of additional sustainability options, including the addition of solar panels.

#### D. Employment and Training Opportunities

The Applicant continues to commit to opportunities under both First Source Employment and Certified Business Enterprise, as set forth in the existing approved PUD.

### **III. Phasing and Flexibility**

The Applicant is continuing to evaluate the potential phasing of the development of the Project and will provide a detailed rendering showing the interim condition of the Project during such phasing. The Applicant will also provide a complete list of requested zoning and design flexibility prior to the public hearing.

### **IV. Miscellaneous**

The Commission raised several items at the public meeting that are not addressed in the OP setdown report. The Applicant has addressed those items below.

#### **A. Randall Recreation Center**

##### *Turnaround Area*

The Randall Recreation Center (the “Center”) is located adjacent to the Project on District-owned land and will share a turnaround area with the museum to facilitate vehicular traffic to and from the Center and the Project. The turnaround area will be located on the Center’s property. The Legislation authorizes the District to grant an access easement over former Half Street to permit the turnaround area. The Applicant plans to meet with the Public Space Committee prior to the public hearing in order to obtain conceptual approval for the driveway to the turnaround.

##### *Renovations*

Portions of the Center have undergone certain repairs as recently as 2015. The Applicant hopes that the development of the Project will help further activate and support uses at the Center.

#### **B. Schools**

The Applicant anticipates that DCPS will participate in the interagency review of the Project to evaluate the District’s ability to meet the potential increase in students as a result of the Project. The residential units proposed in the Project are not new, but rather have been forecasted for nearly a decade as a pipeline development. DCPS has already begun anticipating the increasing need for additional classrooms in the neighborhood as the surrounding areas

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continue to grow, and it recently addressed this growth by re-opening nearby Van Ness Elementary School.<sup>1</sup> The Applicant looks forward to working with DCPS in its review.

**V. Public Hearing – Hearing Fee, Testimony, Witnesses, and Evidence**

Enclosed is a check for \$7,520.50, which represents the hearing fee, as determined pursuant to the Hearing Fee Calculation Form attached as Exhibit A. At the hearing, the Applicant will offer Hany Hassan as an expert in the field of architectural design, Dan VanPelt as an expert in the field of transportation planning and engineering, and Lisa Delplace as an expert in the field of landscape architecture. Resumes for the proffered experts are attached as Exhibit B. All three proffered experts have been previously recognized as experts in their respective fields.

Outlines of the testimony of all of the Applicant's proposed witnesses is attached as Exhibit C. The Applicant intends to present testimony from Mark Rivers on behalf of Lowe as well as from the three experts.

A list of all publicly available maps, plans, and other documents supporting this application is attached as Exhibit D.

No individuals or entities have a lease with the Applicant for any portion of the buildings located on the Property.

The Applicant's Comprehensive Transportation Report has been submitted to DDOT and it is attached as Exhibit E.

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<sup>1</sup> Source: Capitol Riverfront BID (located at <https://www.capitolriverfront.org/go/van-ness-elementary-school>).

**Exhibits**

The following documents are attached to this submission:

- Exhibit A      Hearing Fee Calculation Form
- Exhibit B      Expert Witness Resumes
- Exhibit C      Outlines of Witness Testimony
- Exhibit D      List of Publicly Available Documents
- Exhibit E      Comprehensive Transportation Review

**Conclusion**

The Applicant has satisfied the requirements for consideration of the application and respectfully requests that the Commission schedule a public hearing on the matter.

Sincerely,  
/s/ \_\_\_\_\_  
David M. Avitabile

/s/ \_\_\_\_\_  
Benjamin D. Kayden

cc:    Mark Rivers / Brant Snyder, Lowe Enterprises  
      Gail Fast, ANC 6D01  
      Cara Shockley, ANC 6D02  
      Ronald Collins, ANC 6D03  
      Andy Litsky, ANC 6D04  
      Roger Moffat, ANC 6D05  
      Rhonda Hamilton, ANC 6D06  
      Meredith Fascett, ANC 6D07



**CERTIFICATE OF SERVICE**

On January 23, 2018, I caused a copy of the foregoing letter and enclosure to be delivered by hand or electronic mail to the following:

Matthew Jesick  
Office of Planning  
1100 4<sup>th</sup> Street, SW, Suite E650  
Washington, DC 20024

Aaron Zimmerman  
District Department of Transportation  
55 M Street SE, 5<sup>th</sup> Floor  
Washington, DC 20003

ANC 6D  
1101 4<sup>th</sup> Street SW, Suite W130  
2020 Pennsylvania Avenue, NW  
Washington, DC 20024

/s/ \_\_\_\_\_  
David Avitable

**CERTIFICATION OF COMPLIANCE WITH SUBTITLE Z, SECTION 401 OF THE  
ZONING REGULATIONS**

Lowe (“Applicant”) hereby certifies that this pre-hearing submission, which has been filed with the Zoning Commission on January 23, 2018, complies with the provisions of Subtitle Z, Section 401 of the Zoning Regulations as set forth below, that the application is complete, and that no further changes are expected to be submitted prior to the public hearing on this application, other than the changes discussed in detail below.

At its December 11, 2017, Public Meeting, the Commission voted to set down the application for a public hearing. In response to comments made by members of the Commission during the public meeting and in the Office of Planning Setdown Report dated December 1, 2017, the Applicant has provided additional information regarding the proposed PUD Project. The additional information requested includes:

- 1. Building Design and Uses. OP and the Commission requested additional detail regarding the design of certain aspects of the building as well as the commercial uses within the Project.*

The information requested by OP and the Commission with respect to commercial uses is provided herein. Further, in response to requests from OP and the Commission, the Applicant provided additional information herein regarding balconies and requested parking flexibility. Additional information regarding the design of each of the building façade, the museum lobby, the ground-floor residential units, the courtyard, and the rooftop will be provided in a supplemental submission.

- 2. Project Benefits and Amenities. OP and the Commission requested that the Applicant propose benefits to replace the previously contemplated benefits related to the Corcoran Gallery of Art, which no longer exists. OP and the Commission also requested clarity regarding the proposed affordable housing component of the Project. Finally, OP and the Commission requested that the Applicant address its LEED commitment.*

The Applicant has proposed providing free admission to the museum for all District residents to replace the benefits tied to the Corcoran Gallery of Art. Further, as discussed in detail herein, the Applicant has proposed a new affordable housing program that meets the current IZ standard and provides a deeper affordability level within the Project. Finally, the Applicant has committed to achieving actual certifications at the Gold level under the LEED v.4 standard for the residential component of the Project and the Silver level under the LEED v.4 standard for the historic portion of the Project.

3. *Phasing and Flexibility. OP and the Commission asked the Applicant to provide additional details regarding potential phasing of the Project as well as clarity regarding the requested zoning and design flexibility.*

The Applicant will submit details of the foregoing in a supplemental submission.

In all other respects, the Project is the same as filed on September 11, 2017.

<b><u>Subsection (Subtitle Z)</u></b>	<b><u>Page</u></b>
401.1(a) Information Requested by the Commission; Updated Materials Reflecting Changes Requested by the Commission	Pre-Hearing Submission
401.1(b) Witnesses	Pre-Hearing Submission
401.1(c) Summary of Testimony of Applicant's Witnesses	Exhibit C
Resumes of Expert Witnesses	Exhibit B
401.1(d) Additional Information, Reports or Other Materials Which the Applicant Wishes to Introduce	Pre-Hearing Submission
401.1(e) Reduced Plans	Application (Exhibit J)
401.1(f) List of Publicly Available Maps, Plans, and Other Documents	Exhibit D
401.1(g) Estimated Time Required for Presentation of Applicant's Case	1 Hour
401.2 Memoranda of Understanding with Agencies and Entities regarding Public Benefits	N/A
401.3 List of Names and Addresses of All Property Owners within 200 Feet of the Subject Property	Application (Exhibit E)
List of Names and Addresses of All Tenants within 200 Feet of the Subject Property	N/A
401.7 Comprehensive Transportation Review (also provided to DDOT)	Exhibit E

Respectfully submitted,

/s/  
David Avitabile