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VIA IZIS AND HAND DELIVERY

Zoning Commission of the District of Columbia
441 4th Street, N.W.
Suite 210
Washington, DC 20001

Re: Z.C. Case No. 11-03J
Supplemental Prehearing Submission
Second-Stage Planned Unit Development and
First-Stage Planned Unit Development Modification for
Phase 2 at the Southwest Waterfront / The Wharf
Southwest, Washington, DC

Dear Members of the Commission:

On behalf of the Applicant, Wharf Phase 3 REIT Leaseholder LLC, on behalf of the District of Columbia Office of the Deputy Mayor for Planning and Economic Development, we hereby submit the following supplemental prehearing information in support of the second-stage planned unit development and first-stage planned unit development modification for Phase 2 at the Southwest Waterfront / The Wharf (Z.C. 11-03J)

A. Revised Architectural Drawings

Since submission of its initial application and prehearing submission, the Applicant has further refined and modified the plans for the project, in part in response to comments provided by the Zoning Commission (“Commission”); the Office of Planning (“OP”); the U.S. Commission of Fine Arts (“CFA”), Advisory Neighborhood Commission 6D (“ANC”), and other stakeholders. A summary of refinements and modifications that were made in response to comments provided by CFA is included below. Other modifications made in response to the ANC and stakeholder groups include: (i) the addition of public restrooms within the ground floor level of the Parcel 10 Building adjacent to M Street Landing, (ii) transportation improvements such as the installation of an additional Capital Bikeshare station and a ZipCar within/adjacent to Waterfront Park, (iii) revisions to the marina design for the benefit of the liveaboard slip license agreement holders, (iv) adjustments to the public stair in M Street Landing to facilitate access to Arena Stage, and (v) enhancements to the design of the Terrace park.

As such, attached hereto as Exhibit A is a fully updated set of plans that supersede the plans that were submitted with the Applicant's initial application ("Updated Architectural Plans and Drawings"). In addition to design refinements to the various buildings and open spaces within the project, the Updated Architectural Plans and Drawings include the additional information requested by the Commission and OP at setdown, including: (i) information on the interior space of the Parcel 6/7 Building and WB1 penthouses, (ii) building wall and window design details, (iii) details on paving within M Street Landing, (iv) information on project phasing and interim conditions; (v) and additional ground level renderings looking from Maine Avenue toward the Washington Channel.

Similar to the plans submitted with initial application, the Updated Architectural Plans and Drawings, dated October 13, 2017, consist of four volumes that are organized according to the hearing schedule set by the Commission for the application, and that which was published in the *DC Register*, as follows:

Hearing Date	Topics
November 2, 2017	Overall Plan Elements / Volume C (Master Plan, Parcel 10, Water Building 3, M Street Landing, The Terrace, and Wharf Marina)
November 6, 2017	Volume B (Parcel 8, Parcel 9, Water Building 2, The Grove, and Marina Way)
November 9, 2017	Volume A (Parcel 6, Parcel 7, Water Building 1, and The Oculus)

B. Responses to Issues Raised by the Commission and Office of Planning

At the July 24, 2017, setdown meeting ("setdown"), the Commission and OP made comments and requested additional information on several components of the project. The Applicant provided responses to several of the comments provided in its prehearing statement submitted on August 4, 2017, which is included in the case record as Exhibits 12, 13A – 13D. The following information contains the Applicant's responses to the remainder of the comments and requests made by the Commission and OP:

1. Upper Level Building Signage

At setdown, the Commission requested the Applicant to evaluate the upper level building signage proposed in the project, and to provide information on how the Commission has addressed similar signage for other projects within Phase 1 of the Southwest Waterfront redevelopment project. As part of its prehearing statement, the Applicant stated that building and retail level signage is generally addressed in the first-stage PUD (Z.C. Order No. 11-03), but upper level building signage is not specifically addressed. Similarly, subsequent second-stage PUD approvals for Parcels 2 – 5, Parcel

11, and Pier 4 do not specifically address upper level building signage. The Commission did, however, specifically address upper level building signage during its review of the office building approved on Parcel 1 through the approval of potential upper level building signage zones for each building façade that establish general limits of where potential building signage could be located, while still affording the Applicant a reasonable degree of flexibility to develop building signage once building tenants are identified. The approved signage zones identify the location and general dimensions for potential upper level signage within which the Applicant, in consultation with future building tenants, shall consider the placement of signage.

As stated in the Applicant's prehearing statement, the signage drawings approved by the Commission for Parcel 1 were used as the basis for the signage zone drawings submitted with the initial application. In further response to the Commission's comments at setdown, the Applicant has further evaluated the proposed upper level building signage and has substantially reduced the number and extent of upper level signage zones compared to the initial application, particularly with respect to the zones that face the Washington Channel. The Applicant's revised upper level signage plans are included in the Updated Architectural Plans and Drawings attached as Exhibit A, as follows:

- Volume A: Sheets 1.14 – 1.15 (Parcel 6/7), Sheet 2.17 (WB1)
- Volume B: Sheets 1.48 – 1.49 (Parcel 8), Sheets 3.13 – 3.14 (WB2)
- Volume C: Sheet 1.23 (Parcel 10)

2. Parcel 6/7 Building and WB1 Penthouses

At setdown, the Commission requested additional information regarding the interior of the Parcel 6/7 Building and WB1 penthouses. Regarding the Parcel 6/7 Building, as shown in the Updated Architectural Plans and Drawings, the Applicant is proposing to utilize the Parcel 6/7 Building penthouse for office uses (Exhibit A, Volume A, Sheet 1.26, 1.28 – 1.29), in addition to required mechanical space. At this time, the Applicant has not determined whether the penthouse office space will be fully or partially devoted to leasable tenant space, or communal recreation/amenity space that is available to all occupants of the Parcel 6/7 Building. Regarding WB1, which contains two-stories of retail and marina service uses, the use of the penthouse will be primarily devoted to mechanical space. In addition, the WB1 penthouse will contain a limited amount of habitable space consisting of restrooms and storage related to the outdoor terrace that is accessory to the WB1 retail use (Exhibit A, Volume A, Sheet 2.12, 2.14 – 2.15).

3. Parcel 6/7 Building Winter Gardens

At setdown, the Commission requested additional information regarding the locations of the proposed winter gardens in the Parcel 6/7 Building. Upon further evaluation of the design, function, and feasibility of the winter gardens, the Applicant has removed the winter gardens from the Parcel 6/7 Building design, in part as a result of the winter gardens not being favorably received by the potential tenant market. A full set of revised plans and drawings for the Parcel 6/7 Building is included in Volume A, Sheets 1.2 – 1.42 of the Updated Architectural Plans and Drawings. The revised design of the Parcel 6/7 Building received concept approval from CFA at its September 21, 2017, public meeting.

4. Parcel 8 Penthouse Compliance with the 1910 Height of Buildings Act

During its discussion at the July 24, 2017, setdown meeting, the Commission requested the Applicant to evaluate whether the portions of the Parcel 8 Building penthouse that have a maximum height of 20 feet and contain one story of penthouse mechanical space above one story of habitable space are in compliance with the 1910 Height of Buildings Act (“Height Act”). Following setdown, the Applicant researched the legislative history of the recent amendment to the Height Act that permits human occupancy within a penthouse which is erected to a height of one story of 20 feet or less above the level of the roof. The Applicant’s research included a thorough review of all House and Senate Committee reports and hearing transcripts, the Congressional Record, the final Height Master Plan recommendation prepared by the National Capital Planning Commission (“NCP”), and the manner in which mechanical penthouses were regulated under the Height Act prior to the recent amendment allowing human occupancy. Based on its review of the aforementioned information, and as further described below, the Applicant came to the conclusion that the one story within a 20 foot maximum height requirement under the Height Act pertains to human occupancy penthouses (penthouse habitable space), and not mechanical penthouses (penthouse mechanical space).

On September 7, 2017, the Applicant met with the Zoning Administrator to review the proposed Parcel 8 Building penthouse plan and the results of the its research on the recent Height Act amendment. Upon review, the Zoning Administrator concurred that the proposed Parcel 8 Building penthouse is in compliance with the Height Act, including those portion of the penthouse that that have a maximum height of 20 feet and contain one story of penthouse mechanical space above one story of habitable space.

Prior to the recent amendment to the Height Act that allows human occupancy within a penthouse above the maximum permitted building height, the height of a mechanical penthouse under the Height Act was solely regulated by the 1:1 setback requirement, and there was no limitation on the number of stories a mechanical penthouse

could have.¹ In November 2012, NCPC and OP, upon request from Congress, initiated a year-long study of the Height Act to determine whether some modifications to the law could be beneficial to the city and its residents. In November 2013, NCPC and the District each submitted reports to Congress containing recommended Height Act modifications. On April 28, 2014 and May 6, 2014, the House and Senate, respectively, passed an amendment to the Height Act (*vis-a-vis* D.C. Code 6-601.05) such that the law now reads as follows (in relevant part):

“...except in the case of a penthouse which is erected to a height of one story of 20 feet or less above the level of the roof, no floor or compartment thereof shall be constructed or used for human occupancy above the top story of the building upon which such structures are placed;...”

Based on the language of the amended Height Act, the Applicant reads this provision as imposing the "one story of 20 feet or less" limitation on human occupancy within a penthouse, and not on the entire penthouse overall. Reading this provision in this manner would be consistent with the House of Representatives Committee report (H.R. 4192, Report 113-418), that was prepared for the Height Act amendment which clearly draws a distinction between a “mechanical penthouse” and a “human occupancy penthouse,” and describes the “one story of 20 feet or less” limitation as applying to a human occupancy penthouse. Specifically, the Purpose and Summary section of the Committee report states “[c]urrent federal law sets building height limits for buildings in the District of Columbia. It also allows for certain rooftop structures to be erected to a greater height than these limits, subject to approval by the Mayor of the District. For instance, ‘mechanical penthouses’ over elevator shafts can rise above the height limit, so long as they are set back from the roof edge by a distance equal to their height. This legislation permits certain human occupancy penthouses to be erected to a height that exceeds the statutory limits. Specifically, it permits approval of the erection on rooftops of human occupancy penthouses of a height of one story of 20 feet or less. These would also be subject to the one-to-one setback requirement.” (emphasis added).

In addition to the above, and noting that the recent Height Act amendment only involved a modification to allow human occupancy, to read the Height Act amendment as meaning a story of mechanical space can never be located above a story of habitable space would be inconsistent with how the height and number of stories of mechanical penthouses have historically been regulated under the Height Act. Furthermore, assuming all required setbacks are met, to interpret the Height Act amendment as allowing a 20 foot penthouse consisting of unenclosed mechanical equipment (“open to the sky”) on top of one story of habitable space, while not allowing the same 20 foot penthouse because

¹ The previous penthouse height limitation of 18’-6” was a requirement under the Zoning Regulations of the District of Columbia, not the 1910 Height Act.

the mechanical equipment has a roof, would end in a somewhat incongruous result since in both instances the 20 foot penthouse would be the same structure and would practically have the same aesthetic. Finally, to read the amended Height Act to allow mechanical equipment on top of a story of habitable space only when it is open to the sky would be contrary to Congress' intent for amending the Height Act - to provide additional benefit to the District and its residents (economic, housing) - as it would significantly reduce one's ability to provide penthouse habitable space where there is an absolute need for enclosed mechanical space. This is particularly true in instances of highly-sculpted buildings where roof space is limited, such as with the proposed Parcel 8 Building.

5. Ground-level Views from Maine Avenue, SW

In response to the Commission and OP requests for additional ground-level views from Maine Avenue, SW looking toward the Washington Channel and along Water Street toward the Parcel 10 Building, the Applicant has prepared additional ground-level renderings that are included in the Updated Architectural Plans and Drawings attached as Exhibit A, as follows:

- Volume A: Sheets 3.10 – 3.11
- Volume B: Sheets 2.4, 2.33, 2.35, 4.13 - 4.14, and 4.17
- Volume C: Sheet 1.4

6. Siting and Size of Water Buildings

In its setdown report dated July 14, 2017 (Exhibit 10), OP stated that the Applicant should ensure that the siting and size of the water buildings “minimize or augment views through the site to the waterfront, rather than block views,” and examine ways to minimize impacts to views through reductions in building size and/or slight adjustments to building location. OP requested renderings that show the relationship of the water buildings relative to views toward the Washington Channel from Maine Avenue and M Street, SW. As stated above, the Applicant has prepared additional ground-level renderings that are included in the Updated Architectural Plans and Drawings.

Regarding the siting of the water buildings, following setdown the Applicant analyzed the location of the water buildings in relation to views toward the Washington Channel from Maine Avenue and M Street, SW. As a result of this evaluation, the Applicant has shifted WB2 to the west such that the building is now located on the opposite side of the Marine Way view towards the Washington Channel and across from the Parcel 8 Building, when previously it was located adjacent to the Parcel 9 Building on the east side of Marina Way. The relocation of WB2 improves the viewshed along the M Street corridor and through M Street Landing toward the Washington Channel, while at

the same time maintaining an open view from Maine Avenue along Marina Way and increasing the distance between the WB2 retail/restaurant use and liveaboard vessels (Exhibit A, Volume B, Sheet 4.17).

7. Building Details and M Street Landing Paving Details

Included in its comments at setdown, OP requested the Applicant to supplement the application to include detailed drawings such as wall sections for the Parcel 6/7, Parcel 8, and Parcel 10 Buildings in order to show items such as the depth of window mullions, band courses, and slab projections, and additional details of the building facades. In addition, OP requested additional detail regarding the type of paver proposed for the main ground surface within M Street Landing. The Applicant has prepared the additional details requested by OP which are included in the Updated Architectural Plans and Drawings attached as Exhibit A, as follows:

- Parcel 6/7 Building: Volume A: Sheets 1.34 – 1.41
- Parcel 8 Building: Volume B: Sheets 1.43 – 1.47
- Parcel 10 Building: Volume C: Sheets 1.26 – 1.27
- M Street Landing Paving: Volume C: Sheets 3.12 – 3.13

8. Parcel 8 Building Balconies

In its setdown report, OP commented that the Parcel 8 Building design should contain more balconies, especially on the lower levels. In response to this comment, the Applicant has added 14 more balconies to the Parcel 8 Building, including several balconies on the lower levels of the building along Maine Avenue and Marina Way, SW (Exhibit A, Volume B, Sheets 1.8, 1.10 – 1.11).

9. Use of Renewable Energy Strategies

The Commission requested additional information on whether the Applicant is proposing renewable energy strategies, specifically solar panels, on the roofs of the proposed buildings. In its prehearing statement, the Applicant stated that one of the project benefits of the approved First-Stage PUD is that the Wharf project is being designed to a certification level of LEED-ND (Neighborhood Development) Gold, and, with the exception of the church on Parcel 11, each individual building within the Wharf project that is eligible to obtain a LEED rating is being designed to a certification level of LEED-NC (New Construction) or LEED-CS (Core and Shell) Silver or higher, and is required to meet LEED storm water requirements for both quality and quantity. To achieve these required LEED certification levels, the Applicant is employing a wide range of low impact development (“LID”) and other environmentally sustainable strategies, including the use of renewable energy strategies such as solar panels, but must

balance the use of this technology with the need to achieve other sustainability requirements related to storm water and green roof coverage.

Following setdown, the Applicant further evaluated whether there were opportunities within the project to utilize solar panels on the roofs of the proposed buildings. As shown in Exhibit A, Volume A, Sheet 1.27, the Applicant has added a substantial amount of solar panels to the penthouse roof of the Parcel 6/7 Building. While the exact number and energy capacity of the proposed solar panels has not been determined, the Applicant estimates there to be approximately 21,000 square feet of roof area available for the installation of solar panels on the Parcel 6/7 Building penthouse. As shown in the Updated Architectural Plans and Drawings, the solar panels will be setback from the edge of the penthouse roof a distance at least equal to their highest point above the penthouse roof, screened, and the combined height of the penthouse and solar panels will satisfy all applicable setback requirements (Exhibit A, Volume A, Sheets 1.8 – 1.13, 1.28 – 1.29).

10. Distribution of Affordable Dwelling Units in the Parcel 8 Building

In its setdown report, OP requested the Applicant to show a more even distribution of market-rate, workforce, and affordable dwelling units throughout the Parcel 8 Building, and particularly less concentration of lower MFI affordable dwelling units on the lower floors of the building. In response, the Applicant stated in its prehearing statement that under the Land Disposition Agreement (“LDA”) between the Applicant and the District, and the Applicant’s affordable housing covenant, the top three floors of the mixed-use residential buildings within the Wharf project are permitted to be devoted entirely to market rate units. This permitted distribution can be seen in the approved plans for the Parcel 2 Building where the top 2 floors are devoted entirely to market rate units. Notwithstanding, in response to OP’s comment, following setdown the Applicant continued to evaluate the distribution of dwelling units within the Parcel 8 Building that resulted in greater income diversity throughout the building with adjustments in MFI level being made to approximately 18 units (Exhibit A, Overall Plan Elements, Sheets 3.2 – 3.3).

11. Penthouse Generated Inclusionary Zoning Requirements

In its comments, OP requested the Applicant to provide details regarding any penthouse-generated Inclusionary Zoning (“IZ”) requirements that will be generated within Phase 2 of the Wharf project. As part of its prehearing statement, the Applicant addressed residential penthouse-generated IZ requirements by stating that, consistent with the exemption previously granted to the residential buildings on Parcels 2 and 4 of the Wharf project, it is expected that any non-communal penthouse habitable space that would typically be subject to IZ will be included in the IZ exemption that the Applicant is

currently working on to document for Phase 2 of the Wharf project through the District of Columbia Department of Housing and Community Development (“DHCD”). Pursuant to § 2602.3(f) of ZR58, the Wharf project qualifies for this exemption as a result of the substantial mandatory affordable housing mandate that the Applicant must satisfy under its LDA with the District.

Regarding the nonresidential buildings within Phase 2 of the Wharf project that contain penthouse habitable space, which includes the Parcel 6/7 Building, the Parcel 10 Building, and the hotel portion of the Parcel 8 Building, the Applicant intends to satisfy any penthouse generated IZ requirements through a contribution to an affordable housing trust fund which will be computed in accordance with the provisions §§ 414.13 through 414.16 of ZR58. According to these provisions, the affordable housing trust fund contribution amount is equal to one-half of the assessed value of the proposed penthouse habitable space, which, in part, is based upon the assessed value of the land as indicated in the records of the Office of Tax and Revenue (“OTR”), the area of the parcel upon which the building is located, and the total amount of proposed penthouse habitable space as confirmed by the Zoning Administrator at time of building permit.

At this time, the Applicant is unable to provide an estimate of what the individual affordable housing trust fund contributions may be for the nonresidential buildings within Phase 2 of the Wharf project since currently the land area that comprises Phase 2 of the Wharf project is a single record lot. The parcels for these buildings have not yet been created and recorded with OTR, thus there are no precise land areas and assessment values to use. However, to gain a rough order of magnitude understanding for what the affordable housing trust fund contributions may be for the proposed office buildings on Parcels 6/7 and 10, and the hotel portion of the Parcel 8 Building, the Commission may find useful the following information from recently paid nonresidential penthouse affordable housing trust fund contributions for Parcels 1, 3A, and 5 of the Wharf project.

	Parcel Land Area (sf)	Assessed Value	Penthouse Habitable Space (sf)*	Total Affordable Housing Trust Fund Contribution
Parcel 1	33,554	\$6,612,952	7,711.1	\$94,983.34
Parcel 3A	20,494	\$5,878,943	4,314.8	\$77,359.42
Parcel 5	60,182	\$13,962,220	1,840.7	\$26,690.14
* Calculations based upon maximum permitted nonresidential density of 8.0 FAR per map amendment approved as part of first-stage PUD (Z.C. Order No. 11-03) which rezoned these parcels to C-3-C (ZR58)				

12. Project Phasing and Interim Conditions

In response to OP's setdown comment that the Applicant should provide more detail and rationale for any proposed phasing of the project, the Applicant noted that given the number of buildings included in the subject application, there is a need for flexibility to accommodate changes that may occur in market demand, financing and credit availability, and lender requirements for preleasing of buildings. In addition, the extensive infrastructure work that will be necessary to prepare this portion of the Wharf site for development could impact the Applicant's ability to apply for, and obtain building permits within the time period required under the Zoning Regulations and final Zoning Commission orders. This is particularly relevant given the known presence of the WMATA green line tunnel and substantial storm water infrastructure that is located within a portion of the area that comprises the subject application.

In its initial application, the Applicant requested flexibility to construct Phase 2 of the Wharf project in stages, including construction on Parcel 6 relative to Parcel 7, based upon site constraints, infrastructure needs, market conditions, and other factors that may influence the ability to fund, design, and construct the proposed buildings and structures. In its setdown report, OP requested additional information regarding interim site conditions during any potential phasing period should certain buildings not be constructed immediately. As shown in Exhibit A, Volume A, Sheets 3.15 – 3.16, in the event the Applicant is unable to construct the buildings within Phase 2 of the Wharf project in a single stage, the Applicant would utilize any vacant building parcels for temporary surface parking and/or events space for uses such as periodic farmers' markets and arts and crafts festivals. This is consistent with the interim condition and temporary uses that the Commission approved for Parcel 1, which ultimately was not needed (Z.C. Order No. 11-03A(1)).

13. CBE and First Source Commitments and Obligations

At setdown, OP requested an update from the Applicant on the effectiveness and success of its Certified Business Enterprise ("CBE") and First Source commitments and obligations required under the first-stage PUD for the Wharf project. The Applicant has worked closely with its public partners in the D.C. Department of Small and Local Business Development ("DSLBD") and the D.C. Department of Employment Services ("DOES"), as well as the D.C. Workforce Investment Council ("WIC") to maximize the benefits of The Wharf to District businesses and residents. In addition, the Applicant has formed a Community Benefits Committee comprised of community residents and other stakeholders to provide ideas and input as the Applicant continues to work toward achieving its goals.

To date, the Applicant has achieved 48% CBE participation, which exceeds the minimum 35% required under the first-stage PUD. This represents approximately \$304 million paid to D.C. certified businesses. In addition, the Applicant has hired 589 District residents (48% of total new hires), of which 183 (31%) live in Ward 8. The Applicant's goals are 51% and 20% respectively. Thus, the Applicant has exceeded its goal of 20% for Ward 8 resident hires, and are on track to meet its 51% District resident hires by the completion of Phase 2 of the Wharf project.

Of the 589 District resident hires, 187 are District apprentices (53% of total apprentices), of which 67 (36% of District apprentices) reside East of the Anacostia River. The Applicant has exceeded its goals for both District apprentices, and District apprentices residing East of the River, 51% and 30% respectively.

The Applicant, in partnership with numerous organizations, agencies, and Councilmembers, has held and participated in multiple career and business fairs, including Eleanor Holmes Norton's Annual Business Fairs at the Convention Center, US Veterans, Career Fairs sponsored by Councilmembers Charles Allen and Elissa Silverman and others.

The Applicant has developed a unique construction job readiness program in partnership with the D.C. Housing Authority, the WIC, the D.C. Court Services and Offender Supervision Agency ("CSOSA"), and Building Futures, a training program of the Community Services Agency of the Metropolitan Washington Council to prepare public housing residents and returning citizens for construction careers.

Most recently, more than 1,000 pre-screened participants attended a highly successful Career Fair at Arena Stage, sponsored by Councilmember Allen and Silverman, where more than 25 of The Wharf's operators, managers, restaurateurs and retailers met with prospective District resident employees. As a result of this fair, and other efforts in partnership with DOES, Canopy by Hilton and Hyatt House together hired 70 new District resident employees (64% of total hires).

As a result of a close partnership between the Applicant, the D.C. Department of Housing, the D.C. Housing Authority and The Wharf's Community Benefits Committee, 4,000 applicants signed up for the lottery for the 200 affordable and workforce housing apartments at The Wharf, and tenants have already started to move into the units.

Finally, the Applicant has contributed \$1 million to the District for Workforce Intermediary Program uses, and looks forward to working with the Deputy Mayor for Planning and Economic Development, DOES and the WIC to develop effective programs that will increase the number of District residents that are prepared for work in fields related to construction and operations.

14. U.S. Commission of Fine Arts Concept Review

With the exception of WB1, all building and landscape components included in the subject application have received concept approval from CFA. At its July 27, 2017, public meeting, CFA review and approved the concept designs for Marina Way, M Street Landing, and the Terrace, as well as the Maine Avenue streetscape and Wharf promenade. At this same meeting, CFA also reviewed the concept designs for the building proposed on Parcels 9 and 10, as well as WB2 and WB3.

At its September 29, 2017, public meeting, CFA reviewed concept designs for additional park and streetscape components of Phase 2 of the Wharf project including the Grove and the Oculus, which supplemented its prior review of various open spaces. In addition, CFA also reviewed concept designs for the buildings proposed on Parcels 6/7 and 8, as well as WB1. While CFA approved the concept for the Parcel 6/7 Building and Parcel 8 Building, it deferred action on WB1, opting instead to provide comments on the concept design. CFA is scheduled to review WB1 again at its public meeting on October 19th, prior to the Commission hearings on the subject application.

Copies of CFA's concept approvals and summary of comments are attached hereto as Exhibit B. Generally, in response to the comments provided by CFA during the above described concept reviews, the Applicant made several notable modifications to the plans for Phase 2 of the Wharf project, including:

- Redesign of the Terrace to be more sympathetic to the existing design of Waterfront Park,
- Adjustments to the height, materials, and orientation of WB3 to better relate to the Marina,
- Improved integration of the Parcel 10 Building seat steps with M Street Landing for a more cohesive design,
- Modifications to the design of the Wharf tree plantings to maintain a more consistent tree canopy and treatment along Wharf promenade,
- Adjustments/simplification to the massing of the hotel component of the Parcel 8 Building,
- Redesign of the Grove to create a more intimate space and avoid interruption along Wharf promenade, and
- Redesign of WB1 to create a more refined aesthetic that is sympathetic to its surroundings.

14. Technical Zoning and Design Flexibility

Based upon comments provided by OP, the Applicant has refined the scope of building and landscape elements that are included in its request for design flexibility. As stated in the Applicant's prehearing statement, the areas of the exterior design flexibility requested are consistent with the flexibility that has been provided by the Commission in previous second-stage PUDs for the Wharf project, and is also consistent with the language of exterior design flexibility that is typically provided by the Commission in second-stage PUDs. Further, the list of design flexibility include below contains language that the Commission has incorporated into recent PUD and design review cases. This flexibility has proven to be necessary during the design development and permit review stages for Phase 1 of the Wharf, and has not resulted in any diminution of the design quality of any individual building or of the project overall.

The Applicant has also refined its list of requested technical zoning flexibility which now only includes flexibility to allow a bar, restaurant, and/or lounge uses within the Parcel 8 Building penthouse and roof terrace, and flexibility from the minimum loading requirements for Phase 2 of the Wharf.

AREAS OF MINOR DESIGN FLEXIBILITY

1. To vary the location and design of interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not materially change the exterior configuration of the building; and
2. To make minor refinements to exterior building details and dimensions, including curtainwall mullions and spandrels, belt courses, sills, bases, cornices, railings, and trim, to comply with the District of Columbia Building Code, or that are necessary to obtain a final building permit or other applicable approvals. Such refinements shall not substantially change the exterior configuration, appearance, proportions, or general design intent of the building; and
3. To vary the final selection of exterior building materials within the color ranges and material types shown in the [approved plans] based on availability at the time of construction. Any such variations shall not reduce the overall quality of materials, nor substantially change the exterior appearance, proportions, or general design intent of the building; and
4. To vary the final selection of landscaping materials utilized based on availability at the time of construction; and

5. To provide a range in the number of residential dwelling units within the Parcel 8 Building and the Parcel 9 Building by plus or minus 10% from the number depicted on the [approved plan], provided all market-rate, workforce and affordable housing requirements under the Z.C. Order No. 11-03 are satisfied; and
6. To vary the number and location of market-rate and workforce housing units within the redevelopment project provided the minimum amount of gross floor area required for market-rate and workforce housing under the Z.C. Order No. 11-03 is provided; and
7. To vary the number and location of affordable units, provided that: (i) the minimum amount of gross floor area required under Z.C. Order No. 11-03 is provided; (ii) the affordable units will not be over-concentrated on any given floor of a building; (iii) the proportion of affordable studio, efficiency, and one-bedroom units to all affordable units throughout the redevelopment project will not exceed the proportion of market-rate studio, efficiency, and one-bedroom units to all market-rate units throughout the redevelopment project; and
8. To vary the number of hotel guestrooms in the Parcel 8 Building by plus or minus 15%; and
9. To vary the final design of retail frontages, including the location and design of entrances, show windows, signage, and size of retail units, in accordance with the needs of the retail tenants. Retail signage shall be located within the potential retail signage zones shown in the [approved plans]; and
10. To vary the design and location of upper-level building signage located above the first-story within the limits of the potential tenant signage zones shown in the [approved plans], and in accordance with the District of Columbia sign regulations in effect at the time of permitting; and
11. To vary the garage layout and the number, location, and arrangement of vehicle and bicycle parking spaces provided the number of spaces, for both vehicles and bicycles, is not reduced by more than five percent of the number shown on the [approved plans], and the total number of vehicle and bicycle parking spaces provided is consistent with that which is required under Z.C. Order No. 11-03; and
12. To construct the [approved plans] in multiple stages, including construction on Parcel 6 relative to Parcel 7, based upon site constraints, infrastructure needs, market conditions, and other factors that may influence the ability to fund, design, and construct the buildings and structures included in the [approved plans]; and

13. To vary the sequencing and timing of construction of Wharf Marina, as shown in the [approved plans], including associated bulkhead, piers, docks, fueling station(s), and other related buildings and structures.

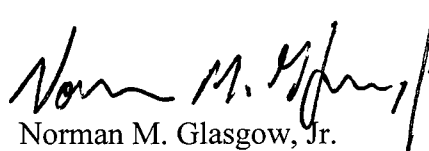
AREAS OF TECHNICAL ZONING FLEXIBILITY

1. From the requirements of Section 411.4(c) of ZR58 to allow bar, restaurant, and/or lounge uses within the Parcel 8 Building penthouse and on the penthouse terrace consistent with the [approved plans]; and
2. From the requirements of Sections 411.9 and 411.10 to allow multiple heights of penthouse habitable space, penthouse mechanical space, and screening walls; and to allow penthouse walls with a slope that exceeds 20% from vertical; and
3. From the minimum loading requirements of Section 2201.1 of ZR58 to adjust the number of loading berths, loading platforms, and service delivery spaces, consistent with the [approved plans].

We look forward to the Commission's consideration of this application.

Sincerely,

HOLLAND & KNIGHT LLP



Norman M. Glasgow, Jr.

Enclosures

cc: Joe Lapan, District of Columbia Office of the Deputy Mayor for Planning and Economic Development (w/encl., via email and hand delivery)
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Anna Chamberlin, DDOT (w/encl., via email and hand delivery))
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