

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

PREHEARING SUBMISSION

Z.C. CASE NO. 15-27B

Carr Properties OC, LLC

**Modification to Approved Consolidated PUD for
Building C1 (Square 3587, Lot 833)**

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**Second-Stage PUD & Modification to Approved First-
Stage PUD for Building C2 (Square 3587, Lot 834)**

February 7, 2020

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CERTIFICATION OF COMPLIANCE
WITH SUBTITLE Z § 401 OF THE ZONING REGULATIONS

The undersigned hereby certifies that, in accordance with Subtitle Z § 401 of the Zoning Regulations, ten (10) copies of the architectural drawings and two (2) copies of all of the other below information were filed with the Zoning Commission on February 7, 2020, and, in accordance with Subtitle Z § 401.5, the application shall not be modified less than twenty (20) days prior to the public hearing.

<u>Subtitle Z</u>	<u>Description</u>	<u>Page/Exhibit</u>
401.1(a)	Information requested by the Zoning Commission and the Office of Planning	Pages herein
401.1(b)	List of witnesses prepared to testify on the Applicant's behalf	Exhibit A
401.1(c)	Outlines of witness testimony and resumes of expert witnesses	Exhibit B
401.1(d)	Additional information introduced by the Applicant	Pages herewith
401.1(e)	Reduced plan sheets	Exhibit F
401.1(f)	List of maps, plans, or other documents readily available that may be offered into evidence	Exhibit C
401.1(g)	Estimated time required for presentation of Applicant's case	Exhibit A
401.3(a)	Names and addresses of owners of all Property within 200 feet of the Building C2 site	Exhibit D
401.8	Report by Traffic Consultant	To be submitted no later than 30 days prior to the hearing

Respectfully submitted,

HOLLAND & KNIGHT LLP



Jessica R. Bloomfield

LIST OF EXHIBITS

<u>Description</u>	<u>Exhibit</u>
List of Witnesses and Estimated Time Required For Presentation of Applicant's Case	A
Outlines of Witness Testimony and Resumes for Expert Witnesses	B
List of Maps, Plans, or Other Documents Readily Available that may be Offered into Evidence	C
List of Names and Addresses of All Owners of Property Within 200 feet of the Building C2 Site	D
Hearing Fee Calculator	E
Updated Architectural Drawings	F
Development Data for Overall PUD	G
Chart Showing Conditions for Building C2	H

I. INTRODUCTION

This prehearing statement and accompanying documents are submitted on behalf of Carr Properties OC, LLC (the “Applicant”) in support of its application to the Zoning Commission for the District of Columbia (the “Zoning Commission”) for a (i) modification to the approved consolidated planned unit development (“PUD”) for Building C1 (Square 3587, Lot 833) to incorporate nightclub, bar, cocktail lounge, or restaurant use into the penthouse; and (ii) a second-stage PUD and a modification of significance to the approved first-stage PUD to convert the primary use of Building C2 (Square 3587, Lot 834) from residential to office use, and to also incorporate nightclub, bar, cocktail lounge, or restaurant use into the penthouse (the “Application”). The Application is submitted in accordance with the Zoning Commission’s approval in Z.C. Case No. 15-27, which approved a consolidated PUD for Building C1 and a first-stage PUD for Building C2.

The Application, which was originally filed on March 22, 2019, also requested modifications to the architectural design of Building C1’s penthouse. That request was subsequently filed separately and approved in Z.C. Case No. 15-27D.

The Application was submitted pursuant to 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”). Although Z.C. Order No. 15-27 was approved prior to the effective date of the 2016 Zoning Regulations, due to the proposed modifications, this Application is evaluated under the 2016 Zoning Regulations.

II. SUMMARY OF APPLICATION

Building C1: The consolidated PUD for Building C1 included penthouse habitable space devoted to office amenity uses. This Application requests special exception approval pursuant to

11-C DCMR § 1500.3 and 11-X DCMR § 901.2 to permit a nightclub, bar, cocktail lounge, or restaurant use in Building C1's approved penthouse habitable space. As set forth in the Applicant's Statement in Support (Exhibit 2), during the weekdays the penthouse will primarily be used as office amenity space, including space to accommodate daytime or evening events hosted by the office tenant(s). However, the Applicant requests flexibility to have the option to rent out the penthouse space to third parties for events not otherwise associated with the office use, which could include uses and/or events that fall within the "nightclub, bar, cocktail lounge, or restaurant" use categories as defined in the Zoning Regulations. An analysis of how the proposed use meets the special exception standard of review is set forth on pages 14-15 of the Statement in Support.

As noted above, several design-related modifications to Building C1's penthouse were approved as part of Z.C. Case No. 15-27D. The total square footage of penthouse habitable space that could potentially be used for nightclub, bar, cocktail lounge, or restaurant uses, including prorated shared circulation space, is approximately 6,298 square feet.

Building C2: As part of the first-stage PUD the Zoning Commission approved Building C2 to be developed to a maximum height of 130 feet, with approximately 211,784 square feet of gross floor area ("GFA") devoted to residential use, approximately 9,200 square feet of GFA devoted to retail use, and additional GFA devoted to parking and loading (228,804 sf of GFA total). Building C2 included approximately 232 residential units and 90 on-site parking spaces. Building C2 also included a penthouse with habitable and mechanical space.

Updated architectural plans and elevations (the "Architectural Drawings") for Building C2 are attached hereto as Exhibit F. As shown on the Architectural Drawings, Building C2 will maintain its approved building height of 130 feet and will increase its approved density by approximately 3,126 square feet of GFA. Building C2 will have approximately 225,398 square

feet of GFA devoted to office use and approximately 6,532 square feet of GFA devoted to retail use (approximately 231,930 square feet of GFA total). Building C2 will include approximately 1,125 square feet devoted to “Maker Space,” as required by Z.C. Order No. Decision No. B(24), which is included in the total retail area of 6,532 square feet.

Building C2’s penthouse will include a variety of informal gathering spaces, seating arrangements, and conference rooms for building tenants to work and socialize. As part of this Application, the Applicant also requests special exception relief pursuant to 11-C DCMR § 1500.3 and 11-X DCMR § 901.2 to locate a nightclub, bar, cocktail lounge, or restaurant use in the penthouse of Building C2. Similar to the Building C1 penthouse, during the weekdays the penthouse will primarily be used as office amenity space with gathering spaces for building employees, including space to accommodate events. The Applicant requests flexibility to have the option to rent out the penthouse habitable space to third parties, which could include uses and/or events that fall within the “nightclub, bar, cocktail lounge, or restaurant” use categories as defined in the Zoning Regulations.

The penthouse habitable space that will be dedicated to the nightclub, bar, cocktail lounge, or restaurant use will be approximately 7,049 square feet, which includes square footage devoted to a prorated amount of circulation space shared with the penthouse mechanical space. The penthouse will have a maximum height of 20 feet and will meet all penthouse setback requirements.

In addition, as part of this Application and in exchange for the removal of approximately 23,296 square feet of affordable housing that will no longer be provided in Building C2, the Applicant proposes to contribute \$1.5 million to the District’s Housing Production Trust Fund prior to the issuance of the first above-ground Certificate of Occupancy for Building C2.

Additional information regarding Building C2's program and design, including its LEED commitment, parking and loading, streetscape, zoning and design flexibility, and request to modify Decision No. B(14) and strike Decision No. B(15) (which was approved in the second-stage PUD for Building A2 – Z.C. Case No. 15-27A) are set forth in the Applicant's Statement in Support (Exhibit 2, pp. 10-15). A description of how the project complies with the special exception standards to permit nightclub, bar, cocktail lounge, or restaurant use in the penthouse of Buildings C1 and C2 is included in the Statement in Support (Exhibit 2, p. 14-15). Finally, an analysis explaining how the Application meets the standards for a PUD under the Zoning Regulations and an analysis as to why the proposed office use for Building C2 is not inconsistent with the Comprehensive Plan is included in the Statement in Support (Exhibit 2, pp. 15-20).

III. SETDOWN RECOMMENDATION

By report dated November 27, 2019, the Office of Planning ("OP") recommended setdown of the portion of the Application related to Building C2, and at its public meeting of December 9, 2019, the Zoning Commission voted to schedule the case for a public hearing. Both OP and the Commission requested that the Applicant submit additional information, which is provided in Sections IV and V below.

On December 19, 2019, the Applicant submitted a letter asking the Commission to continue to consider its request for special exception relief for the use of Building C1's penthouse (Exhibit 11). By report dated January 3, 2020, OP recommended setdown for Building C1's penthouse (Exhibit 12), and at its public meeting of January 13, 2020, the Zoning Commission voted to setdown that portion of the Application for a public hearing. The Commission did not request any additional information regarding the use of Building C1's penthouse.

In addition to responses to comments from OP and the Commission, this Prehearing Submission also includes the information required pursuant to Subtitle Z § 401. In view of the foregoing, the Applicant submits that the case is ready for the Commission to schedule a public hearing for consideration of this Application.

IV. INFORMATION REQUESTED BY THE ZONING COMMISSION

At its public meeting of December 9, 2019, the Zoning Commission asked the Applicant to explain whether the PUD's public benefits and amenities continued to outweigh the development incentives requested and any potential adverse effects, given the change of use requested for Building C2.

The approved first-stage PUD included a range in the total amount of housing and affordable housing, due to the fact that Buildings A2 and D were approved with flexibility to have either residential or non-residential uses. *See* Z.C. Order No. 15-27, Decision No. A.8(c)) and the approved first-stage PUD plans at Exhibit 61A, Sheet 11. The upper range (assuming Buildings A2 and D were both developed as residential buildings) was 1,091,201 square feet of residential GFA and 120,036 square feet of affordable housing GFA. The lower range (assuming Buildings A2 and D were both developed as non-residential buildings) was 720,394 square feet of residential GFA and 79,246 square feet of affordable housing GFA.

The second-stage PUD applications for Buildings A2 and D have confirmed that both of those buildings will be developed with residential use. Therefore, based on the first-stage PUD for Buildings A1 and B, the second-stage PUDs for Buildings A2 and D, and assuming office use for Buildings C1 and C2, then approximately 896,313 square feet of residential GFA and approximately 98,594 square feet of affordable housing GFA (11%) is currently proposed for the overall PUD site, which is well within the range previously approved by the Zoning Commission

(as noted above, 720,394 to 1,091,201 square feet residential and 79,246 to 120,036 square feet affordable housing approved).

Based on the foregoing, the Applicant submits that (i) the effect of Building C2 being converted to office use maintains a total housing and affordable housing GFA that is within the amount approved for the PUD; and (ii) the Applicant is offering to contribute an additional \$1.5 million to the Housing Production Trust Fund as an additional benefit to the PUD. For clarity of the record, the amount of affordable housing approved for Building C2 in the first-stage PUD was 23,296 square feet, and this is the number to which the \$1.5 million payment relates.

V. INFORMATION REQUESTED BY THE OFFICE OF PLANNING

The following chart identifies the Office of Planning’s comments on the Application and the Applicant’s responses thereto.

OP Comment	Applicant’s Response
<p>1. The Applicant should confirm that the maker space would be constructed to industrial specifications, as provided in Attachment III, and provide the specifications on the plans.</p>	<p>The Applicant will construct the maker space to the industrial specifications that are set forth in Attachment III to the OP Setdown Report with one exception:</p> <p>The clear ceiling height for the maker space can only be provided at 17 feet instead of 18 feet due to the topography of the site which slopes up from south to north and the folded building slab used to provide a consistent elevation for building entrances. However, in response to this requirement from OP, the Applicant shifted the maker space to the portion of the building with the tallest ground floor ceiling height. This location is also directly adjacent to the building’s main lobby, which will allow for the possibility for the maker space to open directly into the lobby thus creating a dynamic mixed-use environment for both the office and maker tenants. If the Applicant creates this fluid space between the office lobby and maker space, which will be dependent on the type of maker space tenant, the sound attenuation mechanisms (No. IV of the Maker Space specifications) may not be needed. If the maker space is designed as an entirely separate space, then the Applicant will comply with the sound attenuation requirements.</p>
<p>2. The location of the Maker Space should be identified on the ground floor plan.</p>	<p>The maker space is identified on the ground floor plans of the Architectural Drawings (Sheet C-2_304). As</p>

	<p>required by the first-stage PUD, tenants for the maker space will comply with the definition of “Maker Uses” set forth in Z.C. Order No. 15-27, Decision No. B(22), which is consistent with the goals of the Ward 5 Industrial Land Transformation Study.</p>
<p>3. The Applicant should demonstrate that the aggregate FAR for the entirety of the PUD does not exceed 7.1, consistent with the Order.</p>	<p>As shown on the development data chart attached hereto as <u>Exhibit G</u>, which shows the total GFA per use for each building within the overall PUD, the aggregate FAR for the entirety of the overall PUD site is 7.09 FAR, which is less than the 7.1 FAR approved in Z.C. Order No. 15-27. This calculation takes into account the revised FAR calculation submitted for Building D (see Z.C. Case No. 15-27E, Exhibit 10).</p>
<p>4. The approximate contribution to the Housing Production Trust Fund for the habitable penthouse should be provided.</p>	<p>The approximate contribution to the HPTF created by Building C2’s habitable penthouse space is approximately \$171,620, with half of the payment made prior to issuance of a building permit for construction of the penthouse habitable space and half paid prior to the issuance of a certificate of occupancy for the building’s penthouse habitable space. The actual amount of the contribution will be calculated and submitted no earlier than 30 days prior to the date of the building permit application to construct the penthouse habitable space.</p>
<p>5. The Applicant should address the necessity of providing additional parking beyond what was approved in the Stage 1 PUD and the impact it will have on the TDM.</p>	<p>The first-stage PUD for Building C2 included a total of 82 parking spaces for the proposed residential use and eight parking spaces for the proposed retail use. Given the proposed change in use of Building C2 from residential to office, in addition to the new bar/restaurant use in the building’s penthouse, the parking requirement has increased accordingly to accommodate the new uses and their anticipated demand. Thus, 115 parking spaces will be devoted to office use, which is consistent with the requirement of Subtitle C § 701.5 (0.5 spaces per 1,000 office sf in excess of 3,000 sf = 112 required parking spaces).</p> <p>The number of retail spaces has increased by one space (nine retail spaces now proposed; eight approved). An additional eight spaces are also now required and proposed for the restaurant/bar use in the penthouse, which was not previously approved.</p> <p>The Applicant will work with DDOT to study the impacts, if any, of the Applicant’s proposed parking supply and whether any additional transportation demand management (“TDM”) measures are necessary. The Applicant will provide an update to the Zoning Commission on this analysis no later than 20 days prior to the public hearing.</p>
<p>6. Provide additional information regarding the types of materials to be used, including material type, color, and</p>	<p>Building elevations identifying each proposed material and its location on the building façade are shown at Sheets C-2_312, 314 and 315 of the Architectural</p>

<p>samples, demonstrating that the proposed building materials will be of a high-quality.</p>	<p>Drawings. The Applicant added new brick images to Sheets C-2_301 and 315 to illustrate the range of potential textures of the brick spandrels.</p> <p>In addition, the Applicant will submit photographs of the proposed materials and provide samples of each material at the public hearing.</p>
<p>7. Additional window details should be provided, illustrating window mullions and depth from the façade.</p>	<p>Details of the proposed windows for Building C2 are included at Sheet C-2_314 of the Architectural Drawings. The Applicant also added an enlarged wall section detail on Sheet C-2_314 to better convey the dimensions within the façade design.</p>
<p>8. The Applicant should provide detailed streetscape plans in coordination with DDOT and OP regarding the design and use of public space and its compliance with the Union Market Streetscape Guidelines.</p>	<p>A detailed streetscape plan and corresponding streetscape sections are included at Sheets C-2_502-505 of the Architectural Drawings. The proposed streetscape plan is consistent with the Union Market Streetscape Guidelines as it includes scored poured-in-place concrete as its primary material and street trees to increase the tree canopy in the Union Market area. The proposed tenant zones, circulation zones, and flex zones along 3rd Street and Neal Place are also consistent with the widths shown in the first-stage PUD.</p>
<p>9. The Applicant should provide planting and maintenance details regarding the greenery accents on the ground floor of the building.</p>	<p>The Applicant will install clinging vines with tendril or vines with twining attachments as the greenery accents on the exterior columns at the ground floor. The Applicant will select vine species that grow fast to provide coverage quickly. However, because the vines will take several seasons to reach maturity, the Applicant may also initially plant annual vines to provide more immediate plant growth in the first two growing seasons. Additionally, since the surfaces proposed for vine growth have a range of access to sunlight, more than one vine species will be used at each column to allow for growth in both the shaded and sunny areas. Adequate soil volume will be provided at grade or below the pavement to support vine health. The Applicant will train and maintain the vines as they grow up the armature, and will prune and trim the vines as necessary to prevent growth on walkways or on other parts of the building.</p>
<p>10. The Applicant should provide details on the locations of signs on the building.</p>	<p>The Applicant's updated signage plan is provided at Sheets C2_401-404 of the Architectural Drawings.</p>
<p>11. Perspectives of the roof and proposed habitable penthouse should be provided.</p>	<p>Perspectives of the roof and the proposed habitable penthouse are provided on the cover sheet of the Architectural Drawings and on the sheet immediately preceding the Zoning and Site Information Sheet.</p>
<p>12. The Applicant should provide a draft revised Order for ZC Case No. 15-27 identifying the sections that would be amended to facilitate this project.</p>	<p>Attached hereto as <u>Exhibit H</u> is a chart identifying the approved first-stage PUD conditions related to Building C2 and an update as to whether each condition is being</p>


	amended to facilitate the second-stage PUD for Building C2.
13. In discussions with the Applicant, they have stated they will contribute \$1.5 million to the Housing Production Trust Fund as a proffered benefit of the project. The commitment to this proffer should be included in the prehearing statement.	To confirm the Applicant's commitment to contribute \$1.5 million to the Housing Production Trust Fund, the Applicant proposes that the following language be included as part of the affordable housing proffer in the final order approving this Application: <u>"Prior to the issuance of the first certificate of occupancy for above grade space in Building C2, the Applicant shall demonstrate to the Zoning Administrator that it has contributed \$1,500,000 to the Housing Production Trust Fund."</u>

VIII. CONCLUSION

This Prehearing Submission along with the original Application meets the filing requirements for a second-stage PUD and a modification of significance to an approved first-stage PUD, as required by Subtitle X, Chapter 4 and Subtitle Z of the Zoning Regulations. For the reasons set forth in the Application and this Prehearing Submission, the Applicant respectfully requests that the Zoning Commission schedule a hearing on the Application.

Respectfully submitted,

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