

**MEMORANDUM**

**TO:** District of Columbia Zoning Commission  
*JLS*  
**FROM:** Jennifer Steingasser, Deputy Director  
**DATE:** March 27, 2020  
**SUBJECT: OP Report for ZC #17-05B, Modification of Significance Request for 2121 First Street, SW (Square 613, Lot 10)**

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**I. BACKGROUND**

2100 2<sup>nd</sup> Street SW LLC (Applicant) filed an application for a Modification of Significance to Design Review Case 17-05 on October 4, 2019 to allow a temporary lodging use and for a variance to allow lodging in the 100-year floodplain.<sup>1</sup> The Office of Planning (OP) filed a report in support of the modification and variance relief requests.<sup>2</sup>

At its December 16, 2019 Public Hearing, the Zoning Commission did not hear the subject case and requested that OP provide additional background information on the use prohibitions in the 100-year floodplain on March 16, 2020. The Commission also rescheduled the public hearing for case 17-05B to April 6, 2020.

In the intervening time, OP worked with the Department of Energy and Environment on proposed text changes and filed a proposed text amendment (ZC Case 20-01) that was scheduled for setdown on March 16, 2020. OP had proposed revising the use prohibitions in the 100-year floodplain (Subtitle C, Chapter 11) and recommended that certain uses be permitted by special exception. OP also provided recommended special exception review criteria to be used in the evaluation of special exception requests. The Applicant in case 17-05B revised its application to reflect the proposed special exception relief and addressed the proposed review criteria.<sup>3</sup>

On March 11, 2020, Mayor Bowser declared a State of Emergency as part of a continued effort to slow the spread of the coronavirus in DC and the region. The Zoning Commission has suspended all public meetings and hearings scheduled through April 25; therefore, the Commission did not take up Case 20-01 on March 16, 2020 as scheduled.

**II. RECOMMENDATION**

2100 2<sup>nd</sup> Street SW LLC (Applicant) requests a Modification of Significance pursuant to Subtitle Z § 704 to ZC Order Nos. 17-05 and 17-05A for a special exception to permit a temporary lodging use within the 100-year floodplain. The Office of Planning (OP) recommended approval of the original modification and use variance and continues to recommend **approval** of the revised request, subject to the condition that the use be limited to a two-year (24 month) time period as proposed by the applicant

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<sup>1</sup> See Exhibit 1, October 4, 2019.

<sup>2</sup> See Exhibit 10, December 6, 2019.

<sup>3</sup> See Exhibit 15, February 19, 2020.

### III. OVERVIEW

ZC Order 17-05, dated July 13, 2017, approved a Design Review application to permit the renovation of an existing office building to create a new residential building with ground-floor retail uses and below-grade parking in the Capitol Gateway 5 (“CG-5”) zone at 2100 2nd Street, S.W. (Square 613, Lot 10). ZC Order 17-05 also granted the Applicant variance relief from the drive aisle width requirements (C § 712.5) and a variance from the penthouse height limit (K § 505.5).

ZC Order 17-05A, dated October 22, 2018, approved a modification of consequence to the approved Design Review application related to the redesign and relocation of architectural elements of the building and property area including changes to:

- a) First Street;
- b) The rooftop terrace and façade;
- c) The south façade and terrace;
- d) Building materials; and
- e) Floodproofing plans.

### IV. SITE AND AREA DESCRIPTION

Square 613 is located in the southwest quadrant of the District and is bounded by 1<sup>st</sup>, 2<sup>nd</sup>, and V Streets SW, and the Anacostia River. The property is generally rectangular in shape with an angled southeastern property line. The entire subject property is located within the 100-year floodplain.

Lots 802, 804, 806, 812, 814 and 817 are to the south and east of the subject property and are partially on land and partially in the Anacostia River. These lots are owned by the National Park Service (NPS). NPS-owned property also includes James Creek Marina to the west and Buzzard Point Park to the east.

The property is improved with an existing nonconforming vacant eight-story office building with two levels of below grade parking that was constructed in 1973. The Applicant is adaptively reusing the structure for a mixed-use development with residential and ground-floor retail.

### V. PROJECT DESCRIPTION

To ensure building occupants upon delivery of the first units in April 2020, the Applicant is proposing to partner with WhyHotel to operate a temporary lodging use in part of the building. Once completed, the building would include 480 residential units and about 71,120 square feet of retail. If approved, the special exception would permit WhyHotel’s use of 150 of the units for no more than two years.

### VI. ZONING ANALYSIS

Subtitle X, Section 901.1 states:

*The Board of Zoning Adjustment is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2), to grant special exceptions, as provided in this title, where, in the judgment of the Board of Zoning Adjustment, the special exceptions:*

- (a) *Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;*

The requested special exception can be granted without substantial impairment to the zone plan. The Applicant's proposed mixed-use development is consistent with the goals of the CG-5 zone and the requested limited relief for a temporary lodging use should not negatively impact the Zoning Regulations over the long term.

*(b) Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and*

The lodging use would be in place for a maximum of two (2) years, with OP recommending that there be no opportunity for renewal, as the long-term intent is to provide new residential opportunities on this portion of the waterfront. Therefore, the temporary use of approximately thirty percent (30%) of the residential units should not result in substantial detriment to the public good, but rather would help to activate the area and help to promote viable retail as the residential building leases up.

*(c) Will meet such special conditions as may be specified in this title.*

Although the Zoning Commission has not yet held its hearing on the proposed text amendment in ZC Case 20-01, OP is providing an analysis of the application against the proposed special exception review criteria.

*1102.5 The following conditions shall apply to any application for a special exception use under Subtitle C § 1102.4:*

*(a) The application shall include an analysis that provides the following:*

*(1) A site plan showing floodplain boundaries and base flood elevations for the property that is certified by a registered professional engineer, architect, landscape architect, or other qualified person;*

The Applicant provided a site plan at Exhibit 15A, certified by a registered professional engineer, showing the floodplain boundaries and base flood elevation.

*(2) A description of how the project has been designed to meet applicable flood resistant design and construction standards that is certified by a registered professional engineer, architect, landscape architect, or other qualified person;*

Exhibit 15A, which is certified by a registered professional engineer, describes the flood resistant design measures proposed for the project, which include an aquafence perimeter barrier system.

*(3) An evacuation plan that describes the manner in which the property would be safely evacuated before or during the course of a one hundred (100)-year flood event; and*

The Applicant has provided an evacuation plan, which is described narratively in Exhibit 15B and shown graphically in Exhibit 15A.

*(4) A description of how of the proposed use would not result in any adverse impacts to the health or safety for the project's occupants or users due to the proposed use's location in the floodplain; and*

- (b) *The Office of Zoning shall refer the application to the following agencies for their review and recommendation if filed to the case record within the forty (40)-day period established by Subtitle A § 211:*

The Office of Zoning referred the application to agencies for review and recommendation on February 26, 2020.<sup>4</sup>

- (1) *District Department of Energy and Environment (DOEE);*

The District Department of Energy and Environment (DOEE) stated that it had previously approved the floodplain plans and would not provide additional comments on the proposed use change.

- (2) *District of Columbia Fire and Emergency Medical Service Department (FEMS);*

FEMS stated that it had no objection.<sup>5</sup>

- (3) *Metropolitan Police Department (MPD); and*

No recommendation received.

- (4) *The District of Columbia Homeland Security and Emergency Management Agency (HSEMA).*

No recommendation received.

### ***Zoning Tabulation***

The requested special exception use would not result in the need for additional vehicle or bicycle parking or loading berths. The provided parking and loading would be sufficient to accommodate the temporary lodging use<sup>6</sup> in combination with the retail and residential uses. See Zoning Tabulation table in the OP Hearing Report at Exhibit 10.

## **VII. CRITERIA OF THE CAPITOL GATEWAY ZONE**

The Capitol Gateway zone lists objectives and provides specific criteria for the Zoning Commission review of proposed developments. See the OP analysis in the Hearing Report at Exhibit 10.

## **VIII. ANC AND COMMUNITY COMMENTS**

ANC 6D provided a report and written testimony in opposition.<sup>7</sup>

## **IX. DISTRICT AGENCY COMMENTS**

The following comments were provided at the time of the original application. Additional comments received through the special exception referral process are addressed in Section VI above.

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<sup>4</sup> See Exhibit 16, dated February 26, 2020.

<sup>5</sup> See Exhibit 17, dated March 11, 2020.

<sup>6</sup> See Attachment A of Exhibit 9, dated November 26, 2019.

<sup>7</sup> See Exhibit 11, dated December 11, 2019 and Exhibit 18, dated March 23, 2020, respectively.

The District Department of Housing and Community Development (DHCD) provided the following comments:

1. DHCD understands the proposed temporary lodging use will have no impact on the already identified IZ units (stemming from new GFA and penthouse habitable space), in particular all the required IZ units will be available in the initial lease up phase and will not be delayed by this temporary use;
2. DHCD recommends full disclosure to the IZ and market rate tenants of the temporary lodging use;
3. DHCD does not object to the Modification of Significance, we do however want to recognize that the temporary lodging use is expressly a means to establish a higher rent market where one currently does not exist and would welcome IZ units in addition to those originally required so that a greater measure of affordability is retained as the market develops.

The District Department of Transportation (DDOT) indicated that it had no issues with the modification request.

**X. ATTACHMENTS**

1. Vicinity Map

JS/emv

### ATTACHMENT 1 VICINITY MAP

