

**BEFORE THE DISTRICT OF COLUMBIA
ZONING COMMISSION**

VIEW 14 INVESTMENTS, LLC

**APPLICATION TO MODIFY
THE VIEW 14 PUD
AT 2303 14TH STREET, NW**

**March 24, 2014
Holland & Knight, LLP**

LIST OF EXHIBITS

Exhibit	Description
A	Zoning Commission Order No. 05-22
B	Plans for Proposed Dog Day Care Center
C	Features of Proposed Dog Day Care Center
D	Yelp! Reviews
E	Noise Study Prepared by Polysonics
F	Floor Plan for Second Floor of View 14 Building
G	Petition in Support of Proposed Dog Day Care Center
H	OP Report Recommending Approval of Dog Day Care Center Use Dated January 28, 2014
I	DDOT Report Dated January 3, 2014
J	Meridian Hill Neighborhood Association Letter Dated February 1, 2014
K	Ground Floor Plan of View 14 Building
L	Dog Day Care Center Daily Task Check List
M	Certificate of Notice, Notice of Intent and Property Owners List

I. INTRODUCTION

This statement and attached documents are submitted on behalf of View 14 Investments, LLC (the "Applicant") in support of an application for the modification of an approved planned unit development ("PUD") in conformity with Chapter 24 of the District of Columbia Zoning Regulations (Title 11, DCMR) before the Zoning Commission for the District of Columbia.

A. Subject Property

The subject property is located at 2303 14th Street, NW, on the east side of 14th Street between Florida Avenue and Belmont Street, in the C-2-A District (the "Property"). The Property is improved with a mixed-use building -- View 14 -- which consists of approximately 32,000 square feet of commercial and service uses at or below grade and 185 apartment units on the upper nine floors. The project was approved as a PUD pursuant to ZC Order No. 05-22, a copy of which is attached as **Exhibit A**.

B. Proposed Modification

The Applicant seeks to modify the PUD to include flexibility to permit a use on the Property that would otherwise require approval by special exception under Section 735 of the Zoning Regulations. Specifically, the Applicant seeks flexibility to permit a dog day care center in the retail space on the ground floor of the building. The proposed dog day care center consists of approximately 4,300 square feet and would include pet grooming and overnight animal boarding. The entrance to the facility will be at the corner of Florida Avenue and 14th Street and the frontage will be along 14th Street. The floor plan for the proposed dog day care center is attached as **Exhibit B**.

There are four retail units in View 14. Beta Martial Arts Academy occupies the unit along Florida Avenue. The YWCA National Capital Area occupies one of the units along 14th Street; the two other units along 14th Street are vacant. The dog day care center would occupy one of the units, with the entrance to the facility being near the corner of 14th Street and Florida Avenue. On the second floor of View 14, above the retail space, are 24 apartment units. Of those units, five are situated directly above the space dedicated for the proposed dog day care center.

C. Background on Applicant/Dog Day Care Operator

UDR is a leading, publically traded multifamily real estate investment trust that as of December 31, 2013, owned or had had an ownership position in 52,949 apartment homes including 1,790 homes under development throughout 185 apartment communities in targeted U.S. markets. UDR's portfolio includes more than 5,000 apartment units in the DC Metropolitan area, 1,500 of which are within the District boundaries throughout six apartment communities. Many of UDR's properties are mixed-used buildings similar to View 14. For its mixed-use buildings, UDR has a retail philosophy that focuses on procuring retail tenants that serve as an amenity to the residents in the apartment community above and the surrounding neighborhood. As the owner/landlord, its top priority is mitigating impacts from retail tenants particularly on the residential units above, because failing to do so would have a negative financial impact on the project.

The proposed dog day care operator has facilities in Southern California and Seattle, Washington. The operator has a reputation for maintaining top-notch, sparkling clean facilities. A presentation highlighting features of the proposed dog day care center is attached as **Exhibit C**. Attached as **Exhibit D** are 13 pages of Yelp! Reviews about the operator's Southern California facility.

II.
APPROVED PLANNED UNIT DEVELOPMENT

View 14 is located at 2303 14th Street, NW, on the east side of 14th Street between Florida Avenue and Belmont Street, in the C-2-A District. The mixed-use project consists of approximately 32,000 square feet of commercial and service uses at or below grade and 185 apartment units on the upper nine floors, and was approved as a PUD pursuant to ZC Order No. 05-22 (**Exhibit A**). In its decision to approve the PUD, the Commission found that the project benefits and amenities, particularly the provision of housing, affordable housing, and neighborhood serving retail were reasonable for the development of the PUD site. As set forth in ZC Order No. 05-22, the benefits and amenities of the PUD are as follows:

1. Housing and Affordable Housing. The single greatest benefit to the area, and the District as a whole, is the creation of new housing and home ownership opportunities consistent with the goals of the Zoning Regulations, the

Comprehensive Plan and the Mayor's housing initiative. The Applicant proposes to devote an area equal to 15% of the density gained through the PUD process (versus the development permitted as a matter of right in the C-2-B District), or approximately 11,729 square feet, as affordable housing. Of that, approximately 6,000 square feet will create units in the project available to those persons whose income does not exceed 80% of the "area median income" as that term is defined by the U.S. Department of Housing and Urban Development. Those units will reflect the market rate units within the project in terms of size and distribution throughout the building.

In lieu of constructing the additional 5,729 square feet of affordable housing on site, the Applicant will contribute \$1 million to the Sankofa Tenants' Association for the acquisition of the Cresthill Apartments, a 48-unit apartment house with over 50,000 square feet of gross floor area, located within one-half block of the PUD Site at 1430 Belmont Street. The Association is working with Jubilee Housing, Inc., the management agent for the Cresthill Apartments, and Reuben McCormack, an affordable housing development consultant, on a strategy to acquire the apartment building, convert it to a cooperative, and rehabilitate and maintain the 48 affordable units within the building as affordable housing.

2. Building Design and Site Planning. The high quality of design in the development of the architecture for the project exceeds that of most matter of right projects. The base of the building, with its neighborhood oriented retail and service uses, will stimulate pedestrian traffic while reflecting on the historical heritage of 14th Street. In addition, the elimination of the satellite dishes and antenna tower from the Comcast site and the screening of the remaining Comcast equipment building through a solid screen wall will significantly improve the urban landscape and create an environment that complements the character of 14th Street and the U Street Corridor. The provision of roof top private and publicly accessible terrace space will be a positive amenity to residents.
3. "Green " Building Practices. The PUD will include an irrigation system for on-site rainwater, and will include approximately 2,000 square feet of "green" roof on the mechanical penthouse roof.
4. Transportation Features. The PUD incorporates several measures that mitigate adverse traffic impacts. First, it will contain ground floor retail and service uses, reducing the need for residents to drive for basic neighborhood services. Second, residents will be within walking distance of the 14th and U Street Corridor, which offers a number of services and commercial uses, including stores, restaurants, and entertainment establishments. Third, the PUD Site is well served by public transportation, including Metrobus lines and the U Street-Cardozo Metrorail Station. Fourth, in order to improve traffic circulation to and from the PUD Site, the project has been designed to eliminate the existing curb cuts on 14th Street and Belmont Street and to limit vehicular ingress and egress to the public alley east of the PUD Site. Fifth, in order to better accommodate this vehicular traffic and improve circulation, most of the abutting alley will be widened from 15 feet to

20 feet. Finally, the PUD will include an underground parking garage that contains a minimum of 151 parking spaces, in excess of the number required under the Zoning Regulations, so that residents and users of the project will not have to compete for on-street parking spaces. Of those parking spaces, at least two will be reserved for a "Zip Car" or "Flex Car," car sharing programs for residents.

5. Employment and Training Opportunities. In order to further the District of Columbia's policies relating to the creation of employment opportunities, the Applicant will enter into a Memorandum of Understanding with the Office of Local Business Development. Under the terms of the Memorandum, the Applicant shall commit to make a bona fide effort to utilize local, small, or disadvantaged business enterprises certified by the District of Columbia Local Business Commission in order to achieve, at a minimum, the goal of 35% participation in the contracted development costs in connection with the development of the Project. The Applicant will also enter into a First Source Agreement with the Department of Employment Services ("DOES") ensuring cooperation with DOES for employee recruitment for jobs created by the PUD with the objective that 51% of the employees hired in connection with the development of the project are District of Columbia residents.
6. Monetary Contributions to Neighborhood Organizations. As part of the amenities and benefits package offered in connection with the application, the Applicant committed \$40,000 to assist the following neighborhood programs and initiatives:

Parent Association of the Boys & Girl Club of Greater Washington. (\$20,000) Education, field trips, educational materials, and supplies for high school members at the Mary and Daniel Loughram Clubhouse #10.

The Children's Studio School at 13 Street and V Street, N.W.. (\$10,000) Full day School of Arts as Education, Early Light and After 4 Studios, City as Studio, Urban Arts Complex, Evening Studios, Weekend Studios, Honoring and Transforming the Intimate Cultural Traditions of Washington Families, Epicenter Stories, and internships at the Children's Studio School.

Meridian Hill Neighborhood Association. (\$5,000) Scholarship fund for students at Cardozo High School, neighborhood clean-up, social events, welcome packages for new neighbors, and education forums.

Cardozo Shaw Neighborhood Association. (\$5,000) Initiatives resolving historic district boundaries, renovation of the Harrison Recreation Center, and on-going neighborhood outreach.

III. PROPOSED MODIFICATIONS TO APPROVED PUD

A. Description of Proposed Dog Day Care Center

The Applicant seeks to modify the PUD to include flexibility to permit a use on the Property that would otherwise require approval by special exception under Section 735 of the Zoning Regulations. Specifically, the Owner seeks flexibility to permit a dog day care center in the retail space on the ground floor of the building. The proposed dog day care center consists of approximately 4,300 square feet and includes pet grooming and overnight animal boarding. The entrance to the facility will be at the corner of Florida Avenue and 14th Street, and the frontage will be along 14th Street.

The dog day care center will offer cage-free dog daycare in five "play parks," pet grooming, and overnight boarding. (See floor plan attached as **Exhibit B.**) The facility will include an on-site retail store, lounge with free WiFi, music, and entertainment for dog owners who choose to wait at the facility while their dog is being groomed. The facility will be regularly cleaned with safe, organic materials, and will be furnished with state-of-the-art flooring, drains, wall-to-wall coverings, and high frequency air ventilation systems that protect against bacteria and odor.

B. Noise Study

Polysonics prepared an analysis to determine the noise impact of the proposed dog day care center on the five units directly above the space, which are Units 221, 223, 224, 225 and 226. A copy of the analysis is attached as **Exhibit E.** A copy of the floor plan for the second floor of the View 14 building outlining the units above the dog day care center space is attached as **Exhibit F.** The basis of design for the sound analysis was the standard established by the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE), which recommends that background interior sound levels for the apartment units should not exceed the overall sound pressure level of 35-40 decibels (dBA) -- the equivalent to a quiet bedroom at night.

Existing sound measurements were taken from Units 221 and 226 on January 17, 2014, from approximately 10:30 a.m. to 11:00 a.m. Unit 221 had an existing noise level of 35 dBA in

the bedroom and 37 dBA in the living room. Unit 226 had an existing noise level of 45 dBA in the bedroom and 41 dBA in the living room. Unit 226 measured louder relative to Unit 221 as a result of the unit's larger window line and location within the building, which is closer to the corner of 14th and Florida Avenue, which at the time of measurement had noises associated with traffic and construction. The measurement for both units were within the range recommended by ASHRAE.

In order to determine the projected noise impacts on the units directly above the dog day care center, the study assumed 50 dogs (of mixed breed and sizes) barking simultaneously, 100 percent of the time. The noise generated by this situation is approximately 95 dBA. Although a highly unlikely scenario, this assumption was used to present a conservative analysis of a "worst case" noise level generated from the dog day care center. Transmitting through the existing construction elements of the building, namely the 7-inch thick post-tensioned concrete slab at the ceiling of the retail space, the assumed worst case scenario would generate a noise level of 50 to 55 dBA in Units 221 and 226.

Based on those findings, in order to fully mitigate the noise impact such that, even under the worst case scenario, the background noise in the apartment units remains at current levels, Polysonics recommends, and the Applicant agrees to, the following sound proofing materials for the build out of the dog day care center space:

- a. The space should include an acoustical gypsum board ceiling isolated from the building structure on spring hangers with fiberglass insulation in the ceiling space.
- b. The space should have a finished ceiling with acoustical ceiling panels suspended below the gypsum board ceiling.
- c. The space should have 2" wall panels covering at least 50% of the available wall surface in each room for additional sound absorption.

In addition to foregoing construction measures, noise at the dog day care center will be controlled through the following operational measures:

- a. Every dog is evaluated to make sure the dog is the perfect fit for the club and for the pack. Any chronic barkers are dejoined from the club.
- b. Access to the play parks is restricted to employees, and communication is done through walkie-talkies, which limits disruption and keeps the dogs calm. There is also one-way glass so that staff members and dog owners can observe dogs without disrupting the pack.
- c. The facility will play "Chill Music" around the clock, which the dogs enjoy.
- d. All of the handlers are trained on several methods to minimize barking. They engage the dogs, play games, etc.

C. Procedural History and Community Outreach

The Applicant filed BZA Application No. 18702 on November 15, 2013, seeking special exception approval from the Board of Zoning Adjustment (the "BZA") for the dog day care use at the Property. The application was heard before the BZA on February 4, 2014. At its public meeting on March 11, 2014, the BZA denied the Applicant's request for special exception approval. Based on its discussion of the case, the BZA denied the special exception request on two grounds. First, the BZA ruled that the Property abuts a Residence Zone. Second, the BZA suggested that the use would cause other dogs in the building bark and, therefore, the Applicant did not demonstrate that the proposed use would not produce objectionable noise within the building. We believe that the BZA erred in its findings. As discussed in Section IV of this statement, the proposed dog day care center meets the special exception standard of review set forth in Section 735 of the Zoning Regulations for an animal boarding use.

Petition in Support

Upon filing the BZA application, the Applicant hosted an event with View 14 tenants in order to present the proposed dog day care use and introduce the proposed operator. At the event, 105 persons (100 of whom live in the building) signed a petition in support of the proposed use. Among those in support of the dog day care were three tenants whose units are

situated directly above the proposed dog day care center space.¹ A copy of the petition in support of the use is attached as **Exhibit G**.

Recommendations/Reports

In connection with the BZA Application, ANC 1B, the Office of Planning ("OP"), the Department of Transportation ("DDOT") and the Meridian Hill Neighborhood Association ("MHNA") issued the following recommendations/reports to the BZA:

ANC 1B. ANC 1B did not file any documentation on this case. On December 16, 2013, the application was presented to the Design Review Committee for ANC 1B, which voted unanimously to recommend support of the application to the full ANC. The full ANC considered the application at its regularly scheduled meeting on January 2, 2014, but, effectively, took no action on the matter.²

OP Report. OP submitted a report on January 28, 2014, recommending approval of the special exception under § 735 for the animal boarding use on the Property, subject to the following conditions:

1. Animals shall only enter and exit the business through the front door facing 14th Street NW.
2. There shall be staff on site at all times that animals are on site, including overnight.

A copy of the OP Report is attached as **Exhibit H**.

DDOT Report. DDOT submitted a report on January 3, 2014, concluding that the proposed dog day care center will have no adverse impacts on the travel conditions of the District's transportation network; and therefore DDOT had no objection to the approval of the application. A copy of the DDOT Report is attached as **Exhibit I**.

¹ Of the five units located directly above the dog day care center space, only four units are occupied. Tenants in three of the units signed the petition, and the Applicant was unable to make contact with the tenant in one of the units.

² The ANC vote was tied on the motion to recommend approval of the Application. There was no subsequent motion made on the Application.

Meridian Hill Neighborhood Association. Chris Young submitted a letter on behalf of the MHNA dated February 1, 2014, which is attached as **Exhibit J**. The letter states that MHNA neither supports nor opposes the zoning relief for the proposed dog day care businesses. It also states that MHNA is convinced that the interests of the View 14 residents have been satisfied and that community members sought a better understanding of (1) how the business owners will manage daytime dog walking and mitigate any potential impacts of that activity in the surrounding residential neighborhood where dog walking presumably would occur, such as from animal waste and urine; and (2) how the Applicant will address any parking and traffic impacts during drop off and pick up hours. Ms. Christina Parascandola, immediate past president of MHNA, testified at the hearing, reiterating the concerns about dogs going into the front yards and gardens on the neighboring residential streets and potential double parking and traffic.

Party in Opposition

The BZA granted party status to the Concerned Residents and Neighbors of View 14. With the exception of Jessica Larkin, Austin Hill and Joseph Lagomarcino, who live in the View 14 building, the persons listed as Concerned Residents and Neighbors of View 14 do not reside within immediate proximity to the Property. Brian Romanowski, Josh Cohen and Eric Katz live more than 670 feet from the Property; Nicolas Dryfuse and Denny Horner live more than 1,160 feet from the Property; and Daren Phillips and Randy LiVorsi live more than 1,760 feet from the Property. Also, Paul and Ariel Sanett, who reside in Unit 215 at View 14 and Lavinder Liddar, who resides in Unit 217, submitted letters in opposition to the application.

None of the persons opposed to the application live above the proposed dog day care center space. None of the persons opposed to the application appeared at the hearing. Via letter, they expressed concern that noise and odor from the dog day care center use will negatively impact the tenants in the View 14 building. However, they did not present any evidence to substantiate this argument, nor was any evidence provided contrary to the Applicant's testimony related to noise and odor.

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

A. Impact of the Project Under Section 2403.3

As noted in the OP Report and the DDOT Report, attached as Exhibits H and I, respectively, the impact of the proposed modification to the PUD on the surrounding area and the operation of city services and facilities will not be unacceptable. In fact, the proposed dog day care center will have a favorable impact on the surrounding neighborhood. The space will have large picture windows along 14th Street, which will activate this section of 14th Street. Also, it will bring a neighborhood service use for people living in View 14 and the surrounding neighborhood. Any impacts from the proposed day care center are capable of being fully mitigated. As indicated in the study by Polysonics, noise from 50 dogs barking at one time can be fully mitigated with certain sound proofing materials in the buildout of the dog day care center space. Also, as discussed earlier in this statement, specific operational measures are intended to minimize barking at the dog day care center. Finally, the dog day care center operator will control odor through the following measures:

1. Design. The facility will be designed with epoxy floors, impermeable surfaces and stainless steel equipment throughout. All the seams are sealed. There are service stations in every play park stocked with everything that is needed to keep the play park sparkling clean.

2. Equipment Investment. The dog day care operator will invest over \$25,000 in commercial cleaning equipment from commercial scrubbers, commercial window cleaning equipment, sanitizers, central vac systems and a commercial washer and dryer.

3. Cleaning Solutions. The cleaning solutions will be from WAXIE's green product line.

4. Accountability. The dog day care center staff cleans the entire facility; they do not use an outside service. The staff will have daily check lists to accomplish this task. The checklist is broken down per position and a new check list is started every day, which the general manager inspects throughout the day. A sample of the daily task check list is attached as

Exhibit L. Additionally, mystery shoppers will come to the facility on a monthly basis to inspect whether the staff is meeting the cleaning goals and service standards.

The facility will have nine waste receptacles throughout. Each play park will have a "poopee" patch which is a designated spot for the dogs to do their business, which will go through the grass, down the drain, out of the building. This helps keep the facility smelling fresh and clean. When urine is deposited on the floor, it is extracted with a commercial scrubber. The floors are cleaned with a mini-scrubber that scrubs, disinfects and extracts any moisture off the floor. Also, the facility will use HEPA filters that are serviced on a quarterly basis.

In order to address the concerns raised by MHNA relating to damage to residential yards and parking, the Applicant and dog day care operator agree that (1) dogs will only be walked along 14th Street and not on the surrounding residential blocks and (2) dog day care center clients will be advised to refrain from double parking on streets adjacent to the property when dropping off and picking up dogs.

B. Public Benefits and Amenities

In deciding on an application to modify a PUD, the Commission shall judge, balance and reconcile the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case. 11 DCMR § 2403.8. In this case, the Applicant seeks to modify the PUD to include flexibility to permit a dog day care center on the ground floor retail space of View 14. The project is a mixed-use PUD located in the C-2-A District, on 14th Street, a major commercial corridor. We submit that the requested additional flexibility for the PUD is extremely reasonable when evaluated against the project amenities and public benefits originally approved for the PUD, and given that any impacts generated by the proposed dog day care center can be fully mitigated as previously described.

**IV.
SPECIAL EXCEPTION STANDARD OF REVIEW**

Although the Applicant seeks approval of the proposed dog day care center through a PUD modification, the proposed use complies with the special exception standard for approval set forth in Section 735 of the Zoning Regulations for an animal boarding use as follows:

§ 735.2. *The animal boarding use shall not abut³ a Residence Zone.*

The animal boarding use does not abut a Residence Zone. The proposed dog day care center will be located in the C-2-B District, on the front side of View 14, a mixed-use building, along 14th Street, a major commercial Street. It abuts retail spaces within the building along 14th Street and Florida Avenue and the service corridor for the building; it is also situated below five apartment units. A copy of the ground floor plan of the building is attached as **Exhibit K** for reference. The abutting sections of 14th Street and Florida Avenue are all in the C-2-B District; there are no abutting Residence Zones along these blocks.

§ 735.3. *The animal boarding use shall take place entirely within an enclosed and soundproof building in such a way so as to produce no noise or odor objectionable to nearby properties. The windows and doors of the premises shall be kept closed and no animals shall be permitted in an external yard on the premises.*

There are no properties nearby that would be impacted by noise or odor from the animal boarding use. View 14 is the only building on the east side 14th Street between Florida Avenue and Belmont Streets. The only parcel that abuts the Property is Lot 156 where the Comcast equipment building is located. The windows and doors of the dog day care center will be kept closed and there is no external yard on the Property.

§ 735.4. *The animal boarding use shall place all animal waste in closed waste disposal containers and shall utilize a qualified waste disposal company to collect and dispose of all animal waste at least weekly. Odors shall be controlled by means of an air filtration system (for example, High Efficiency Particulate Air "HEPA" filtration) or an equivalently effective odor control system.*

Odor at the dog day care center will be controlled through the following measures:

1. Design. The facility will be designed with epoxy floors, impermeable surfaces and stainless steel equipment throughout. All the seams are sealed. There are service stations in every play park stocked with everything that is needed to keep the play park sparkling clean.

³ The term "abut" is not defined in § 199.1 of the Zoning Regulations. § 199.2 states that words not defined shall have the meaning given in Webster's Unabridged Dictionary. In Webster's Unabridged Dictionary "abut" means "to border on: reach or touch with an end; (2) to cause to abut: support by abutment."

2. Equipment Investment. The dog day care operator will invest over \$25,000 in commercial cleaning equipment from commercial scrubbers, commercial window cleaning equipment, sanitizers, central vac systems and a commercial washer and dryer.

3. Cleaning Solutions. The cleaning solutions will be from WAXIE's green product line.

4. Accountability. The dog day care center staff cleans the entire facility; they do not use an outside service. The staff will have daily check lists to accomplish this task. The checklist is broken down per position and a new check list is started every day, which the general manager inspects throughout the day. A sample of the daily task check list is attached as **Exhibit L**. Additionally, mystery shoppers will come to the facility on a monthly basis to inspect whether the staff is meeting the cleaning goals and service standards.

The facility will have nine waste receptacles throughout. Each play park will have a "poopee" patch which is a designated spot for the dogs to do their business, which will go through the grass, down the drain, out of the building. This helps keep the facility smelling fresh and clean. When urine is deposited on the floor, it is extracted with a commercial scrubber. The floors are cleaned with a mini-scrubber that scrubs, disinfects and extracts any moisture off the floor. Also, the facility will use HEPA filters that are serviced on a quarterly basis.

§ 735.6. External yards or other exterior facilities for the keeping of animals shall not be permitted.

The Property does not have an external yard. The Applicant will not use any exterior facilities on the Property for animal boarding.

**V.
CONCLUSION**

The Applicant submits that the PUD, as modified herein, meets the standards of Chapter 24 of the Zoning Regulations and the standards for approval. Accordingly, the Applicant requests that the Zoning Commission approve the proposed PUD modification.

Respectfully submitted,



Leila M. Jackson Batties
HOLLAND & KNIGHT
800 17th Street, NW
Washington, DC 20006
(202) 955-3000