

November 8, 2024

**Via IZIS**

Anthony Hood, Chairperson  
District of Columbia Zoning Commission  
441 4th Street, NW, Suite 200-S  
Washington, DC 20001

Re: **Z.C. Case No. 04-14H: Application for Review and Approval of a Modification with Hearing to a First-Stage PUD and a Second-Stage PUD for the Property Located at Square 708, Lot 16 – Prehearing Submission**

On October 24, 2024, the Zoning Commission voted to set the above-referenced application down for a public hearing (“Setdown Meeting”). This letter and accompanying materials address the comments and questions raised by the Commission at the public meeting as well as the Office of Planning in its report dated October 10, 2024.

**I. OP and Commission Comments**

- A. Flexibility from Required 75-foot Waterfront Setback.** The Applicant included a request for relief from the 75-foot waterfront setback required in Section 11-C DCMR Section 1102.1. The Applicant had requested this relief out of an abundance of caution given the configuration of the bulkhead. Upon further investigation, however, the Applicant has determined that relief is not necessary for the conditions at grade; relief is still required for below-grade parking spaces and for structure starting at the third-floor level. The Project otherwise meets the required setback at grade: a portion of the setback is measured from the bulkhead and the remainder is measured from the mean high-water level, as required in Section 1102.1(b). Attached as Exhibit A, are plans that show the required measurement and proposed conditions. The Applicant still seeks relief from the setback requirement for the below-grade garage and for floors three and above. The below-grade space protrudes 8 feet, 4 inches – 16 feet into the required setback and floors three and above protrude 2 feet, 1 inch to 6 feet, 6 inches into the required setback. Commissioners noted at the Setdown Meeting, that they did not have an issue with below-grade projections into the setback. The above-grade projections do not have an impact on the public’s use and enjoyment of the open spaces provided within the Project.

As depicted in the attached plans, the Applicant initially requested the relief for the conditions at grade because the bulkhead structure juts inland, as shown on Sheet 86, potentially triggering a more conservative setback requirement. The bulkhead, however, no longer serves to keep water from the shoreline where it turns toward the shore and does not function as a bulkhead in those spaces. Rather than measuring the setback from the shoreward turn of the bulkhead, the setback measurement transitions from being measured from the bulkhead to being measured from the mean highwater line. As noted in the attached plans, all at-grade structures are set back at least 82 feet, 2 inches feet from the shoreline at grade, consistent with the requirements of Section C-1102.1(b). This exceeds the depth of setback that is otherwise required.

As noted on Sheet 89, the spaces reserved for public use remain unaffected by the building design. The width of the circulation spaces remain consistent through Phases 1, 2 and 4 of the PUD: the esplanade is 15 feet wide, which is consistent with the width provided in Phases 1 and 2; and the boardwalk is 10-12.58 feet wide, which is consistent with the width provided in Phases 1 and 2; and the amenity zone is 17.41 - 18.83 feet wide, which is consistent with the width provided in Phases 1 and 2. The design of the proposed public circulation does not narrow at any point and remains as generous as provided in Phases 1 and 2. Importantly, the proposed setback is consistent with Section 1102.1 and is more generous than that approved in the Stage One PUD.

The Applicant otherwise details the project's compliance with the standard of relief for the required setback on pages 19-21 of Exhibit 2A.

- B.** Residential Use. The Applicant is proposing residential use on the site of Phase 4, where a hotel was approved in the Stage One PUD. The introduction of residential use is considered a benefit of the PUD. The Commission requested information regarding the transportation impacts caused by the change in use. The proposed residential building with ground floor retail on the site of Phase 4 is estimated to generate 30 trips (8 inbound and 22 outbound) in the AM Peak Hour and 32 trips (18 inbound and 14 outbound) in the PM Peak Hour. The proposed trip generation is substantially less than the trip generation estimated for the hotel building with ground floor retail approved in the Stage One PUD. The transportation study prepared for the Stage One PUD estimated a trip generation of 135 trips (79 inbound and 56 outbound) in the AM Peak Hour and 158 trips (77 inbound and 81 outbound) for the Phase 4 building in the PM Peak Hour.
- C.** Benefits and Amenities. Several Commissioners requested information regarding the status of the approved benefits and amenities package for the PUD. The Applicant provides a complete and in-depth overview of the conditions of

the First Stage PUD at Exhibit 2J1 in the record. Below is a chart that sets forth an overview the benefits and amenities approved for each phase and whether it has been satisfied.

	Phase 1	Phase 2	Phases 3 and 4
LEED-Certifiable for each Phase (Order No. 04-14B)  LEED v4 Certified for Phase 2 (Order No. 04-14D)	Complied	Complied	Proposed condition for certification at LEED Gold level
Abide by MOU with DSLBD to achieve target goal of 35% participation by CBE (Order No. 04-14B/D)	Complied	Complied	Proposed condition
Abide by terms of First Source Employment Agreement to achieve goal of utilizing District residents for at least 51% of new jobs (Order No. 04-14B/D)	Complied	Complied	Proposed condition
Abide by Employment and Skills Training Plan (Order No. 04-14B/D)	Complied	Complied	Proposed condition

Demonstrate Proof of \$800,000 payment for Diamond Teague Park (Order No. 04-14B)	Complied	NA	NA
Residential Use (Order No. 04-14B/D)	Complied	Complied	Proposed
Open Space (this number is based on approved/proposed lot occupancy and any adjacent public spaces maintained by Applicant) (Order No. 04-14B/D)	~71,000 sf	~30,000 sf	Proposed: 62,000 sf
Inclusionary Zoning (Order No. 04-14D)	*IZ was specifically not considered a benefit or amenity of the First Phase; however, it provides 25 units	23 units	Proposed condition for approximately 59 units/10% of residential GFA

\*Case No. 04-14B approved a consolidated PUD for Phase 1 and a Stage 1 PUD for Phases 2, 3 and 4; Case No. 04-14D approved a Stage 2 PUD for Phase 2.

As noted on pages 26-28 of Exhibit 2A, the proposed benefits and amenities are commensurate with the level of flexibility sought through the PUD process. As described in more detail below, the Project benefits from a limited amount of flexibility from the zoning standards. The Project benefits primarily from additional height achieved through a PUD; it only benefits from a modest increase in density beyond what it can achieve under its matter-of-right zoning designation. Nevertheless, the Applicant provides a generous benefits and amenities package that far surpasses what would otherwise be provided for a matter-of-right development. The central feature of the benefits and amenities package is the level of open space provided and designed specifically for public

enjoyment. The PUD is uniquely positioned to grant public access to the waterfront for passive and active enjoyment. Not only does the Applicant provide these spaces but it has enhanced these spaces to encourage unique engagement and experiences along the waterfront by the public.

- D.** Inclusionary Zoning Set-Aside. The Applicant is proposing to set aside 10% of the residential gross floor area for households with an annual income no greater than 60% MFI (any IZ set aside triggered by the residential units provided in the penthouses will be set aside at the 50% MFI level). As OP noted in its report, this is a net increase in the level of affordable housing proposed for these phases given that the First Stage PUD approved hotel and office uses, which did not trigger an affordable set aside. A significant amount of analysis went into the proposed benefits and amenities for this phase of the PUD. In fact, the Applicant met with the Office of Planning several times to discuss the inclusionary zoning set aside, understanding that the provision of affordable housing is a primary concern in the District. As discussed with the Office of Planning and consistent with the earlier phases of the PUD, the benefits and amenities package has been thoughtfully developed and is commensurate with the level of flexibility being requested. Recognizing the importance of affordable housing but realizing the unique opportunity provided by the project, the primary focus of the benefits and amenities package has historically been and continues to be the provision of publicly accessible open space. As detailed in the Office of Planning's report, the open spaces are critical to the project and, importantly, they cannot be duplicated elsewhere. To best understand the context of the IZ set-aside, it is necessary to understand the flexibility the PUD process is providing this project as well as the details of the open space proffer of the PUD.

The underlying zoning for Phases 3 and 4 is CG-5, which allows a maximum FAR of 5.8 and a height of 90 feet. Phases 3 and 4 have a FAR of 6.1 and a height of 130 feet. The project benefits from the height allowed by the PUD-related map amendment to the C-3-C Zone District but achieves minimal density through the PUD process beyond what would be allowed as a matter-of-right. The concept of providing the proposed density in the form of increased height, rather than an expanded building footprint, is consistent with the Applicant's prioritization of open space.

Throughout the history of the PUD, open space has been the benefit and amenity given the greatest priority given the location of the property. The PUD offers an opportunity to allow recreation along the waterfront, which cannot be achieved on other properties in the District. Phases 3 and 4 provide and/or maintain over one acre of open space on the property and adjacent public spaces. Creating distinct experiences along the waterfront is expensive to both construct

and to maintain. The Applicant anticipates that construction of these spaces and maintenance over their life will cost approximately \$7.5 million dollars.

In light of the expense related to the provision of open spaces on Phases 3 and 4, as well as throughout the entirety of the PUD, the Applicant cannot provide the same level of affordable housing that other PUDs do. Again, those PUDs do not bear the expense of extensive open spaces as they are not as uniquely situated as this PUD. With the benefit of open space comes the obligation to improve those spaces to ensure they meet the needs of the public. With that in mind, the Applicant has carefully developed the proposed open space plan, which complements not only those spaces provided in Phases 1 and 2, but also aligns with the public spaces and trails planned by the District for this area.

The IZ units generated by this project will be spread proportionately between both buildings and will come online at the same time as the market rate units buildings in each building. Each building will independently comply with the requirements of the certificate of inclusionary zoning compliance.

- E.** Community Outreach. The Applicant met with its single member district representative and the Chairman of ANC 8F in February, June and October of 2024. It has requested that the application be included on the ANC's public agenda. The Applicant has also met with the Chairman and adjacent single member district representative of ANC 6D in July and September of 2024. It made a presentation at the ANC's October meeting, at which time the ANC took a preliminary vote in support of the project, with proposed design comments. At no point during any of these meetings, did the commissioners note concern with the loss of the hotel and replacement with residential use.
- F.** Marina. The marina was approved as a design review application in Case No 04-14D. Condition E(2) of that Order requires that an application for the construction of the marina be filed by May 2025 or that the Applicant seek an extension of the approval.

## **II. Conclusion**

The Applicant appreciates the Commission's consideration of this application and asks that it be scheduled for a public hearing.



