

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

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Memorandum

TO: District of Columbia Zoning Commission
FROM: *ELM*
Ellen McCarthy, Director
DATE: March 24, 2006
SUBJECT: **ZC 06-04 - Setdown Report –**
Consolidated PUD and Related Map Amendment - Square 3100, Lot 48

APPLICATION

The applicant, Florida and Q Street LLC, is requesting approval of a consolidated PUD and related map amendment from the C-2-A to C-2-B Zone District to permit construction of a mixed used development on property located at 1600 North Capitol Street N.W., Square 3100, Lot 48.

RECOMMENDATION

The Office of Planning's (OP) preliminary review concluded the applicant's proposal has merit and recommends it be set down for public hearing. The proposed development conforms to the Generalized Land Use Map and Comprehensive Plan objectives for the area and it will support the anticipated revitalization of the North Capitol Street corridor.

Relief is requested from the residential recreation space, court and loading requirements of the proposed C-2-B Zone District and OP believes that variance relief from the recreation space and court requirements can be supported. However, OP requests the applicant provide additional information regarding the sizes of the loading areas proposed.

The applicant has committed to:

- Dedicating 15% of the acquired gross floor area (GFA) (5,695 sq. ft.) as affordable units for residents earning no more than 80% of the Area Median Income (AMI).
- The requirements of the District's LSBDE and Local Business Opportunity Commission programs.
- Inclusion of a green roof and use of energy efficient heating systems.
- Streetscape improvements, including new street plantings and sidewalk renovation
- Public art for the raised entryway.

ZONING COMMISSION
District of Columbia

CASE NO. 06-04
ZONING COMMISSION
EXHIBIT NO. 17
District of Columbia
CASE NO. 06-04
EXHIBIT NO. 17

Based on information provided to date, OP requests the applicant provide:

Prior to Public Hearing

- Final number of residential units with up to 20% bonus density assigned to affordable housing if additional public amenities are not identified.
- Proposal for the public art display at the entryway.
- Identify qualifying and non-qualifying recreation space on the plans.
- Additional information regarding the loading areas, including DDOT's comments.
- Completed traffic study with DDOT's analysis.
- Green roof area or square footage provided on the roof plan.
- First Source Memorandum and LSBDE Memorandum of Understanding.

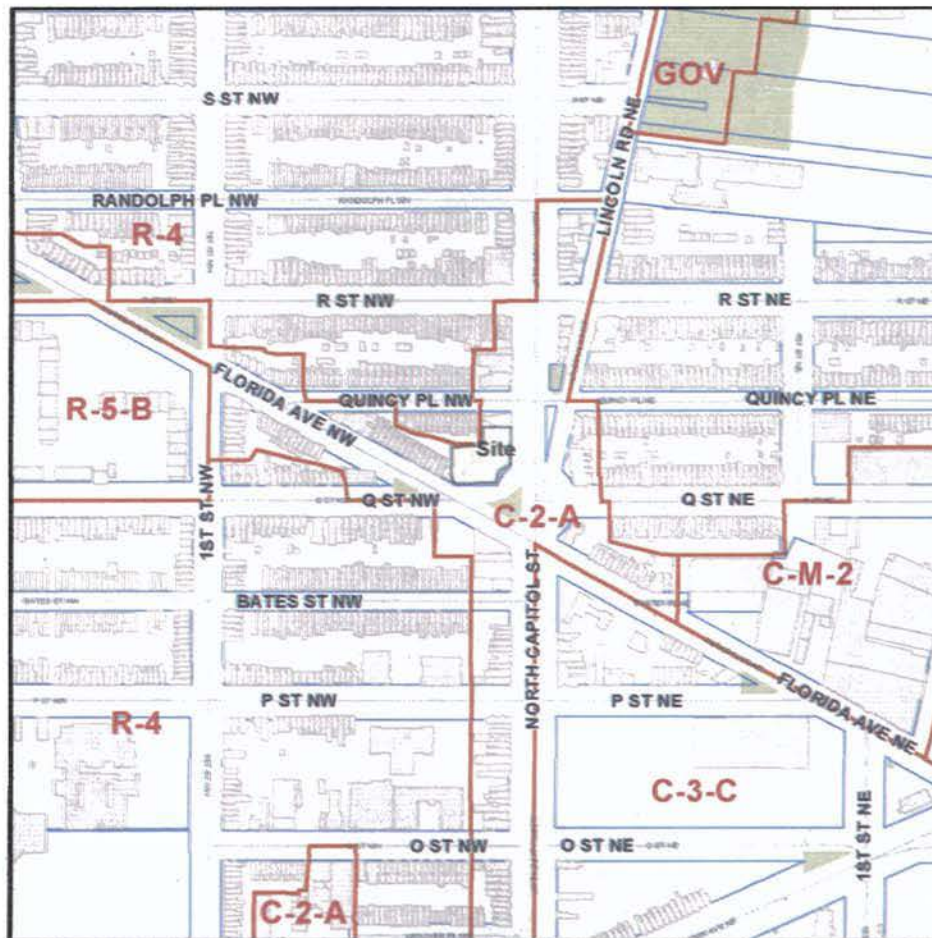
Final Action

- Final sample materials and color to be used for the façade prior to final action.
- Final design for the proposed public art display.
- Final number of residential units for the design.

SITE DESCRIPTION

The vacant parcel of land located in Square 3100 is 18,984 square feet in area and is positioned at the northwest intersection of North Capitol Street, Florida Avenue, a portion of Q Street and a remaining portion of what was originally known as Truxton Circle. Generally, the square is comprised of row structures and multi-family townhouse dwellings. Surrounding squares have some mixed-use, moderate density commercial buildings, as well as moderate density single-family and multi-family dwellings within the R-4 Zone.

The site is zoned C-2-A and complements the Comprehensive Plan which designates it as a low density commercial site. This neighborhood serving commercial zone extends along North Capitol Street in the immediate neighborhood, and it abuts the residential row-house R-4 Zone District to the northwest, northeast and southwest of the intersection. The Eckington Yard Special Treatment Area begins at the southeast intersection and the zone transitions to the industrial C-M-2 Zone District which accommodates production and distribution facilities such as FEDEX and XM Satellite Radio and other smaller production, distribution and repair (PDR) establishments. C-2-A zoning extends to the west of the site, on Florida Avenue, with some commercial establishments located in converted 2-story row structures. The site is within 2,200 feet of the New York Avenue Metro Station.



Zoning Vicinity Map

PROPOSAL

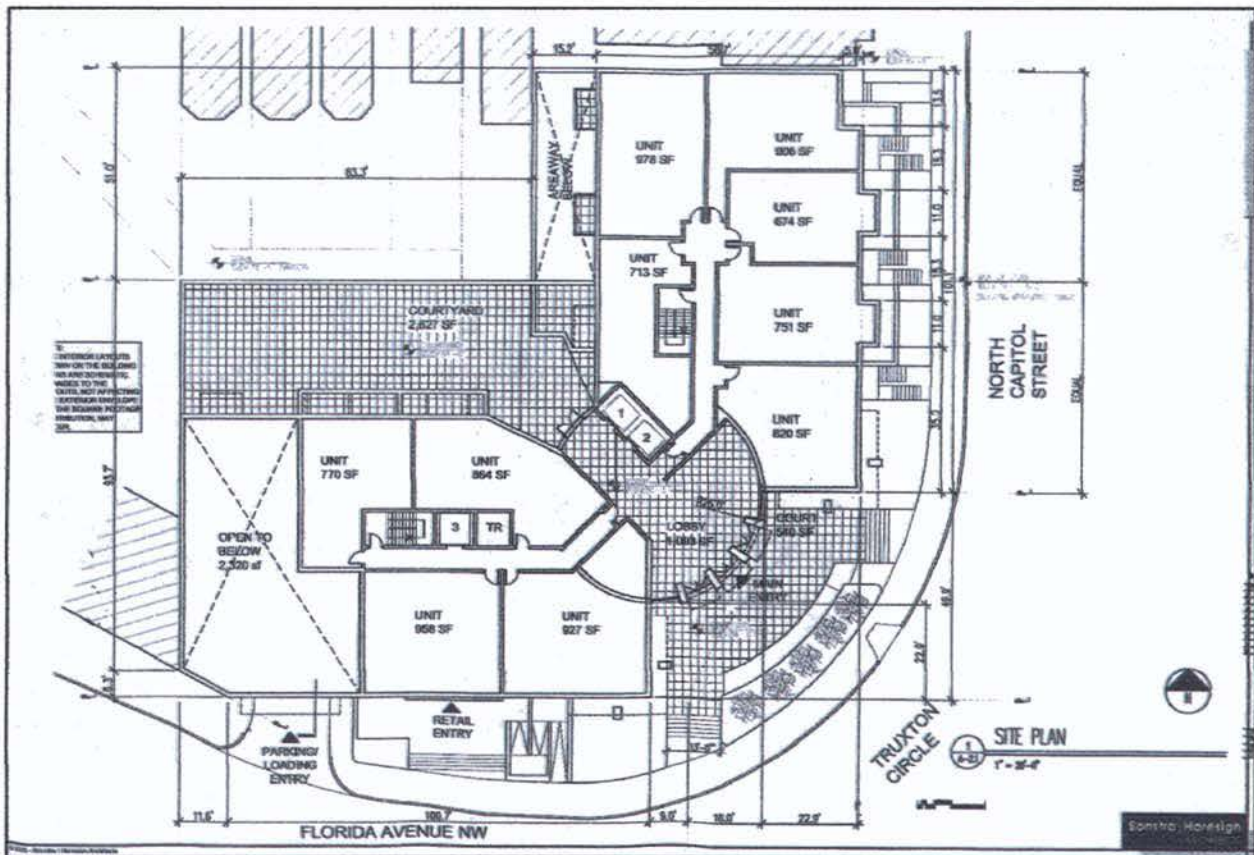
The site will be developed with a seven-story mixed-use building at a maximum height of 86 feet, including architectural embellishments. The building proposed at 76.5% lot occupancy would have a combined gross floor area of 85,428 square feet, of which 81,428 square feet would be dedicated to residential uses for 65-85 units (to provide flexibility based on market conditions) and 4,970 square feet assigned to neighborhood serving retail and service uses. The project has been designed with a total **FAR of 4.5**.

Thus far, the applicant's design proposes 76 residential units comprised of one bedroom units (29%), one bedroom with den (44%), two-bedroom units (26%) and three bedroom units (1%). The applicant has committed to 15% of the bonus density or approximately **5,695 square feet to be assigned as affordable units** for residents earning no more than 80% of the AML.

The upper floors of the building have been designed to be set at least 10 feet from all street fronts, beginning at the 7th floor or 65-foot elevation.

Eighty-four (84) below-grade parking spaces with an entrance from Florida Avenue would be provided where 26 spaces are required by the Zoning Regulations. Separate entrances have been created for the residential and retail uses.

Two outdoor recreation areas in the form of a courtyard on the first floor and a roof deck, including 2 private areas and a public area, are shown in submitted plans. These areas would be landscaped as shown on Sheet A-2.5 (Landscape Plan) of the applicant's plans.



ZONING

The site has been designed to conform to the permitted height and FAR according to the C-2-B/PUD requirements as requested for the map amendment. The following table compares the standards of the underlying C-2-A zone, the C-2-B and C-2-B/PUD, with those proposed for the project:

Table 1

Standard	C-2-A	C-2-B/M-O-R	C-2-B/PUD	Proposed
Area	18,984 sq. ft (15,000 sq. ft)	18,984 sq. ft.		18,984 sq. ft.
Height	50 ft. (65ft. -PUD)	65	90 ft.	79 ft.
FAR	Non Residential – 0.5 Residential – 2 TOTAL : 2.5 (3.0 PUD)	Retail – 1.5 Residential – 2 (66,444 sq. ft.) TOTAL: 3.5	Non-Residential – 2.0 Residential – 4.0 (75,936 sq. ft) TOTAL : 6.0	Retail –0.05 = 1,030 sq. ft. Residential – 4.45 (84,398 sq. ft). TOTAL: 4.5 ¹
Lot Occupancy	Residential – 60%	80%	Residential – 80%	76.5%
Rear Yard	12 ft. minimum or 2.5 ins./ft. of height or 17 ft.		15 ft. minimum or 2.5 ins./ft. of height or 17 ft.	40 ft. (Measured from centerline at Fl. Ave.)
Court	Width = 4" per ft. of height, - not less than 15 feet.		Width = 4" per ft. of height, - not less than 15 feet.- 21 ft. required	15.2 feet
Parking	1 per 2 D.U 0 for less than 3,000 sq. ft. of retail	1 per 3 D.U	1 per 3 D.U (26 required)	Retail – 0 Residential – 84 spaces
Loading	1 loading berth @ 55 ft deep 1 loading berth @ 30 ft. deep 1 loading platform @ 200 sq. ft. 1 service/delivery space @ 20 ft.	1 loading berth @ 55 ft deep 1 loading platform @ 200 sq. ft. 1 service/delivery space @ 20 ft.	1 loading berth @ 55 ft deep 1 loading platform @ 200 sq. ft. 1 service/delivery space @ 20 ft.	None for less than 5,000 square feet of retail 1 loading berth @ 30 ft deep 1 loading platform @ 200 sq. ft. 1 service/delivery space @ 20 ft.
Residential Rec. Space	15% GFA	15% GFA	15% = 12,214 sq. ft.	8.22% = 6,204 sq. ft. 5.82% = 4,392 sq.ft. (non-qualifying space)

FLEXIBILITY

Relief from the Zoning Regulations is required for the residential recreational space, court width and loading requirements:

Recreational Space

The C-2-B Zone District requires recreation space of 15% of the residential gross floor area. 81,428 square feet of the proposed building is apportioned to residential use, therefore 12,214 square feet of recreation space is required. However, the proposal will only provide 6,204 square feet (8.22%) of the residential recreation space. Additional non-qualifying space of approximately 4,392 square feet (5.82%) would also be provided outdoors. Therefore, a total of 14% of area (qualifying + non-qualifying) would be accessible to residents for recreation purposes. Qualifying recreation space is 6,204 sq. ft. or 8.22%. Non-qualifying space of 4392 sq. ft. (5.82%) will be provided in the form of

¹ Bonus Density = 37, 968 sq. ft.
15% to Affordable Housing = 5,695 sq. ft.

private terraces/balconies. As part of the prehearing submission, the applicant will provide a range of materials contemplated for the project. In addition, the applicant has met with the Director of the H. Thomas Recreation Center and is in the process of negotiating an amenities package for the Center.

OP is requesting that the applicant identify the additional non-qualifying space on the plans for its pre-hearing submissions.

Court Width

The applicant has stated that flexibility is needed from the court requirements due to the shape of the subject property. Regulations require 4" of court width per foot of height. Therefore, for a court height of 64 feet (as shown in submitted plans), a 21-foot wide court is required. A 15-foot wide court is proposed.

Section 2405.5 provides the option for the Commission to approve courts less than the required minimum width depending upon the exact circumstances of the project. The applicant has stated that the difference of six feet has an impact on the size of the units along the west side of the North Capitol Street frontage. In addition, OP observed that based on submitted plans, the width of the court would also impact the structural grid on the underground garage columns. The applicant will elaborate on this aspect of the design framework in the pre-hearing statement prior to the public hearing.

Loading

According to the applicant's statement and plans, a 55 foot-deep loading berth is not provided due to the configuration of the Florida Avenue entryway. However, a 30 foot-deep loading berth is provided, as well as a loading platform. **OP would need additional information from the applicant as well as DDOT's opinion** regarding the size of the proposed loading platform, loading berth and the delivery area before a recommendation is provided regarding the requested relief.

PUD EVALUATION STANDARDS

In order to maximize the use of the site consistent with the Zoning Regulations and be compatible with the surrounding community, the applicant is requesting that the proposal be reviewed as a consolidated PUD. The purpose and standards for Planned Unit Developments are outlined in 11 DCMR, Chapter 24. § 2400.1 states that a PUD is "designed to encourage high quality developments that provide public benefits." This will allow the utilization of the flexibility stated in § 2400.2.

The overall goal is to permit flexibility of development and other incentives, such as increased building height and density; provided, that the project offers a commendable number of quality public benefits and that it protects and advances the public health, safety, welfare, and convenience."

The proposed development will be constructed on a vacant property that is identified as a community eyesore.

As a welcome increase to the District's housing stock, the development would catalyze projected revitalization of a vital intersection of major District arterials. Therefore, the project would significantly improve the appearance of this very prominent intersection.

OP believes that the impact of the project on the surrounding area and on the operation of city services and facilities would not be adverse or unfavorable (§ 2303.3). However, OP would request impact statements from the District Department of Transportation (DDOT), the Department of Health (DOH), and the Department of Public Works (DPW) and would rely on the departments' recommendation as part of OP's final report prior to the public hearing.

Retail store space is 4,000 sq. feet. Retail storage space is 970 sq. feet. The total equals 4,970 sq. feet as shown on Sheet A-3.3 of the applicant's submission. While the applicant does not have a particular tenant in mind, a small scale retail or service tenant, such as (but not limited to) a market, dry cleaner, shoe repair, video rental, is envisioned. Since the space for the retail is only 4,000 sq. feet any tenant or tenants will be of a fairly small scale. Nevertheless, these would represent new retail offerings for this neighborhood.

The applicant has submitted an economic analysis outlining the projected tax benefits to the District from the real estate and retail components of the project. In addition, approximately 15 permanent retail-related jobs and other support jobs are estimated to be created during the project's 24-month construction.

OP believes that the project's benefits would outweigh any unfavorable impact. However, OP will work with the applicant to mitigate any such impact, if identified, prior to the Commission's final action.

A. COMPREHENSIVE PLAN AND PUBLIC POLICIES

An evaluation standard for PUD's also requires that the proposed PUD is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site (§ 2403.4).

Preliminary evaluation of the development proposal is consistent with the Comprehensive Plan including the following Major Themes of the Plan:

- Section 102.4 - Stabilizing and Improving District Neighborhoods

"The District elements of the Plan's policies and strategies on increasing housing opportunities, neighborhood commercial facilities....will be combined with other District policies...to conserve functioning, stable neighborhoods, and to stabilize or improve those which need redirection."

The proposed development would replace a long demolished gas station use with new housing with some ground floor neighborhood serving retail and help redevelop a functionally active commercial

node on the North Capitol Street corridor. The residential use would improve public safety in the neighborhood, as it will provide more “eyes on the street.” Overall, this infill development will be a significant contribution to the housing of the District’s moderate-income residents in the Bloomingdale/Eckington Neighborhood. The proposal is also consistent with the following policies and objectives of the Urban Design Chapter, particularly Sections 712 and 713 as follows:

712 AREAS IN NEED OF NEW AND IMPROVED CHARACTER

- 712.1** *The areas in need of new and improved character objective are to encourage new development or renovation and rehabilitation of older structures in areas with vacant or underused land or buildings to secure a strong, positive physical identity.*
- 712.2** *The policies established in support of the areas in need of new and improved character objective are as follows:*
- (a) Encourage well-designed developments in areas that are vacant, underused, or deteriorated. These developments should have strong physical identities;*
 - (b) Encourage in-fill development of attractive design quality in deteriorated areas to stabilize the physical fabric and to encourage renovation and redevelopment;*

1621 WARD 5 OBJECTIVES FOR URBAN DESIGN

1621.1 The objectives for urban design are as follows:

- (a) Promote a physical environment that upgrades the ward’s aesthetic qualities, enhances neighborhood stability, emphasizes neighborhood identity and function, and physically enhances the gateways and entrance ways into the city;*
- (b) Give special design attention to those areas within the ward that have a poor physical image, where new development can improve the neighborhood’s visual qualities while providing needed services; ...*
- (d) Strengthen the design and visual character of commercial nodes and corridors that serve ward neighborhoods; and*
- (e) Through the design of new structures, decrease the potential for illegal activity by eliminating sites or locations that would attract and harbor the criminal element.*

The infill development would bring a strong physical identity to the immediate neighborhood and would in fact further the commercial and residential redevelopment along the North Capitol Street and Florida Avenue corridors. As a mixed use project within a 2,200 foot radius from the New York Avenue Metro Station, it would establish a residential scale and character at the intersection and act as a catalyst for increased neighborhood activity during the day and evening hours. Most importantly, OP believes that the design would be a physical and visual enhancement to the character of this important neighborhood commercial node and in support of the urban design objectives for the ward as outlined in § 1621 of the Plan.

B. COMPREHESIVE PLAN GENERALIZED LAND USE MAP

The Generalized Land Use Map recommends the subject site for low density commercial. The proposed development at a total FAR of 4.5, comprised of mixture of residential and retail uses with only 0.05 FAR, is not inconsistent with the Comprehensive Plan as the projected retail activity would include a limited range of retail goods and services as the predominant uses.

C. PUBLIC BENEFITS AND AMENITIES

§ 2403.9 addresses the requirement for public benefits and amenities as follows:

“Public benefits and project amenities of the proposed PUD may be exhibited and documented in any of the following or additional categories:

- (a) Urban design, architecture, landscaping, or creation or preservation of open spaces;*
- (b) Site planning, and efficient and economical land utilization;*
- (c) Effective and safe vehicular and pedestrian access, transportation management measures, connections to public transit service, and other measures to mitigate adverse traffic impacts;*
- (f) Housing and affordable housing;*
- (h) Environmental benefits, such as stormwater runoff controls and preservation of open space or trees;*
- (i) Uses of special value to the neighborhood or the District of Columbia as a whole;*

The North Capitol Street corridor is a significant element of the L’Enfant Plan which extends up to Florida Avenue. Development of this vacant parcel, while not included in the L’Enfant Plan, would remove an eyesore and enhance the physical and visual character of the surroundings.

The project’s design attempts to respect the rowhouse character of the abutting residences by transitioning the building’s height to minimize the apparent height of the building and complement the adjacent townhouses roof at 35 feet. A mansard roof and double bays are included to also address the row house fabric of the neighborhood. Materials for the building’s facades may include brick, stone and pre-cast accents, and decorate metal railings with metal frame architectural embellishments. A canopied main entrance, which features the architectural embellishment as a tower is proposed as a connector between the differences of the North Capitol Street and Florida Avenue corridors. In addition, the units fronting on North Capitol on the cellar and 1st level will be accessed by stairs. The applicant has stated that plans will be revised to better reflect this access in the prehearing submission.

As a public benefit, the applicant has also committed to streetscape improvements, including new paving for the sidewalks, new and replacement tree boxes and trash receptacles, as well as public art in the form of a metal sculpture or water feature for the raised entryway. **OP encourages the applicant to work**

with DPW and DDOT to finalize public space improvements in accordance with the agencies' standards.

OP believes the design attempts to address the neighborhood's character with respect to the building's proposed material and its articulation at the intersection of two major arterials.

OP is also supportive of the site planning and the efficient land utilization of the site for the proposed building. The site is L-shaped and does not abut an accessible alley system, which would have made it easier for the applicant to more efficiently utilize the site's area in terms of the location of the loading areas and vehicular access to the building. In addition, the lot directly abuts a property to the north (SOME²) and northwest. However, OP believes that the proposed design ensures the availability of light and air to these residences with the inclusion of the open courtyard and the 15-foot setback of the areaway shown on the plans.

The applicant's statement indicates that a preliminary traffic analysis concluded that the proposal would not have any appreciable adverse traffic impacts on the local area. Sufficient parking would be provided on-site with approximately 85 spaces. This exceeds the required number of spaces required by § 2101. OP also notes that both corridors (North Capitol and Florida Avenue) serve many Metrobus routes and is pedestrian-accessible to Metro's Red Line (New York Avenue Metro Station), and via Metrobus to the Green Line to the east (Shaw/Howard U. Metro Station) or the main transportation center at Union Station, to the south. **The traffic analysis will be referred to DDOT for staff comments when completed by the applicant.**

The applicant has committed up to 15% of the bonus density to affordable housing.

Green building elements of the design include an integrated heat exchange system to link the residential and retail HVAC system for energy efficiency and a green roof. The main area will be the roof of the penthouse level which will be 3,200sf of "extensive" green roof. About 860 square feet of "intensive" green roof (planters which catch the drainage of the upper roof) is proposed for the main roof level. Planters may also be included at the courtyard level. The applicant has stated to OP that further development by a green roof consultant will be necessary to determine whether stormwater can be effectively captured and routed as appropriate. However, **OP requests the applicant provide an outline of area assigned as "green roof" on the roof plan prior to public hearing.** Attention to the indoor environmental air quality of the building is encouraged through the use of low-emitting materials, including adhesives, sealants, paints, carpet, composite wood and agri-fiber. These are credited by the US Green Building Council (USGBC) for new construction.

https://www.usgbc.org/Docs/LEEDdocs/LEED-NC_checklist-v2.1.xls

The applicant will document participation in a First Source Agreement with the District of Columbia Department of Employment Services with the intent to utilize District residents for 51% of the jobs created during the project's buildout. In addition, the applicant will also commit to hiring local businesses to achieve the goal of 35% participation in contracted development costs related to the design, maintenance, and security of the project as required by the Local Business Opportunity

² Non-Profit Organization - So Others Might Eat

Commission. This Agreement is supportive of the District's employment policy for District residents. Further, the applicant's economic analysis projected that approximately 15 permanent retail-related jobs would be generated due to the site's development.

OTHER CONCERNS

The applicant's submission requests that flexibility be provided to:

- Vary location and design of interior components...provided that the variations do not change the exterior configuration of the building.
- Vary the location and arrangement of parking spaces.
- Vary the final selection of exterior materials within the color ranges and material types as proposed...or any other changes necessary to obtain a final building permit.

While OP understands that some changes may not affect material facts of approval, and/or changes may be necessary due to construction or cost circumstances, **OP is concerned about these requests for the following reasons:**

- Potential changes to structural elements including slabs, columns, stairways and mechanical rooms, without probable change to the exterior configuration, may ultimately affect the location of roof structures and changes to other requirements including number of parking spaces or location and area requirements for loading areas.
- Given the visual prominence of this intersection, OP is concerned that exterior material changes and colors may affect the positive visual impact the building could provide without the benefit of the Commission's approval.

Therefore, OP believes that such changes could in fact affect the building's design and ultimately its visual impact at a prominent intersection of the District.

AGENCY REFERRALS AND COMMENTS

If this application is set down for a public hearing, it will be referred to the following District government agencies for review and comment:

- District Department of Transportation (DDOT);
- D.C. Fire and Emergency Management Systems (DCFEMS);
- Department of Health (DOH); and
- Department of Public Works (DPW).

COMMUNITY COMMENTS

The applicant has presented preliminary concepts to the ANC 5C. However, the ANC will have a formal review and recommendation at its regularly scheduled meeting in April. OP has no information to date regarding the ANC's comments or concerns.

RECOMMENDATION

Based on a preliminary review of the applicant's submission, **OP supports the proposal** to develop this important intersection in the Eckington/Bloomingdale neighborhood. The proposed PUD is not inconsistent with the elements of the Comprehensive Plan and OP recommends **the application be set down for public hearing**.

OP recommends the applicant finalize its plans to include a determination of the façade materials and colors and other issues as stated which may ultimately affect the design at a prominent intersection.

Attachment

1. PUD IZ Standards

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING



Office of the Director

Planned Unit Development
Inclusionary Housing Commitment Standards

Zoning Commission Case No. 06-04

Development Standards for 1600 North Capitol Street, N.W.

Total Square Footage: Applicant shall commit to reserve **5,695 square feet** of the total marketable residential square footage for units affordable to households within the targeted income range.

Unit Types: The mixture of affordable unit types shall be comparable to the mixture market rate unit types. The proportion of affordable studios and 1-bedrooms may not exceed the proportional mix of market rate studios and 1-bedrooms.

Unit Sizes: Internal square footage of affordable units should be comparable market rate units.

Unit Distribution: Affordable units shall be reasonably distributed vertically and horizontally throughout all building and/or phases of the project. Affordable units shall not constitute a majority of units on any floor, building or phase of the project. Nor shall any floor, building or phase of the development contain 100% of the affordable units.

Construction: External design and materials of affordable units shall be indistinguishable from market rate units. Internally, appliances and finishes shall be comparable, but may be of different quality.

Household Standards

Target Income Range: Eligible households are defined as those households that meet the following criteria:

- Having household income not exceeding the 80% of the Area Median Income for the Washington, D.C. Metropolitan Statistical Area and adjusted for family size (see below for the summary of current income limits);
- Purchasing or renting their primary residence;
- Have no ownership interest in any other housing within the past three years;
- Commit to continuous occupancy per the lease terms or deed covenants;
- Qualify for any necessary mortgage financing and down payment, and

- Have an income eligibility certification letter by making application to the home purchase assistance programs of the DC Department of Housing and Community Development (DHCD).

Initial Housing Cost: Shall be determined by the District government based on the following assumptions

- Monthly housing payment shall equal 30% of the Income Limits by family size and unit type.

Unit Type	Household Size	2006 Income Limit
Studio/Efficiency	1 Person Household	\$50,560
1-Bedroom	2 Person Household	\$57,800
2-Bedroom	3 Person Household	\$65,000
3-Bedroom	5 Person Household	\$79,460

- Purchase assumptions include:
 - 5% Down payment;
 - Monthly housing payment includes principal, interest, taxes, insurance and condo or home association fees;
 - 30 year term;
 - Current national average interest rate determined by FreddieMac weekly survey of mortgage (see www.freddie.mac.com).
- Rental assumptions include:
 - Housing payment does not include utility allowance.

Final Housing Cost: Shall be determined 60 days prior to marketing of the affordable units using current information for the same assumptions above.

Occupant Selection: Applicant shall hold a lottery of all qualified families to be selected as the Initial Unit Purchasers. Applicant will provide notice of the lottery through advertisements in local newspapers and other vehicles reasonable to ensure broad exposure to potentially eligible purchasers. The Department of Housing and Community Development will also advise existing applicants to its home purchase assistance programs of this affordable housing opportunity. The Initial Unit Purchasers and the Initial Unit Price shall be determined six months prior to the projected completion of the Affordable Units.

Resale Restrictions: Resale During Control Period - The Affordable Units will be restricted (through a deed restriction, covenant and/or other legal means) in their resale for a period of 10 years to: (1) income-eligible homebuyers, a list of whom may be obtained from the Department of Housing and Community Development's applicant pool for home purchase assistance programs; (2) a maximum Purchase Price equal to the Initial Unit Price plus the cumulative change in the consumer price index and the cost of permanent improvements to the Unit; and (3) Sale within a given 10

year affordability restriction period shall create a new 10 year affordability restriction period.

Resale After Control Period - Upon the expiration of the 20-year restricted selling period, the then current owner of the Unit may sell the Unit without restriction but the sales proceeds shall be allocated as follows:

First, to the seller in the amount of their original sales price plus the cumulative change in the consumer price index, the cost of permanent improvements to the Unit, the closing costs paid by the seller at their closing and a reasonable sales commission.

The remainder shall be split equally between the seller and a District of Columbia government fund dedicated to the provision of affordable housing.

Enforcement: Restrict covenants shall be active until the affordable Housing Production Trust Fund receives the appropriate contribution from the sale of the unit.

The District government shall retain all rights to enforce the provisions of the affordability covenants, according to the provisions of this document or such enforcement mechanisms as the District government may deem appropriate. The District government shall have the right to recapture any enforcement costs.

Procedural Changes: The substance of any of the above clauses that are included in deed restriction terms may not be modified without consent of both the unit owner(s) and the District government. Administrative, monitoring and enforcement mechanisms not included in deed restrictions may be modified at the sole discretion of the District government.