

ZONING COMMISSION CASE NO. 08-24 and 08-24A/04-25

CONDITIONS OF APPROVAL

October 5, 2009

1. The PUD project shall be developed in accordance with the plans and materials submitted by the Applicant marked as Exhibit ____ of the record, as modified by the guidelines, conditions and standards of this order.
2. The Applicant shall make the following financial contributions within the specified time period:
 - **Monroe Street Bridge Improvements:** The Applicant shall make a financial contribution of **\$50,000** to fund aesthetic improvements to the Monroe Street Bridge. The contribution shall be made prior to the issuance of a certificate of occupancy for the Block E building.
 - **12th Street Retail Façade Improvement Grant:** The Applicant shall make a financial contribution of **\$25,000** to the existing 12th Street retail façade program currently administered by DC Department of Small and Local Business Development (DSLBD). The contribution shall be made prior to the issuance of above-grade building permits for the first building to be constructed on the Subject Property.
 - **Brookland-Edgewood Retail Strategy Study:** The Applicant shall make a financial contribution of **\$25,000** to engage a reputable third-party retail consultant to study and prepare a report on the retail needs for the Brookland and Edgewood communities and recommend the appropriate allocation of retail uses among 4th Street (Edgewood), 12th Street (Brookland), and the proposed retail on Monroe Street. The report shall be completed and submitted to the Office of Planning, ANC5A, ANC5C, and the Edgewood Civic Association prior to receipt of above-grade building permits for Block A1.
 - **Ward 5 Scholarships:** The Applicant shall make a financial contribution of **\$35,000** to Trinity College and **\$40,000** to The Catholic University of America for scholarships for academically qualified Ward 5 residents. The contributions shall be made prior to receipt of the certificate of occupancy for Block E.
 - **Dance Place:** The Applicant shall install a “sprung floor” in the Arts Flex Building (Block D) to accommodate dance classes and recitals (estimated cost **\$40,000**) and provide a **\$15,000** financial contribution to the Next Generation Youth Program. The sprung floor shall be completed prior to receipt of the certificate of occupancy for Block D building. The \$15,000 monetary contribution shall be made prior to receipt of the first above-grade building permit for the Subject Property.

- **Fatherhood/Career Development Program at Luke C. Moore Academy:** The Applicant shall provide a financial contribution of **\$45,000** to the HELP Foundation (or the relevant administering organization) in support of the fatherhood/career development program administered at the Luke C. Moore Academy located at 1001 Monroe Street, NE. The financial contribution shall be made prior to receipt of first above-grade building permit for the Subject Property.
3. The Commission will require those organizations receiving a monetary contribution to present evidence to the Office of Zoning's Compliance Review Manager demonstrating that the money has been applied to the designated use within six months of receiving the contribution. If the money has not been applied to the designated use within six months, the recipient must provide a reasonable explanation to the Office of Zoning's Compliance Review Manager as to why not and must present evidence to the Office of Zoning's Compliance Review Manager within one year indicating that the contribution has been properly allocated.
 4. The Applicant shall establish a transportation demand management program that includes the following:
 - Coordination with a local car-sharing vehicle service to reserve parking spaces, provided there is interest in locating car-sharing vehicles at this site;
 - Providing all initial residents, upon move-in, a SmartTrip card to encourage the use of mass transit;
 - Allocate a space on the Subject Property for a Smart Bike station to be provided by DDOT; and
 - Designate a transportation management coordinator.
 5. The Applicant will make a formal written request to DDOT to establish a permanent 55-foot loading space on the north side of Monroe Street, in front of Block C.
 6. The Applicant will provide signage at the entrances to the alley adjacent to Block C prohibiting trucks larger than 30 feet from entering the alley.
 7. The Applicant will incorporate loading operations into the Rules and Regulations provided to all tenants of Block C. The Rules and Regulations for the loading operations will inform tenants that all trucks larger than 30 feet are prohibited from using the alley and are required to use the dedicated loading space on Monroe Street.

8. The Applicant will designate a member of the on-site staff as the freight manager, who will be responsible for enforcing the Rules and Regulations regarding loading operations in Block C.
9. The project shall reserve 63,000 square feet of gross floor as affordable housing to households having an income not exceeding 80% of Area Median Income for the Washington, DC Metropolitan Statistical Area (adjusted for family size).
10. The Applicant shall enter into a First Source Employment Agreement with the Department of Employment Services (“DOES”) in substantial conformance with the First Source Agreement submitted as Exhibit F of Exhibit 18 of the record. A fully signed First Source Employment Agreement between the Applicant and DOES must be filed with the Office of Zoning prior to the issuance of the first above grade building permit for the Subject Property.
11. The Project shall be designed to satisfy LEED certification but it shall not be required to be LEED certified.
12. The Applicant shall realign the intersection of 7th Street and Michigan Avenue to create a four-legged intersection with the entrance of Catholic University, as provided for in the approved plans.
13. The Applicant shall reconfigure the intersection of Michigan Avenue and Monroe Street to establish a “T” intersection, as provided for in the approved plans.
14. The Applicant shall incorporate the Metropolitan Branch Trail on Block C, as provided for in the approved plans.
15. The Applicant shall provide space for a shuttle bus drop-off area on the west side of 7th Street between Michigan Avenue and Monroe Street that will be available to a limited number of private shuttles accessing the Metrorail station from the west side of the railroad tracks.
16. The Applicant shall have flexibility with the design of the PUD in the following areas:
 - To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration of the structures;
 - To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction; and
 - To make minor refinements to exterior details and dimensions, including balcony enclosures, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit.

17. The Office of Zoning shall not release the record of this case to the Zoning Regulations Division of DCRA and no building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs (DCRA). Such covenant shall bind the Applicant and all successors in title to construct and use the Subject Property in accordance with this order, or amendment thereof by the Zoning Commission. The applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
18. The change of zoning from the R-4, R-5-A, and C-M-1 Zone Districts to the C-2-B and R-5-B Zone Districts shall be effective upon the recordation of the covenant discussed in Condition No. 13, pursuant to 11 DCMR §3028.9.
19. The PUD shall be valid for a period of three years from the effective date of Zoning Commission Order No. 08-24 and 08-24A/04-25. Within such time, an application must be filed for a building permit for the construction of Block B, C, or D as specified in 11 DCMR Section 2409.1; the filing of the building permit application will vest the Zoning Commission Order. An application for the final building permit completing the development of the approved PUD project must be filed within ten (10) years of the issuance of the final certificate of occupancy for the first building.
20. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the applicant to comply shall furnish grounds for denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this order.