

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 14-02

Z.C. Case No. 14-02

A&R Development Corporation, *et al.*

**(First-Stage PUD and Related Map Amendment @ Various Lots in
Squares 5862, 5865, 5866, and 5867)**

December 8, 2014

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held public hearings on June 16, 2014, June 19, 2014, and September 18, 2014, to consider applications from the District of Columbia ("District"), District of Columbia Housing Authority ("DCHA"), A&R Development Corporation ("A&R"), and Preservation of Affordable Housing, Inc. ("POAH") (collectively, the "Applicant"), for approval of a first-stage planned unit development ("PUD") and a PUD-related zoning map amendment to rezone Square 5862, Lots 137-143; Square 5865, Lots 243, 249, 254, 259, 260-280, 893, 963-978, and 992; Square 5866, Lots 130, 133-136, 141-144, 147-150, 152, 831-835; and Square 5867, Lots 143, 172-174, 890-891, and 898 (collectively the "PUD Site") from the R-5-A Zone District to the R-5-B and C-2-A Zone Districts. The Commission considered the applications pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearings were conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the applications.

FINDINGS OF FACT

The Application, Parties, and Hearing

1. On February 20, 2014, the Applicant filed applications with the Commission for the review and approval of a first-stage PUD and related zoning map amendment from the R-5-A Zone District to the R-5-B and C-2-A Zone Districts for the PUD Site. The PUD Site is generally bounded by Sumner Road to the north, Firth Sterling Avenue to the west, the Saint Elizabeths Hospital property to the south, and Wade Road to the east, all located in the southeast quadrant of the District. The PUD Site consists of: (i) Barry Farm residences, consisting of 432 low-income rowhouses, owned and managed by DCHA; (ii) Wade Apartments, consisting of 12 low-income units at the corner of Wade and Eaton Roads, owned and managed by DCHA; and (iii) eight vacant properties that are owned by the District. The proposed redevelopment will help to implement the Barry Farm Park Chester Wade Road Redevelopment Plan ("Small Area Plan"), which was

approved by the Council of the District of Columbia on December 19, 2006, pursuant to resolution Res 16-0922.

2. The Applicant proposes to build a mixed-use development on the PUD Site that will bring new mixed-income housing, new public spaces, and new retail/service uses to the Anacostia neighborhood. The proposed development provides an overall density of 2.09 floor area ratio ("FAR"), as permitted under the moderate-density zone designation for the PUD Site. The PUD will include approximately 1,834,317 square feet of gross floor area devoted to residential uses, comprised of approximately 1,014 apartment units, 278 row dwellings, 46 flats (92 units), and 16 live/work spaces. Approximately 24.5% or 344 units of the total residential units will be replacement public housing units. The PUD will provide approximately 55,500 square feet of gross floor area devoted to new retail/service uses, a substantial amount of open space, including a large central park, and significant new public infrastructure, including roads and utility upgrades. The Applicant will provide a total of approximately 1,067 parking spaces dispersed throughout the PUD Site. On-street parking will also be provided throughout the PUD Site.
3. At its public meeting held on March 31, 2014, the Commission voted to schedule a public hearing on the application.
4. On April 10, 2014, the Applicant submitted a Prehearing Statement. (Exhibit ["Ex."] 16-16J.) The Prehearing Statement included additional information regarding the phasing of the PUD; the PUD's sustainable and green building initiatives; the distance of the PUD Site to nearby Metrobus lines and the Anacostia Metrorail station; additional information regarding the site planning approach and design concepts as they relate to the apartment houses and row dwellings; and the additional materials required pursuant to § 3013 of the Zoning Regulations.
5. On May 27, 2014, the Applicant submitted a Supplemental Prehearing Statement. (Ex. 25-25C5.) This submission included a Transportation Impact Study prepared by CH2M Hill, dated May, 2014 (Ex. 25B1-25B4), which was submitted to the District Department of Transportation ("DDOT") and a schematic master plan dated May 27, 2014 (Ex. 25C1-25C5), which superseded all plans previously filed for the PUD and included refined designs that responded to feedback from the Office of Planning ("OP"), DDOT, the Commission, and the community.
6. On June 3, 2014, the Barry Farms Tenants and Allies Association ("BFTAA") filed a Party Status Request to participate at the hearing in opposition to the PUD application. (Ex. 27.) Formed in 2012, BFTAA is an association whose members include some current residents of the Barry Farm and Wade Road apartments who oppose the proposed redevelopment. According to its Request for Party Status submission, BFTAA has at

least 25 participating members. The Applicant did not oppose BFTAA's request for party status.

7. After proper notice, the Commission held a public hearing on the application on June 16, 2014. At the public hearing, the Commission denied BFTAA's Party Status Request based on the finding that the BFTAA is not uniquely affected by the PUD application. At the close of the June 16th hearing, the Commission also scheduled a continuation hearing for June 19, 2014.
8. By letter dated June 16, 2014, BFTAA requested that the Commission reconsider the Commission's denial of BFTAA's party status request, and requested that the Commission grant a rehearing on the case. (Ex. 45.) At the June 19, 2014 hearing, the Commission granted BFTAA's request for party status, but denied BFTAA's request for a rehearing. The Commission granted BFTAA the opportunity to cross-examine the Applicant's witnesses who testified on the June 16, 2014 hearing, and BFTAA cross-examined the Applicant's primary witnesses. (Transcript ["Tr."] dated 6/19/2014, pp. 77-105.)
9. The parties to the case were the Applicant, Advisory Neighborhood Commission ("ANC") 8C, the ANC within which the PUD Site is located, and BFTAA.
10. At the June 16, 2014 hearing, the Applicant submitted a copy of a report prepared by Mr. Steven E. Sher and the hearing PowerPoint presentation. (Ex. 41, 42.) In addition, the following principal witnesses testified on behalf of the Applicant: Stephen M. Green, Director of the Office of Capital Programs at DCHA, on behalf of the Applicant; Feras Qumseya, Vice President of Development at A&R, on behalf of the Applicant; Rodger Brown, Managing Director of Real Estate at POAH, on behalf of the Applicant; Matthew Bell, architect, on behalf of Perkins Eastman Architects; Richard Staudinger, civil engineer, on behalf of CH2M Hill; and Steven E. Sher, Director of Zoning and Land Use Services, on behalf of Holland & Knight, LLP. Based upon their professional experience, as evidenced by the resumes submitted for the record, the Commission qualified Mr. Bell as an expert in architecture and urban design; Mr. Staudinger as an expert in transportation and civil engineering, and Mr. Sher as an expert in land use and zoning. The following individuals also testified in support of the application: Kimberly Black King, Director of the New Communities Initiative ("NCI"), on behalf of the Executive Office of the Mayor through the Deputy Mayor's Office for Planning and Economic Development ("DMPED"), and Councilmember Marion Barry.
11. At the June 16, 2014 hearing, OP and DDOT testified in support of the PUD.
12. At the June 16, 2014 hearing, one individual testified in opposition to the application, and another individual submitted a list of questions, to which the Commission requested the Applicant submit answers prior to the June 19, 2014 hearing.

13. On June 13, 2014, ANC 8C submitted a letter regarding the application. (Ex. 38.) ANC 8C's letter indicated that on May 7, 2014, at a duly noticed public meeting at which notice was properly given and a quorum was present, ANC 8C voted 5-0-1 to not support the application. The letter indicated that at its June 4, 2014 meeting the ANC received no additional information about the PUD, and that it was recommended that the ANC meet again on June 10, 2014. ANC 8C's letter indicated that on June 10, 2014, the Applicant presented additional information regarding the issues of density on the PUD Site, and that the ANC voted 3-0-1 to support the application if the Applicant reduces the quantity of units to 1,200. The letter noted that the community has been waiting for redevelopment of the PUD Site for years, but that the Applicant's proposed density is too high.
14. At the June 19, 2014 hearing, Mary Cuthbert, Chair of ANC 8C, presented testimony and witnesses regarding the application. ANC 8C members and their witnesses stated their desire to have a maximum of 1,200 dwelling units on the PUD Site, to reduce the proposed density, and to provide housing types that are appropriate for existing residents of Barry Farm and the surrounding community.
15. At the June 19, 2014 hearing, a representative for BFTAA, cross-examined the Applicant and OP, and presented testimony in opposition to the application. Will Merrifield, staff attorney with the Affordable Housing Initiative at the Washington Legal Clinic for the Homeless; Nancy MacWood; Josef Fuentes; and Schyla Pondexter-Moore also testified on behalf of BFTAA in opposition to the Application. Based upon his professional experience, as evidenced by the resume submitted for the record, the Commission qualified Mr. Fuentes as an expert in architecture. Testimonies of the BFTAA's witnesses are included in the record. (Ex. 56, 62, 71.)
16. At the June 19, 2014 hearing, four persons testified in support of the application and nine persons testified in opposition to the application. In addition, the following persons and organizations submitted letters in support of the application: Excel Academy Public Charter School (Ex. 36); United Black Fund, Inc. (Ex. 40); Barry Farm Resident Council (Ex. 44); Absalom Jordan, an ANC 8D Commissioner (Ex. 49); and Reverend James E. Coates (Ex. 52). The Committee of 100 on the Federal City submitted a letter in opposition. (Ex. 48.)
17. At the June 19, 2014 hearing, OP testified in support of the application.
18. On July 10, 2014, BFTAA and ANC 8C submitted a joint resolution ("Joint Resolution") stating their support for the PUD, subject to a number of conditions. (Ex. 68.) The conditions included the following:

- a. The Applicant shall not exceed the density objectives of the Small Area Plan (1,110 units across three subdivisions) Barry Farm Dwellings, Wade Road Apartments, and Park Chester Apartments;
- b. The Applicant shall guarantee in writing a one for one replacement of all current public housing units (approximately 450 units) to be renovated or reconstructed on-site at Barry Farm with the same ratio of bedroom unit sizes and under the same resident lease criteria and conditions as currently in place for all residents;
- c. All current Barry Farm affordable public housing units will be renovated and or reconstructed on-site at Barry Farm of equal quality and furnishings as any market-rate units which may be constructed;
- d. The PUD review shall be halted until open and public phasing planning meetings are held starting as soon as possible. At least four public meetings shall be held over the next six months in a public venue with all Barry Farm residents invited with proper written notice to both those living on-site and off-site as well as members of BFTAA, Barry Farm Residents Council ("BFRC"), ANC 8C, and the Applicant;
- e. Phasing plans must allow all Barry Farm residents the right to remain on-site at Barry Farm during implementation of any redevelopment or renovation. The Applicant shall not compel any Barry Farm residents to relocate or move off-site without agreement of the affected residents(s) to be able to return under the same leasing criteria and conditions as well as return to a unit of equal bedroom sizes if their family composition matches the unit criteria;
- f. During phasing planning, a survey of all Barry Farm residents who have been transferred off-site shall be conducted by the Applicant, with oversight from BFTAA, BFRC, and the ANC 8C, to determine if these off-site residents want to come back on-site to Barry Farm;
- g. During phasing planning, a thorough survey, study, and then public reporting of the efficacy and capacity of the public infrastructure (i.e., lighting, roads, alleys, sewers, etc.) currently in place and/or proposed. The Applicant shall be responsible for a significant portion of the utility upgrade costs;
- h. During phasing planning, open and transparent public charrettes with all Barry Farm residents as well as ANC 8C, BFTAA, and BFRC to discuss additional needed project amenities, like larger backyards with fencing, landscaping, and additional playground areas throughout the development;

- i. During phasing planning the Applicant must coordinate with other city agencies like the Department of Housing and Community Development ("DHCD") and Department of Small and Local Business Development ("DSLBD"), among other city and federal agencies that can provide assistance, in order to provide much broader and detailed public discussion, understanding and implementation of home and small business opportunities, including that of cooperative home and business ownership models, all prioritized for Barry Farm residents first;
- j. Phasing plans must result in ALL Barry Farm residents, living on- or off-site having an affirmative understanding of a more certain future for them and their families pertaining to the redevelopment process;
- k. The public property associated with this PUD application shall remain public;
- l. Any property management companies, private or public, shall be retained for Barry Farm after consultation and written agreement and selection by BFTAA, BFRC, and ANC 8C; and
- m. ANC 8C and BFTAA will demonstrate good faith interest in granting a five-year approval for the first-stage PUD application if the Applicant agrees to the conditions listed below:
 - (1) All Barry Farm residents who may be in rental arrears shall receive a complete waiver of the full amount of any delinquent rent that may or may not have been litigated or adjudicated already in landlord tenant court;
 - (2) If within one year of this agreement the Applicant has not secured all project financing needed to move forward to the second stage, then all units currently inhabited by Barry Farm residents, and any other on-site units as reasonably determined, shall be fully renovated. All renovation costs shall be paid by the Applicant, and Barry Farm residents will be hired first for the renovation jobs using a reasonable applicant process. A renovation budget shall be approved in writing by BFTAA, BFRC, and ANC 8C, not to exceed 30 million dollars; and
 - (3) The Applicant shall not compel any Barry Farm residents to relocate or move off-site without agreement of the affected resident(s) in writing guaranteeing that said resident be able to return under the same leasing criteria and conditions, as well as be able to return to a unit of equal bedroom size if their family composition matches the unit criteria, with inclusion and first preference being offered to Barry Farm residents to remain in the community should family composition be downsized.

19. On July 11, 2014, Mayor Vincent Gray submitted a letter expressing strong support for the PUD application. (Ex. 69D.) The Mayor stated his belief that the master plan is comprehensive and innovative, as it seeks to deliver replacement public housing units and has the potential to be a catalyst that can lead to positive changes in the immediate community and beyond. The Mayor's letter also stated that the aging and deteriorating conditions of the existing units call for redevelopment of the PUD Site, which will introduce new commercial and retail into the community.

20. On July 14, 2014, the Applicant submitted a post-hearing submission. (Ex. 69-69L.) The post-hearing submission included: (i) a revised site plan addressing DDOT's comments regarding street layouts; (ii) a revised list of transportation demand management ("TDM") measures incorporating DDOT's recommendations; (iii) additional information regarding the Applicant's community outreach and engagement process; (iv) additional information regarding unit mix, size, and anticipated demand for housing on the PUD Site, particularly with respect to replacement public housing units; (v) further explanation regarding the PUD's projected development schedule; (vi) information regarding the Applicant's relocation plan and process, project phasing, return criteria, replacement vs. repair of existing structures on the PUD Site, and precedents for resident participation in homeowner associations; (vii) the PUD's compliance with the Small Area Plan and the District of Columbia Comprehensive Plan; and (viii) information regarding First Source Employment and resident hiring commitments.

21. On July 14, 2014, OP submitted a supplemental report, which included a description of the PUD's consistency with the Small Area Plan, the current area median income ("AMI") levels, and comments from the Metropolitan Police Department on the proposed project. (Ex. 70.) With respect to the consistency of the PUD with the Small Area Plan's recommendations, the OP report stated that "the proposed development helps to achieve this vision [of the Small Area Plan] while addressing other District goals and objectives as well, and acknowledging that, since the time that the [Small Area] Plan was developed, construction costs have continued to increase." (OP Supplemental Report, p. 1.) The OP report also stated that the then-proposed FAR of 2.42 (1,646 units) is not inconsistent with the Comprehensive Plan, particularly given the nature of the development and the affordable housing, green space, environmental and streetscape improvements, neighborhood retail, and other policy directions being furthered by the project. Finally, the OP report notes that at the time the Small Area Plan was developed, Inclusionary Zoning regulations were not in place and the Small Area Plan did not call for any affordable units beyond the replacement units. However, the OP report affirmed that the PUD will include affordable housing in addition to the replacement public housing units to ensure that the redevelopment is a mixed-income community with many housing options.

22. On July 21, 2014, the Applicant submitted a letter in response to the Joint Resolution. (Ex. 78.) The Applicant's letter provided answers to each of BFTAA and the ANC's requests and provided a substantive basis for those recommendations with which the Applicant did not agree.
23. On July 21, 2014, ANC 8C submitted a letter in response to the Applicant's July 14, 2014 post-hearing submission. (Ex. 74.) The letter set forth the ANC's primary concerns, which included the Applicant's proposed density and affordability levels for the PUD Site and the Applicant's relocation and return plans for Barry Farm residents. The letter also set forth the following requests from ANC 8C to the Commission:
 - a. Request that 450 Barry Farm units be fully reconstructed on-site and that the replacement public housing units not be counted toward any development incentives;
 - b. Require the Applicant to provide a greater number of affordable housing units for residents earning incomes scaled at equal increments of 30%t AMI, to 40% AMI, to 50% AMI, to 60% AMI, to 70% AMI, up to 80% AMI;
 - c. Ensure that no public land be conveyed into private hands through the PUD; and
 - d. Require the Applicant to sign a Memorandum of Agreement ("MOA"), modeled off of the ANC 8C Joint Resolution (Ex. 68), and if the Applicant refuses, request that the Commission deny the PUD application outright.
24. On July 21, 2014, BFTAA also submitted a letter in response to the Applicant's post-hearing submission dated July 14, 2014. (Ex. 75.) BFTAA's letter included the following requests:
 - a. Require that the Applicant's phasing plans include "build first" requirements to allow current residents to stay on the PUD Site during redevelopment planning and construction;
 - b. Require that the Applicant give current residents first priority in developing small business opportunities and meaningful home ownership opportunities;
 - c. Require that the Applicant reduce the number of units and building heights proposed for the PUD Site;
 - d. Require that the Applicant increase coordination of planning with the Park Chester redevelopment, explain coordination of utility and infrastructure upgrades, and explain why the public land will be conveyed to private developers; and

- e. Require that the Applicant provide more detailed information regarding phasing planning and return criteria, and require the Applicant to work with ANC 8C to sign the MOA.
25. On July 21, 2014, OP submitted a second supplemental report that responded to the Applicant's post-hearing submission dated July 14, 2014. (Ex. 73.) The report provided information on the Applicant's revised site plan; the Applicant's community outreach and engagement process; the mix of unit types and affordability; the Applicant's proposed development schedule; information regarding existing public housing units and residents; compliance with applicable planning documents; and information regarding First Source employment and the Applicant's resident hiring commitment. The OP report stated that the additional information submitted demonstrates that the PUD would have a significant mix of affordability as well as a mix of unit types, including replacement public housing and workforce housing units. The OP report also affirmed its support for the Applicant's request to extend the validity of the PUD from one year to three years, and reinforced OP's position that the affordability and density proposed for the PUD Site are not inconsistent with the Comprehensive Plan and the Small Area Plan.
26. On July 22, 2014, BFTAA submitted a motion to strike from the record the Applicant's July 21, 2014 response to ANC 8C and BFTAA's Joint Resolution. (Ex. 79.) The Commission denied the request based on its finding that the Applicant's submission was timely filed (July 28, 2014 Tr., p. 131.)
27. On July 22, 2014, OP submitted a request for the Commission to waive its rules for late submittal in order to accept a letter from the Metropolitan Police Department ("MPD"). At the June 19th hearing, the Commission requested that OP check with MPD regarding any safety concerns. (June 19, 2014 Tr., p. 324.) OP submitted the MPD letter, which indicated MPD's support for the PUD. (Ex. 80.) The MPD letter states that members of the MPD reviewed the PUD application and expressed support for the demolition of the existing buildings and the redevelopment of the PUD Site with a mixed-income neighborhood.
28. On July 25, 2014, BFTAA submitted a request for additional hearings so that all parties could review and respond to the additional information submitted to the record on July 21 and 22, 2014. (Ex. 81.)
29. At the July 28, 2014 public meeting, the Commission did not take proposed action and instead scheduled a further public hearing on the application, pursuant to 11 DCMR § 3025.2, to be held on September 18, 2014. The Commission limited the scope of the hearing to testimony regarding the following issues: (i) the Applicant's master plan; (ii) the Applicant's affordability commitment; (iii) the density of the proposed development; and (iv) the Applicant's relocation plan and process.

30. On September 5, 2014, the Applicant submitted information regarding the issues raised by the Commission at the July 28, 2014 public meeting. (Ex. 83-83F.) This submission included a revised master plan with 1,423 proposed units (a 14% reduction). The Applicant's September 5, 2014 submission also included a detailed description of the revised unit count and typology, revised public spaces, revised building layouts, and revised street designs. This submission also included the Applicant's commitment to provide 344 replacement public housing units and a minimum of 285 affordable housing units (20% of the 1,423 units then-proposed) devoted to households earning up to 80% of the AMI. The Applicant provided an analysis of how the revised density for the PUD Site is consistent with the Small Area Plan and is necessary to attract new retail uses to the area. The Applicant also provided an explanation of the infrastructure costs associated with developing the PUD Site and the types of proposed improvements. Finally, the Applicant provided a detailed analysis of its relocation and return plan for current residents and included a flow chart showing DCHA's relocation and return process (Ex. 83B), a detailed description of each step of the process (Ex. 83C), a notice of DCHA's July 21, 2014 meeting with the community to describe the relocation process (Ex. 83D), and a copy of the sign-in sheets from this meeting (Ex. 83E).
31. Following the Applicant's September 5, 2014 submission, the Applicant further reduced the unit count on the PUD Site to 1,400 units, as indicated on the Applicant's PowerPoint presentation slides (Ex. 84) and as stated by the Applicant at the September 18, 2014 hearing. (Ex. 86; September 18, 2014 Tr., p. 12.)
32. In response to comments raised at the September 18, 2014 hearing, the Applicant updated its affordable housing commitment to (i) provide 344 replacement public housing units devoted to households earning up to 30% of the AMI, and (ii) dedicate 20% of the total housing units on the PUD Site as affordable rental or homeownership units, with the rental affordable units devoted to households earning up to 60% of the AMI and the homeownership affordable units devoted to households earning up to 80% of the AMI.
33. At the September 18, 2014 limited scope public hearing, the Applicant presented three witnesses: Feras Qumseya of A&R Development; Matt Bell of Perkins Eastman; and Janice Burgess, Deputy Director for Planning in the Office of Capital Programs at DCHA. Kimberly Black-King on behalf of DMPED also testified in support of the application.
34. Feras Qumseya's testimony summarized the Applicant's work since the previous public hearing. Mr. Qumseya testified to the Applicant's commitment to create approximately 1,400 housing units on the PUD Site, instead of 1,646 units as previously proposed. Mr. Qumseya explained the Applicant's process of revising its master plan to better incorporate input from the community and city agencies. Mr. Qumseya also explained

the Applicant's extensive community outreach that occurred since the July 28, 2014 public meeting. (Ex. 86.)

35. Mr. Bell presented the Applicant's revised master plan. The revised master plan focuses on creating a safe, accessible neighborhood with a diversity of housing types, neighborhood-serving retail, open park space, and connections to the surrounding neighborhood and transportation facilities. The revised master plan includes the overall themes of health, safety, connection, and diversity, all of which tie in to the Applicant and the District's vision for the PUD Site. Mr. Bell presented the master plan through a PowerPoint presentation. (Ex. 84.)
36. Ms. Burgess of DCHA presented a detailed explanation of DCHA's relocation plan for current Barry Farm residents. Ms. Burgess described in detail DCHA's proposed relocation process. (Ex. 85.)
37. Ms. Black-King's testimony summarized DMPED's view that the PUD is fully consistent with the guiding principles of the NCI, which is a program that was developed, adopted, and administered by DMPED. Ms. Black-King also testified that the proposed density and affordability levels are appropriate for the PUD Site. (September 18, 2014 Tr., pp. 191-194.)
38. At the September 18, 2014 hearing, Detrice Belt, Chair of BFTAA, testified on behalf of BFTAA. Ms. Belt cross-examined the Applicant and presented testimony in opposition to the application. BFTAA presented two witnesses in opposition to the application: Bret Williams and Leonard Watson. Based upon her professional experience, as evidenced by the resume submitted for the record, the Commission qualified Ms. Williams as an expert in history. (Ex. 90.)
39. BFTAA's testimony focused on issues relating to density, affordability, privatization of public land, phasing, and failed attempts at finding common ground with the Applicant. With respect to density, BFTAA argued that the Small Area Plan calls for the redevelopment of 1,110 new units to be constructed across Barry Farm, Wade Road, and Park Chester, and that because the Applicant proposes to build 1,400 units across Barry Farm and Wade Road only, the Applicant is proposing to build 200 more units than recommended in the Small Area Plan on two-thirds of the land area. BFTAA stated that this proposal contravenes the Small Area Plan, the Comprehensive Plan Future Land Use Map, the underlying zone districts, and the Comprehensive Plan, and argued that the level of proposed density demonstrates the Applicant's disregard for the housing desires of current residents.
40. With respect to affordability, BFTAA testified that the PUD does not adhere to the underlying policies of the Small Area Plan or the NCI. BFTAA asserted that the Small

Area Plan and the NCI both call for a unit mix of one-third replacement public housing units, one-third affordable units, and one-third market-rate units, but that the Applicant's plan provides that 54% of the units will be market-rate. BFTAA also testified that the units proposed to be dedicated to households earning 80% of the AMI are not "affordable," and requested the Applicant to create a spectrum of affordable units.

41. With respect to BFTAA's additional issues, BFTAA stated that the Applicant did not provide sufficient details regarding the scope of land privatization on the PUD Site or sufficiently explain the rationale or loss of financial value to public assets upon privatization. BFTAA asserted that the Applicant did not provide a predictable or acceptable phasing plan, and stated that the U.S. Department of Housing and Urban Development ("HUD") Housing Choice Voucher program is inadequate to support displaced Barry Farm residents. BFTAA also asserted that the Applicant does not have a positive track record in obtaining funding streams from HUD's Choice Neighborhoods program, and doubted whether the Applicant could do so in the future.
42. In connection with its testimony at the September 18, 2014 hearing, BFTAA submitted an affidavit from the Barry Farm Residents Council and an affidavit from Phyllissa Bilal, co-founder of the Barry Farm Study Circle. (Ex. 88, Attachment A.) In its testimony, BFTAA referenced a letter submitted by the Committee of 100 (*Id.*), which requested the city to rework the NCI to help public housing residents before the Commission makes a decision regarding the Barry Farm PUD. (*Id.*)
43. At the September 18, 2014 hearing, BFTAA's expert in history, Ms. Williams, testified to the negative impacts that relocation has on poor families. Ms. Williams testified that in her opinion, relocation of Barry Farm residents would negatively affect their physical and mental health, impede their social wellbeing, and destroy the existing community. In response to Ms. Williams's testimony, BFTAA urged the Applicant to produce a social impact statement. (Ex. 88, p. 5.)
44. Mr. Watson's testimony explained his involvement working with ANC 8C and BFTAA to find common ground with the Applicant. Mr. Watson explained his role in drafting the Joint Resolution, the ANC 8C and BFTAA MOA, and a letter from ANC 8C and BFTAA to DCHA. (Ex. 89; September 18, 2014 Tr., pp. 132-139.)
45. As indicated in ANC 8C's Resolution dated September 23, 2014 (Ex. 92)¹, on September 10, 2014, the Applicant presented its updated master plan, which included 1,400 units, and its detailed relocation plan and process to ANC 8C. At this duly noticed, regularly scheduled public meeting, at which a quorum was present, ANC 8C voted unanimously

¹ A nearly identical resolution dated September 18, 2014 was also submitted by ANC 8C. (Ex. 87.) The substance of the resolution was the same as the resolution September 23, 2014.

to support the PUD. ANC 8C submitted a resolution to the record in support of the project, which states that the ANC engaged with the Applicant to better understand the Applicant's plan for the PUD Site and to advocate for the community's interests. (Ex. 92.) The ANC's resolution includes the following eight commitments:

- a. In conjunction with the District of Columbia's New Communities Initiative, DCHA has or will produce 100 units of replacement housing units (35 units at Matthews and 65 units at Sheridan Station) for the Barry Farm Community;
 - b. DCHA will replace the balance of the 344 public housing units on the Barry Farm/Wade Apartments footprint;
 - c. DCHA will give former Barry Farm/Wade Apartments residents first priority to occupy the 344 replacement housing units;
 - d. DCHA will survey all current Barry Farm families to determine their housing needs, preferences, and special circumstances within the next 60 to 90 days;
 - e. DCHA is committed to providing relocation housing options that will include public housing units at other developments and for those who qualify, housing choice vouchers. DCHA will apply to the U.S. Department of Housing and Urban Development for vouchers pursuant and subsequent to the demo-dispo application approval;
 - f. DCHA will conduct and submit the Environmental Site Assessment to the D.C. Department of Housing and Community Development (DHCD) within the next 60 to 90 days and collaborate with DHCD to ensure the completion of the review within 90 days post submission;
 - g. DCHA will request \$13 million from the Office of the Deputy Mayor for Planning and Economic Development under the New Communities Initiative for FY 2014 and request an addition of at least \$17 million for FY 2015; and
 - h. DCHA will request funding from the District to fund a Local Rent Supplement Program for the Barry Farm/Wade Road Apartments residents.
46. The Commission finds that items (a) and (b) are properly part of this application and that the Applicant is in compliance with these stated commitments. However, the Commission finds that the remaining items are related to DCHA's operations, which is not a zoning issue and not properly decided by this Commission.

47. On October 3, 2014, BFTAA submitted a motion for an extension of time in which to file its proposed findings of fact and conclusions of law. (Ex. 94.) On October 6, 2014, the Applicant submitted a motion opposing BFTAA's motion for a time extension because the extension would be prejudicial to the Applicant and to the Commission's process. (Ex. 95.)
48. The Commission granted BFTAA's requested time extension such that BFTAA's proposed order was due on October 16, 2014.
49. On October 16, 2014, the Applicant submitted revised findings of fact and conclusions of law. (Ex. 97.)
50. On October 16, 2014, BFTAA submitted its proposed findings of fact and conclusions of law. (Ex. 98.)
51. On October 16, 2014, BFTAA filed a motion requesting recusal of Commissioner Cohen. (Ex. 100.)
52. At its public meeting held on October 20, 2014, the Commission voted to deny BFTAA's recusal motion because, contrary to BFTAA's allegations, Commissioner Cohen does not have any personal knowledge of the disputed evidentiary facts concerning this proceeding, outside of the evidence presented in the record. The Commission took proposed action to approve the application and referred the action to the National Capital Planning Commission ("NCPC").
53. On October 27, 2014, the Applicant filed its list of proffers and draft conditions. (Ex. 102.)
54. On November 10, 2014, the Applicant requested additional time to submit its final list of proffers and draft conditions. (Ex. 103.)
55. On November 13, 2014, the Applicant submitted its final list of proffers and draft conditions. (Ex. 104.)
56. The Commission took final action to approve the application on December 8, 2015.
57. NCPC, by action dated November 6, 2014, found that the proposed PUD would not be inconsistent with the Comprehensive Plan for the National Capital. (Ex. 105.)

The PUD Project

58. The PUD Site is situated in the Anacostia neighborhood of Ward 8 and is zoned R-5-A. The PUD Site consists of Square 5862, Lots 137-143; Square 5865, Lots 243, 249, 254,

259, 260-280, 893, 963-978, and 992; Square 5866, Lots 130, 133-136, 141-144, 147-150, 152, 831-835; and Square 5867, Lots 143, 172-174, 890-891, and 898. The PUD Site is generally bounded by Sumner Road to the north, Firth Sterling Avenue to the west, the Saint Elizabeth's Hospital property to the south, and Wade Road to the east. The PUD Site includes approximately 1,106,850 square feet (25.4 acres) of land and approximately 378,163 square feet (8.6 acres) of public streets and alleys. (Ex. 69B.) The PUD Site is currently developed with the Barry Farm residences (432 low-income row dwellings); Wade Apartments (12 low-income apartment units); and eight vacant lots along Wade Road. To the west of the PUD Site, across Firth Sterling Avenue, are industrial uses in the C-M-1 Zone District; to the north is the new Barry Farm Recreation Center and the Excel Academy Charter School in the R-5-A Zone District; to the east is the Park Chester apartments and row dwellings in the R-5-A Zone District; and to the south is the St. Elizabeth West campus with the U.S. Department of Homeland Security offices, which is unzoned.

59. Barry Farm is part of the District's NCI, which has a goal of replacing areas of solely public housing with revitalized mixed-income and mixed-use communities. One of NCI's primary goals is to "build first," by constructing units off-site and in the community of the affected property to provide housing for residents in their base community during redevelopment. As part of the Barry Farm NCI, 60 replacement units have already been constructed for Barry Farm families in Matthews Memorial Terrace, located at 2632 Martin Luther King Jr. Avenue, S.E., and Sheridan Station Phase I, located at 2516 Sheridan Road, S.E. Sheridan Station Phase III is currently under construction and will deliver 40 additional replacement public housing units for Barry Farm families. DCHA will manage future relocation of Barry Farm families in accordance with the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 and in conjunction with current Barry Farm residents.
60. The Applicant proposes to demolish the existing Barry Farm and Wade Road Apartments and replace them with a mixed-use, mixed-income community with a variety of housing types and sizes; new retail and services uses to provide for the everyday needs of the residents; extensive new open space and parks; and improved infrastructure, circulation and pedestrian connections. The master plan divides the PUD Site into 21 individual parcels that provide an overall density of 2.09 FAR, which is consistent with the moderate density zone designation for the PUD Site, as shown on the Comprehensive Plan Future Land Use Map.
61. Residential Component: The PUD will include approximately 1,834,317 square feet of gross floor area devoted to residential uses, comprised of approximately 1,014 multi-family dwelling units, 278 row dwellings, 46 flats (92 units), and 16 live/work spaces. Approximately 24.5% of the total residential units will be replacement public housing units, which will be affordable to households earning up to 30% of the AMI. An

additional 20% of the housing units on the PUD Site will be affordable to households earning between 60% and 80% of the AMI.

62. The Applicant will be requesting the Zoning Administrator to exempt the PUD from the Inclusionary Zoning requirements pursuant to § 2602.3(f) of the Zoning Regulations. Even if granted, the Applicant's proposed public housing commitment provides significantly more affordable housing units than would be required under the Inclusionary Zoning provisions of the Zoning Regulations, which only require that 10% of the total residential units (approximately 140 units) be set aside as affordable, with 50% of those units devoted to households earning up to 50% of the AMI and 50% of those units devoted to households earning up to 80% of the AMI.
63. Multi-family dwellings will be located on parcels 1A, 1B, and 3 and on portions of parcels 2 and 5 along Firth Sterling Avenue and Sumner Road. These buildings will be up to five stories in height, with one-, two-, and three-bedroom units. The buildings on parcels 1A, 1B, and 2 are designed to accommodate ground-floor retail, service, educational, or office uses, with podium or below-grade parking and residential units accessed through the ground-floor lobby. Parcels 8, 9, 10, 11, 12, and 16, and portion of parcels 2, 5, 6, and 7, will contain row dwellings with integrated garages and small rear yards; parcels 13, 14, and 15 will provide a mix of flats and row dwellings. The flats are two-family dwellings, each with a self-contained two-car garage accessed from a rear alley. The row dwellings encompass traditional row house design, with three stories and a detached garage accessed from a rear alley that includes a second-story ancillary unit. A portion of parcels 6 and 7 will contain live/work units, with ground-floor commercial space and residential use above. The balance of the parcels will be developed as open space.
64. Open Space: The PUD will provide a substantial amount of open space, including a large central park and significant new public infrastructure, including roads and utility upgrades. The central park is located within two blocks of every residential unit within the PUD Site, and will appeal to multiple interest groups, including seniors, children, and families.
65. Street Connectivity: The master plan incorporates and slightly realigns the existing streets within the PUD Site, and proposes new east-west and north-south streets to create a grid pattern with smaller pedestrian-friendly blocks. These proposed blocks will provide enhanced connectivity within the community and will provide additional security within the development by providing new and better views and additional eyes and ears on the street. The street grid will provide excellent vehicular, pedestrian, and bicycle access to public transportation and to existing and proposed neighborhood amenities, such as the Barry Farm Recreation Center and the proposed new open spaces; and will improve the orientation of a number of the proposed buildings as they address the streets.

Sidewalks throughout the PUD Site will range from six to 10 feet wide, with the wider sidewalks along Sumner Road, which is the main pedestrian way and will contain the majority of the new ground-floor retail/service uses.

66. Parking and Loading: The Applicant will provide approximately 899 residential parking spaces and approximately 168 retail/service parking spaces dispersed throughout the PUD Site. The buildings will provide on-site parking in podium and/or below-grade garages for the apartment buildings and in private garages for the row dwellings and flats. Additional on-street parking will also be provided throughout the PUD Site. Loading facilities to serve the mixed-use residential and retail/service buildings will be shared between the multiple uses in order to reduce the size and number of berths and the area dedicated to loading.

Duration of First-Stage PUD Approval and Phased Development

67. Pursuant to § 2407.10 of the Zoning Regulations, a first-stage PUD is normally valid for a period of one year unless a longer period is specified by the Commission. The Applicant initially requested that the first-stage PUD to be valid for a period of three years from the effective date of the order granting the same. Based upon the Commission's comments at the public meeting on October 20, 2014, the Applicant revised its proposed phasing schedule and committed to the filing of all second-stage applications within a 10-year period. The proposed 10-year duration of the first-stage approval would subject to each of following milestones being met, such that the approval would expire upon the failure of any of the following to occur:
- a. A second-stage application must be filed for at least four parcels (Phase I of development) within two years after the effective date of this Order;
 - b. A second-stage application must be filed for at least four additional parcels (Phase II of development) within two years after the effective date of the order granting second-stage approval for Phase I;
 - c. A second-stage application must be filed for at least four parcels (Phase III of development) within two years after the effective date of the order granting second-stage approval for Phase II; or
 - d. A second-stage application must be filed for the remaining parcels (Phase IV of development) within two years after the effective date of the order granting second-stage approval for Phase III.
68. All second-stage applications must be filed within 10 years of the effective date of this Order.

69. The Commission finds that the additional time is necessary to allow the Applicant to proceed through the HUD funding and disposition processes; initiate predevelopment activities; and further engage with the community and existing residents. The Commission notes that approval of the pending first-stage PUD application is the first step in the process and is a critical component necessary to trigger other steps to move forward with implementation of redevelopment of the PUD Site. Further the 10-year period is subject to each of the milestones being met. Thus, the Applicant will be motivated to develop the project as required above in order maintain the validity of the first-stage PUD.
70. The Commission credits the Applicant's testimony that the Applicant intends to move forward with the PUD in multiple phases, considering the size of the PUD Site, market conditions, and the availability of financing, which are difficult to predict. The Commission also notes that the Applicant has committed that, since public housing units are expected to comprise 24.5% of the total project unit count, each phase will be comprised of a proportionate number of replacement public housing units. The Applicant submitted a description of the potential phasing sequence. (Ex. 69.)
71. The Commission finds that the Applicant's general phasing plan provides flexibility to address market conditions and is appropriate for this project.

Development Under Existing Zoning

72. The PUD Site is currently zoned R-5-A. R-5 Zone Districts are general residence districts designed to permit flexibility of design by permitting all types of urban residential development if they conform to the height, density, and area requirements established for the applicable zone district. The maximum height permitted by right in the R-5-A Zone District is 40 feet, and the maximum permitted density is 1.08 FAR, utilizing Inclusionary Zoning bonus density. A PUD in the R-5-A Zone District may achieve a maximum height of 60 feet and a maximum density of 1.0 FAR.
73. The Applicant is requesting a PUD-related zoning map amendment to rezone portions of the PUD Site to the R-5-B Zone District, and the remaining portions of the PUD Site to the C-2-A Zone District. The maximum height permitted by right in the R-5-B Zone District is 50 feet, and the maximum permitted density is 2.16 FAR, utilizing Inclusionary Zoning bonus density. A PUD in the R-5-B Zone District may achieve a maximum height of 60 feet and a maximum density of 3.0 FAR. The R-5-B Zone District also includes the following additional development requirements:
 - a. The maximum percentage of lot occupancy for a building or portion of building devoted to residential uses is 60% (11 DCMR § 403.2);

- b. A minimum rear yard depth of four inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 15 feet (11 DCMR § 404.1);
 - c. If provided, a side yard width of at least three inches wide per foot of height of building, but not less than eight feet wide (11 DCMR § 405.6);
 - d. If provided, an open court width of four inches per foot of height of court but not less than 10 feet; a closed court width of four inches per foot of height of court but not less than 15 feet; and a closed court area of twice the square of the required width of court based on the height of court, but not less than 350 square feet (11 DCMR § 406.1); and
 - e. For a row dwelling, one parking space for each dwelling unit; and for a flat, one parking space for each two dwelling units (11 DCMR § 2101.1).
74. The C-2-A Zone District is designed to provide facilities to support shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core. The maximum height permitted by right in the C-2-A Zone District is 50 feet, and the maximum density permitted is 3.0 FAR, utilizing Inclusionary Zoning bonus density. A PUD in the C-2-A Zone District may achieve a maximum height of 65 feet and a maximum density of 3.0 FAR. The C-2-A Zone District includes the following additional development requirements:
- a. The maximum percentage of lot occupancy for a building or portion of building devoted to residential use is 60% (11 DCMR § 772.1);
 - b. A minimum rear yard depth of 15 feet (11 DCMR § 774.1);
 - c. If provided, a side yard width of at least two inches wide per foot of building height, but not less than six feet (11 DCMR § 775.5);
 - d. If provided for a building or portion of building devoted to residential uses, at any elevation in the court, a width of court of at least four inches per foot of height, measured from the lowest level of the court to that elevation, but not less than 15 feet (11 DCMR § 776.3). In the case of a closed court for a building or portion of a building devoted to residential uses, a minimum area of at least twice the square of the width of court based upon the height of court, but not less than 350 square feet (11 DCMR § 776.4);
 - e. For an apartment house, one off-street parking space for each two dwelling units; and for a retail establishment in excess of 3,000 square feet, one parking space for

each additional 300 square feet of gross floor area and cellar floor area (11 DCMR § 2101.1); and

- f. For an apartment house with 50 or more units, one loading berth at 55 feet deep, one loading platform at 200 square feet, and one service/delivery space at 20 feet deep; and for a retail or service establishment with 5,000 to 20,000 square feet of gross floor area and cellar floor area, other than a grocery store or drug store, one loading berth at 30 feet deep and one loading platform at 100 square feet (11 DCMR § 2201.1).

Development Incentives and Flexibility

75. The Applicant requested the following areas of flexibility from the Zoning Regulations:

- a. Courts, Side Yards, Rear Yards, and Lot Occupancy. Due to the significant grade changes throughout the PUD Site, the anticipated closure of existing streets and alleys, and the opening and construction of new streets to create smaller, more walkable blocks than those typically found in the District, the Applicant requested flexibility from the court, side yard, rear yard, and lot occupancy requirements of the Zoning Regulations. (Ex. 4.) The Applicant will identify the specific degree of relief for each parcel during the second-stage application for each parcel. The OP report stated that the flexibility requested “would allow for an improved development over that permitted by-right” and the Applicant’s Zoning and Land Use expert testified that the PUD “provides an appropriate balance between the development proposed, the flexibility requested, and the benefits and amenities provided”; (Ex. 29, 41.)
- b. The Commission finds that the normal court, side yard, rear yard, and lot occupancy requirements would adversely impact the layout and design of the PUD, and would hinder the Applicant's ability to provide a reasonable footprint and layout for the proposed buildings. This type of relief requested is similar to that approved by the Board of Zoning Adjustment ("BZA") and the Commission in other new residential developments. (see Z.C. Order No. 06-30 [approving a map amendment and granting relief from the lot area, rear yard, side yard, and court requirements to permit the construction of a residential development including row dwellings, flats, and apartment buildings]; Z.C. Order No. 05-30 [approving a map amendment and granting relief from the side yard, rear yard, and front yard requirements to permit the construction of a residential development including single family homes, row dwellings, and apartment units]; and BZA Order No. 17753 [approving special exception relief and a variance from the lot occupancy, lot area, rear yard, and side yard requirements to permit

construction of a residential development including row dwellings and semi-detached dwellings]); and

- c. Loading. The Applicant requested flexibility from the loading requirements for the buildings on parcels 1A, 1B, 2A, 2B, 3, 4, 5, 6, 7, and 8. On parcels 1A, 1B, 2A, 7, and 8, the Applicant requested flexibility to not provide any loading facilities for the retail/service uses, and to provide 30-foot loading berths for residential use where 55-foot berths are required. On parcels 2B, 3, 4, 5, and 6, the Applicant only requested flexibility to provide 30-foot loading berths for residential use where 55-foot berths are required. As indicated in the OP and DDOT reports (Ex. 29 and 32, respectively), OP and DDOT are not opposed to the requested loading flexibility. The Commission finds that shared loading facilities are appropriate for the proposed development and use of the PUD Site in these locations, and is not inconsistent with the Comprehensive Plan's recommendations to consolidate loading areas within new developments, provide shared loading spaces in mixed-use buildings, and minimize curb cuts on streets to the greatest extent possible.

First-Stage PUD Requirements

76. A first-stage PUD involves a general review of a site's suitability for use as a PUD; the appropriateness, character, scale, mixture of uses, and design of the uses proposed; and the compatibility of the proposed development with city-wide, ward, and area plans of the District of Columbia, and other goals of the PUD process. (11 DCMR § 2402.2(a).) Pursuant to § 2406.11 of the Zoning Regulations, an application for first-stage PUD approval must include the following:
 - a. A completed application form;
 - b. A map showing the location of the proposed project, the existing zoning for the subject site, the zoning of adjacent properties, and any proposed change of zoning;
 - c. A statement of the purposes and objectives of the project, including the proposed form of development and a detailed statement elucidating how the application meets the PUD evaluation standards in § 2403;
 - d. A general site, landscape, and development plan indicating the proposed use, location, dimensions, number of stories, and height of each building, and the exact area of the total site; and

- e. A tabulation of development data showing specific site and development information and any other information needed to understand the unique character and problems of developing the PUD.
77. Based upon the evidence of record, including Ex. 4, 16B-H, 29, 32, 36, 40, 41, 44, 47, 49-54, and 69D, and as detailed in this Order, the Commission finds that the application complies with the first-stage PUD requirements, pursuant to § 2406.11 of the Zoning Regulations.

Public Benefits and Amenities

78. The Commission finds that the following benefits and amenities will be created as a result of the PUD:
- a. *Urban Design, Architecture, Landscaping and Open Space (§ 2403.9(a)) and Site Planning, and Efficient and Economical Land Utilization (§ 2403.9(b).)* The Commission finds that the PUD will implement a number of current best planning practices within a site that has not seen significant improvement or redevelopment for over half a century. (Ex.4, 29, and 47.) These include the introduction of a rational street grid with broad, landscaped sidewalks, the creation of smaller, pedestrian-friendly blocks, the introduction of parks and outdoor public amenities of various types, scales, and levels of privacy, the distribution of housing density in a way that is responsive to existing grading and other site factors, and the creation of a community-oriented retail corridor;
 - b. *Transportation Features (§ 2403.9(c).)* Based upon the testimony and evidence of record, the Commission finds that the PUD will include a number of elements designed to promote effective and safe vehicular and pedestrian access, transportation management measures, and connections to public transit services. For example, the PUD proposes the introduction of several new vehicular, bus, pedestrian, and bicycle pathways and access points to the PUD Site and nine new internal streets, two of which replace existing streets. The internal street system will provide circulation in all directions and multi-modal connectivity within and to the entire PUD Site, as well as creating smaller, more pedestrian-friendly residential blocks. Sidewalks will be enhanced with new pedestrian-oriented infrastructure, and retail and community services will animate the larger streets within the PUD Site; (Ex. 32.)
 - c. *Employment and Training Opportunities (§ 2403.9(e)).* Where applicable, the Applicant will enter into a First Source Employment Agreement with the Department of Employment Services in an effort to provide employment opportunities for local residents. Moreover, § 3 of the Housing and Urban

Development Act of 1968 (12 U.S.C. 1701u), as amended by § 915 of the Housing and Community Development Act of 1992 “ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, be directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.” The Applicant is committed to complying with § 3 by ensuring that all contractors and any tier subcontractors that are awarded contracts partially or wholly funded by DCHA for work generated through HUD funding shall take all necessary and reasonable steps to provide meaningful, full-time, permanent employment and training to § 3 residents; (Ex. 4.)

- d. *Housing and Affordable Housing (§ 2403.9(f)).* The single greatest benefit to the area, and the city as a whole, is the creation of new housing consistent with the goals of the Zoning Regulations, the Comprehensive Plan, and the Mayor’s housing initiative. The PUD includes a variety of housing types to serve households of all sizes and at a range of incomes. The Applicant considered this mix carefully in order to meet local demand and to contribute to a vibrant, diverse, and functional neighborhood. The housing types include apartment houses, row dwellings, flats, and live/work spaces. Consistent with the priorities of NCI, the Applicant has committed to building replacement public housing, affordable housing, and market rate housing, and is working closely with DCHA and human capital service providers to accommodate the needs of current residents during the relocation and redevelopment process. Given the number of replacement public housing units and the commitment to devote 20% of the housing units on the PUD Site to households earning between 60% and 80% of the AMI, the PUD far exceeds the minimum requirements of the Inclusionary Zoning provisions of the Zoning Regulations. The PUD will include the following unit mix on the PUD Site:

- 24% Replacement Public Housing Units;
- 20% Affordable Rental/Homeownership Units;
- 20%-30% Market Rental Units; and
- 20%-30% Market Homeownership Units.

The Applicant will dedicate 344 units of the total 1,400 residential units as replacement public housing units. The Applicant will also dedicate 20% of the housing units on the PUD Site as affordable rental or homeownership units. The rental affordable units will be devoted to households earning up to 60% of the AMI and the homeownership units will be devoted to households earning up to 80% of AMI;

- e. *Environmental Benefits* (§ 2403.9(h)). The PUD exhibits many characteristics of exemplary urban design and green building practices, and demonstrates the Applicant's commitment to utilizing innovative sustainable design practices. As detailed in the Applicant's initial statement (Ex. 4) and in the OP Report (Ex. 29), the PUD will incorporate streetscape improvements and enhancements to the public space, infrastructure improvements to encourage sustainable and active transportation, and the provision of parks, open space, and vegetation. Moreover, the PUD Site will meet the LEED-ND standards and the multi-family dwelling buildings will meet the LEED-Silver and/or equivalent Enterprise Green Communities standards. Specific details about the sustainability features of each parcel will be described in the second-stage application for those parcels. However, some of the sustainable features incorporated into the PUD include the following:

Overall Site Initiatives:

- (1) Erosion Control - Sediment and erosion control will be implemented during excavation and construction per the District Department of Environment standards and specifications. The PUD will adhere to all applicable regulations regarding stockpiles and dust mitigation;
- (2) Stormwater Management - The PUD will implement both stormwater quality and quantity best practices and low-impact development stormwater management systems aimed at slowing urban runoff and reducing pollution, including flow of sediment and nutrients into streams, rivers and wetlands. The PUD encourages natural filtration of stormwater runoff to the greatest extent possible and may use bioretention components such as a bioretention facility, bioswales, rain gardens, vegetative roofs, porous paved walkways, curb cuts to direct street runoff to bioretention areas, pervious-surfaced courtyards, bioretention strips along streets and landscaped islands in parking areas. Lastly, the PUD will meet or exceed the stormwater requirements of the District Department of Environment Watershed Protection Division;
- (3) Public Transportation - Exemplary access to public transportation is available in close proximity to the PUD Site. The Anacostia Metrorail station, which services the Green Line, is less than a 10-minute walk from the PUD Site. Multiple Metrobus lines service the PUD Site directly, including the A4, P18, W2, W3, W4, W5, and W14 Lines on Firth Sterling Avenue, S.E., and the A2, A4, A6, A7, A8, A42, A46, A48, W2, and W3 Lines on Martin Luther King Jr. Avenue, S.E. The PUD promotes pedestrian access from public transportation for residents of the

PUD Site, as well as for retail/service employees and potential customers. The PUD Site also has direct access to bicycle facilities and car-share services in the neighborhood. The Applicant will approach WMATA about routing busses through the Barry Farm neighborhood during the planning process. Direct and convenient access to public and active transportation modes will decrease vehicle miles traveled and vehicle emissions, and will help to improve regional air quality;

- (4) Construction Waste - The PUD will divert construction waste from landfills through recycling and salvageable materials;
- (5) Storage and Collection of Recyclables - In order to facilitate the reduction of waste generated by building occupants, which is disposed via landfills, the PUD will provide easily accessible dedicated area(s) for the collection and storage materials for recycling. At a minimum, materials will include paper, corrugated cardboard, glass, plastics, and metals;
- (6) Sustainable Construction Practices - The PUD will endeavor to follow sustainable construction practices where possible, including the following measures:
 - (A) On-site tower cranes will have electric or diesel motors with industry standard pollution control devices;
 - (B) Diesel idling control measures will be utilized for truck idling;
 - (C) Stockpiles on the PUD Site will be handled and addressed based on typical industry standards; and
 - (D) Adequate dust mitigation measures will be followed according to D.C. standards; and

Building Initiatives:

- (7) Water Use Reduction - Through the use of low-flow fixtures and water closets, potable water use will be reduced throughout the PUD;
- (8) Sustainable Building Materials – When possible, the buildings will use materials with recycled content that is regionally sourced. Material examples include but are not limited to steel, drywall, insulation, ceiling tiles, concrete, and flooring;

- (9) Energy Conservation - The PUD will be constructed in full compliance with the D.C. Building Code. Conformance to standards will minimize the amount of energy needed for the heat, ventilation, hot water, electrical distribution, and lighting systems contained in the structure. This will be accomplished through high efficiency HVAC units, energy efficient lighting including LED, window glazing, envelope structure and insulation, occupancy sensors, and Energy Star appliances in all residential units;
- (10) Non Ozone Depleting Refrigerants - The PUD is anticipated to reduce environmental impact of high-efficiency HVAC by using non-ozone depleting refrigerants;
- (11) Low Emitting Materials and Finishes - In order to reduce the quantity of indoor air contaminants that are odorous, irritating, and/or harmful to the comfort and well-being of installers and occupants, the PUD will utilize low-emitting materials and finishes. Examples may include paint, coatings, adhesives, and sealants; and
- (12) Open Space - A large public park situated in the center of the PUD Site will welcome residents of all ages and abilities for leisure activities and potentially host community activities and events.

Compliance with the Comprehensive Plan and the Small Area Plan

79. The Commission finds that the PUD advances the purposes of the Comprehensive Plan and the Small Area Plan, is not inconsistent with the Future Land Use Map and Generalized Policy Map, complies with the guiding principles in the Comprehensive Plan, and furthers a number of the major elements of the Comprehensive Plan.

Compliance with the Comprehensive Plan Future Land Use Map and Generalized Policy Map

80. The District of Columbia Comprehensive Plan Future Land Use Map designates the PUD Site for Moderate Density Residential uses. The Moderate Density Residential category is used to define the District's row house neighborhoods, as well as its low-rise garden apartment complexes. The designation also applies to areas characterized by a mix of single family homes, two-four unit buildings, row houses, and low-rise apartment buildings. In some of the older inner city neighborhoods with this designation, there may also be existing multi-story apartments, many built decades ago when the areas were zoned for more dense uses (or were not zoned at all). The R-3, R-4, and R-5-A Zone Districts are generally consistent with the Moderate Density Residential category; the R-5-B Zone District and other zones may also apply in some locations.

81. The Commission finds that the proposed R-5-B Zone District for the PUD Site is not inconsistent with the Moderate-Density Residential Category, and that the C-2-A Zone District designation is not inconsistent with the Future Land Use Map. BFTAA and the Committee of 100 on the Federal City argued that the PUD is inconsistent with the Moderate-Density Residential designation. (Ex. 48, 63.) However, as described in Findings of Fact 69-74, the Commission finds that the PUD is fully consistent with the Future Land Use Map designation for the PUD Site. The R-5-B Zone District is specifically listed as a district that may be applied in the Moderate-Density Residential category. The Commission notes that out of 1,834,317 square feet of gross floor area proposed for the PUD Site, only 55,500 square feet of gross floor area will be devoted to retail/service uses, which is only three percent of the total development. Furthermore, the Commission finds that the Applicant proposes to rezone the PUD Site to the C-2-A Zone District only for the commercial portions of the PUD Site in order to encourage retail uses along Sumner Road and Firth Sterling Avenue. The C-2-A Zone District is designed to provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core. (11 DCMR § 720.2.) The C-2-A District shall be located in low- and medium-density residential areas with access to main highways or rapid transit stops, and shall include office employment centers, shopping centers, and medium-bulk mixed-use centers. (11 DCMR 720.3.) The majority of the PUD Site is proposed to be zoned R-5-B, which is not inconsistent with the Future Land Use Map.
82. The Commission finds that the policies and goals of the Comprehensive Plan, which sometimes may be in conflict with one another, must be applied using the interpretive guidelines of the Comprehensive Plan. These guidelines state that the Future Land Use Map is to be "interpreted broadly" and recognize that the densities within any given area on the Future Land Use Map "reflect all contiguous properties on a block – *there may be individual buildings that are higher or lower than these ranges within each area.*" (10A DCMR § 226(c) (emphasis added).) The guidelines further advise that "the land use category definitions describe the general character of development in each area, citing typical building heights (in stories) as appropriate. It should be noted that the granting of density bonuses (for example, through Planned Unit Developments) may result in heights that exceed the typical ranges cited here." (*Id.*)
83. Based upon this principle, the Commission has found in a number of other cases that the R-5-B and C-2-A Zone Districts are not inconsistent with the Moderate-Density Residential category. For example, in Z. C. Case No. 08-25, the Commission approved a consolidated PUD and map amendment from R-5-A to C-2-A for property designated as Moderate-Density Residential. In approving this application, the Commission stated:

The PUD is not inconsistent with the Property's Moderate Density Residential Land Use designation on the Future Land Use Map. While the Future Land Use Map typically is helpful in determining appropriate uses and density in areas of the city, it is not intended to serve as a "general" zoning map, nor does it mandate a parcel-by-parcel limitation on permitted development. The proposed Project and C-2-A Zone District are consistent with the flexibility that the Moderate Density Residential Land Use category provides for the Property.

Z.C. Case No. 08-25, Findings of Fact No. 25. *See also*, Z.C. Order No. 07-35 (granting a consolidated PUD and map amendment from R-5-A to R-5-B and C-2-A for property designated as moderate density commercial on the western portion of the property and moderate density residential on the remainder of the site).

84. The Commission finds that based on the flexibility afforded by the PUD process, the proposed density can be appropriately distributed across the PUD Site by concentrating development along Sumner Road and Firth Sterling Avenue while leaving other portions as lower-density residential, parks, and open space. The Commission finds that the proposed cluster development approach to the PUD Site is an essential part of fulfilling the Moderate-Density Residential designation of the Future Land Use Map, while at the same time achieving other elements of the Comprehensive Plan. The Far Southeast and Southwest Element of the Comprehensive Plan specifically recognizes that Barry Farm is to be developed in a manner which ensures replacement of public housing units, creates additional opportunities for workforce and market rate housing, and provides new amenities such as community facilities and parks. (10A DCMR § 1813.3.) The Housing Element of the Comprehensive Plan encourages the production of housing for low- and moderate-income households (10A DCMR § 504.6), housing for renter-occupied and owner-occupied families (10A DCMR § 504.6), and the transformation of distressed public and assisted housing projects into viable mixed-income neighborhoods, especially in locations where private sector development interest can be leveraged to assist in revitalization. (10A DCMR § 506.10.) Therefore, the Commission finds that the proposed density for the PUD Site is appropriate in this case, particularly given the PUD's consistency with many other elements of the Comprehensive Plan.
85. The District of Columbia Comprehensive Plan Generalized Policy Map designates the PUD Site as a Neighborhood Enhancement Area. The guiding philosophy of Neighborhood Enhancement Areas is to:

“ensure that new development “fits in” and responds to the existing character, natural features, and existing/planned infrastructure capacity. New housing should be encouraged to improve the neighborhood and

must be consistent with the land use designation on the Future Land Use Map. The unique and special qualities of each area should be maintained and conserved, and overall neighborhood character should be protected as development takes place.”

(10 DCMR A § 223.8.) The Commission finds that the PUD is consistent with the goals of the Neighborhood Enhancement Area designation because it responds to the existing character of the Barry Farm neighborhood while preserving its most notable natural features and infrastructure elements. For example, the PUD will retain and realign the existing streets and introduce new east-west and north-south streets to connect the PUD Site to the surrounding community and create a grid pattern with smaller pedestrian-oriented blocks with parking on both sides of the street. The PUD will establish new sustainable landscape features, incorporate a centrally-located public park, and put additional eyes and ears on the street to increase safety and security. The PUD also includes a diversity of housing types that meet the various needs of community residents and fit in with the existing character and natural features of the PUD Site. (September 18, 2014 Tr., pp. 18-33 and Applicant’s PowerPoint presentation at Ex. 84.) The Commission finds that these features sufficiently demonstrate the PUD’s consistency with the Comprehensive Plan Generalized Policy Map’s designation.

86. The Commission finds that the proposed PUD-related map amendment will continue to protect and strengthen the residential uses of the PUD Site while creating new, high-quality public housing, affordable housing, and market-rate housing units, neighborhood-serving retail and service opportunities, public open spaces, and significant new infrastructure improvements, that will enhance and build on the unique historic and aesthetic qualities of Barry Farm. As indicated in the letter of support from Mayor Gray, dated July 11, 2014 (Ex. 69D), the master plan will implement the District’s NCI, which seeks to replace each public housing unit, bring residents back to the redeveloped site, and inject economic diversity into the community by delivering mixed-income housing. Based upon the testimony and evidence submitted in this case, the Commission finds that the development effort will invigorate not only the immediate Barry Farm neighborhood, but also lead to positive changes to the landscape of Barry Farm, the greater Anacostia community, Ward 8, and the District. (*see also* Ex. 4, 16B-H, 29, 32, 36, 40, 41, 44, 47, 49-54, 69D, 70, 73, 80, 83.)
87. The Commission finds that the PUD-related map amendment would implement the Future Land Use Map’s designation of the PUD Site for Moderate-Density Residential and permit the development of the proposed new residential, service, and retail/commercial uses on the PUD Site, which are not inconsistent with the PUD Site’s designation within a Neighborhood Enhancement Area on the Generalized Policy Map. The Commission notes that the amount of commercial space on the PUD Site is nominal, comprising approximately three percent of the total development. Moreover, given the

approximate square footages of the commercial spaces, the commercial uses will provide services to meet the day-to-day needs of people who live and work in the neighborhood, which is consistent with the purposes of the C-2-A Zone District. Moreover, as indicated in the Zoning Regulations, the C-2-A Zone Districts are located in low- and medium-density residential areas with access to main highways or rapid transit stops, and shall include office employment centers, shopping centers, and medium bulk mixed-use centers. (11 DCMR 720.3 (emphasis added).)

Compliance with the Guiding Principles of the Comprehensive Plan

88. The Commission finds that the proposed PUD is not inconsistent with many guiding principles in the Comprehensive Plan for managing growth and change, creating successful neighborhoods, increasing access to education and employment, connecting the city, and building green and healthy communities, as follows:
89. *Managing Growth and Change.* The guiding principles of this element are focused on ensuring that the benefits and opportunities of living in the District are equally available to everyone in the city. The PUD is fully consistent with a number of the goals set forth in this element. Specifically, the PUD will help to attract a diverse population with the inclusion of a mix of housing types for households of different incomes. (§§ 217.2 and 217.3.) The Applicant's proposal to develop new residential uses is not inconsistent with the Comprehensive Plan's acknowledgement that the growth of both residential and non-residential uses is critical. (§ 217.4.) In addition, the PUD helps connect the community to the rest of the neighborhood and the overall urban fabric by developing connections to the Anacostia Metrorail station, the Historic Anacostia commercial corridor, job centers at St. Elizabeth's, and schools and services and in the surrounding neighborhood. (§§ 217.5 and 217.6.)
90. *Creating Successful Neighborhoods.* The guiding principles for creating successful neighborhoods include both improving the residential character of neighborhoods and encouraging commercial uses that contribute to the neighborhood's character and make communities more livable. (§§ 218.1 and 218.2.) In addition, the production of new affordable housing is essential to the success of neighborhoods. (§ 218.3.) Another guiding principle for creating successful neighborhoods is getting public input in decisions about land use and development, from development of the Comprehensive Plan to implementation of the plan's elements. (§ 218.8.) The PUD furthers each of these guiding principles with the construction of affordable and market-rate housing and service-oriented commercial uses that will create housing, retail, service, and employment opportunities.
91. *Increasing Access to Education and Employment.* The Increasing Access to Education and Employment element includes a number of policy goals focused on increasing

economic activity in the District, including increasing access to jobs by District residents (§ 219.1); encouraging a broad spectrum of private and public growth (§ 219.2); supporting land development policies that create job opportunities for District residents with varied job skills (§ 219.6); and increasing the amount of shopping and services for many District neighborhoods (§ 219.9). The PUD is fully consistent with these goals since the proposed retail/service uses will help to attract new jobs to the District and this specific neighborhood, and provide new employment opportunities, especially for residents of Ward 8.

92. *Connecting the City.* The PUD will help to implement a number of the guiding principles of this element. As shown on the Plans, the PUD will include street improvements to provide improved mobility and circulation throughout the PUD Site, as well as the surrounding neighborhood. (§ 220.2.) In addition, the access points for the required parking and loading facilities will be designed to appropriately balance the needs of pedestrians, bicyclists, transit users, vehicles, and delivery trucks, as well as the needs of residents, visitors, and employees to move around and through the District. (*Id.*) Moreover, the PUD, street, and utility improvements will help to reinforce and improve this portion of the city. (§ 220.3.)
93. *Building Green and Healthy Communities.* The PUD is fully consistent with the guiding principles of the Building Green and Healthy Communities element, since the PUD's proposed landscaping plan will help to increase the District's tree cover, and will minimize the use of non-renewable resources, promote energy and water conservation, and reduce harmful effects on the natural environment. (§§ 221.2 and 221.3.) In addition, the proposed improved street grid will help to facilitate pedestrian and bicycle travel.

Compliance with the Elements of the Comprehensive Plan

94. The Commission finds that the proposed PUD furthers the objectives and policies of many of the Comprehensive Plan's major elements as set forth in the report and testimony of the Applicant's land use and zoning expert (Ex. 41) and the OP reports (Ex. 12-12A2, 29, 70, 73), as discussed in more detail below.
95. The Far Southeast/Southwest Area Element: The PUD Site is located within the Barry Farm Focus Area of the Far Southeast/Southwest Area Element of the Comprehensive Plan. Barry Farm is also identified as a "new community," and should not be left behind as the surrounding areas move forward (§ 1813.2). As indicated in the Comprehensive Plan:
 - Housing in the southeast/southwest area ranges from single family homes, to garden apartments, to high-rise apartments (10 DCMR § 1800.3);

- Commercial areas the southeast/southwest area range from a brand new shopping center at Camp Simms to more traditional neighborhood centers along Martin Luther King Jr. Avenue and South Capitol Street (10 DCMR § 1800.3);
 - The crime rate and unemployment rate remain chronically high and are well above the city and regional average (10 DCMR § 1800.4);
 - The average resident must go outside of their neighborhood to shop, enjoy a restaurant, or even find basic services like groceries (10 DCMR § 1800.4); and
 - Poverty, unemployment, illiteracy, crime, and other social issues must be addressed to improve the quality of life for residents in the far southeast/southwest area (10 DCMR § 1800.5);
- a. *Policy FSS-1.1.1: Directing Growth*, calls for concentrating future housing development and employment growth around the Anacostia Metrorail station and along South Capitol Street (among others), and providing transit and automobile access to these areas and improving their visual and urban design qualities (§ 1808.2);
- b. *Policy FSS-2.3.1: Barry Farm New Community*, recommends the revitalization of Barry Farm in a manner which:
- (1) Ensures replacement of any public housing that is removed, along with measures to assist residents and avoid dislocation or personal hardship;
 - (2) Creates additional opportunities for workforce and market rate housing on the site, consistent with the goals of the District's New Communities Initiative; and
 - (3) Provides new amenities such as community facilities, parks, and improved access to the Anacostia River and the Anacostia Metrorail station; and
- c. The PUD is consistent with the policy goals identified in the Far Southeast/Southwest Area Element. The Applicant will provide a one-for-one replacement of all public housing units that are removed from the PUD Site: 344 replacement units will be reconstructed on the PUD Site, 60 replacement units have already been constructed at Matthews Memorial Terrace and Sheridan Station Phase I, and an additional 40 replacement units are under construction at Sheridan Station Phase III. The Applicant will also undertake an extensive

relocation and return process to ensure that current residents have a place to live during redevelopment of the PUD Site and to guarantee that those residents can return to the PUD Site after redevelopment if they choose to do so. The PUD will also create opportunities for workforce and market-rate housing typologies to serve the needs of current and future residents.

96. Land Use Element: For the reasons discussed below, the PUD supports a number of the policies of the Land Use Element of the Comprehensive Plan:
- a. *Policy LU-1.2.2: Mix of Uses on Large Sites* - The PUD, which includes residential and retail/service uses on a large site, is consistent and compatible with adjacent uses and will provide a number of benefits to the immediate neighborhood and to the city as a whole;
 - b. *Policy LU-1.3 Transit-Oriented and Corridor Development* - The PUD exemplifies the principles of transit-oriented development. The PUD Site is steps from the Anacostia Metrorail station, which is to the northeast of the PUD Site. Metrobus routes A4, P18, W2, W3, W4, W5, and W14 are located on Firth Sterling Avenue, S.E., and the A2, A4, A6, A7, A8, A42, A46, A48, W2, and W3 Lines are located on Martin Luther King Jr. Avenue, S.E. (serving D.C. and Maryland). The PUD includes residential and retail/service uses which will help to increase the vitality of this portion of the District. In addition, the PUD is consistent with the following principles:
 - (1) A preference for mixed residential and commercial uses rather than single purpose uses, particularly a preference for housing above ground-floor retail uses;
 - (2) A preference for diverse housing types, including affordable units; and
 - (3) A priority on attractive, pedestrian-friendly design;
 - c. *Policy LU-1.3.4: Design to Encourage Transit Use* - The PUD is designed to encourage transit use and to enhance the safety, comfort and convenience of passengers walking to local bus stops and the Metrorail. The PUD incorporates streetscape improvements, including lighting and landscaping, and includes ground-floor retail/service uses that will activate and animate street frontages;
 - d. *Policy LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods*- In designing the PUD, and consistent with this policy element, the Applicant has sought to balance the housing supply in the area and expand neighborhood

commerce with the parallel goals of protecting the neighborhood character and restoring the environment;

- e. *Policy LU-2.2.4: Neighborhood Beautification* - This policy encourages projects to improve the visual quality of the District's neighborhoods. The PUD includes a number of neighborhood beautification elements, such as landscaping and tree planting. Moreover, development of the PUD Site will be an improvement to the current condition with the addition of new, well-designed buildings;
 - f. *Policy LU-2.3.2: Mitigation of Commercial Development Impacts* - The PUD has been designed to not generate unreasonable or unexpected traffic, parking, litter, view obstruction, odor, noise, or vibration impacts on surrounding residential areas; and
 - g. *Policy LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods* - In designing the PUD, and consistent with this policy element, the Applicant has sought to balance the housing supply in the area and expand neighborhood commerce with the parallel goals of protecting the neighborhood's existing character, and restoring the environment.
97. Transportation Element: The overarching goal of the Transportation Element is to create a safe, sustainable, efficient and multi-modal transportation system that meets the access and mobility needs of District residents, the regional workforce, and visitors; supports local and regional economic prosperity; and enhances the quality of life for District residents. (10A DCMR § 401.1.) The PUD is uniquely situated to help further several policies and actions of the Transportation Element of the Comprehensive Plan, including:
- a. *Policy T-1.1.4: Transit-Oriented Development* - The PUD is an example of transit-oriented development and includes various transportation improvements, including the construction of a new mixed-use community along a major transportation corridor, bicycle parking and storage areas, and pedestrian improvements;
 - b. *Policy T-2.2.2: Connecting District Neighborhoods* - The PUD will help to encourage improved connections between District neighborhoods due to its location and convenient access to Metrorail and Metrobus routes, as well as its close proximity to the proposed D.C. Streetcar, with a streetcar platform/station proposed at Eaton and Firth Sterling Streets;
 - c. *Policy T-2.3.1: Better Integration of Bicycle and Pedestrian Planning* - As shown on the Plans, the Applicant has carefully considered and integrated bicycle and pedestrian planning and safety considerations in the development of the PUD;

- d. *Action T-2.3-A: Bicycle Facilities* - This element encourages new developments to include bicycle facilities. The Applicant proposes to include secure bicycle parking and bicycle racks as amenities within the development that accommodate and encourage bicycle use; and
 - e. *Policy T-2.4.1: Pedestrian Network* - The PUD will further this policy through constructing new sidewalks and upgrading existing sidewalks to ensure a safe pedestrian network within and around the PUD Site. The Applicant will work with the District to explore options for safer pedestrian access to the Anacostia Metro station;
98. Housing Element: The overarching goal of the Housing Element is to "[d]evelop and maintain a safe, decent, and affordable supply of housing for all current and future residents of the District of Columbia." (10 DCMR § 501.1.) The PUD will help achieve this goal by advancing the following policies:
- a. *Policy H-1.1.1: Private Sector Support* - The PUD helps to meet the needs of present and future District residents at locations consistent with District land use policies and objectives. Specifically, the PUD will contain approximately 1,834,317 square feet of gross floor area devoted to residential uses, which represents a substantial contribution to the District's housing supply. The provision of new housing at this particular location, moreover, is fully consistent with the District's land use policies;
 - b. *Policy H-1.1.4: Mixed-Use Development* - The PUD is consistent with the goals of promoting mixed use development, including housing on commercially zoned land, particularly in neighborhood commercial centers. The PUD represents exactly the type of mixed use development contemplated by Policy H-1.1.4; and
 - c. *Policy H-1.2.3: Mixed-Income Housing* - Consistent with this policy, redevelopment of the PUD Site will transform the existing Barry Farm community into a vibrant area that incorporates new affordable housing facilities into a mixed-use environment with walkable streets and ground-floor retail/service uses. The Applicant will build a wide range of housing options, including public and affordable housing, with new, sustainable, high-quality, energy-efficient materials. Housing on the PUD Site will be marketed towards households at a range of sizes and income levels, significantly expanding affordable and market-rate housing opportunities in the District. Overall, the PUD will leverage private sector development to assist in the redevelopment efforts and to provide high quality new housing options for District residents.

99. Environmental Protection Element: The Environmental Protection Element addresses the protection, restoration, and management of the District's land, air, water, energy, and biologic resources. This element provides policies and actions on important issues such as energy conservation and air quality, and specific policies include the following:
- a. *Policy E-1.1.1: Street Tree Planting and Maintenance* - encourages the planting and maintenance of street trees in all parts of the city;
 - b. *Policy E-1.1.3: Landscaping* - encourages the use of landscaping to beautify the city, enhance streets and public spaces, reduce stormwater runoff, and create a stronger sense of character and identity;
 - c. *Policy E-2.2.1: Energy Efficiency* - promotes the efficient use of energy, additional use of renewable energy, and a reduction of unnecessary energy expenses through mixed-use and shared parking strategies to reduce unnecessary construction of parking facilities;
 - d. *Policy E-3.1.2: Using Landscaping and Green Roofs to Reduce Runoff* - calls for the promotion of tree planting and landscaping to reduce stormwater runoff, including the expanded use of green roofs in new construction;
 - e. *Policy E-3.1.3: Green Engineering* - has a stated goal of promoting green engineering practices for water and wastewater systems; and
 - f. The PUD will include street tree planting and maintenance, landscaping, energy efficiency, methods to reduce stormwater runoff, and green engineering practices, and is therefore fully consistent with the Environmental Protection Element.
100. Economic Development Element: The Economic Development Element of the Comprehensive Plan indicates that the addition of 125,000 jobs during the next 20 years will create the demand for a number of uses, including retail use, in a variety of settings with a variety of building types (§ 706.1). The Economic Development Element also includes a number of policy recommendations regarding the promotion of retail development, including the following:
- a. *Policy ED-2.2.3: Neighborhood Shopping* - The PUD is consistent with this principle since the development includes the creation of additional shopping opportunities in a neighborhood commercial district that will help meet the demand for basic goods and services for Ward 8 residents. The proposed development of appropriately scaled retail/service uses will help to create new and unique shopping opportunities. (§ 708.7.) The Applicant is committed to

ensuring that small businesses located in the area are encouraged and assisted in locating within the new commercial portions of the PUD Site; and

- b. *Policy ED-2.2.5: Business Mix* - The Applicant intends to market the proposed retail areas to a mix of nationally recognized retailers, locally based retailers, and smaller specialty stores, which will help to reinforce existing retail and encourage new retail districts in the immediate neighborhood and help to improve the mix of goods and services available to residents. (§ 708.9).
101. Based upon the testimony and evidence presented, as well as the OP reports, the Commission finds that the proposed rezoning is not inconsistent with numerous elements of the Comprehensive Plan. The Commission also finds that the proposed PUD-related map amendment would create favorable conditions for the District and satisfies each of the statutory standards applicable to map amendments.

Compliance with the Small Area Plan

102. The Commission finds that the Small Area Plan is to be read together with the policies of the Comprehensive Plan, and when read together, the PUD complies with the Small Area Plan and the Comprehensive Plan.
103. The Commission finds that "[a]s specified in the D.C. Code and the Comprehensive Plan, Small Area Plans provide 'supplemental guidance to the Comprehensive Plan' by providing detailed direction for areas ranging in size from a few city blocks to entire neighborhoods or corridors." (10 DCMR § 104.2.) However, such plans 'are not part of the legislatively adopted document. (*Id.*)"' (Z.C. Order No. 11-25, Finding of Fact No. 38.) In addition, the Comprehensive Plan states that small area plans are intended to be read alongside the Comprehensive Plan, which is "the one plan that guides the District's development both broadly and in detail. It thus carries special importance that it provides overall direction that shapes all other physical plans that the District government adopts. In fact, all plans relating to the city's physical development should take their lead from the Comprehensive Plan." (10A DCMR § 103.2.)
104. Furthermore, the Commission notes that, as stated by the Committee of 100 on the Federal City in their letter to the Commission dated June 19, 2014, "the Zoning Commission is not required to follow the Council-approved small area plan since it is not an amendment to the Comprehensive Plan." (Ex. 63.)
105. The goal of the Small Area Plan is to "improve the residents' quality of life by addressing both the physical and human architecture of the community. . . and to protect and expand affordable housing, empower families with the tools to become self-sufficient, and preserve existing community assets and provide for those needed." (Ex. 12A1, p. 2.) The

Small Area Plan includes a number of components, but the "Physical Plan" element makes detailed recommendations for improving the area's housing, public facilities, neighborhood design, open space, and transportation systems. Key elements of the Physical Plan include:

- a. Create a mixed-income community with a variety of housing types, including low- to mid-rise buildings and townhomes, affordable and market-rate rental and homeownership units;
 - b. Ensure one for one replacement of subsidized housing units either scattered throughout the development parcels and/or in proximate off-site locations;
 - c. Develop neighborhood-serving retail that does not compete with the commercial corridor on Martin Luther King Jr. Avenue;
 - d. Create a new grid of residential streets with new east/west connections that eliminate the isolation of the existing neighborhood;
 - e. Link the development parcels to the Anacostia Metrorail station and Historic Anacostia through improved pedestrian, bicycle and streetcar route connections, and additional new bus routes through the community;
 - f. Provide a network of open spaces that are designed with community accessibility and security in mind;
 - g. Utilize sustainable practices (such as LEED-ND) to design the new neighborhood, preserve existing natural site features, and minimize the development impact on the environment;
 - h. Honor the history of the PUD Site through the preservation of street and school names and with the development of a public art or memorial program; and
 - i. Create new development that minimizes the need for parking and specifically for off-street surface parking.
106. The Small Area Plan's market analysis findings support the reuse of the PUD Site for a variety of uses including, but not limited to, residential, retail, and civic or institutional uses. (Ex. 12A1, p. 18). Furthermore, the Small Area Plan envisions a full component of housing units, including the replacement of existing subsidized units, and the inclusion of affordable and market-rate units. Specifically, one of the key guiding principles of the Small Area Plan is to ensure replacement of existing public housing units and to ensure that they are "matched by additional affordable and market rate units to create a mixed-

income community.” (Ex. 12A1, p. 2). The Small Area Plan envisions multi-family dwellings at four to five stories in height with one-, two-, and three-bedroom apartments, and retail on the ground floor. The Small Area Plan presents low-rise units as a mix of duplexes, townhouses, and “2-over-2” stacked flat/townhouse combinations that are three to four stories in height. All units have doors fronting onto the street, off-street parking spaces, and private decks or yards in the rear. Diversity of architectural styles and materials, and the inclusion of features such as front porches, are intended to link new development to the existing communities typical of Anacostia. (Ex. 12A2, p. 28.)

107. The Small Area Plan envisions new retail uses for the ground floor of the mixed-use buildings at Firth Sterling Avenue. Most of the retail in the Small Area Plan is proposed to be concentrated at the intersection of Sumner Road, and includes a variety of neighborhood uses, such as a bookstore, coffee shop, nail salon, and dry cleaner.
108. The Small Area Plan envisions improved neighborhood connections to the surrounding community through increased pedestrian access within the neighborhood and to public transportation services. The Small Area Plan proposes a new street grid that will create more residentially scaled blocks and better connectivity within the PUD Site. The Small Area Plan maintains Sumner and Eaton Roads in their current locations, relocates Stevens Road, and adds a series of additional public streets. (Ex. 12A2, p. 31.)
109. The Commission finds that the Applicant's proposed development of the PUD Site is consistent with the Small Area Plan's recommendations for the revitalization of the PUD Site. The PUD will create a mixed-income community with a variety of housing types, including apartments, row dwellings, flats, and live/work spaces and opportunities for rental and homeownership. As recommended in the Small Area Plan, the Applicant will replace one-for-one the existing subsidized housing units and incorporate affordable and market-rate housing, to create the mixed-income community envisioned by the Small Area Plan. As recommended in the Small Area Plan, the PUD will also include neighborhood-serving commercial uses along Sumner Road and Firth Sterling to serve the needs of neighborhood residents and foster local economic development. Also consistent with the Small Area Plan is the Applicant's creation of a new public street grid that will eliminate the isolation of the existing neighborhood and create convenient, safe connections to the perimeter of the PUD Site. The new street grid will include enhanced pedestrian, bicycle, and transit connections, and will increase community safety while beautifying the area. Furthermore, and as recommended by the Small Area Plan, the PUD will provide an extensive network of open spaces and parks designed with community accessibility and security in mind.
110. The Commission further finds that the Applicant's proposal to replace 344 public housing units on the PUD Site will meet the needs of the returning residents. DCHA submitted a detailed analysis of the existing number of households at the PUD Site, their bedroom

mix, and information regarding the results of DCHA’s analysis of the housing needs of returning residents. (Ex. 69L.) Based upon the testimony and this evidence presented by the Applicant, the Commission finds that relocated residents will be able to return to a unit that includes a bedroom size consistent with their needs. (see Mr. Green’s testimony at pp. 82 and 102 of the Tr. dated June 19, 2014.)

111. Moreover, the Commission finds that the Applicant’s proposed mix of housing types and affordability levels is generally consistent with the Small Area Plan’s recommendation to redevelop Barry Farm, Wade Road, and Park Chester with approximately one-third public housing units, one-third workforce housing units, and one-third market-rate units. The Applicant proposes to provide the following unit mix on the PUD Site:

| Unit Mix | Approximate Percent of Units |
|---------------------------------|-------------------------------------|
| Replacement Public Housing | 24% |
| Affordable Rental/Homeownership | 20% |
| Market Rental | 20-30% |
| Market Homeownership | 20-30% |
| Total | 100% |

112. Taken together with the Comprehensive Plan’s directive to read the Small Area Plan as general guidance, the Commission finds that the density proposed is consistent with the Small Area Plan and the Comprehensive Plan. Although the Applicant proposes to build more units than specified in the Small Area Plan, the Commission finds that this addition is necessary to leverage and allow for the successful development of the replacement public housing and affordable housing units proposed for the PUD Site.
113. Moreover, the Commission finds that the PUD will include major infrastructure investments in order to create a sustainable neighborhood that will serve the city in the long term. Proposed infrastructure improvements include the demolition of existing structures; the creation or reconstruction of nine internal roads, traffic signals, and street lighting; new safe and accessible sidewalks throughout the PUD Site; stormwater management and erosion control measures; and dry and wet utility upgrades to meet the District’s current specifications. (Ex. 83, 83A1-83A2.) The Applicant indicated that together with the construction of 344 replacement public housing units, the total fixed costs for the infrastructure and the replacement units is over \$137 million, and neither of these large fixed costs come with a revenue stream that can be capitalized. (Ex. 83.) As a result, the cost of funding the substantial infrastructure costs will be borne in large part by subsidy and revenue from the market rate units developed at the PUD Site. (Ex. 83.) Based upon this information, the Applicant also indicated that any reduction in the proposed number of market rate units would increase the portion of infrastructure costs to

be borne by each unit, which would make it extremely challenging to finance the redevelopment.

114. The Commission finds that the Small Area Plan is intended to provide only supplemental guidance to the Comprehensive Plan and should not be read as a mandatory directive intended to stipulate exact densities, unit types, and building heights. Instead, the Small Area Plan is to be read alongside the Comprehensive Plan, and the Commission finds that the PUD complies with the Small Area Plan when read together with the Comprehensive Plan. Specifically, the Commission finds that the PUD complies with the Comprehensive Plan, which calls for the replacement of public housing, creation of new workforce and market-rate housing, avoidance of dislocation, and provision of new amenities, such as parks and open space and access to the Anacostia Metrorail station. The Commission also finds that the PUD complies with the Comprehensive Plan's directives that are specific to Barry Farm by replacing public housing, creating new workforce and market-rate housing, assisting residence in avoiding dislocation, and providing new amenities, such as parks and open space. Therefore, the Commission finds that the PUD complies with the Small Area Plan when read together with the Comprehensive Plan.

Zoning Map Amendment Application

115. The Applicant is requesting a PUD-related map amendment to rezone a portion of the PUD Site to the R-5-B Zone District and a portion of the PUD Site to the C-2-A Zone District. OP reviewed the Applicant's proposal to rezone the PUD Site and in its reports recommended approval of the map amendment. (Ex. 29, 70, 73.) OP opined that the map amendment would not be inconsistent with the Comprehensive Plan, and that the proposed map amendment and redevelopment would facilitate numerous policy statements of the Comprehensive Plan. OP also indicated that the proposed map amendment coupled with the accompanying PUD is intended to facilitate a site-specific project and ensure a quality of development at a scale that is consistent with the surrounding neighborhood.
116. The Commission's authority to amend the Zoning Map derives from the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, D.C. Official Code § 6-641.01 et. seq.) ("Zoning Act"). Section 2 of the Zoning Act provides:

Zoning maps and regulations, and amendments thereto, shall not be inconsistent with the comprehensive plan for the national capital, and zoning regulations shall be designed to lessen congestion on the street, to secure safety from fire, panic, and other dangers to promote health and the general welfare, to provide adequate light and air, to prevent the undue concentration and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity,

protection of property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein.

117. The Commission finds that the proposed PUD-related map amendment is consistent with the purposes of the Zoning Act. As detailed in the Applicant's Transportation Impact Study (Ex. 25B1-25B4) and as supported by DDOT (Ex. 32), the PUD will improve traffic flow and lessen congestion by filling-in the street grid with two-way streets and connecting the PUD Site to the surrounding neighborhood. The PUD will use land efficiently and at an appropriate height and density, and will incorporate parks and open space to provide a place for civic activity and recreational opportunity for District residents. Furthermore, the Commission finds that the map amendment will allow use of the PUD Site that is not inconsistent with its designation on the Future Land Use Map, as indicated in the findings of fact in this Order.

Office of Planning Reports

118. By report dated March 21, 2014, OP stated that it supported the application and that the proposed PUD is not inconsistent with the Comprehensive Plan. Therefore, OP recommended that the Commission schedule a public hearing on the application.(Ex. 12-12A2.)
119. On June 6, 2014, OP submitted a report recommending approval of the application, subject to the condition that the Applicant provide the following additional items: (i) an updated traffic study to address the new site layout; (ii) details on the affordable housing program, such as the number and duration of the affordable housing programs; and (iii) a more complete justification for the requested height and lot occupancy flexibility (Exhibit 29). At the public hearing and in the Applicant's supplemental prehearing statement, the Applicant provided an updated traffic study, details on the affordable housing program, and a justification for the requested height and lot occupancy flexibility. Therefore, the Commission finds that the Applicant addressed the comments outlined in OP's report.
120. In addition, in its June 6, 2014 report, OP requested that for each subsequent second-stage application, the Applicant should provide the following:
- a. Details of the phasing plan, including approximate scheduling and development priorities;
 - b. Details on environmental/green building initiatives;

- c. Detailed landscape plans;
 - d. Plans showing where and how the yard requirements for theoretical lots are met and the extent of the requested deviations;
 - e. TDM measure specifics;
 - f. The location of all affordable units; and
 - g. Details on how each building façade would relate to the streets and adjacent buildings.
121. On July 14, 2014, OP submitted a supplemental report that included: (i) further information on the consistency of the previously proposed 1,646 units with the recommendation of the Small Area Plan to provide 1,110 units; (ii) the current AMI levels for the Washington, D.C. Metropolitan Statistical Area ("MSA"); and (iii) comments from the MPD on the proposed development. (Ex. 70.) Specifically, OP noted that the previously proposed density of 2.42 FAR is not inconsistent with the Comprehensive Plan, particularly given the nature of the development and the affordable housing, green space, environmental improvements, neighborhood retail/service uses, and streetscape improvements proposed. OP explained that through the flexibility afforded by the PUD process, the proposed density will be distributed across the PUD Site with the taller, multi-family buildings on the western and north-western portions of the PUD Site buffering the lower density and height buildings on the remainder of the PUD Site, which are compatible with the single family detached, row dwellings, and flats in the adjacent residential community. OP's report also provided a table outlining the AMI for the D.C. MSA, as requested, and indicated that OP sent a letter to MPD requesting comments.
122. OP's supplemental report also stated that the proposed zoning for the PUD Site allows for the incorporation of many of the other objectives of the Small Area Plan, such as large open spaces. The OP report stated that the C-2-A Zone District allows for the low-scale and low-density retail/service uses that will serve the new community, as recommended by the Small Area Plan, and the additional residential units will support the policy of permitting additional density on properties close to Metrorail stations (in this case, the Anacostia Metrorail station) and will help to address issues of public safety and security identified in the Small Area Plan, by providing eyes on all streets and greater streetscape vibrancy. In addition, the OP report noted that the Small Area Plan recommends 1,110 new units for the Barry Farm, Park Chester, and Wade Road developments, 249 of which would be on-site replacement public housing units. However, the OP report explained that in order to provide the opportunity for all existing residents to return to the PUD Site, the Applicant would have to provide 344 replacement housing units.

DDOT Report

123. DDOT submitted a report, dated June 9, 2014, indicating DDOT's support for the PUD subject to the following conditions: (Ex. 32.)
- a. The Applicant should work with DDOT to improve pedestrian connections to the Anacostia Metrorail station;
 - b. The proposed TDM measures should not be contingent on the number of peak vehicle trips generated by the PUD Site;
 - c. The Applicant should install a transit screen in the lobbies of all commercial and multi-family buildings;
 - d. The Applicant should provide showers and changing facilities in commercial buildings for employees;
 - e. The Applicant should limit non-auto incentives to Capital Bikeshare membership or carshare membership to all residential tenants and commercial employees for a period of three years;
 - f. In the permitting process, the Applicant should address the specific design elements of the bicycle facilities proposed for Sumner Road; and
 - g. The Applicant should design streets to DDOT standards, and make several adjustments to the streets as proposed, if the Applicant plans to dedicate those streets to DDOT.
124. The DDOT report states that vehicle traffic impacts from the PUD will minimally impact the operations of intersections in the study area as measured by level of service (“LOS”). While the DDOT report notes that the intersections at South Capitol Street at Firth Sterling Avenue and Suitland Parkway at Firth Sterling Avenue are expected to operate at a failing LOS, these conditions are no worse than if the PUD Site does not develop. The DDOT report also notes that while the queue length at some intersections increases as a result of the PUD, the queue length decreases at other intersections, and these changes are relatively minor. The Commission therefore finds that the PUD will have minimal impacts to traffic in the surrounding area.

125. The Applicant's post-hearing submission included a revised site plan and revised list of TDM measures addressing DDOT's comments. (Ex. 69A and 69C.) The Applicant's final site plan provided additional enhancements to the streets within the PUD Site, including (i) wider streets to further enhance the openness of the PUD Site from the perspective of residents and pedestrians, (ii) streets with parking on both sides to improve pedestrian safety and decrease vehicle speeds, and (iii) two-way traffic on most of the streets to improve accessibility to the interior of the community. (Ex. 83A1-83A2.) Based on the Applicant's revised site plan and TDM measures, the Commission finds that the Applicant has addressed the comments outlined in DDOT's report.

Contested Issues/Party in Opposition

126. ANC 8C, BFTAA, and a number of individuals raised concerns at the public hearing and in written testimony. The concerns raised include the following issues: density and compliance with District plans; affordability; phasing; timing for second-stage applications; income mix and unit size; reentry eligibility criteria; financing; retail/service opportunities for local business owners; potential displacement; and the privatization of public land. The Commission has carefully reviewed the written and oral testimony presented by ANC 8C, BFTAA, and individuals and makes the findings below.
127. Density and Compliance with District Plans: ANC 8C, BFTAA, and the Committee of 100 on the Federal City argued that the PUD does not comply with the Small Area Plan or the Comprehensive Plan, specifically regarding the number of total units, the number of affordable units, the mix of unit typologies, and the size of units. BFTAA and the Committee of 100 on the Federal City also stated that the requested R-5-B Zone District is inconsistent with the moderate density designation in the Comprehensive Plan, and that the overall PUD exceeds density requirements, as well as lot occupancy and FAR requirements, on many of the parcels.
128. The Commission finds that although the Small Area Plan recommended the development of 1,110 units for Barry Farm, Park Chester, and Wade Road, the Applicant's proposal to construct a total of 1,400 units is consistent with the Small Area Plan's broader recommendations regarding the need for more housing. Given that the Small Area Plan only provides supplemental guidance, the Commission finds that when read in the context of the Comprehensive Plan, the OP reports (Ex. 12-12A2, 29, 70, 73), and letters of support from Councilmember Marion Barry (Ex. 47) and Mayor Vincent Gray (Ex. 69D), the proposed number of units for the PUD Site is appropriate. Moreover, the Commission finds that the recommended number of units proposed by the Small Area Plan is one of many recommendations for redevelopment of the Barry Farm, Wade Road, and Park Chester developments, and that the PUD will help to implement the majority of the recommendations in the Small Area Plan.

129. In addition to constructing 344 replacement units, the Applicant proposes that 20% of the total housing units on the PUD Site will be dedicated as affordable rental or homeownership units, with the rental affordable units devoted to households earning up to 60% of the AMI and the homeownership affordable units devoted to households earning up to 80% of the AMI. These affordable units are in addition to the replacement public housing units and will provide rental and homeownership opportunities for District residents and help support the District's goal of creating a mixed-income community. This provision of affordable housing units is also consistent with the Small Area Plan's guiding principle of ensuring that the replacement units are matched with additional affordable and market-rate units.
130. The Commission also finds that the proposed density is appropriate and necessary to attract new retail/service uses to the PUD Site, which is a community priority highlighted in the Small Area Plan. The Commission finds that approval of the PUD will help to implement Policy FSS 1.1.1 of the Comprehensive Plan, which calls for "concentrating future housing development and employment growth around the Anacostia Metrorail station," and Policy LU 2.1.3, which "recognizes the importance of balancing goals to increase the housing supply and expand neighborhood commerce." The Commission also finds that the PUD is consistent with the District's understanding that the growth of both residential and non-residential uses is critical, particularly since non-residential growth benefits residents by creating jobs and opportunities for less affluent households to increase their income. (10A DCMR § 217.4.)
131. Moreover, the Commission finds that the PUD is consistent with the Small Area Plan's vision for unit size and typology. Consistent with the Plan's goal of creating over 1,000 new units of mixed-income housing, in a variety of configurations, the Applicant is providing approximately 1,400 new residential units for a range of incomes and tenure, including mid-rise apartments, row houses, flats, and live/work spaces, with a mix of replacement public housing units, affordable housing units, and market-rate units, and a variety of rental and homeownership opportunities. Also consistent with the Small Area Plan, the PUD will introduce a new street grid pattern to create residentially scaled blocks that link Barry Farm, Park Chester, and Wade Road and connect the community to Martin Luther King Jr. Avenue and Sumner Road. As recommended by the Small Area Plan, the PUD will provide circulation in all directions by creating smaller, more pedestrian-friendly residential blocks with parking on both sides of the streets. Sidewalks will be enhanced with new pedestrian-oriented infrastructure, and retail and community services will animate the larger streets within the PUD Site. Also consistent with the Small Area Plan is the centrally-located park and open spaces proposed by the Applicant to be located throughout the PUD Site.
132. In addition, the Commission finds that the PUD is not inconsistent with the Comprehensive Plan, including the following elements:

- a. *H-1.1: Homes for an Inclusive City - Expanding Housing Supply*, which indicates that expanding the housing supply is a key part of the District's vision to create successful neighborhoods;
- b. *Policy H-1.1.1 Private Sector Support*, which encourages the development of new housing to meet the needs of present and future District residents at locations consistent with District land use policies and objectives;
- c. *Policy H-1.1.3 Balanced Growth*, which strongly encourages the development of new housing on surplus, vacant and underutilized land in all parts of the city, and calls for ensuring that a sufficient supply of land is planned and zoned to enable the city to meet its long-term housing needs, including the need for low- and moderate-density single family homes as well as the need for higher-density housing;
- d. *Policy H-1.1.4: Mixed-Use Development*, which promotes mixed-use development, including housing, on commercially-zoned land, particularly in neighborhood commercial centers, along Main Street mixed-use corridors, and around appropriate Metrorail stations;
- e. *Policy H-1.2.3: Mixed-Income Housing*, which recommends focusing investment strategies and affordable housing programs to distribute mixed-income housing more equitably across the entire city, and taking steps to avoid further concentration of poverty within areas of the city that already have substantial affordable housing;
- f. *Policy H-1.2.7: Density Bonuses for Affordable Housing*, which recommends providing zoning incentives to developers proposing to build low- and moderate-income housing, and notes that affordable housing shall be considered a public benefit for the purposes of granting density bonuses when new development is proposed;
- g. *Policy H-1.3.1: Housing for Families*, which encourages providing a larger number of housing units for families with children by encouraging new and retaining existing single family homes, duplexes, row houses, and three- and four-bedroom apartments;
- h. *Policy H-1.3.2: Tenure Diversity*, which encourages the production of both renter-occupied and owner-occupied housing; and
- i. *Policy H-1.4.4: Public Housing Renovation*, which encourages continued efforts to transform distressed public and assisted housing projects into viable mixed-

income neighborhoods, and providing one-for-one replacement within the District of Columbia of any public housing units that are removed.

133. The Commission finds that the PUD's proposed zoning designation is appropriate for the PUD Site and is not inconsistent with the Comprehensive Plan's designation for the PUD Site. The PUD Site is designated Moderate Density Residential on the Comprehensive Plan's Future Land Use Map, and the Commission notes that guidelines state that the Future Land Use Map is to be "interpreted broadly" and that the densities within any given area on the Future Land Use Map "reflect all contiguous properties on a block – there may be individual buildings that are higher or lower than these ranges within each area." (10A DCMR § 226(c).) The Commission also notes that the guidelines advise that "the land use category definitions describe the general character of development in each area, citing typical building heights (in stories) as appropriate, and that the granting of density bonuses (for example, through Planned Unit Developments) may result in heights that exceed the typical ranges cited here." (*Id.*) Based upon this principle, this Commission has found in a number of cases that the R-5-B and C-2-A Zone Districts are not inconsistent with the Moderate-Density Residential category (e.g. Z.C. Case Nos. 08-25 and 07-35).
134. Furthermore, the Commission finds that amount of commercial space on the PUD Site is nominal, comprising approximately three percent of the total development. The Commission finds that the proposed commercial uses are intended to provide services to meet the day-to-day needs of people who live and work in the neighborhood, which is consistent with the purposes of the C-2-A Zone District, which is "designed to provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core," and "shall include office employment centers, shopping centers, and medium bulk mixed use centers." (11 DCMR §§ 720.2, 720.3.)
135. The Commission also finds that the PUD's overall density of 2.09 FAR is not inconsistent with the moderate-density designation. Similar to other developments reviewed by this Commission, through the flexibility afforded by the PUD process, the proposed density can be appropriately distributed across the PUD Site. In this case, the Applicant carefully located the taller, multi-family buildings on the western and northwestern perimeter streets to buffer the lower-density and lower-height buildings on the remainder of the PUD Site. Out of the 22 parcels on the PUD Site, only six are proposed to be developed with higher-density multi-family buildings with ground-floor commercial use. The Commission finds that these lower-density buildings will be compatible to the adjacent single family detached and row dwellings and flats in the adjacent residential community.

136. Affordability: BFTAA stated that the PUD does not adhere to the underlying policies of the Small Area Plan or the NCI, which call for a unit mix of approximately one-third public housing, one-third new affordable housing, and one-third market-rate.
137. The Commission finds that the NCI is not a zoning document. NCI is a government program designed to revitalize severely distressed subsidized housing and redevelop communities plagued with concentrated poverty, high crime, and economic segregation. However, the Commission nonetheless finds that the PUD is consistent with NCI's guiding principles. First, the Commission finds that the PUD supports the mixed-income principle. Although the original NCI development plan called for one-third public housing units, one-third workforce housing units, and one-third market rate housing units, that plan "was a guide, not an actual concrete recommendation." (*see* Kimberly Black King's testimony on p. 191 of the Tr. dated September 18, 2014.) Second, the Commission finds that the PUD supports the goal of replacing one-for-one the existing 444 public housing units that exist in the Barry Farm and Wade Road developments. To date, 60 replacement public housing units have already been constructed at Matthews Memorial Terrace and Sheridan Station Phase I, and an additional 40 replacement units are under construction at Sheridan Station Phase III. The Applicant will construct the remaining 344 public housing replacement units on the PUD Site.
138. The Commission further finds that the PUD is generally consistent with the Small Area Plan and NCI, since they are simply intended to provide guidance to developers and decision makers. The Commission finds that although the PUD does not provide the exact ratio of public housing, affordable housing, and market rate housing that the Small Area Plan and the NCI recommend, the PUD is substantially consistent with the underlying policies of the Small Area Plan and the NCI, because it will be a vibrant mixed-use, mixed-income community that replaces one-for-one the existing public housing units, offers current residents the option to return, provides rental and homeownership opportunities at affordable and market-rate levels, and provides significant new retail opportunities, parks, and open space for District residents to enjoy,
139. Phasing: BFTAA, the Committee of 100 of the Federal City, and other individuals stated that PUD is not being constructed in appropriate phases, such that current residents will be unable to be relocated within the PUD Site during construction. BFTAA requested that the phasing plans give current residents the right to remain on the PUD Site during implementation of any redevelopment, and that current residents should be relocated within the PUD Site itself. In the alternative, BFTAA also stated that the HUD Housing Choice Voucher program is inadequate to support displaced residents due to the onerous expectations it places on recipients, and that funding from this program was speculative at best.

140. The Commission finds that the Applicant will appropriately move forward with the PUD in multiple phases, considering the size of the PUD Site, market conditions, and the availability of financing, which are difficult to predict. The Applicant's development priorities are to provide a mixture of housing opportunities for a wide range of income levels that will include replacement public housing units and to provide a housing mix that stabilizes and transforms the community. Since public housing units are expected to comprise 24.5% of the total project unit count, each phase will be comprised of a proportionate number of replacement public housing units. As described in Finding of Fact 67, the Applicant submitted a phasing schedule after the public hearing on October 29, 2014, outlining the anticipated timing for the second stage applications and agreeing to the termination of the 10-year approval duration upon the failure of any of the filings to occur. Thus, the Commission finds that the Applicant's general phasing plan provides flexibility to address market conditions and is appropriate for this project, while the threat of potential expiration incentivizes the Applicant to adhere to the phasing schedule.
141. The Commission also notes that the Applicant and DCHA will work with existing residents to ensure that they are relocated into safe and secure housing units, and will also provide necessary training and workshops to help residents navigate the HUD Housing Choice Voucher program.
142. Further, the Commission finds that the Applicant has presented evidence and demonstrated that it will include in each phase a mix of housing that incorporates market-rate rental, homeownership, affordable housing, and public housing, consistent with the overall program vision.
143. Timing for Second-Stage Application: Other persons in opposition to the application, including the Committee of 100 of the Federal City stated that the five-year time period between the first- and second-stage review should be denied because the Applicant did not provide adequately detailed data on the intended income mix, size of units, provisions for relocating existing tenants, and their options for return.
144. As to the time period between first and second stage reviews the Commission notes that the Applicant has committed to filing second stage application must be filed for at least four parcels (Phase I of development) within two years after the effective date of this Order. This is only one year more than the presumptive duration between first-stage approval and second-stage filings. The Commission finds that the Applicant is seeking the additional time in order to provide sufficient time for proceeding through the HUD funding and disposition processes; initiating predevelopment activities, including infrastructure planning and street and alley closing processes; further engaging with the community and existing public housing residents regarding the relocation plan and design elements for the second-stage application; and securing additional financial sources to move forward with development. The Commission notes that approval of the pending

first-stage PUD application is the first step in the process and is a critical component necessary to trigger other steps to move forward with implementation of redevelopment of the PUD Site.

145. Income Mix and Unit Size: BFTAA and a number of individuals asserted that the Applicant did not provide adequately detailed information regarding the intended income mix or unit size of the replacement public housing units, or describe whether the PUD would replace each public housing unit with another public housing unit with the same number of bedrooms and at the same level of affordability. In addition, BFTAA alleged that the Applicant provided no concrete information as to whether the proffered affordable units would be provided on- or off-site, whether they would be offered exclusively to current residents, or when they will be built. BFTAA also argued that the proposed PUD did not provide a sufficient number of four-, five-, and six-bedroom units.
146. The Commission finds that the Applicant provided sufficient details regarding the intended income mix, size, and typology of the proposed residential units on the PUD Site. The master plan (Ex. 25C1-25C5, as modified by Ex. 69A and 83A1-83A2) includes a total of 1,400 residential units, which are comprised of 1,014 multiple dwelling units, 278 row dwellings, 46 flats (92 units), and 16 live/work spaces.
147. The Commission finds that the Applicant's plan includes rental and homeownership opportunities, and that the proposed units will be of an appropriate size to accommodate the needs of all returning residents. Although the exact determination of income and tenure mix is subject to a number of factors, including market demand and financial market conditions at the time the second-stage applications are filed, the Applicant has committed to replacing 344 public housing units on the PUD Site, which is approximately 24.5% of the total proposed units. As noted, the Commission intends to request the Zoning Administrator to exempt the PUD from the Inclusionary Zoning requirements pursuant to § 2602.3(f) of the Zoning Regulations. Nevertheless, the affordable housing component of the PUD provides significantly more affordable housing units than is required under the Inclusionary Zoning regulations. Furthermore, the Commission finds that the Applicant has committed to targeting the following unit mix at the PUD Site: (i) 24% public housing rental, (ii) 20% affordable rental/homeownership, (iii) 20%-30% market rental, and (iv) 20%-30% percent market homeownership. In addition, the Commission credits the Applicant's testimony that the Applicant will ensure that the 344 replacement public housing units will meet the housing needs of the returning residents.
148. ANC 8C, BFTAA, and other individuals opposed a number of other aspects of the PUD. However, the Commission finds that it is not the proper forum to adjudicate these issues. The Commission's jurisdiction is defined by statute and regulation. (*See* D.C. Official Code § 6-641.01; 11 DCMR §§ 3000 *et seq.*) Regarding the scope of authority for

regulatory agencies like the Commission, the Court of Appeals has stated repeatedly that it is "reluctant to read into a statute powers for a regulatory agency which are not fairly implied from the statutory language, since the agency is statutorily created." (*See Spring Valley Wesley Heights Citizen Ass'n v. District of Columbia Bd. of Zoning Adjustment*, 644 A.2d 434, 436 (D.C. 1994) (citing *Chesapeake & Potomac Tel. Co. v. Public Service Comm'n of District of Columbia*, 378 A.2d 1085, 1089 (D.C. 1977)).) The Commission's authority is thus limited to and controlled by its statute and governing regulations, and neither of those documents permits the Commission to resolve a dispute as to title to real property in the District.

149. Moreover, this Commission has ruled in a number of cases that it does not have jurisdiction over issues governed by other forums or standards beyond the Zoning Regulations. (*See, generally* D.C. Official Code § 6-641.01; *see also, e.g.* Z.C. Order No. 05-42, Jan. 14, 2008 (no jurisdiction over a request for regulatory reviews, permits, and applications from Applicant); Z.C. Order No. 638, November 13, 1989 (no jurisdiction over temporary closing of alleys or damage to neighboring properties); Z.C. Order No. 01-09C, February 11, 2002 (no authority to appoint, establish, or monitor an arbitration board); Z.C. Order No. 02-43, February 24, 2003 (no authority to require DDOT's compliance); Z.C. Order No. 13-10 (no authority over claim to an easement).) In these cases, the Commission has acknowledged the limits of its authority and did not act on issues outside of its jurisdiction.
150. The Commission finds that the issues addressed below are not governed by the Zoning Regulations or are otherwise beyond the scope of the testimony and evidence of record in this case. A first-stage PUD involves (i) general review of a site's suitability for use as a PUD; (ii) the appropriateness, character, scale, mixture of uses, and design of the uses proposed; and (iii) the compatibility of the proposed development with city-wide, ward, and area plans of the District of Columbia, and other goals of the PUD process. (11 DCMR 2402.2(a).) However, the Commission responds to the issues below.
151. Relocation and Return Plans: BFTAA and a number of individuals asserted that the Applicant did not provide an adequate relocation or return plan for current residents, and did not explain how people would be transitioned during redevelopment, where they would go, how they would go, and when they would return. BFTAA stated that the Applicant did not provide sufficient measures to prevent displacement of current tenants. BFTAA further alleged that for these reasons, the PUD was inconsistent with the Comprehensive Plan Policy FSS-2.3.1.
152. The Commission finds that the Applicant's relocation process is governed by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. Since that Act does not confer any jurisdiction on the Commission, the Commission finds that the relocation process is outside of the Commission's jurisdiction. However, the

Commission finds that the Applicant has submitted detailed information regarding the timing and process for development of a relocation plan. (Ex. 69-69L, 83C; and Ms. Burgess's testimony from Tr. dated September 18, 2014, pp. 34-45.) Moreover, as described at the Commission's public meeting on October 20, 2014, the Commission is requiring the Applicant to submit a relocation plan with the Applicant's first second-stage application. This plan shall include specific timetables and plans for the relocation and return of the residents of Barry Farms. The Commission is also requiring the Applicant to submit with each subsequent second-stage application, a progress report regarding the status of the relocation process described in Exhibits 69-69C and 83C.

153. Based upon the evidence of record, the Commission further finds that the Applicant's relocation plan is not inconsistent with Comprehensive Plan Policy FSS 2.3.1, which encourages "the revitalization of Barry Farm ... with measures to assist residents and avoid dislocation or personal hardship," since the information submitted indicates that it will support current residents. (Ex. 83.) Moreover, the Commission is requiring the Applicant to submit a relocation plan with the first second-stage application and is requiring the Applicant to submit progress reports regarding the status of the relocation process as part of each second-stage application.
154. Reentry Eligibility Criteria: BFTAA and other individuals stated that replacement public housing units will have different and additional eligibility criteria so that many current residents will not be able to qualify for the replacement units on the PUD Site. BFTAA argued that the replacement units should have the same lease criteria as traditional public housing, that there should be no new criteria for the replacement units, and that current residents should have a right to return regardless of whether they are lease compliant.
155. The Commission finds that reentry eligibility criteria are beyond the scope of the Commission's jurisdiction. However, the Commission notes that the Applicant indicated that it plans to pursue the HUD Choice Neighborhood program for funding and development of the project. Under the HUD Choice Neighborhood program, all current Barry Farm residents who are lease compliant and remain compliant while residing in their temporary housing will be able to return to the redeveloped PUD Site.
156. Demolition vs. Renovation: BFTAA stated that the Applicant should repair and renovate the existing structures on the PUD Site rather than demolish the structures. (Ex. 27, 75; June 19, 2014 Tr., pp. 189-200.)
157. The Commission finds that it does not have jurisdiction over the issue of whether a property owner should renovate or demolish existing structures on its land. However, the Commission finds that the Applicant submitted sufficient analysis justifying the need to demolish the existing units on the PUD Site. The Applicant adequately explained that the existing units "are part of an aging and substantially deteriorated housing stock" and that

“a 2010 physical needs assessment found that the key building systems of residential buildings, including exterior walls and roofs are ‘in extremely poor condition.’” (Ex. 54, 69, 69D; and Steve Green’s testimony from Tr. dated June 16, 2014, pp. 88-100.)

158. Financing: BFTAA also stated that the Applicant did not provide sufficient details regarding how the PUD would be financed, and that although the Applicant is counting on receiving federal financing, it has not yet been awarded any money.
159. The regulations do not require proof of financing as a prerequisite to approval. Indeed, many PUDs come before the Commission without financing fully in place. Nevertheless, the Commission notes that the Applicant indicated that it intends to pursue the HUD Choice Neighborhood program as a funding source for the development of the PUD Site.
160. Retail/Service Opportunities: BFTAA requested that the PUD Site include a set-aside for businesses to be owned and managed by public housing residents, and that resources should be provided to support these entrepreneurs.
161. The Commission notes that the Applicant indicated that the PUD includes approximately 55,500 square feet of gross floor area devoted to retail/service uses. Moreover, as described in the Applicant's post-hearing submission, through the District's NCI Human Capital Program, service providers offer comprehensive case management services and programming geared towards economic self-sufficiency and community wellness to households residing at the PUD Site. (Ex. 69, 69J.)
162. Displacement: Other persons in opposition stated that the mixed-income development will not ameliorate concentrated poverty, and will instead shift poverty by displacing an impoverished population with high-income households. BFTAA also testified that the Applicant should be required to provide social impact statements to enact mitigation efforts and evaluate whether the proposed dispersal of existing social networks at Barry Farm is acceptable.
163. The Commission finds that neither the issue of displacement nor the issue of completing social impact studies is within its jurisdiction. However, the Commission finds that the PUD will appropriately provide housing for residents at a mix of incomes in compliance with the Comprehensive Plan, the Small Area Plan, and other District policies, which will result in an improvement to the PUD Site compared to the existing deteriorated physical conditions. The Commission also finds that the Applicant is providing significant relocation and return support to existing residents to help ameliorate any potential social impacts as a result of redevelopment.
164. Privatization of Public Land: BFTAA alleged that the Applicant did not provide sufficient details regarding the scope of privatization, the amount of land that the Applicant proposes to privatize, the rationale or loss of financial value to public assets

upon privatization, or how privatization will affect the Applicant's phasing and return plans. BFTAA stated that the Applicant did not explain why the development could not be accomplished with short- or long-term leasing arrangements or through non-profit land trusts or other creative financing measures.

165. The Commission finds that the privatization of public land and related financing issues are not governed by the Zoning Regulations and therefore completely outside of the Commission's jurisdiction.
166. The Commission has reviewed the submissions of ANC 8C, BFTAA, and the Applicant, and the Commission has given great weight to ANC 8C's views. The Commission finds that the Applicant has responded in detail to each of the concerns raised by the ANC, BFTAA, and other individuals, and the Commission further finds that the Applicant's exhibits, expert testimony, and reports, as well as the testimony and reports of OP, address the substantives issues raised in this case as detailed in findings of fact 126 through 165 in this Order and the testimony and evidence of record referenced in this Order.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high quality development that provides public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." (11 DCMR § 2400.2.)
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider this application as a first-stage PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking, loading, yards, or courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.
3. Development of the property included in this application carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
4. The PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations.

5. The PUD, as approved by the Commission, complies with the applicable height, bulk, and density standards of the Zoning Regulations. The uses for this project are appropriate for the Subject Property. The impact of the project on the surrounding area is not unacceptable. Accordingly, the project should be approved.
6. The application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
7. The Applicant's request for flexibility from the Zoning Regulations is not inconsistent with the Comprehensive Plan. Moreover, the project's benefits and amenities are reasonable tradeoffs for the requested development flexibility.
8. First-stage approval of this PUD is appropriate because the proposed development, and the proposed R-5-B and C-2-A zoning, are not inconsistent with the Comprehensive Plan. In addition, the proposed development will promote the orderly development of the Subject Property in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
9. The Commission is required under § 13(d) of the Advisory Neighborhood Commission Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2001)) to give great weight to the affected ANC's recommendation. Great weight requires the acknowledgement of the ANC as the source of the recommendations and explicit reference to each of the ANC's concerns. The written rationale for the decision must articulate with precision why the ANC does or does not offer persuasive evidence under the circumstances. In doing so, the Commission must articulate specific findings and conclusions with respect to each issue and concern raised by the ANC. (D.C. Official Code § 1-309.10(d)(3)(A) and (B).) ANC 8C submitted several reports:
 - a. The first report was dated June 13, 2014, and states that on May 7, 2014, at a duly noticed public meeting at which notice was properly given and a quorum was present, ANC 8C voted 5-0-1, to not support the application, and that on June 10, 2014, ANC 8C voted 3-0-1, to support the application if the Applicant reduces the quantity of units to 1,200; (Ex. 38.)
 - b. The second report was a July 10, 2014, joint resolution from ANC 8C and BFTAA, stating its support for the PUD, subject to a number of conditions; and (Ex. 68.)
 - c. The third report was a resolution dated September 23, 2014. The resolution stated that the ANC continued to support the PUD, provided that the Applicant met a list

of eight “commitments” that effectively served as conditions for the ANC’s approval. (Ex. 92.)²

10. The third ANC resolution dated September 23, 2014 contained advice that superseded the advice contained in the two previous letters, so the Commission considers the third letter to be the source of concerns that must be given great weight.
11. The ANC resolution dated September 23, 2014 did not comply with the requirements of the Zoning Regulations that an ANC report state whether the ANC considered the matter at a properly noticed meeting, as required by 11 DCMR § 3012.5(c), nor did it comply with the requirement that the requirement that a ANC met with a quorum, as required by 11 DCMR § 3012.5(d).
12. The Commission nonetheless carefully considered the contents of the report, and examined the commitments listed in the letter. The Commission finds that first two bullet points listed in the resolution (which deal with replacement of public housing units) are properly part of this application and that the Applicant is in compliance with these stated commitments. The Commission finds, for the reasons discussed in findings 148 to 166 above, that the remaining items are related to DCHA’s operations, which are not a zoning issues and not within the Commission’s jurisdiction.
13. The Commission has given great weight to ANC 8C's recommendations, but concludes that the Applicant has fully supported its application and responded to each of the issues raised by the ANC, BFTAA, other persons in opposition, OP, and DDOT.
14. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to OP’s recommendations. For the reasons stated above, the Commission concurs with OP’s recommendation for approval and has given the OP recommendation the great weight it is entitled.
15. The application for a PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401 *et seq.* (2007 Repl.)

² ANC also submitted a resolution dated September 18, 2014. (Ex. 87.) The resolution was not on ANC letterhead. The contents of the resolution are identical to the resolution dated September 23, 2014.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application for the first-stage review and approval of a planned unit development (“PUD”) and related zoning map amendment for Square 5862, Lots 137-143; Square 5865, Lots 243, 249, 254, 259, 260-280, 893, 963-978, and 992; Square 5866, Lots 130, 133-136, 141-144, 147-150, 152, 831-835; and Square 5867, Lots 143, 172-174, 890-891, and 898, subject to the following guidelines, conditions, and standards:

A. PROJECT DEVELOPMENT

1. The PUD and subsequent second-stage applications shall be in accordance with the first-stage PUD plans and development data, dated May 27, 2014 (Ex. 25C1-25C5), as supplemented by the revised site plan addressing street layouts, dated July 14, 2014 (Ex. 69A), as modified by the revised Master Plan, dated September 15, 2014 (Ex. 83A1-83A2), and as modified by the guidelines, conditions, and standards of this Order.
2. In accordance with the plans, the PUD shall be a mixed-use project consisting of a maximum of 1,834,317 square feet of gross floor area devoted to residential uses, and a maximum of 55,500 square feet of gross floor area devoted to retail, service, and office uses. The Applicant shall construct new streets and sidewalks as shown on the plans (Ex. 83A1-83A2) and the Applicant's PowerPoint presentation (Ex. 84) in accordance with D.C. Department of Transportation standards and subject to D.C. Department of Transportation approval.
3. The PUD shall have an overall maximum density of 2.09 FAR and an overall maximum lot occupancy of 51.9%.
4. The buildings in the PUD shall be designed to the following maximum building heights, not including roof structures:
 - a. Parcel 1A: 65 feet;
 - b. Parcel 1B: 65 feet;
 - c. Parcel 2: 48-65 feet;
 - d. Parcel 3: 65 feet;
 - e. Parcel 4: 65 feet;
 - f. Parcel 5: 65 feet;
 - g. Parcel 6: 48-65 feet;
 - h. Parcel 7: 48-65 feet;
 - i. Parcel 8: 48 feet;

- j. Parcel 9: 48 feet;
- k. Parcel 10: 48 feet;
- l. Parcel 11: 48 feet;
- m. Parcel 12: 48 feet;
- n. Parcel 13: 48 feet;
- o. Parcel 14: 48 feet;
- p. Parcel 15: 48 feet;
- q. Parcel 16: 48 feet;
- r. Parcel 17: 48 feet
- s. Parcel 18: Open Space;
- t. Parcel 19: Open Space;
- u. Parcel 20: Open Space; and
- v. Parcel 21: Open Space.

- 5. The overall PUD shall provide the minimum number of required, zoning-compliant off-street parking spaces.
- 6. The PUD shall include the following unit mix on the PUD Site:

| Unit Mix | Approximate Percent of Units |
|---------------------------------|------------------------------|
| Replacement Public Housing | 24% |
| Affordable Rental/Homeownership | 20% |
| Market Rental | 20-30% |
| Market Homeownership | 20-30% |
| Total | 100% |

- 7. The Applicant shall dedicate 344 units of the total 1,400 residential units as replacement public housing units affordable to households earning up to 30% of the AMI. The 344 replacement public housing units shall remain as replacement public housing units for the period required under the *Regulatory and Operating Agreement* required by HUD and the ground lease governing the property, which will be no less than 40 years.
- 8. The Applicant shall dedicate 20% of the housing units on the PUD Site as affordable rental or homeownership units. The rental affordable units shall be devoted to households earning up to 60% of the AMI and the homeownership affordable units shall be devoted to households earning up to 80% of the AMI. The affordable control period for the affordable rental units shall remain in place for 40 years after the certificate of occupancy is issued for the building(s)

containing the affordable rental units. The affordable control period for the affordable homeownership units shall be subject to the requirements of their funding source or a minimum of 10 years.

9. Nothing in Conditions A-7 or A-8 shall be deemed to excuse the Applicant from setting aside for so long as the project is in existence the minimum amount of residential gross floor area for affordable housing units as required by 11 DCMR § 2603, or if the Inclusionary Zoning exemption is granted, by 11 DCMR § 2602.7.
10. The Applicant is granted flexibility from court requirements (§§ 406.1 and 776), side yard requirements (§§ 405.9 and 775), rear yard requirements (§§ 404.1 and 774.1), loading requirements (§ 2201.1), and lot occupancy requirements (§§ 403.2 and 772.1) consistent with the approved plans and as discussed in the Development Incentives and Flexibility section of this Order. The Applicant will identify the specific degree of relief for each parcel during the second-stage application for each parcel.
11. The Applicant shall also have flexibility with the design of the PUD in the following areas:
 - a. To be able to provide a range in the number of residential units of plus or minus 10% from the 1,400 depicted on the plans; and
 - b. To vary the number, location, and arrangement of parking spaces, and the number of parking garage levels, provided that the total number of parking spaces is not reduced below the minimum level required by the Zoning Regulations.

B. SECOND-STAGE APPLICATIONS

1. The Applicant shall include the following information with each second-stage application:
 - a. Detailed architectural plans and elevations that include the information required pursuant to § 2406.12 of the Zoning Regulations, and specifically including sections demonstrating how the proposed building and building façades relate to adjacent streets and buildings; architectural design features; and an identification of proposed building materials;

- b. A detailed description of how the zoning requirements for each lot are met, with detailed analysis of all zoning relief requested for each building included in the application;
- c. A detailed description of all environmental/green building initiatives proposed for each building included in the application, including the level of LEED or Green Communities certification that each building will be designed to achieve;
- d. A detailed description of the affordable housing provided in the project phase included in the application, describing the number of affordable units, and the gross floor area dedicated to affordable housing, as well as a breakdown of how the affordable housing is distributed in terms of unit type (by number of bedrooms and rental or homeownership), the level of affordability provided, and the length of the control period;
- e. Updated information regarding phasing for the redevelopment;
- f. If applicable, a detailed description of any shared parking and/or loading programs for the buildings included in the application;
- g. Any necessary updates or modifications to the proposed building heights or loading access points for the buildings;
- h. Loading circulation plans for each apartment building included in the second-stage application;
- i. If applicable, an identification of any new transportation or public space improvements that impact the siting or design of any building(s) included in such second-stage application;
- j. A comprehensive Transportation Demand Management program for any apartment house included in the application;
- k. An update regarding the status of the proposed street closings and realignments;
- l. A detailed landscape plan for the parcels included in the application; and
- m. An executed First Source Employment Agreement with the Department of Employment Services for the building(s) included in the second-stage application, if applicable.

2. The Applicant shall submit with its first second-stage application a relocation plan in accordance with Exhibits 69K and 83C that lists specific timetables and plans for the relocation and return of the residents of Barry Farms.
3. The Applicant shall submit with each second-stage application a progress report regarding the status of the relocation process described in Exhibits 69K and 83C.

C. PUBLIC BENEFITS

1. The Applicant shall provide the public benefits and project amenities enumerated in finding of fact 78 above including the affordable housing requirements set forth in Conditions A.6 through A.9 above. The final description of the benefits and amenities and the timeframe for their delivery shall be a part of the Applicant's submission for each second-stage application, and shall be part of the Commission's review of each second stage application.
2. The PUD shall be designed to enhance the sustainable nature of the PUD Site's location and to promote a healthy and desirable lifestyle that will minimize the building's impact on the environment. The PUD will help implement the Sustainable D.C. Plan by improving citywide health through low impact development that improves air and water quality, and by providing neighborhood-serving retail in a mixed-use environment that provides greater access to healthy food and lifestyles. The Applicant shall meet rigorous energy and environmental design standards using the LEED rating system as a guide and performance metric. The PUD Site will meet the LEED-ND standards and the multi-family dwelling buildings will meet the LEED-Silver and/or equivalent Enterprise Green Communities standards.
3. The Applicant shall include a LEED-ND checklist with the building permit checklist with the building permit application for the first building to be constructed as a part of "Phase I" of the development. The Applicant shall include a LEED checklist with the building permit for each multifamily building indicating that the building has been designed to meet the "Silver" certification standard.
4. During the life of the project, the Applicant shall dedicate 344 units of the total 1,400 residential units as replacement public housing units.
5. Prior to the issuance of a certificate of occupancy for the first building completed in Phase I of the project, the Applicant shall submit to the Department of Consumer and Regulatory Affairs a fully executed First Source Employment

Agreement between the Applicant and the D.C. Department of Employment Services.

D. TRAFFIC MITIGATION

1. During the life of the project, the Applicant shall implement the following TDM measures:
 - a. Designate a TDM coordinator (“TDM Leader”) responsible for organizing and marketing the TDM plan;
 - b. Provide a location for a Capital Bikeshare station;
 - c. Dedicate specific parking spaces for car sharing in parking garages;
 - d. Dedicate reserved parking spaces for carpools and vanpools in parking garages;
 - e. Provide website links to commuterconnections.com and goDCgo.com on developer and property management websites;
 - f. Install a TransitScreen in the lobbies of all commercial and multi-family buildings to keep residents and visitors informed on all available transportation choices and provide real-time transportation updates. In addition, the Applicant shall require the TDM Leader to make printed materials related to local transportation alternatives available to residents and employees upon request and at move-in for new tenants;
 - g. Provide showers and changing facilities for employees in commercial buildings that include 25,000 or more square feet of gross floor area devoted to commercial use; and
 - h. Unbundle the parking costs from the price of the market rate units and charge no less than the price of the lowest fee garage within one-quarter mile of the PUD Site for all market-rate units.
2. At initial sale of ownership units, offer a one-time, one-year membership in a car sharing or Capital Bikeshare program.
3. For the first three years of the project, offer a one-year membership in a car sharing or Capital Bikeshare program for each new lease signed for a rental unit.

E. MISCELLANEOUS

1. Pursuant to § 2407.10 of the Zoning Regulations, the Commission is specifying a longer period of approval than the presumptive one-year period. Specifically, this first-stage approval shall be valid for a period of 10 years after the effective date of this Order, subject to the Applicant meeting each of the following milestones:
 - a. A second-stage application shall be filed for at least four parcels (Phase I of development) within two years of the effective date of this Order;
 - b. A second-stage application shall be filed for at least four additional parcels (Phase II of development) within two years of the effective date of the order granting second stage approval for Phase I;
 - c. A second-stage application shall be filed for at least four parcels (Phase III of development) within two years of the effective date of the order granting second stage approval for Phase II; and
 - d. A second-stage application shall be filed for any remaining parcels (Phase IV of development) within two years of the effective date of the order granting second stage approval for Phase III.


Notwithstanding the above, no second-stage application may be filed more than 10 years after the effective date of this Order.

2. 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, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.


On October 20, 2014, upon the motion of Commissioner Miller, as seconded by Chairman Hood, the Zoning Commission **APPROVED** the application at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

On December 8, 2014, upon the motion of Chairman Hood, as seconded by Commissioner Miller, the Zoning Commission **ADOPTED** this Order at its public meeting, by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the D. C. *Register*; that is on May 29, 2015.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING