

# **FINAL LIST OF PROFFERED BENEFITS AND AMENITIES AND DRAFT CONDITIONS**

## **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 first-stage application for the planned unit development for the property located at 1333 M Street, SE, and more particularly described as Square 1025-E, Lot 82, Square 1048-S, Lots 1, 801 and 802, RES 129 and RES 299, a related map amendment to rezone the Property, from the M to C-3-C District, and the consolidated planned unit development for Phase 1 of the project, subject to the following guidelines, conditions and standards. For the purposes of these conditions, the term "Applicant" shall mean the person or entity then holding title to the Property. If there is more than one owner, the obligations under this Order shall be joint and several. If a person or entity no longer holds title to the Property, that party shall have no further obligations under this Order; however, that party remains liable for any violation of these conditions that occurred while an Owner. "During the operation of the building" means a period of time that begins when the building is first occupied, and ending when it is last occupied.

### **Project Development**

1. ***First-Stage PUD Plans.*** The overall project shall be developed in substantial accordance with the plans titled "Planned Unit Development in Four Phases" dated \_\_\_\_\_, and prepared by GTM Architects, Inc., and marked as **Exhibit \_\_\_\_** of the record (the "First Stage PUD Plans").
2. ***Phase 1 Plans.*** Phase 1 of the project shall be developed in substantial accordance with the plans entitled "Consolidated PUD Portion for Phase 1 Only | Bldg 1, Tower A" dated \_\_\_\_\_, and prepared by GTM Architects, Inc., and marked as **Exhibit \_\_\_\_** of the record (the "Phase 1 Plans").
3. ***Overall Height & Density.*** The overall project shall be developed in four phases and include three residential buildings that will house approximately 673 residential units. The project will also have approximately 10,370 square feet of retail uses. The project will have a minimum of 221 parking spaces. The building heights will range from 90 to 110 feet; the maximum FAR for the project shall be 4.14; and the overall lot occupancy will be 45%.
4. ***Phase 1 Height & Density.*** Phase 1 of the project includes the construction of a 10-story residential tower containing approximately 181,911 square feet generating approximately 218 dwelling units. The building will have an underground parking garage with approximately 67 spaces, and 44 surface parking spaces will be provided on what is depicted as "Theoretical Lot 2" on the Phase 1 Plans. For Phase 1 of the project, the building height will be 100 feet; the FAR will be 2.27; and the lot occupancy will be 20.6%.

5. ***Inclusionary Zoning.*** As required under Chapter 26 of the Zoning Regulations, at least 8% of the residential floor area in the Phase 1 building shall be reserved as inclusionary zoning units. Of the inclusionary zoning units, 4 will be two-bedroom units. The Applicant has agreed to set aside all of the two-bedroom units for households whose income does not exceed 60% AMI.
6. ***Construction Management Plan.*** The Applicant shall have a Construction Management Plan for the project that includes the following restrictions:
  - a. ***Hours.*** Developer, its tenants, and contractors will not engage in any construction activities, other than emergency repairs, before 7:00 a.m. and after 7 p.m. Monday - Friday, or before 8:00 a.m. and after 7:00 p.m. on Saturday. Developer and its contractors will not engage in any construction work on Sunday.
  - b. ***Construction Worker Parking.*** Developer, its tenants, and contractors will provide adequate on-site parking for construction workers during all phases of this project.
  - c. ***Trash Removal.*** Developer, or its tenants, will promptly remove all trash and construction debris from the public space located between the property line and the adjacent curb.
  - d. ***Community Liaison.*** Developer, or its tenants, will establish a Point of Contact (POC) who will serve as the Community Liaison. The POC's duties will include, but are not limited to, answering community questions regarding the project and solving issues arising from construction. The POC's contact information will be widely available throughout the community.
7. ***Loading Management Plan.*** The Applicant shall have a loading management plan for the project that includes the following restrictions:
  - a. Designate a member of the on-site management team as a loading coordinator.
  - b. Require all tenants to use the on-site loading facilities for move-in/move-out activities.
  - c. Restrict all tenants from using trucks no longer than 30 feet.
  - d. Require all tenants to notify the loading coordinator ahead of planned loading activities.
  - e. In the event that trucks longer than 30 feet are required, emergency no parking signs from DDOT are available, if necessary.
  - f. Secure DDOT permits for oversize and overweight vehicles.
  - g. Prohibit truck idling.

- h. A flagger will be present whenever a vehicle is entering/exiting the loading dock. The flagger will alert pedestrian/bicyclists/other vehicles to trucks that may be entering or exiting the loading facilities.
8. ***Flexibility for Roof Structures.*** The Applicant has flexibility from §§ 411 and 770.6 of the Zoning Regulations to have roof structures that are not enclosed within walls of equal height, to the extent depicted in the plans for the project.
  9. ***Flexibility for Loading.*** The Applicant has flexibility from §2201 of the Zoning Regulations to provide for Buildings 1 and 2, respectively, one 30-foot loading berth, one 100-square foot loading platform and one service/delivery loading space where the Zoning Regulations require one 55-foot loading berth, one 200-square foot loading platform and one service/delivery loading space. Additionally, the Applicant has flexibility to construct Building 3 without any loading facilities where one 55-foot loading berth, one 200-square foot loading platform and one service/delivery loading space are required.
  10. ***Flexibility for Phasing.*** The Applicant shall file a building permit for Phase 1 within 2 years of the final consolidated PUD approval and commence construction within 3 years of the final consolidated PUD approval. The first-stage approval of the PUD shall be valid for a period of 10 years. Within such time, the Applicant shall have filed second-stage applications for Phases 2, 3 and 4. The last stage-two application shall be filed no later than \_\_\_\_\_, 2025, unless the Commission grants an extension of said 10-year period.
  11. ***Flexibility for Rear Yard, Building 3.*** The Applicant has flexibility to provide for Building 3 a rear yard of 12'-3" where a rear yard of 23' is required.
  12. ***Flexibility for Open Court, Building 2.*** The Applicant has flexibility to provide for Building 2 an open court of 30'-1" where an open court of 36'-8" is required.
  13. ***Flexibility for Open Court, Building 3.*** The Applicant has flexibility to provide for Building 3 an open court of 19'-5" where 23' is required.
  14. ***Range in Number of Units.*** The Applicant has flexibility to have a range in the number of residential units from 606 to 740.
  15. ***Flexibility for Interior Components.*** The Applicant has flexibility to vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the building.
  16. ***Flexibility for Garage.*** The Applicant has flexibility to make refinements to the garage configurations, including layout, number of parking spaces, and/or other elements, as long as the project provides a minimum of 221 parking spaces.
  17. ***Flexibility for Exterior Materials.*** The Applicant has flexibility to vary the final selection of the exterior materials within the color ranges and material types as

proposed, based on availability at the time of construction without reducing the quality of the materials; and to make minor refinements to exterior details and dimensions, including curtain wall mullions and spandrels, window frames, glass types, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit.

### **Restriction on Retail Uses**

18. The following uses, even though permitted within the C-3-C District as a matter of right or with special exception approval by the BZA, will not be permitted on the Subject Property: the sale of any pornographic material; a check-cashing establishment; a pawnbroker; a night club; national fast food chain restaurants. Notwithstanding the foregoing, the Parties agree that the ANC may recommend approval of a prospective tenant otherwise prohibited in this paragraph that the ANC believes would provide substantial value for the community. Such recommendation shall be granted by the ANC only by a formal resolution.
19. The Applicant commits to using best efforts to attract a small grocery store in the retail space of the project.

### **Public Benefits and Project Amenities**

#### *Public Space / Open Space Improvements*

20. Prior to the issuance of a certificate of occupancy for Building 1, Tower A (Phase 1), Applicant shall install permeable paver parking spaces and low impact development basins with plantings and street trees for stormwater management on the south side of M Street. The Applicant shall coordinate with DDOT through the public space permitting process on the final design of these improvements.
21. Prior to the issuance of a certificate of occupancy for Building 1, Tower A (Phase 1), Applicant shall install a wildflower meadow along the Water Street right-of-way. The wildflower meadow provides an opportunity to increase plant biodiversity, create wildlife habitat, slow stormwater runoff and stabilize slopes. The meadow also preserves some of the open space quality of the existing site while reactivating it with the new proposed design and clears out the overgrown and visually impairing vegetation currently along Water Street.
22. Prior to the issuance of a certificate of occupancy for Building 1, Tower A (Phase 1), Applicant shall construct a public dog park where 14<sup>th</sup> Street terminates at the project.
23. Prior to the issuance of a certificate of occupancy for Building 1, Tower A (Phase 1), Applicant shall improve M Street and construct an extension of Virginia Avenue south of M Street as well as construct an internal north-south private street. The Applicant shall coordinate with DDOT on the final design of these roadways.

24. Prior to the issuance of a certificate of occupancy for Building 1, Tower A (Phase 1), Applicant shall construct a sidewalk on the south side of M Street that extends the length of the Subject Property.
25. Prior to the issuance of a certificate of occupancy for Building 1, Tower B (Phase 2), Applicant shall construct an uninterrupted 8-foot wide, paved Anacostia Riverwalk Trail segment along the north side of M Street that connects to the traffic circle near 13<sup>th</sup> Street, SE and the existing trail at 14<sup>th</sup> Street SE. The Applicant shall coordinate with DDOT through the public space permitting process on the final design of the trail.
26. Prior to the issuance of a certificate of occupancy for Building 1, Tower B (Phase 2), for that portion of M Street along the frontage of the Subject Property, the Applicant shall pave the entire width of the street.
27. Prior to the issuance of a certificate of occupancy for Building 1, Tower B (Phase 2), Applicant shall construct a public plaza at the termination of Virginia Avenue, and a monumental staircase leading to lower plaza area that extends to Water Street across from the District Yacht Club. The public plaza is designed as an active gathering space and a connection to the waterfront.
28. Prior to the issuance of a certificate of occupancy for Building 1, Tower B (Phase 2), Applicant shall construct a sidewalk along the north side of Water Street, extending from M Street to the lower plaza. The Applicant shall coordinate with DDOT on the final design of the sidewalk.
29. During the operation of the project, Applicant shall bear maintenance responsibility for those improvements extending from the property down to the public space at Water Street providing a connection to the Anacostia Waterfront that are outside of the property line and within the public space, including but not limited to the portion of the lower plaza and promenade paving pattern at the base of the monumental stair that are outside of the property line and within the public space.

#### *Affordable Housing*

30. Applicant shall set aside in the Phase 1 building four two-bedroom units for households whose income does not exceed 60% AMI. The remaining affordable units -- a mix of studio and one-bedroom units -- will be for households with incomes not exceeding 80% AMI in accordance with the Inclusionary Zoning requirements. This affordable housing component will be maintained for the life of the project.

#### *Sustainable Design Elements / Environmental*

31. During Phase 2 of the PUD, the Applicant shall construct a bioretention rain garden along the Water Street boundary of the Property. The rain garden will be framed by masonry walls with weirs cut to allow the water to pool and cascade

into the next basin facilitating slow infiltration. Excess water during large rain events will terminate in the arroyo that will consist of stone or textured precast concrete plinths. These stacked plinths create a visually intriguing basin area for a small amount of water catchment before it then drains into an overflow cistern/tank below. This cistern could be potentially used for irrigation reuse or connect back into the overall stormwater conveyance system. The plants will be typical rain garden plants, specific to the region, which can withstand drought and wet conditions, as seen on Sheet 29 of the PUD Plans. These plants will have striking seasonal variation, minimal maintenance and strong plant structure to prevent an unkempt appearance. The water wall uses the parking garage structure as a canvas. This wall will feature a patterned veneer showcasing an abstracted natural motif similar to the image on Sheet 27 of the PUD Plans. This will create strong imagery visible from the river, but also maintain interest at the pedestrian level. In addition to the patterned veneer, a portion of the wall will be layered with a vegetated trellis system that then will progress into an evergreen planting zone to soften the edge of the wall.

32. The PUD shall fulfill or exceed LEED Silver certification.
33. The Applicant shall provide at least one 240-volt electric car charging station in the Building 1 parking garage and at least one 240-volt electric car charging station in the Building 2 parking garage.
34. Prior to the issuance of a building permit for Phase I, the Applicant shall enter into an agreement with the Anacostia Watershed Society (“AWS”) whereby the Applicant agrees to donate \$500 to AWS on an annual basis for a period of five years. The donation shall be used to support the organization’s efforts/events to clean up the Anacostia River.
35. The Applicant agrees that soil removed from the subject property will not be returned as landfill for the SE/SW Boulevard project.

#### *Shuttle Service*

36. Starting at the issuance of a certificate of occupancy for Phase 1 building and during the operation of the project, for as long as warranted, the Applicant shall run a shuttle service either individually or as a collective with other stakeholders in the BID between the Subject Property and Navy Yard – Ball Park Metro Station. The shuttle service may be terminated when the Applicant and DDOT determine that there is sufficient pedestrian infrastructure and/or public transportation options such that the shuttle service is no longer warranted.
37. At the outset of operation, the shuttle will have a minimum capacity of 18 seats (which meets the projected demand for Phase 1 and Phase 2). Prior to Phase 2, and each subsequent phase, the Applicant will reassess the capacity to ensure that capacity can accommodate the demand.

38. At a minimum, headways shall be between 10-15 minutes for the peak period; and at a minimum the hours of operation should be over three hours during the AM and PM peak periods, generally 7 AM to 10 AM and 4 PM to 7 PM. The shuttle pick-up/drop-off areas in public space shall be coordinated with DDOT.

*Transportation Demand Management Measures*

39. Applicant shall implement the following transportation demand management measures in conjunction with the PUD:
- A member of the property management team will be designated as the Transportation Management Coordinator (TMC). The TMC will be responsible for ensuring that information is disseminated to tenants of the building. The position may be part of other duties assigned to the individual.
  - Information on and/or links to transportation programs and services will be provided on the property management website. Such programs and services may include:
    - Capital Bikeshare
    - Car-sharing services
    - Uber
    - Ridescout
    - Commuter Connections Rideshare Program, which provides complimentary information on a variety of commuter programs to assist in determining which commuting options work best for commuters.
    - Commuter Connections Guaranteed Ride Home, which provides commuters who regularly (twice a week) carpool, vanpool, bike, walk or take transit to work with a free and reliable ride home in an emergency.
    - Commuter Connections Pools Program, which incentivizes commuters who currently drive alone to carpool. Participants can earn money for carpooling to work and must complete surveys and log information about their experience.
    - DDOT's DC Bicycle Map
    - goDCgo.com
    - WMATA
  - An electronic display will be provided in a common, shared space in the building and will provide public transit information such as nearby Metrorail stations and schedules, Metrobus stops and schedules, car-sharing locations, and nearby Capital BikeShare locations indicating the number of bicycles available at each location.

- Convenient and covered secure bike parking facilities will be provided with each phase of the development with storage for a minimum of 224 bicycles for the entire development. Bike stands will also be provided for public use along the extended Virginia Avenue SE and M Street SE.
- At initial occupancy, the Applicant will provide each residential unit either a one year Capital BikeShare membership or one year car share membership. This amenity will be provided each time a residential unit turns over for a period of five years from the date the certificate of occupancy is issued for the Phase 1 building.
- The Applicant shall submit to DDOT a study determining whether a five-year extension of the Capital BikeShare or car share membership for the Phase 1 building is warranted. The Applicant shall meet with DDOT prior to the issuance of the certificate of occupancy for the Phase 2 building to discuss the findings and assess whether the aforementioned benefit must be extended up to a period of an additional five years, but not exceeding five years. The study shall include and determination will be based on an evaluation as to whether additional pedestrian connectivity has been provided via the Southeast Boulevard project and whether additional transit service, such as streetcar or extension of Circulator or Metrobus routes, or the like has occurred. Additional transit service must provide stops within a quarter mile of the Property and provide minimum 15 minute headways during the AM and PM peak periods.
- A minimum of 10 bicycle helmets will be made available for use by the residents.
- Make available at least 2 vehicle parking spaces for a carshare service if there is interest from a carshare service.
- The Applicant commits to fund the installation of a Capital BikeShare Station adjacent to the PUD site plus one year of operating expenses for said station.
- Coordinate with local businesses and service providers to promote delivery services for residents.
- Unbundle parking costs from the price of lease or purchase of the units.

*Lighting*

40. During Phase 1 of the project, and in subsequent phases, Applicant shall install lighting around the perimeter of the Subject Property, in response to community concerns and ANC 6B's request for better lighting on M and Water Streets. The lighting shall be installed prior to the issuance of the certificate of occupancy for the building programmed for the respective phases of development for the project.

## *Employment*

41. Prior to the issuance of a building permit for Building 1, Tower A (Phase 1), Applicant shall enter into a First Source Employment Agreement with DOES.

## **Miscellaneous**

42. No building permit shall be issued for Phase 1 of the project until the Applicant has recorded a PUD covenant in the land records of the District of Columbia, between the owners and the District of Columbia that is satisfactory to the Office of the Attorney General. Such covenant shall bind the Applicant and all successors in title to construct on and use the Property in accordance with this Order or amendment thereof by the Commission.
43. The Office of Zoning shall not release the record of this case to the Zoning Division of DCRA until the Applicant has filed a copy of the PUD covenant with the records of the Zoning Commission.
44. The approval of the consolidated PUD for Phase 1 of the project shall be valid for a period of two years from the effective date of this Order, or until \_\_\_\_\_. Within such time, an application must be filed for a building permit for Phase 1 as specified in 11 DCMR § 2409.1. Construction shall begin within three years of the effective date of this Order. Failure to take these actions will result in the expiration of the consolidated PUD approval for Phase 1 as of the applicable date. The first-stage approval of the PUD shall be valid for a period of 10 years. Within such time, the Applicant shall have filed second-stage applications for Phases 2, 3 and 4 of the project. The last stage-two application shall be filed no later than \_\_\_\_\_, 2025, unless the Commission grants an extension of said 10-year period.

-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.