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June 16, 2014

VIA IZIS

Ms. Sharon Schellin
Secretary to the D.C. Zoning Commission
441 4th Street, N.W., Suite 210
Washington, DC 20001

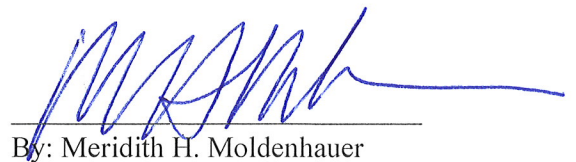
Re: Applicant's Proposed Order for Z.C. Case No. 13-18 - WBG Wheeler Road, LLC
Consolidated PUD & Related Map Amendment
Square 5925, Lots 820 & 821

Dear Ms. Schellin:

On behalf of WBG Wheeler Road, LLC, (the "Applicant"), enclosed please find the Applicant's Proposed Order. Thank you for your attention to this matter. Please feel free to contact us if you have any questions.

Sincerely,

GRIFFIN, MURPHY,
MOLDENHAUER & WIGGINS, LLP



By: Meridith H. Moldenhauer

Enclosures:

cc: Advisory Neighborhood Commission 8E (Via US Mail)
Joel Lawson, D.C. Office of Planning (Via Email)

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

**PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW
ZONING COMMISSION ORDER NO. 13-18**

**Consolidated PUD & Related Map Amendment
Square 5925, Lots 820 & 821
WBG Wheeler Road, LLC
June 30, 2014**

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on May 29, 2014, to consider an application from WBG Wheeler Road, LLC, as owner of Lots 820 and 821 in Square 5925 for the consolidated review and approval of a planned unit development ("PUD") and a related zoning map amendment to rezone the property from the C-1 to the C-2-B Zone District. The Commission considered the application 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 hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application.

FINDINGS OF FACT

The Application, Parties, and Hearing

1. On December 30, 2013, WBG Wheeler Road, LLC (the "Applicant"), filed an application with the Commission for the consolidated review and approval of a PUD and a related zoning map amendment regarding Lots 820 and 821 in Square 5925 (the "Property") seeking to rezone the Property from the C-1 Zone District to the C-3-A Zone District. On February 21, 2014 the Applicant submitted an Amended Application and Updated Architectural Plans (Exhibit 10), seeking to rezone the Property from the C-1 Zone Districts to the C-2-B Zone District.
2. The Property is situated in Ward 8 and has a combined land area of approximately 32,092 square feet. The Property is located at the intersection of Wheeler Road and Barnaby Street SE, in the Washington Highlands neighborhood. The Property includes approximately 210 feet of linear frontage along Wheeler Road, SE and 139 feet of linear frontage along Barnaby Street, SE. Square 5925 is located in the southeast quadrant of the District and is bounded roughly by Wahler Place to the north, Wheeler Road to the east, Barnaby Street SE to the south and 9th Street to the west. 15-foot building restrict lines are located along both Wheeler Road, S.E. and Barnaby Street, S.E. (Exhibit 9)
3. At its public meeting held on March 10, 2014, the Commission voted to schedule a public hearing on the application.
4. On March 26, 2014, the Applicant submitted a Prehearing Statement (Exhibit 13).

The prehearing statement included an updated Architectural Plan and Elevations sheets, and additional materials required pursuant to §3013 of the Zoning Regulations.

5. On May 9, 2014, the Applicant submitted a Supplemental Prehearing Statement and updated Architectural Plans and Elevations, as well as a Transportation Impact Study and letters of support (Exhibit 20).
6. On May 12 the Applicant filed a Final Transportation Impact Study (Exhibit 21). On May 19 and 20, the Applicant filed expert resumes, outlines of testimonies, a revised penthouse plan, and a letter from the Zoning Administrator (Exhibits 24 and 26).
7. After proper notice, the Commission held a public hearing on the application on May 29, 2014.
8. The parties to the case were the Applicant and Advisory Neighborhood Commission ("ANC") 8E (the ANC within which the Property is located).
9. Four principal witnesses testified on the Applicant's behalf at the public hearing. Dinesh Sharma testified on behalf of the Applicant. Sas Gharai testified on behalf of SGA Companies, Inc., and Erwin Andres testified on behalf of Gorove/Slade Associates, Inc. Based upon their professional experience, as evidenced by the resumes submitted for the record and their prior testimony before the Commission, Mr. Gharai was qualified by the Commission as an expert in architecture and Mr. Andres was qualified by the Commission as an expert in transportation planning and analysis. Brenda Richardson also testified as a witness in support of the project during the Applicant's presentation.
10. Wanda Yates and Trayon White both testified as persons in support of the project.
11. The Office of Planning ("OP") testified at the public hearing in support of the project.
12. At the hearing, the Applicant submitted updated plan sheets which included revisions to the plans submitted previously (Exhibit 31), and a copy of the Applicant's PowerPoint presentation (Exhibit 28).
13. ANC 8E Chair Anthony Muhammad filed a letter in support (Exhibit 2I). The ANC 8E Chair indicated in the letter that the project would be a catalyst for this area and would revitalize the Wheeler Road section of Congress Heights. ANC 8E did not provide a letter.
14. Councilmember Marion Barry submitted a letter in support of the project (Exhibit 2J). Councilmember Barry indicated in the letter that the project encourages homeownership and meets the ward's need by providing value and economic growth for the community and would be a signature project in Congress heights for Ward 8.
15. Several organizations submitted letters in support of the project, including: Congress

Heights Main Streets, Avanti Real Estate Services, Lewis Real Estate Services, Ida Mae Campbell Foundation, Mary's Excellent Cleaning Services (Exhibit 2K), Ward 8 Workforce Development Council, and the United Planning Organization (Exhibit 20D).

16. At its public hearing held on May 29, 2010, the Commission took proposed action to approve the proposed PUD and requested zoning map amendment.
17. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") under the terms of the District of Columbia Home Rule Act (Exhibit _____). NCPC, by action dated _____, 2014, found that the proposed PUD would not affect the federal establishment or other federal interests in the National Capital, nor be inconsistent with the Comprehensive Plan for the National Capital (Exhibit _____).
18. On June 5, 2014, the Applicant submitted Proffered Benefits/Amenities and Draft Conditions (Exhibit 32). On June 9, 2014, the Applicant submitted a post-hearing submission (Exhibit 33). The posthearing submission included a posthearing statement, revised architectural plans, and supporting materials from Gorove/Slade.
19. The Commission took final action to approve the application on June 30, 2014.

The PUD Project

20. The Applicant proposes to build a mixed-use development composed of retail and residential uses. The overall project will have a floor area ratio ("FAR") of 3.56, less than the maximum permitted of 6.0 under the C-2-B PUD requirements, and will include approximately 99,205 square feet of residential uses, comprising 85 units and approximately 15,566 square feet of commercial space. The building will be constructed to a maximum height of 83.5 feet with a maximum of seven stories. The project will have an overall lot occupancy of approximately 67.5%, and will include 25 surface parking spaces.

Development under Existing Zoning

21. The Subject Property is currently zoned C-1. The Applicant is seeking to rezone the Subject Property to the C-2-B Zone District as part of this application.
22. The C-1 zoning classification is designed to provide convenient retail and personal service establishment for the day-to-day needs (11 DCMR §700.1.). C-1 Zone Districts permit some community facilities, housing, and mixed uses, as well as the usual neighborhood shopping and service establishments as a matter-of-right. (11 DCMR §700.3.)
23. The maximum permitted matter-of-right height in the C-1 Zone District is 40 feet, with a maximum of three stories. (11 DCMR §770.1.)

24. The maximum permitted matter-of-right FAR in the C-1 Zone District is 1.0, all of which may be devoted to either residential or nonresidential uses. (11 DCMR §771.2).
25. The maximum percentage of lot occupancy in the C-1 Zone District is 60% for a building devoted to residential use (11 DCMR §772.1.) Moreover, pursuant to §774.1 of the Zoning Regulations, a rear yard with a minimum depth of 20 feet must be provided for each structure in the C-1 Zone District. No side yard is required for most structures, but if a side yard is provided it must be a minimum of 2 inches wide for each foot of height, but not less than 6 feet (11 DCMR §775.5).
26. Where a court is provided for a building or portion of building devoted to residential uses, at any elevation in the court, the width of court must be a minimum of 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, the minimum area must be 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).
27. An apartment house or multiple dwelling in the C-1 Zone District is required to provide one parking space for each dwelling unit (11 DCMR §2101.1). The loading requirement for an apartment house or multiple dwelling with 50 or more dwelling units in all zone districts is one loading berth at 55 feet deep, one loading platform at 200 square feet, and one service/delivery loading space at 20 feet deep (11 DCMR § 2201.1).
28. Development of the Subject Property under the PUD guidelines for the C-1 Zone District would allow a maximum building height of 40 feet, and a maximum density of 1.0 FAR, all of which may be devoted to residential or non-residential uses (11 DCMR §§ 2405.1 and 2405.2).

Development under Proposed C-2-B Zone District

29. The Applicant proposes to rezone the Property to C-2-B in connection with this Application. The C-2-B Zone District is designed to provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia with high-density residential and mixed uses (11 DCMR §720.6). The C-2-B Zone Districts are located on arterial streets, in uptown centers, and at rapid transit stops (11 DCMR §720.7). The C-2-B Zone District includes the following development requirements:
 - a. A maximum matter-of-right height of 65 feet with no limit on the number of stories (§770.1), and a maximum height of 90 feet under the PUD requirements (§ 2405.1);
 - b. A maximum matter-of-right density of 3.5 FAR, all of which may be devoted to residential use, but not more than 1.5 of which may be devoted to non-residential uses (§771.2);

- c. Under the PUD requirements, a maximum density of 6.0 FAR, all of which may be devoted to residential use, but not more than 2.0 of which may be devoted to non-residential uses (§ 2405.2);
- d. A maximum lot occupancy of 80% for a building or portion thereof devoted to a residential use (§772.1);
- e. A minimum rear yard depth of 15 feet (§774.1);
- f. If provided, a side yard at least two inches wide per foot of building height, but not less than six feet (§775.5);
- g. If provided, a minimum court width of four inches per foot of height, but not less than 15 feet (§776.3) and in the case of a closed court, a minimum area of at least twice the square of the width of court, but not less than 350 square feet (§776.4);
- h. For an apartment house or multiple dwelling, one off-street parking space for each three dwelling units and for a retail or service establishment, one off-street parking space for every 750 square feet in excess of 3000 square feet (§2101.1); and
- i. For an apartment house or multiple dwelling with 50 or more dwelling units, one loading berth at 55 feet deep, one loading platform at 200 square feet, and one service/delivery loading space at 20 feet deep; and for a retail or service establishment with 5,000-20,000 square feet, one loading berth at 30 feet deep, one loading platform at 100 square feet, and no service/delivery loading space (§2201.1).

Development Incentives and Flexibility

- 30. The Applicant requested the following areas of flexibility from the Zoning Regulations:
 - a. *Flexibility from Loading Requirements.* The Applicant requests relief from the loading requirements. Pursuant to § 2201.1 of the Zoning Regulations, the Applicant is required to provide one loading berth at 55 feet deep; one loading platform at 200 square feet; and one service/delivery space at 20 feet deep for the residential uses in the building; and one loading berth at 30 feet; one loading platform at 100 square feet; and no service/delivery space. However, due to the anticipated needs of the residents and retail tenants, the Applicant is seeking flexibility to provide one loading berth at 55 feet deep, one loading platform at 200 feet, and one service/delivery space at 20 feet deep. The service/delivery space will be for residential use and curbside loading would be provided for retail use to eliminate the need for a curb cut off Barnaby Street. The Commission finds that the requested flexibility is in accordance with the Comprehensive Plan's recommendations to consolidate loading areas within new developments and minimize curb cuts on streets to the greatest extent possible. In addition, the loading areas are likely to be used by the residents primarily when they move in or out of the building, and any

subsequent use by residents will be generally infrequent and can be restricted to times which pose the least potential conflicts with retail users. Therefore, the Commission finds that flexibility from the loading requirements of § 2201.1 of the Zoning Regulations as described in this paragraph is appropriate in this case.

b. *Flexibility from the Parking Requirements.* The Applicant is required to provide 43 parking spaces. The Applicant is providing 25 standard spaces. Therefore, flexibility is required from §2101.1. The Commission finds that the proposed parking is adequate for the Property and will not have any adverse impacts.

c. *Additional Areas of Flexibility.* The Applicant also requests flexibility in the following areas:

- i. 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.
- ii. 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.
- iii. To make minor refinements to exterior details and dimensions, including balcony enclosures, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit.
- iv. To remove the Capital Bikeshare facility if Capital Bikeshare is unwilling to provide a location or is commercially unreasonable in its terms.
- v. To remove the covered bus shelter if DDOT is unwilling to authorize it. If DDOT authorizes the covered bus shelter, to make a minor change to the location of the covered bus shelter if required by DDOT or the Public Space Committee.
- vi. To make a minor change to the location of the vaults; and to change from street loading to loading through the public alley and reduce the number of parking spaces; if required by DDOT or the Public Space Committee.

Public Benefits and Amenities

31. 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.* The building's front facade would be mainly a tan colored brick with sienna colored brick accents, precast trim and painted aluminum windows. The ground floor retail areas show up to 18-foot ceiling heights and a residential entrance lobby at a height of 15 feet. A significant portion of the residential upper floors are setback from the alley to reduce the massing confronting the residential buildings across the alley. Streetscape improvements around the building's frontage on Wheeler Road and Barnaby Street would take advantage of the 15-foot wide building restriction line. The currently underutilized property would be developed with a mix of retail uses that are considered neighborhood-serving for the community. The retained retail uses would benefit from the relocation to new contemporary spaces and the additional retail area would accommodate new businesses where none previously existed to create a more vibrant and updated streetscape along Wheeler Road.
- b. *Transportation Features.* The parking area that currently exists along the building's frontage at Wheeler Road would be eliminated. Instead, 25 residential parking spaces would be accessed through the alley system from either Wheeler Road or Barnaby Street. Adequate on-street parking exists for patrons who may drive to the local businesses. Two bicycle storage areas, one with 30 long-term bicycle parking spaces for residents and one with 10 long-term bicycle parking spaces for retail patrons, would be located on the ground floor and the applicant would discuss with DDOT the possibility of a bike share station in public space outside the building. The applicant intends to install a transit screen in the residential lobby for residents' convenience. Moreover, the Applicant will implement and maintain the Transportation Demand measures described in the DDOT Report (Exhibit 25), which includes:
- Identify a TDM Leader;
 - Provide 30 long-term bicycle parking spaces on the ground floor of the building and an additional 24 short-term bicycle parking spaces outside the building;
 - Provide a transportation information screen in the lobby that would show real time arrival/availability for nearby buses, trains, carshare, and Bikeshare;
 - Make information available on transportation alternatives and services;
 - Provide an on-site business center;
 - Reserve a location outside the building for a future Capital Bikeshare station; and
 - Provide an enhanced bus shelter adjacent to the site on Barnaby Street.
- c. *Housing and Affordable Housing.* The application indicates that the project would provide all of its 85 units as affordable to households making up to 60% of AMI. This substantially exceeds the amount of affordable housing that would be required under the Inclusionary Zoning requirements of Chapter 26 of the Zoning Regulations. The site plan indicates the location and unit mix of the units. It is commendable that the units would be designed to meet the needs of disabled persons, including Type "A" units, which are fully accessible and Type B units which would be capable of being easily converted to Type "A" units to support persons with disabilities.

- d. *Environmental Benefits.* The building would include 2 levels of green roof which would function both as an amenity and a stormwater management feature, which currently does not exist on the property. The plan shows *4,511 square feet of pervious pavement* in the rear parking area to minimize the runoff from the property into the alley. In addition, landscaping and streetscape improvements would be provided around the Wheeler and Barnaby Road perimeter. The plans provide additional details of these improvements and landscape features.
 - e. *Uses of Special Value.* The Applicant is proposing to provide updated space for neighborhood retailers. The inclusion of a substantial number of affordable, family-sized units in the project is also supported. The applicant has indicated a willingness to partner with a social service provider to provide training and employment opportunities to residents.
32. The Commission finds that the project benefits and amenities as outlined in Finding of Fact No. 30 are reasonable trade-offs for the requested development flexibility.

Compliance with Guiding Principles of the Comprehensive Plan Amendment Act of 2006 (D.C. Law 16-300, effective March 8, 2007)

33. The Property is designated in the Low Density Commercial land use category on the District of Columbia Comprehensive Plan Future Land Use Map. The Low Density Commercial designation is used to define shopping and service areas that are generally low in scale and character. Retail, office, and service businesses are the predominant uses. The C-1 and C-2-A Zone Districts are generally consistent with the Low Density Commercial designation, although other districts may apply.
34. The Commission finds that the Applicant's proposal to construct a mixed-used development that includes residential and retail uses on the Subject Property is consistent with the Comprehensive Plan. The Future Land Use Map designates the property as low-density commercial. The Generalized Policy map designates the site as a Neighborhood Commercial Center. The Washington Highlands Investment Plan produced by the Office of Planning and adopted under Council Resolution R 17-0941 references Wheeler Road and Barnaby Street as a commercial node and designates the property as a retail improvement area. While the Future Land Use Map prescribes low density commercial, this is one of the rare instances in which “the application of other zones” is appropriate (10 DCMR §225.8).
35. The Commission further finds that the proposed PUD is consistent with many guiding principles in the Comprehensive Plan for managing growth and change, creating successful neighborhoods, and building green and healthy communities, as follows:
- a. *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. In order to manage growth and change in the District, the Comprehensive Plan encourages, among other factors, the growth of both residential and non-residential uses. The Comprehensive Plan also states

that redevelopment and infill opportunities along corridors is an important part of reinvigorating and enhancing neighborhoods. (§ 217.6.) The proposed PUD is fully-consistent with each of these goals. Redeveloping the Property into a residential development will further the revitalization of the neighborhood

- b. *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 proposed development furthers each of these guiding principles with the construction of affordable housing, as well as commercial uses that will create additional retail and employment opportunities. In addition, as part of the PUD process, the Applicant has worked with the ANC and local community groups to ensure that the development provides a positive impact to the immediate neighborhood.
- c. *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 project is fully consistent with these goals since the proposed retail area will help to attract new jobs to the District, as well as to this specific neighborhood, and the conference rooms will be offered to community organizations for workforce development training services.
- d. *Connecting the City.* The proposed development will help to implement a number of the guiding principles of this element. The project includes streetscape improvements to provide improved mobility and circulation through the project, as well as the overall neighborhood. (§ 220.2.) In addition, the access points for the required parking and loading facilities have been designed to appropriately balance the needs of pedestrians, bicyclists, transit users, autos and delivery trucks as well as the needs of residents and others to move around and through the city.
- e. *Building Green and Healthy Communities.* The proposed development is fully consistent with the guiding principles of the building green and healthy communities element since the project's proposed landscaping plan will help to increase the District's tree cover, and the proposed development 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 project, which includes Green Communities elements, will also help to facilitate pedestrian and bicycle travel.

36. The Commission also 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 and the OP report.

Office of Planning Report

37. By report dated February 26, 2014, OP stated that it supports 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 (Exhibit 11).
38. By report dated May 19, 2014, OP recommended final approval of the application (Exhibit 23). OP stated that the proposal would benefit the Congress Heights neighborhood given the level and amount of family-oriented affordable housing provided, the mix of uses, and the provision of neighborhood-serving retail. OP stated that it supports the C-2-B designation for the site, which is not inconsistent with the 2006 Comprehensive Plan's Future Land Use Map and policy objectives that encourage residential infill.
39. By report dated June 16, 2014, OP provided additional support for why the proposed PUD-related map amendment is not inconsistent with the Comprehensive Plan in this particular circumstance (Exhibit 34).

DDOT Report

40. The District Department of Transportation ("DDOT") submitted a memorandum dated May 19, 2014, recommending support of the project provided the Applicant adopt a Loading Management Plan as outlined in the Report (Exhibit 25). DDOT indicated that the Applicant must submit a formal loading zone request to DDOT to determine if the need for loading facilities warrants curbside loading. DDOT also indicated that if the request for curbside loading is denied, the Applicant could apply for DDOT Emergency No Parking signs to establish a temporary loading zone.
49. Based upon the reports and testimony of the Applicant's expert in transportation analysis and planning, the Commission finds that given the minimal number of vehicle trips to be generated by the project, the project can be approved as proposed by the Applicant without creating any objectionable traffic or parking impacts on existing and future roadway users or the adjacent residential community. The Commission further finds that the Applicant's proposed transportation demand management measures include a number of features that will ensure the loading and delivery operations perform well. Moreover, the Commission further finds that the Project will have no impact on pedestrians or intersections. Finally, the Commission finds that the project includes a sufficient number

of project benefits and amenities, as indicated in the Applicant's submission, confirmed by OP, and indicated 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 project "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 consolidated 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 and loading, or for yards and 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 consistent with the Comprehensive Plan. Moreover, the project benefits and amenities are reasonable tradeoffs for the requested development flexibility.
8. Approval of this PUD is appropriate because the proposed development is consistent with the present character of the area, and is 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 1021; D.C. Official Code § 1-

309.10(d) (2001)) to give great weight to the affected ANC's recommendation. In this case, the ANC 8E chairperson provided a letter in support of the project (Exhibit 2I).

10. 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.
11. The application for a PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

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 consolidated review and approval of a planned unit development and a related zoning map amendment to rezone Lots 820 and 821 in Square 5925 from the C-1 Zone District to the C-2-B Zone District subject to the following guidelines, conditions, and standards:

1. The PUD shall be developed in accordance with the plans prepared by SGA Companies, Inc., marked as Exhibits 31A and 31B in the record (the "Plans") as modified by Exhibit 33 and as further modified by the guidelines, conditions, and standards in this Order, and subject to any future modifications subsequently approved by the Zoning Commission.
2. The PUD shall have a maximum FAR of 3.56 and a gross floor area of 114,771 square feet.
3. The maximum height of the building shall be 83.5 feet.
4. The project shall include a minimum of 25 striped off-street surface parking spaces.
5. The project shall include a total of 85 residential units, with a maximum residential gross floor area of approximately 93,395 square feet. Eight percent of the residential gross floor area will be set-aside pursuant to 11 DCMR Sec. 2603 for moderate-income households as those households are defined by 11 DCMR Sec. 2601. All of the remaining residential gross floor area will be reserved for households with a total annual income adjusted for household size equal to 60% or less of the Metropolitan Statistical Area median for 40 years. The Applicant shall make best efforts to obtain financing to permit 16 units to be offered to households earning 30% or of the Metropolitan Statistical Area median for 40 years.
6. For so long as the project is in existence, the project shall offer the conference room and business center, free of charge, at least once a month, for the Opportunities Industrialization Center (OIC) and the United Planning Organization (UPO) to provide services to the residents of the building and the community.

7. The Applicant is granted flexibility from the loading requirements (§2201.1) and parking requirements (§2101.1), consistent with the approved Plans and as discussed in the Development Incentives and Flexibility section of this Order.
8. During operation of the building, the Applicant shall implement and maintain the Transportation Demand Management measures described in the DDOT Report (Exhibit 25), which includes:
 - a. Identify a TDM Leader;
 - b. Provide 30 long-term bicycle parking spaces on the ground floor of the building and an additional 24 short-term bicycle parking spaces outside the building;
 - c. Provide a transportation information screen in the lobby that would show real time arrival/availability for nearby buses, trains, carshare, and Bikeshare;
 - d. Make information available on transportation alternatives and services;
 - e. Provide an on-site business center;
 - f. Reserve a location outside the building for a future Capital Bikeshare station; and
 - g. Provide an enhanced bus shelter adjacent to the site on Barnaby Street.
9. The Applicant shall submit with its building permit application a Green Communities checklist confirming that the project includes sustainable design features such that the building would be able to achieve a minimum of 50 points of the Green Communities Criteria.
10. The Applicant shall also have flexibility with the design of the PUD in the following areas:
 - a. 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.
 - b. 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.
 - c. To make minor refinements to exterior details and dimensions, including balcony enclosures, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit.
 - d. To remove the Capital Bikeshare facility if Capital Bikeshare is unwilling to provide a location or is commercially unreasonable in its terms. If a Capital Bikeshare station is provided, to make a minor change to the location of the Capital Bikeshare station if required by DDOT or the Public Space Committee.

- e. To remove the covered bus shelter if DDOT is unwilling to authorize it. If DDOT authorizes the covered bus shelter, to make a minor change to the location of the covered bus shelter if required by DDOT or the Public Space Committee.
 - f. To make a minor change to the location of the vaults; and to change from street loading to loading through the public alley and reduce the number of parking spaces; if required by DDOT or the Public Space Committee.
11. Prior to the issuance of the first building permit for the project the Applicant shall record a 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 and DCRA. Such covenant shall bind the Applicant and all successors in title to the construct on and use the Subject Property in accordance with this Order or any amendment thereof by the Zoning Commission. The Applicant shall file a certified copy of the covenant with the Office of Zoning for the case record.
12. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act") the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicants to comply shall furnish grounds for the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

On May 29th, 2014, the Zoning Commission approved the application by a vote of 5-0-0 (Anthony J. Hood, Peter G. May, Michael G. Turnbull, Marcie Cohen, and Robert Miller in favor)

The Order was adopted by the Zoning Commission at its public meeting on _____, by a vote of ____-____-____(_____)

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 _____.

ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION

SARA BENJAMIN BARDIN
DIRECTOR
OFFICE OF ZONING