

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



GOVERNMENT OF THE DISTRICT OF COLUMBIA
ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 14-08
Z.C. Case No. 14-08
Portner Place, LLC
(Consolidated PUD and Related Map Amendment @
Square 204, Lot 208)
December 8, 2014

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on October 27, 2014, to consider applications for a consolidated planned unit development ("PUD") and related zoning map amendment filed by Portner Place, LLC (the "Applicant"). 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 hearing was 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 Applications, Parties, Hearings, and Post-Hearing Filings

1. On May 23, 2014, the Applicant filed applications with the Commission for consolidated review of a PUD and related map amendment from the R-5-B Zone District to the R-5-D and CR Zone Districts for property located at 1441-1449 U Street, N.W. (Square 204, Lot 208) (the "PUD Site").
2. The PUD Site is a through-lot in the U Street/MidCity area of Ward 1, with a land area of approximately 47,170 square feet (1.08 acres). The PUD Site is currently improved with the Portner Place Apartments, a 48-unit U.S. Department of Housing and Urban Development ("HUD") Section 8 housing complex that is comprised of three garden apartment style buildings set back from the streets and surrounded by surface parking lots. The Applicant proposes to raze the existing buildings in connection with redevelopment of the PUD Site.
3. The Applicant proposes to redevelop the PUD Site with an apartment house with ground-floor retail in accordance with the R-5-D and CR PUD zoning requirements. The building will consist of approximately 321,929 square feet of gross floor area, with a

density of 6.82 floor area ratio ("FAR"), and approximately 366 residential units (plus or minus 10%). The building will be divided into two sections: the northern portion of the PUD Site fronting V Street ("Wing A") will contain approximately 96 dwelling units marketed at or below 60% of the area medium income ("AMI"). Wing A will be constructed to a maximum height of approximately 75 feet, eight inches to the main roof (eight stories) and will contain approximately 91,012 square feet of gross floor area (4.725 FAR).

4. The portion of the PUD Site fronting U Street ("Wing B") will contain approximately 270 market-rate units with retail on the ground floor and the potential for additional retail space on the P2 level. Wing B will be constructed to a maximum height of 105 feet, eight inches to the main roof (11 stories) and will contain approximately 230,917 square feet of gross floor area (8.27 FAR).
5. By report dated June 20, 2014, the District of Columbia Office of Planning ("OP") recommended that the applications be set down. (Exhibit ["Ex."] 13.) At its public meeting held on June 30, 2014, the Commission voted to schedule a public hearing on the applications.
6. The Applicant submitted a prehearing statement for the PUD on July 18, 2014 and a hearing was timely scheduled for the matter on August 1, 2014. (Ex. 19.) A description of the proposed development and the notice of the public hearing in this matter were published in the *D.C. Register* on August 1, 2014. The notice of public hearing was mailed to all owners of property located within 200 feet of the PUD Site and to ANC 1B on August 1, 2014.
7. On September 3, 2014, the Applicant sent a letter to all owners of property located within 200 feet of the PUD Site and to Advisory Neighborhood Commission ("ANC") 1B explaining that the Applicant revised the PUD's FAR calculations and zone boundary line location. (Ex. 25.) The letter explained that the revised calculations were due to the Applicant's mathematical error and that the revision did not change the proposed building size, height, lot occupancy, configuration, or gross floor area. The Applicant sent a copy of the letter to the Commission as well.
8. At its regularly scheduled public meeting on September 4, 2014, for which notice was properly given and a quorum was present, ANC 1B voted 8-0-0 to support the applications. (Ex. 27.)
9. On October 7, 2014, the Applicant submitted a supplemental prehearing statement in response to comments raised by the Commission at the set down meeting. (Ex. 28.) The supplemental prehearing submission included the following materials: (i) revised architectural plans and elevations with additional street renderings and a simplified

façade design; (ii) a description of the revised FAR calculation and revised zone boundary line location; (iii) a request for flexibility from the FAR requirements of § 2405.3 of the Zoning Regulations; (iv) a traffic impact study prepared by Gorove Slade Associates, Inc., the Applicant's traffic and transportation consultant; and (v) the ANC 1B resolution in support.

10. On October 17, 2014, the Applicant submitted a letter from the District of Columbia Housing Finance Agency ("DCHFA"), indicating that the Applicant's application for Tax Exempt Private Activity Bond financing under DCHFA's Multifamily Mortgage Revenue Bond Program met the selection requirements and would be advanced to the Board of Directors. (Ex. 30.)
11. On October 17, 2014, OP submitted its final report recommending approval of the applications and the requested areas of zoning flexibility. (Ex. 31.) On October 17, 2014, the District Department of Transportation ("DDOT") submitted a report finding no objection to the applications, subject to the condition that the Applicant adopt the proposed transportation demand management ("TDM") measures with the clarification that the Applicant offer an annual carshare and/or bikeshare membership rather than a membership of time duration. (Ex. 32.)
12. The parties to the case were the Applicant and ANC 1B.
13. The Commission convened a public hearing on October 27, 2014, which was concluded that same evening. At the hearing, the Applicant presented two witnesses in support of its applications: Jim Campbell of Somerset Development and Eric Colbert of Eric Colbert & Associates. Based upon his professional experience and qualifications, the Commission qualified Mr. Colbert as an expert in architecture.
14. Stephen Gyor, Development Review Specialist with OP, testified in support of the applications. Jonathan Rogers, Transportation Planner with DDOT, also testified in support of the applications.
15. Cheryl Cort of the Coalition for Smarter Growth, and Fr. Patrick A. Smith of the St. Augustine Catholic Church, testified in support of the applications.
16. The record was closed at the conclusion of the hearing, except to receive additional submissions from the Applicant, as requested by the Commission, and to receive the Applicant's list of proffers and draft conditions, and the related comments required by 11 DCMR §§ 2403.15-2403.20. After closing the record, the Commission took proposed action to approve the applications. The proposed action was referred to the National Capital Planning Commission ("NCP") on October 28, 2014, pursuant to § 492 of the

Home Rule Act. The Commission also requested proposed findings of fact and conclusions of law from the Applicant.

17. On November 3, 2014, the Applicant submitted its list of draft proffers and proposed conditions pursuant to 11 DCMR § 2403.16.
18. On November 24, 2014, the Applicant submitted its final list of proffers and draft conditions, as well as the following post-hearing items, as requested by the Commission:
 - a. Architectural drawing showing additional articulation on the blank wall on the east side of Wing B;
 - b. Architectural drawing showing a plan of the rooftop pool;
 - c. Architectural drawing showing sections through the roof with blow-ups of elevations and perspectives; and
 - d. The Tenant Development Agreement with portions redacted.
19. The Executive Director of NCPC, by delegated action dated November 28, 2014, found that the proposed PUD and related map amendment would not be inconsistent with the Comprehensive Plan for the National Capitol, nor would it adversely affect any other identified federal interests.
20. The Commission took final action to approve the PUD on December 8, 2014.

The PUD Site and Surrounding Area

21. The PUD Site is located at 1441-1449 U Street, N.W., more specifically described as Lot 208 in Square 204. Square 204 is located in the northwest quadrant of the District and is bounded by V Street to the north, 14th Street to the east, U Street to the south, and 15th Street to the west. The PUD Site is a mid-block, through-lot in the U Street/MidCity area of Ward 1, and has a land area of approximately 47,170 square feet (1.08 acres). The PUD Site has approximately 201 linear feet of frontage on U Street and approximately 131 linear feet of frontage on V Street. The PUD Site is in close proximity to multiple public transportation options, including the U Street Metrorail Station, which is located approximately 0.2 miles (two blocks) from the PUD Site, as well as numerous Metrobus routes.
22. The PUD Site is located in the Greater U Street Historic District; however, neither the PUD Site nor any of the surrounding lots contain historic landmarks or structures which contribute to the Historic District. The surrounding buildings in the square include the

110-foot-tall Frank D. Reeves Municipal Center to the east of the PUD Site and the 90-foot-tall Dunbar Apartments to the west. Both the Reeves Center and the Dunbar Apartments were built in the 1970s. A new 90-foot-tall building at the Dunbar Apartment site at 15th and V Streets has obtained concept approval from the Historic Preservation Review Board ("HPRB"), with construction proposed to commence in 2014. The only other structure on the block is a modest three-story affordable housing apartment building, which was built in 1988 and is situated to the east of the PUD Site with frontage on V Street. Thus, the immediate context around the PUD Site predominantly includes high-density, high-rise structures.

23. The PUD Site is currently improved with the Portner Place Apartments, a 48-unit HUD Section 8 housing complex that is comprised of three garden apartment style buildings set back from the streets and surrounded by surface parking lots. This suburban prototype creates security problems resulting from inappropriate site design and is out of character within its urban environment. Each unit is laid out on two levels with a staircase, which makes it difficult for existing residents to comfortably age in place. The Applicant proposes to raze the existing buildings in connection with redevelopment of the PUD Site with the cooperation and support of the existing Portner Place residents.
24. The PUD Site is designated in the Medium-Density Residential land use category on the District of Columbia Comprehensive Plan Future Land Use Map. The northern portion of the PUD Site is designated as a Neighborhood Conservation Area on the Generalized Policy Map, and the southern portion of the PUD Site is designated as a Main Street Mixed-Use Corridor on the Generalized Policy Map. The proposed PUD and map amendment are consistent with these designations.

The Applicant and Project Vision

25. The Applicant is a development entity formed by Jonathan Rose Companies and Somerset Development Company.
26. The Applicant purchased the PUD Site in September, 2013, in collaboration with the existing Portner Place Tenant Association through the Tenant Opportunity to Purchase Act ("TOPA"). Redevelopment of the PUD Site provides a unique opportunity to expand affordable housing, along with new market rate housing and retail opportunities, in the vibrant U Street neighborhood, one of the strongest residential submarkets in Washington, D.C. The PUD will include new replacement housing for the current Portner Place residents, as well as additional affordable and market-rate housing and ground-floor retail.
27. The Applicant will offer temporary housing to all current Portner Place residents as close as possible to the PUD Site, and will offer all current residents the opportunity to move

back in to the new building once completed. The Applicant has worked closely with HUD to maintain the housing subsidy for the existing residents through a pass-through contract of the existing Section 8 contract. The Applicant will also engage with the Transitional Housing Corporation (“THC”) or other similar agency to provide support services to current residents, assist families in the relocation process, and implement programs and services for residents once they return to the new building.

Existing and Proposed Zoning

28. The PUD Site is located in the R-5-B Zone District. The R-5 zoning classification is divided into the R-5-A, R-5-B, R-5-C, R-5-D, and R-5-E Zone Districts. The R-5 Zone Districts are designed to permit flexibility of design by permitting in a single district all types of urban residential development if they conform to the height, density, and area requirements of Chapter 24 of the Zoning Regulations. (11 DCMR § 350.) R-5 Zone Districts permit the construction of those institutional and semi-public buildings that would be compatible with adjoining residential uses and that are excluded from the more restrictive Residence Districts. (*Id.*) The R-5-B Zone District includes the following development requirements:
- a. A maximum height of 50 feet with no limit on the number of stories, and a maximum height of 60 feet as a PUD (11 DCMR §§ 400.1 and 2405.1);
 - b. A maximum matter-of-right density of 1.8 FAR; 2.16 FAR with the Inclusionary Zoning (“IZ”) bonus; and 3.0 FAR as a PUD (11 DCMR §§ 402.4, 2604.2, and 2405.2);
 - c. A maximum percentage of lot occupancy of 60% (11 DCMR §§ 403.2 and 2604.2);
 - d. A maximum 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.) For a through-lot, the rear yard may be measured to the center line of the street at the rear of the structure;
 - e. If provided, a side yard of at least three inches wide per foot of building height, but not less than eight feet wide (11 DCMR §775.5);
 - f. If provided, a court with a minimum width of four inches per foot of height of court, but not less than 10 feet. (11 DCMR § 406.1.) In the case of a closed court, the minimum width must be four inches per foot of height of court, but not less than 15 feet, and the minimum court area must be twice the square of the required

width of court dimension based on the height of the court, but not less than 350 square feet (*Id.*);

- g. For an apartment house or multiple dwelling, one off-street parking space for each two dwelling units (11 DCMR § 2101.1); and
 - h. 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. (11 DCMR § 2201.1.)
29. As shown on Sheet A.4 of the Architectural Plans and Elevations (“Plans”), the Applicant is requesting a map amendment to rezone the northern portion of the PUD Site to the R-5-D Zone District and the southern portion of the PUD Site to the CR District. (Ex. 28A.) The R-5-D Zone District includes the following development requirements:
- a. A maximum matter-of-right height of 90 feet with no limit on the number of stories, and a maximum height of 90 feet as a PUD (11 DCMR §§ 400.1 and 2405.1);
 - b. A maximum matter-of-right density of 3.5 FAR; 4.2 FAR under IZ, and 4.5 FAR as a PUD (11 DCMR §§ 402.4, 2604.2, and 2405.2) and up to 4.725 FAR pursuant to § 2405.3;
 - c. A maximum matter-of-right lot occupancy of 75% (11 DCMR § 403.2);
 - d. 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). For a through-lot, the rear yard may be measured to the center line of the street at the rear of the structure;
 - e. If provided, a side yard of at least three inches wide per foot of height of building, but not less than eight feet wide (11 DCMR § 405.6);
 - f. If provided, a minimum court width of three inches per foot of height of court, but not less than ten feet, and in the case of a closed court, a minimum width of four inches per foot of height of court, but not less than 15 feet, and the minimum area must be twice the square of the required width of court dimension, based on the height of court, but not less than 350 square feet (11 DCMR § 406.1);
 - g. For an apartment house or multiple dwelling, one off-street parking space for each three dwelling units (11 DCMR § 2101.1); and

- h. For an apartment house or multiple dwelling with 50 or more 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. (11 DCMR § 2201.1.)
- 30. The Applicant proposes to rezone the southern portion of the PUD Site to the CR Zone District. The CR Zone District is designed to encourage a diversity of compatible land uses that may include a mixture of residential, office, retail, recreational, light industrial, and other miscellaneous uses. (11 DCMR § 600.1.) The development shall be guided by an approved public policy or plan and through the use of the planned unit development, special exception, or other site plan review process. The CR Zone District includes the following development requirements:
 - a. A maximum matter-of-right height of 90 feet; 100 feet under IZ; and 110 feet as a PUD (11 DCMR §§ 630.1, 2604.2, and 2405.1);
 - b. A maximum matter-of-right density of 6.0 FAR, not more than 3.0 FAR of which may be used for non-residential purposes; a maximum density of 7.2 FAR under IZ; and a maximum 8.0 FAR as a PUD, with not more than 4.0 FAR being devoted to non-residential uses (11 DCMR §§ 631.1, 2604.2, and 2405.2) and up to 8.4 FAR pursuant to § 2405.3;
 - c. A maximum matter-of-right lot occupancy of 75%, and 80% under IZ (11 DCMR §§ 634.1 and 2604.2);
 - d. A minimum rear yard depth of three inches per foot of vertical distance from the horizontal plane upon which the residential use begins to the highest point of the main roof, but not less than 12 feet, and the rear yard shall be provided at and above the residential plane. (11 DCMR §§ 636.3 and 636.4.) For a through-lot, the rear yard may be measured to the center line of the street at the rear of the structure.
 - e. If provided, a minimum side yard width of at least three inches per foot of building height, but not less than eight feet (11 DCMR § 637.1);
 - f. If provided, a minimum court width of three inches per foot of height of court, but not less than 10 feet, and in the case of a closed court, a minimum width of four inches per foot of height of court, but not less than 15 feet, and a minimum area twice the square of the required width of court dimensions (11 DCMR §§ 638.1(a) and 638.2(a));

- g. For an apartment house or multiple dwelling, one off-street parking space for each three dwelling units (11 DCMR § 2101.1);
 - h. For a retail establishment in excess of 3,000 square feet, one off-street parking space for each additional 750 square feet of gross floor area (11 DCMR § 2101.1);
 - i. For an apartment house or multiple dwelling with 50 or more 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. For a retail establishment with 5,000 to 20,000 square feet of gross floor area, one loading berth at 30 feet deep and one loading platform at 100 square feet (11 DCMR § 2201.1); and
 - j. An area equivalent to 10% of the total lot area must be provided for new development that is open and available to the general public on a continuous basis. (11 DCMR § 633.1.)
31. Consistent with the R-5-D and CR development parameters, the Applicant will develop the PUD Site with a mix of residential and retail uses. A tabulation of the PUD's development data is included on page A.1 of the Plans. (Ex. 28A.)

Description of the PUD Project

32. The Applicant is seeking consolidated PUD approval and a zoning map amendment to develop an apartment house with ground-floor retail on the PUD Site in accordance with the R-5-D and CR PUD zoning requirements. The building will be divided into two sections: the northern portion of the PUD Site fronting on V Street will be rezoned to the R-5-D Zone District, and the southern portion of the PUD Site fronting on U Street will be rezoned to the CR Zone District.
33. The northern portion of the PUD Site (Wing A) will include approximately 96 dwelling units marketed at or below 60% of the AMI. The first floor will contain a lobby, residential common space, management office, computer room, and exercise room for building residents; the second floor will provide a laundry room with industrial-size washers and dryers appropriate for family use. Wing A will be constructed to a maximum height of approximately 75 feet, eight inches to the main roof and will contain approximately 91,012 square feet of gross floor area (4.725 FAR). Separation of the affordable units in Wing A and the market rate units in Wing B was a development decision based on years of the Applicant's coordination with the current Portner Place residents who expressed a strong desire to have a separate entrance on V Street, which is a quieter, more family-friendly street than U Street, and to have units and amenities amenable to and sized for families. Ordinarily the project would be subject to the

Inclusionary Zoning Regulations set forth in Chapter 26 of the Zoning Regulations (Title 11 DCMR). Those regulations would require that eight percent of the residential floor area of the entire project be set-aside for affordable units. The Applicant intends to request the Zoning Administrator to exempt the development from the Inclusionary Zoning Regulations pursuant to 11 DCMR § 2602.3(f). That exemption is available to “development financed, subsidized, or funded in whole or in part by the federal or District government and administered by the Department of Housing and Community Development, the District of Columbia Housing Finance Agency, or the District of Columbia Housing Authority. Such projects are still subject to § 2602.7(f), which requires the same percentage of set-aside for the life of the project based upon the rental and price controls established by the funding source.

34. Wing B will contain approximately 221,197 square feet of residential gross floor area comprised of 270 market-rate units on floors 2-11, plus a ground-floor fitness room, yoga/cross training studio, club room, sales/service offices, and lobby space. Wing B will have approximately 9,720 square feet of gross floor area devoted to retail uses on the ground floor, plus the potential for an additional 4,900 square feet of retail space on the P2 level. Wing B will be constructed to a maximum height of 105 feet, eight inches to the main roof and will contain approximately 230,917 square feet of total gross floor area (8.27 FAR).
35. The V Street façade is significantly lower than the Dunbar Apartments to the west and the Reeves Center to the east. The east side of the V Street façade incorporates a projecting bay that cantilevers over the parking garage entrance. This building mass is balanced out with a more set back façade on the west side of the V Street frontage. Using a combination of materials and color changes, the façade is broken down into rectangular elements that are made of cast stone, brick, and factory painted aluminum windows. The change in material and color coincides with the building entrance and emphasizes this zone of the composition. To provide further architectural interest, there are six one-story projecting elements, which will be faced with wood panels to match the wood-paneled entrance canopy. A green wall covered with appropriate plants will be located on the first two floors of the east façade. The residential units will provide substantial amounts of light and air from all directions, with balconies provided for some units.
36. The U Street façade employs the use of architectural elements to create a design hierarchy and give the façade a pleasant and manageable scale. Lighter colored masonry grids project four feet out from the darker masonry façade which is set back. This composition includes abstract grids on both sides of the darker building entrance zone, while the first floor entry area is reinforced up through the building façade with darker bays. The grid-like element on the east side of the entrance extends down to the sidewalk, while the grid element to the west of the entrance is suspended two stories above the ground plane. The ground-floor commercial space is integrated into the bottom of the

eastern grid, while the storefronts on the west side create their own zone of light transparent glass. The western grid wraps the southwest corner of the building to help activate the west façade. Similar to the bays on the V Street façade, there is a pattern of wood clad bays facing U Street. Design components are similar on both sides of the building, allowing the whole project to achieve aesthetic harmony. The retail space and residential lobby located along U Street will activate the street frontage and significantly improve the pedestrian experience.

37. As shown on Sheets A.24-25 of the Plans, each Wing has access to a separate roof deck with additional residential amenity areas. The roof of Wing A includes an outdoor playground and an accessory communal rooftop recreation area of approximately 1,200 square feet. The roof of Wing B includes an outdoor amenity area and accessory communal rooftop areas of approximately 1,470 square feet in total, plus space for a pool.
38. As shown on Sheet A.22 of the Plans, the PUD includes approximately 137 off-street parking spaces, as required for the proposed residential and retail uses, located in a below-grade parking garage accessed from V Street. Wing A will contain 31 parking spaces on P1 and Wing B will contain 106 parking spaces spread between P1 and P2. Approximately 200 bicycle parking spaces will be provided on the P1 level with approximately 50 spaces in Wing A and 150 spaces in Wing B, with additional bicycle parking located on the ground level. Loading will be located in the garage on the P2 level and will be shared between the residential and retail uses. Loading facilities will include two loading berths at 30 feet deep, one loading platform at 744 square feet, and one service/delivery loading space at 20 feet deep. Trucks will enter the garage loading area from the same curb cut on V Street that is used to access parking spaces, and will have room to turn around on-site to allow for front-in, front-out movements.
39. The PUD includes environmentally sustainable design features, including a green roof with generous plantings and a compact, energy efficient overall building design. The mechanical, electrical, and plumbing systems and fixtures will provide a high level of energy efficiency. The Applicant will implement water recapture and solar shading mechanisms and will use recycled-content materials where possible. The building design seeks to provide an attractive and dynamic addition to the quickly evolving commercial and residential corridors along U and V Streets, while being mindful of the immediate context of the existing neighborhood.
40. Proposed site work includes the removal of an existing curb cut on U Street and the installation of new sidewalks and street trees on U and V Streets, which will comply with DDOT guidelines. All vehicular access into the building will be from the single curb cut on V Street, which will benefit the community due to the congested nature of U Street.

41. Redevelopment of the PUD Site will transform the existing Portner Place Apartment complex, which is in a deteriorated condition, into a mixed-income community that incorporates newly constructed affordable and market-rate housing into a single building. The project will replace the existing subsidized housing units on approximately a two-to-one basis. Using the market strength of the PUD Site and other funding sources, the Applicant will preserve and expand the housing and affordable housing units in the District, create new neighborhood-serving retail opportunities, and replace the current buildings with a new, sustainable, energy efficient structure that will integrate and expand the current affordable housing into a vibrant new mixed-use community.

Development Incentives and Flexibility

42. The Applicant requested the following areas of flexibility from the Zoning Regulations as discussed below.
43. ***Flexibility from the Loading Requirements.*** Pursuant to § 2201.1 of the Zoning Regulations, the Applicant is required to provide the following loading facilities: one loading berth at 55 feet deep, one loading platform at 200 square feet, and one service/delivery space at 20 feet deep. Pursuant to 11 DCMR § 2201.2, no retail loading is required. Due to the proposed uses for the building and the anticipated needs of the building residents, the Applicant is seeking flexibility to provide two loading berths at 30 feet deep, one loading platform at 744 square feet, and one service/delivery space at 20 feet deep.
44. The Commission finds that the Applicant's requested flexibility is consistent 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. Given the nature and size of the residential units, the Commission finds that it is unlikely that the building will need to be served by 55-foot tractor-trailer trucks, and that it is unlikely that there will be a need for separate service delivery spaces. The Commission further finds that the loading areas will primarily be used by the building residents during move-ins and move-outs, and any subsequent use by residents will generally be infrequent and can be restricted to times which pose the least potential conflicts with retail users. Furthermore, the Commission finds that the retail users will typically use the loading facilities during times that cause the least amount of conflict with the loading needs of the residents. Therefore, the Commission finds that the proposed shared loading facilities will be able to accommodate both the residential and retail uses, and thus approves the requested loading flexibility.
45. ***Flexibility from the Roof Structure Requirements.*** The Applicant requests flexibility from the roof structure requirements of the Zoning Regulations because, as shown on Sheet A.25 included in the Plans (Exhibit 28A), there will be multiple roof structures,

inconsistent with 11 DCMR §§ 411.3 and 770.6(a), and two of the roof structures will have enclosing walls of unequal heights, inconsistent with 11 DCMR § 411.5. All roof structures will be set back from all exterior walls a distance at least equal to their height above the roof.

46. The Commission finds that each roof structure is a necessary feature to the building and that the structures are separated due to the Building Code requirement to provide separate means of egress and to break up massing on the roof. The Commission also finds that the location and number of roof structures is driven by the building's core elements and the layout of the residential units below. Furthermore, the Commission finds that each roof structure is only as tall as it needs to be and is adequately set back from the exterior walls. The Commission finds that the roof structures will not adversely impact the light and air of adjacent buildings because each has been located to minimize its visibility. Therefore, the Commission finds that the intent and purposes of the Zoning Regulations will not be materially impaired by the proposed roof structures, and that the light and air of adjacent buildings will not be adversely affected by granting this flexibility.
47. ***Flexibility from the Closed Court Requirements.*** Pursuant to 11 DCMR §§ 406.1 and 776.3, the required court width is a minimum of four inches per foot of height of court, but not less than 15 feet. Pursuant to 11 DCMR §§ 406.1 and 776.4, the required court area is a minimum of twice the square of the required width of court, based on the height of court, but not less than 350 square feet. The Applicant is providing closed courts on the east and west sides of the building. Based on the varying heights of Wings A and B (75'-8" and 105'-8," respectively), the minimum required width of a court for Wing A is 26.4 feet and the minimum required area of a court for Wing A is 1,394 square feet. The minimum required width of a court for Wing B is 32.8 feet, and the minimum required area of a court for Wing B is 2,152 square feet. However, as indicated on Sheet A.7 of the Plans, the Applicant proposes to provide a 21-foot-wide closed court on the east side of the building, thus requiring flexibility from the closed court width requirements. (Ex. 28A.)
48. The Commission finds that providing a compliant court on the east side of the building is impractical given the PUD Site's narrow width. The Commission finds that if the Applicant provided a compliant court on the east and west sides of the building, almost all of the units on the east side of the building would be eliminated. Alternatively, the Commission finds that if the Applicant provided a single compliant court on either the east or west side of the building, there would be no room for a double-loaded corridor, which is necessary for the residential use on the narrow site. Furthermore, the Commission finds that if the Applicant did not provide a court on the east side of the building, this entire façade would have at-risk windows on a party wall, which is economically infeasible. In addition, the Commission finds that the Applicant is appropriately providing a narrow closed court on the north side of Wing B's western arm

in order to provide windows for the residential units on this north façade. The Commission also notes that the Zoning Regulations do not require the building to have courts at all; however, the Applicant is providing courts on both sides of the building to increase the light and air for all affected buildings, to enhance the building's aesthetic appeal, and to ensure the enjoyment of building residents. As a result, the Commission finds that the intent and purposes of the Zoning Regulations will not be materially impaired by granting this flexibility.

49. ***Flexibility from the Compact Parking Space Requirements.*** The Applicant seeks flexibility from 11 DCMR §§ 2115.2 and 2115.4, which require that accessory parking areas or accessory garages containing 25 or more required parking spaces may designate up to 40% of the parking spaces for compact cars. The Applicant proposes to provide approximately 137 parking spaces located in two levels of below-grade parking. Approximately 68 of these parking spaces are compact, which represents approximately 49% of the total number of off-street parking spaces provided by the project, thus requiring flexibility. In addition, 11 DCMR § 2115.4 requires that compact parking spaces must be placed in groups of at least five contiguous spaces with access from the same aisle. However, there are several locations in the garage where compact spaces are located in groups of less than five.
50. The Commission finds that the parking garage is designed to maximize the number of parking spaces on the PUD Site and to increase the ease and efficiency of use of the garage for building residents. The Commission finds that vehicles accessing parking spaces will have sufficient maneuverability for both ingress and egress. The Commission also finds that reducing the percentage of compact parking spaces would necessarily reduce the total number of vehicles that can be accommodated in the building's garage, which result is inconsistent with the purposes of the off-street parking requirements. Thus, the Commission finds that approval of this requested flexibility will not have any adverse impacts since the Applicant will be meeting the off-street parking requirements and the garage is designed to operate efficiently.
51. ***Flexibility from the Inclusionary Zoning Development Standard.*** The Applicant requests flexibility from 11 DCMR §§ 2605.3 and 2605.4 and because the exterior design, materials, and finishes and the interior amenities of the affordable units will be slightly different from those of the market-rate units. For example, in order to provide units with the number of bedrooms required for families in Wing A, washers and dryers are consolidated on the second floor and not provided in the individual units. This flexibility would not be needed in the event that an IZ exemption is granted pursuant to § 2602.3(f).
52. The Commission finds that the Applicant is separating the affordable units from the market-rate units based on requests from current residents during the TOPA process, who

indicated an overwhelming preference to be located in a separate wing with a separate entrance from V Street. Wing A will have a different more family-oriented unit size and mix, based on the current residents' preference to maintain larger (two-to-three bedroom) units, compared with the smaller (generally one bedroom) market-rate units in Wing B, and to maintain the Section 8 subsidy. The Commission finds that Wing A's amenities, including a computer room, exercise room, laundry room with industrial-size washers and dryers, and community spaces appropriate for families with children, will appropriately support the low-income and workforce residents.

53. ***Flexibility from the Floor Area Ratio Requirements.*** The Applicant requests flexibility from the FAR requirements of the Zoning Regulations. Pursuant to 11 DCMR § 2405.3, the Commission may authorize up to a five percent increase in the maximum FAR for a PUD, provided that the increase is essential to the successful functioning of the project, consistent with the purpose and evaluation standards of Chapter 24 of the Zoning Regulations. Specifically, for the portion of the PUD Site zoned R-5-D, the Applicant requests an increase in density from 4.5 FAR (permitted by 11 DCMR § 2405.2) to 4.725 FAR. The increase amounts to a difference of 0.225 FAR (five percent). For the portion of the PUD Site zoned CR, the Applicant request an increase in density from 8.0 FAR (permitted by 11 DCMR § 2405.2) to 8.27 FAR. This increase amounts to a difference of 0.27 FAR (3.37%).
54. The Commission finds that the requested FAR increase is essential to the successful functioning of the project since it will allow the Applicant to maximize the number of affordable units in the PUD. The Commission finds that the provision of 96 affordable units marketed to households earning less than 60% of the AMI substantially exceeds the amount of affordable housing that would be developed on the PUD Site as a matter-of-right and at a significantly deeper subsidy. The Commission finds that this new, high quality, affordable housing supply will benefit the immediate area, the District as a whole, and is consistent with the goals of the Zoning Regulations, the Comprehensive Plan, and the Mayor's housing initiative. Furthermore, the Commission finds that the density of the PUD is appropriately dispersed on the PUD Site and relates well to the surrounding buildings and the different character of the U and V Street frontages.
55. The Applicant requests flexibility in the following additional areas:
 - a. To be able to provide a range in the number of residential units within each Wing of plus or minus 10%;
 - b. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration of the structure;

- c. 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 number required by the Zoning Regulations;
- d. 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, locations, and dimensions, including curtainwall mullions and spandrels, window frames, doorways, glass types, belt courses, sills, bases, cornices, railings and trim; and any other changes to comply with all applicable District of Columbia laws and regulations that are otherwise necessary to obtain a final building permit;
- e. To vary the sustainable design features of the building, provided the total number of LEED points achievable for Wing A complies with the equivalent of Enterprise Green Community Standards, and the total number of LEED points achievable for Wing B does not decrease below the equivalent of a LEED Silver designation;
- f. To vary the location and design of the ground-floor components of the building in order to comply with any applicable District of Columbia laws and regulations, including those of the D.C. Department of Health, that are otherwise necessary for licensing and operation of any retail or service use;
- g. To vary the final selection of all exterior signage on the building; and
- h. To construct the building in two phases, provided that construction of the affordable wing of the building is commenced prior to or simultaneously with the market-rate wing of the building.

Project Benefits and Amenities

56. Urban Design, Architecture, and Open Space (11 DCMR § 2403.9(a)) - The PUD implements a number of urban design and architectural best practices, which will contribute to the ongoing development of U Street as a major mixed-use corridor with higher-density residential uses, including affordable housing, and high quality retail uses. The project's frontage on U Street will activate the corridor and will relate to and respect the adjacent existing buildings. By providing a mix of uses and streetscape improvements, the PUD will support the revitalization of this portion of the U Street/14th Street neighborhood into more vibrant, mixed-use, and multi-modal area.

57. The PUD exemplifies the principles of transit-oriented development, being located in close proximity to the U Street Metrorail station and numerous Metrobus lines. The PUD is also extremely efficient with respect to its sharing of parking and loading facilities and its economical utilization of land. A roof level playground will be incorporated into the project design. Two- and three-bedroom units will also be provided in the affordable component of the project, as requested by current residents. Use of high quality materials in a unique mid-block through-lot location results in a design that relates well to both the U and V Street frontages of the project, as approved by the HPRB.
58. Housing and Affordable Housing (11 DCMR § 2403.9(f)) - The PUD will result in the creation of new housing consistent with the goals of the Zoning Regulations, the Comprehensive Plan, and the Mayor's housing initiative. The proposed PUD includes approximately 312,209 square feet of residential gross floor area, approximately 30% of which (or 91,012 square feet of gross floor area) will be designated as affordable for households earning 60% or less of the AMI, of which not less than 15% will be devoted to households earning 50% or less of the AMI. This substantially exceeds the amount of affordable housing that would be developed on the PUD Site as a matter-of-right development, and at a significantly deeper subsidy level.
59. Pursuant to § 2603.2 of the Zoning Regulations, the Applicant is required to provide a minimum of eight percent of the proposed residential gross floor area in the PUD for affordable housing units. If an exemption from Zoning is granted by the Zoning Administrator pursuant to § 2602.3(f), the same minimum set-aside would be required pursuant to § 2602.7. For this project, that would equal 24,977 square feet of affordable housing (eight percent of 312,209 square feet). The proposed PUD provides 91,012 square feet of gross floor area to be devoted to affordable housing, which is an increase of 66,035 square feet of gross floor area over the IZ minimum (more than three times the requirement). Significantly, the affordable housing is provided at 50% to 60% AMI level or below, which is a substantial increase in the affordability level. As required by IZ or, if exempted, § 2602.7, the 24,777 of required gross floor area will be set-aside as Inclusionary Units for so long as the project exists.
60. The Applicant will finance Wing A with Low Income Housing Tax Credits ("LIHTCs"), which require a 40 year affordability commitment. During the construction phase of development, the existing 47 families that currently reside in Portner Place will be located off-site as near to the vicinity of the neighborhood of the project as practicable. The Applicant will be responsible for identifying 47 units of temporary housing, covering relocation costs, and signing a master lease with a new landlord(s). Temporary relocation units will adhere to HUD guidelines for Section 8 pass-through contracts and will be subject to HUD inspections. All residents will continue to receive Section 8 rental assistance during the relocation period.

61. In the event that HUD does not approve a pass-through contract, which will allow the Applicant to transfer the current Section 8 contract off-site during the two-year construction period, every current family at the PUD Site will be issued a voucher. All residents will be encouraged to return to the new building on the PUD Site, and the Applicant will be responsible for identifying temporary housing for each returning family with a voucher and will cover relocation costs. Voucher holders will contract individually with their new landlord.
62. The Applicant will identify 47 units in one of three ways or some combination thereof:
- a. Within the apartment complexes that the development team owns and operates in the Washington, D.C. area (Somerset has approximately 894 units of affordable housing nearby) which could be available and eligible for the relocating families;
 - b. With the assistance of the Transitional Housing Corporation (“THC”) and/or another agency and/or broker with similar experience in identifying and relocating low income families; and
 - c. Purchasing a new building to house some or all 47 families during the two-year relocation period.

The Applicant will contract with THC or a similar agency to provide supportive services to current residents, assist families in the relocation process, and implement programs and services once the families return to the PUD Site.

63. The Applicant will do more to help the community than simply provide new market-rate and affordable housing. For example, the Applicant will help current residents stay in their community. The Applicant is preserving existing affordable housing within a new residential development, in addition to creating new affordable housing for District residents. The Applicant will offer resident services, such as financial management, career counseling, employment skills training, referrals and other assistance in job searches, health and nutrition information, after-school programs, computer training, computer access, and other services. These services demonstrate the Applicant's commitment to improving the surrounding community and desire to provide high quality affordable housing within a program that is designed to help residents, many of whom have lived in this location for decades and prosper in an urban lifestyle.
64. Environmental Benefits (11 DCMR § 2403.9(h)) – The Applicant is fully committed to providing high quality housing that is sensitive to the natural environment in the District of Columbia. Through the development of the project, the Applicant will expand its commitment by ensuring the environmental, economic, and social sustainability of the residents through the implementation of sustainable design features. The Applicant will

implement a number of strategies to enhance the inherently sustainable nature of the PUD Site's infill, transit-rich location and to promote a healthy, desirable, and comfortable lifestyle that will fully benefit the project's residents while minimizing the impact on the environment.

65. The PUD will provide environmental benefits, including street tree planting and maintenance, landscaping, efficient energy sources, methods to reduce stormwater runoff, and green engineering practices. The roof contains space for trees and a green roof in compliance with the Green Area Ratio ("GAR") regulations, and an extensive re-planting and irrigation system is provided in public space, which far exceeds that required by DDOT regulations. In addition, bicycle parking is provided substantially in excess of that required by the Zoning Regulations, with space for close to 200 bicycles.
66. The PUD will be designed to meet rigorous energy and environmental design standards using the LEED 2009 for New Construction and Major Renovations rating system as a guide and performance metric, and Wing B of the building will not be designed or constructed below the LEED Silver rating equivalent (see Conceptual LEED scorecard included on page A-8 of the Plans). (Ex. 28A.) Wing A will comply with Enterprise Green Standards.
67. Employment Benefits (11 DCMR § 2403.9(j)) – The Applicant will enter into a First Source Employment Agreement with the Department of Employment Services ("DOES"), whereby the Applicant will use DOES as its first source for recruitment, referral, and placement of new hires for construction employees whose jobs are created by the PUD.

Comprehensive Plan

68. The Commission finds that the PUD advances the purposes of the Comprehensive Plan, is consistent 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. The PUD significantly advances these purposes by promoting the social, physical and economic development of the city through the provision of a high quality, state-of-the-art, eco-friendly residential development that will add approximately 96 affordable units and approximately 270 market-rate units to the District's housing supply, without generating any adverse impacts. The project will create new neighborhood-serving retail opportunities to meet the demand for basic goods and services, and will promote the vitality, diversity, and economic development of the U Street neighborhood's commercial area.
69. The Future Land Use Map of the Comprehensive Plan designates the PUD Site for Medium-Density Residential uses. The Medium-Density Residential designation is used

to define neighborhoods or areas where mid-rise (four to seven stories) apartment buildings are the predominant use. Pockets of low- and moderate-density housing may exist within these areas. The Medium-Density Residential designation also may apply to taller residential buildings surrounded by large areas of permanent open space. The R-5-B and R-5-C Zone Districts are generally consistent with the Medium-Density designation, although other zones may apply in some locations. (10A DCMR § 225.5.)

70. The Commission finds that although the R-5-D and CR Zone Districts are not specifically listed among the corresponding land use categories for Medium-Density Residential, these districts are not inconsistent with the Future Land Use Map. The Framework Element of the Comprehensive Plan provides that the Land Use Map is not a zoning map. (10A DCMR § 226.1(a); Z.C. Order No. 11-13; Z.C. Order No. 10-28.) Whereas zoning maps are parcel-specific and establish detailed requirements for setback, height, use, parking, and other attributes, the Future Land Use Map does not follow parcel boundaries and its categories do not specify allowable uses or dimensional standards. (*Id.*) By definition, the Map is to be interpreted broadly. (*Id.*) Furthermore, the land use category definitions describe the general character of development in each area, citing typical building heights (in stories) as appropriate. The granting of density bonuses (for example, through planned unit developments) may result in heights that exceed the typical ranges cited here. (*Id.* at § 226.1(c).) The zoning of any given area should be guided by the Future Land Use Map, interpreted in conjunction with the text of the Comprehensive Plan, including the citywide elements and the area elements, as well as approved Small Area Plans. (*Id.* at § 266.1(d).) Therefore, the Commission finds that the proposed map amendment is not inconsistent with the Future Land Use Map.
71. The Commission further finds that in evaluating the map amendment, the PUD Site should be viewed as a whole, not as a specific parcel. The Commission notes that when taken in context with the surrounding neighborhood, the PUD Site is in the center of a highly dynamic area that is quickly expanding and growing taller, and that U Street and 14th Street have become major commercial corridors within the city, experienced by thousands daily as a place to live, in coffee shops, restaurants, retailers, fitness centers, and professional service establishments. Furthermore, the Commission finds that Square 204 is predominantly developed with other high-rise buildings on both sides of the PUD Site and that the PUD's height and mass will not change the overall character of the area as contemplated by the Comprehensive Plan. Furthermore, the Commission finds that the Land Use Map should be interpreted broadly to allow the PUD Site to be developed within the context of the changing needs of the District.
72. The District of Columbia Comprehensive Plan Generalized Policy Map designates the northern portion of the PUD Site as a Neighborhood Conservation Area and the southern portion of the PUD Site as a Main Street Mixed-Use Corridor. Neighborhood Conservation Areas are areas with very little vacant or underutilized land. They are

primarily residential in character, and maintenance of existing land uses is contemplated over the next 20 years. Where change occurs, it will be modest in scale and will consist primarily of scattered site infill housing, public facilities, and institutional uses. Major changes in density are not expected, but some new development and reuse opportunities are anticipated. (10A DCMR § 223.4-223.5.) The Commission finds that, consistent with these purposes, the PUD will provide new infill housing for the PUD Site that will be compatible with the existing scale, character, and use of the existing buildings within the surrounding area.

73. Main Street Mixed-Use Corridors are traditional commercial business corridors with a concentration of older storefronts along the street. The service area for Main Streets can vary from one neighborhood (e.g., 14th Street Heights or Barracks Row) to multiple neighborhoods (e.g., Dupont Circle, H Street, or Adams Morgan). Their common feature is that they have a pedestrian-oriented environment with traditional storefronts. Many have upper-story residential or office uses. Conservation and enhancement of these corridors is desired to foster economic and housing opportunities and serve neighborhood needs. Any development or redevelopment that occurs should support transit use and enhance the pedestrian environment. (10A DCMR § 223.14.) The Commission finds that, consistent with the purposes of the Main Street Mixed-Use Corridors category, the PUD includes both residential and retail uses, which will help to further economic and housing opportunities and serve neighborhood needs. The Commission finds that the PUD will provide a positive pedestrian-oriented environment with traditional storefronts and residential units above, and that redevelopment of the PUD Site will enhance the U Street corridor and foster neighborhood-serving economic development.
74. The Commission finds that the proposed PUD is also consistent with many guiding principles in the Comprehensive Plan for managing growth and change, creating successful neighborhoods, and building green and healthy communities, as discussed in the paragraphs below.
75. ***Managing Growth and Change.*** 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, particularly since non-residential growth benefits residents by creating jobs and opportunities for less affluent households to increase their income. (10A DCMR § 217. 4.) The Comprehensive Plan also states that redevelopment and infill opportunities along corridors are an important part of reinvigorating and enhancing neighborhoods. (10A DCMR § 217.6.) The PUD is fully consistent with each of these goals. Redeveloping the PUD Site into a vibrant mixed-use development with approximately 366 residential units and up to 14,620 total square feet devoted to retail space will further the revitalization of the neighborhood. The proposed retail spaces will create new jobs for District residents, provide opportunities for less-affluent households to increase their income, and help to reinvigorate the existing neighborhood fabric.

76. ***Creating Successful Neighborhoods.*** One of the guiding principles 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. (10A DCMR § 218.8.) The PUD furthers this goal since, as part of the PUD process, the Applicant is working closely with current Portner Place residents, the affected ANC, and other community members to ensure that redevelopment of the PUD Site creates a positive impact on the neighborhood.
77. ***Building Green and Healthy Communities.*** One of the guiding principles for building green and healthy communities is that building construction and renovation should minimize the use of non-renewable resources, promote energy and water conservation, and reduce harmful effects on the natural environment. (10A DCMR § 221.3.) The building on the PUD Site will include a significant number of sustainable design features and is located in a transit-rich environment, reducing the need to use private vehicles to access the site.
78. The Commission also finds that the PUD furthers the objectives and policies of many of the Comprehensive Plan's major elements as set forth in the Applicant's Statement in Support (Exhibit 2) and in the OP reports (Exhibits 13 and 31).

Office of Planning Report

79. On June 20, 2014, OP submitted a report recommending set down of the applications. (Ex. 13.) The OP report stated that OP supports the applications, that they are not inconsistent with the Comprehensive Plan's objectives for the area or with the Generalized Land Use and Policy Maps, and that the PUD will contribute to the redevelopment of the U Street Corridor. The OP report specifically stated that the PUD would particularly further the Land Use, Housing, Economic Development, Environmental Protection, Historic Preservation, and Urban Design Citywide Elements of the Comprehensive Plan, as well as the Mid-City Area Elements and policies. In its report, OP requested the following information from the Applicant: (i) clarification of and details regarding the affordable housing component of the PUD, including the program for the temporary relocation of existing residents and confirmation that either the entire development would be constructed at once, or if phased, that first phase include the affordable units; (ii) additional analysis regarding the flexibility requested; (iii) submission of a signed Certified Business Enterprise ("CBE") and First Source Employment Agreement; (iv) a more detailed amenities package; and (v) additional street-level renderings and other plans or renderings as may be requested by the Commission at set down.

80. On October 17, 2014, OP submitted a second report recommending approval of the applications. (Ex. 31.) This OP report restated that the PUD is not inconsistent with the Comprehensive Plan's objectives for the area or with the Generalized Land Use and Policy Maps. The OP report also noted that the Applicant adequately submitted and explained the additional information requested by OP and the Commission at set down.
81. The October 17, 2014 OP report noted that OP received comments from the District Department of the Environment ("DDOE") on the applications, and included a memorandum from DDOE as Attachment 1 to the OP report. The DDOE memorandum, dated October 14, 2014, provided a summary of common issues that arise with many development projects in the District and recommended actions specifically related to the PUD. The issues raised by DDOE concerned green building, stormwater management, water quality and use, waste, and air quality/environment. At the public hearing, the Commission indicated that the DDOE report was too general in its comments and not specific enough to this project. As a result, the Commission was satisfied with the Applicant's environmental and sustainability package.

DDOT Report

82. On October 17, 2014, DDOT submitted a report indicating that it has no objection to the applications, subject to the condition that "the Applicant adopt the proposed TDM measures with the clarification that the Applicant offer an *annual* carshare and/or bikeshare membership rather than a membership of another time duration (e.g. daily, monthly)" (emphasis in original). (Ex. 32.) At the public hearing, the Applicant agreed to adopt the proposed TDM measures, including the stipulation that the Applicant offer annual carshare and/or bikeshare memberships to the initial unit occupants of the development. The following are the agreed-to TDM measures:
 - a. Designate a TDM coordinator responsible for organizing and marketing the TDM plan;
 - b. Provide at least 137 long-term bicycle parking spaces in a bicycle room;
 - c. Unbundle parking costs from the price of lease or purchase;
 - d. Post all TDM commitments online, publicize availability, and allow the public to see what commitments have been promised;
 - e. Provide website links to commuterconnections.com and goDCgo.com on developer and property management websites;

- f. Install a TransitScreen in each residential lobby and also make available printed materials; and
- g. For each residential unit, provide a one-time annual membership fee at initial lease and/or sale of each unit for a car sharing and/or Capital Bikeshare membership.

Based on the agreed-upon TDM measures, the Commission finds that the Applicant adequately addressed the comments outlined in DDOT's report.

ANC 1B Report

- 83. By resolution dated September 26, 2014, ANC 1B indicated that at its regularly scheduled public meeting on September 4, 2014, for which notice was properly given and a quorum was present, ANC 1B voted unanimously, by a vote of 8-0-0, to support the applications. (Ex. 27, 29.)

Post-Hearing Submission

- 84. On November 24, 2014, the Applicant submitted a post-hearing submission. (Ex. 43.) The post-hearing submission included: (i) architectural drawings showing an articulation on the blank wall on the east side of Wing B; (ii) architectural drawings showing a plan for the rooftop pool; (iii) architectural drawings showing a section through the roof with blow-ups of elevations and perspectives (both wings); and (iv) the Tenant Development Agreement, which is an agreement that specifies the commitments of the Applicant to the tenants regarding the redevelopment of the PUD Site, the affordability program, relocation and return commitments, and other rights and obligations, in return for the Tenant Association's assignment of their rights under TOPA to the Applicant.
- 85. The Commission finds that the redesign of the east façade on Wing B achieves the articulation sought by the Commission. The Commission also finds that the Applicant provided an appropriate amount of architectural detail on the rooftop drawings, including a plan of the pool and elevations and perspectives of the roof structures. Finally, the Commission finds that the Applicant submitted the Tenant Development Agreement as requested.

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, density, lot occupancy, parking and loading, 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 mixed uses for this project are appropriate for the PUD Site. The impact of the project on the surrounding area is not unacceptable. Accordingly, the project should be approved.
6. The applications 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's benefits and amenities are reasonable tradeoffs for the requested development flexibility.
8. Approval of the 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 PUD Site 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 § 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 (2001)), to give great weight to OP recommendations. The Commission carefully considered the OP report and, as explained in this decision, finds its recommendation to grant the applications persuasive.

10. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the issues and concerns raised in the written report of the affected ANC. The Commission carefully considered the ANC 1B's recommendation for approval and concurs in its recommendation.
11. 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.)).

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 applications for consolidated review and approval of a planned unit development and related map amendment from the R-5-B Zone District to the R-5-D and CR Zone Districts for property located at 1441-1449 U Street, N.W. (Square 204, Lot 208). The approval of this PUD is subject to the guidelines, conditions, and standards set forth below.

A. Project Development

1. The PUD shall be developed in accordance with the architectural plans and elevations ("Plans"), dated October 7, 2014 and November 24, 2014, and as modified by the guidelines, conditions, and standards of this Order. (Ex. 28A, 43.)
2. In accordance with the Plans, the PUD shall be a mixed-use project consisting of approximately 321,929 square feet of gross floor area and 6.82 FAR. The PUD shall be divided into two sections: Wing A shall have a density of 4.725 FAR and shall include approximately 91,012 square feet of gross floor area. Wing A shall be comprised entirely of approximately 96 affordable dwelling units (plus or minus 10%), with all of those units devoted to households earning 60% or less of the AMI, of which not less than 15% will be devoted to households earning 50% or less of the AMI.
3. Wing B shall have a density of 8.27 FAR and shall include approximately 270 market rate dwelling units (plus or minus 10%). Wing B shall have approximately 230,917 square feet of gross floor area comprised of approximately 221,197 square feet of gross floor area devoted to residential uses, approximately 9,720 square feet of gross floor area devoted to retail uses on the ground floor, plus the potential for an additional 4,900 square feet of retail uses in the P2 level.

4. Wing A shall have a maximum height of 75 feet, eight inches to the top of the roof, and Wing B shall have a maximum height of 105 feet, eight inches to the top of the roof.
5. The Applicant is granted flexibility from the loading requirements (§ 2201.1); the roof structure requirements (§§ 411.3, 411.5, and 770.6); the closed court requirements (§§ 406.1 and 776.3); the compact parking space requirements (§ 2115.2 and 2115.4); the IZ development standards (§§ 2605.3 and 2605.4) in the event that the project is not exempted from IZ pursuant to § 2602.3(f); and the FAR requirements (pursuant to § 2405.2) consistent with the approved Plans and as discussed in the Development Incentives and Flexibility section of this Order.
6. 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 within each Wing of plus or minus 10%;
 - b. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration of the structure;
 - c. 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 number required by the Zoning Regulations;
 - d. 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, locations, and dimensions, including curtainwall mullions and spandrels, window frames, doorways, glass types, belt courses, sills, bases, cornices, railings and trim; and any other changes to comply with all applicable District of Columbia laws and regulations that are otherwise necessary to obtain a final building permit;
 - e. To vary the sustainable design features of the building, provided the total number of LEED points achievable for Wing A complies with the equivalent of Enterprise Green Community Standards, and the total number of LEED points achievable for Wing B does not decrease below the equivalent of a LEED Silver designation;

- f. To vary the location and design of the ground-floor components of the building in order to comply with any applicable District of Columbia laws and regulations, including the D.C. Department of Health, that are otherwise necessary for licensing and operation of any retail or service use; and
- g. To vary the final selection of all exterior signage on the building,

B. Public Benefits

1. The Applicant shall set aside a minimum of 91,012 square feet of gross floor area for affordable housing units, which equates to a total of approximately 96 affordable units (plus or minus 10%), all of which will be located in Wing A. For so long as the project exists, eight percent of the total gross floor area will be set aside as Inclusionary Zoning units consistent with Chapter 26 of the Zoning Regulations. In the event that the project is not exempted from IZ pursuant to § 2602.3(f), the same percentage of units shall be set aside pursuant § 2603.7(a) and (b) for so long as the project exists. This equates to approximately 24,977 square feet of gross floor area of the 91,012 gross square feet devoted to IZ units in Wing A. During the first 40 years of the project, commencing with the issuance of the first certificate of occupancy, the Applicant shall set aside the remaining floor area devoted to affordable units to households earning 60% or less of the AMI, with 15% of those units devoted to households earning 50% or less of the AMI.
2. Prior to the issuance of the first certificate of occupancy, the Applicant shall provide evidence to the Zoning Administrator that it has relocated the existing 47 families that currently reside in Portner Place to off-site locations as near to the vicinity of the neighborhood of the project as practicable. The Applicant shall be responsible for identifying 47 units of temporary housing, covering relocation costs, and signing a master lease with a new landlord(s). The Applicant shall ensure that temporary relocation units will adhere to HUD guidelines for Section 8 pass-through contracts and will be subject to HUD inspections. Subject to HUD approvals, the Applicant shall ensure that all residents will continue to receive Section 8 rental assistance during the relocation period.
3. In the event that HUD does not approve a pass-through contract, which will allow the Applicant to transfer the current Section 8 contract off-site during the two-year construction period, then prior to the issuance of the first certificate of occupancy, the Applicant shall provide evidence to the Zoning Administrator that it has ensured that every current family at the PUD Site has been issued a voucher

or is otherwise provided with rental assistance. The Applicant encourages all residents who desire to, to return to the new building on the PUD Site, and the Applicant shall be responsible for identifying temporary housing for each returning family with a voucher and shall cover relocation costs. Voucher holders will contract individually with their new landlord. The Applicant shall identify 47 units in one of three ways or some combination thereof:

- a. Within the apartment complexes that the development team owns and operates in the Washington, D.C. area (Somerset has approximately 894 units of affordable housing nearby) which could be available and eligible for the relocating families;
- b. With the assistance of THC and/or another agency and/or broker with similar experience in identifying and relocating low income families; and
- c. Purchasing a new building to house some or all 47 families during the two-year relocation period.

Prior to the issuance of the first certificate of occupancy, the Applicant shall provide evidence to the Zoning Administrator that it has contracted with THC or a similar agency to provide supportive services to current residents, assist families in the relocation process, and implement programs and services once the families return to the PUD Site.

4. Prior to the issuance of the first certificate of occupancy, the Applicant shall provide evidence that it has offered financial management services to current residents. Within the first year of residents returning to the PUD Site, the Applicant shall provide evidence that it has offered resident services, such as financial management, career counseling, employment skills training referrals and other assistance in job searches, health and nutrition information, after-school programs, computer training, and computer access.
5. Prior to the issuance of the first certificate of occupancy, the Applicant shall provide evidence to the Zoning Administrator that it has designed Wing A to comply with the equivalent of Enterprise Green Community Standards, and has designed Wing B to include no fewer than the minimum number of points necessary to be the equivalent of a LEED Silver designation. The Applicant shall not be required to register or to obtain the certification from the United States Green Building Council.
6. Prior to the issuance of a certificate of occupancy for the PUD, the Applicant shall enter into a First Source Employment Agreement with DOES, whereby the

Applicant shall use DOES as its first source for recruitment, referral, and placement of new hires for construction employees whose jobs are created by the PUD.

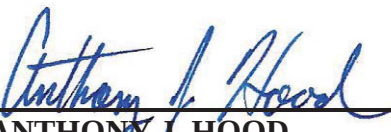
C. Miscellaneous

1. No building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia that is satisfactory to the Office of the Attorney General and the Zoning Division, Department of Consumer and Regulatory Affairs. Such covenant shall bind the Applicant and all successors in title to construct and use the PUD Site in accordance with this Order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
2. The PUD shall be valid for a period of two years from the effective date of Z.C. Order No. 14-08. Within such time, an application must be filed for a building permit for the construction of Wing A of the project as specified in 11 DCMR § 2409.1. Construction of Wing A of the project must commence within three years of the effective date of this Order. An Application must be filed for a building permit for the construction of Wing B of the project within two years of the date of issuance of the first certificate of occupancy for Wing A of the project. Construction of Wing B of the project must commence within three years of the date of issuance of the first certificate of occupancy for Wing A of the project.
3. 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, 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 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.

On October 27, 2014, upon the motion of Commissioner Miller, as seconded by Commissioner Turnbull, the Zoning Commission **APPROVED** the applications at the close of its public hearing 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 Vice Chairperson Cohen, as seconded by Chairman Hood, 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 § 2038, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on January 23, 2015.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING