

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. 14-09  
Z.C. Case No. 14-09  
QC 369, LLC  
(Consolidated Planned Unit Development and Related Map Amendment  
@ Square 369, Lots 40, 62, 65- 67, 801-805, 838, 839, 842, 848, 859, 878, and  
Portions of Two Public Alleys to be Closed)  
March 30, 2015

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on January 29, 2015, to consider an application for a consolidated planned unit development ("PUD") and related zoning map amendment filed by QC 369, LLC ("Applicant"). 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, Hearings, and Post-Hearing Filings**

1. On June 17, 2014, the Applicant filed an application with the Commission for consolidated review of a PUD and related map amendment to rezone portions of the property at the northwest corner of 9<sup>th</sup> and L Streets, N.W. (Square 369, Lots 40, 62, 65-67, 801-805, 838, 839, 842, 848, 859, 878, and parts of two public alleys to be closed) ("Property"). The Property is currently split-zoned, with the lots fronting on 9<sup>th</sup> Street in the DD/C-2-A Zone District and the remainder of the Property in the DD/C-2-C Zone District. Under the proposed map amendment, the majority of the 9<sup>th</sup> Street lots, for a depth of approximately 40 feet, would remain in the DD/C-2-A Zone District and the rest of the Property would be rezoned to DD/C-3-C.
2. The proposed project ("Project") contemplates the adaptive reuse of eight historic buildings to be incorporated into a new 12-story mixed-use development, consisting of two Marriott hotels with ground floor retail and service uses (Phase I) and a residential building (Phase II). The Applicant presently intends to construct both phases simultaneously, subject to market conditions. The hotels will consist of approximately 360,315 square feet of gross floor area and approximately 504 guest rooms (approximately 144 rooms at the Residence Inn and approximately 360 rooms at the

Courtyard by Marriott). The residential portion of the building will consist of approximately 222,507 square feet of gross floor area with approximately 203 units. The building is designed with underground parking spaces (including valet and vault spaces) on two levels that can accommodate approximately 255 vehicles. Approximately 149 parking spaces (including vault and valet spaces) will be devoted to the hotel use and approximately 106 parking spaces (including vault spaces) will be devoted to the residential use. The proposed project will have various building heights, with the new construction rising to a maximum height of 110 feet. The maximum proposed density for the Project is 8.23 floor area ratio (“FAR”).

3. By report dated July 18, 2014, the Office of Planning (“OP”) recommended that the application be set down for a hearing. At its public meeting held on July 28, 2014, the Commission voted to schedule a public hearing on the application.
4. The Applicant submitted a pre-hearing statement for the Project on August 7, 2014, and a hearing was timely scheduled for the matter on November 17, 2014. At the request of the Applicant, the hearing was rescheduled for January 29, 2015. A description of the proposed development and the notice of the rescheduled public hearing in this matter were published in the *D.C. Register* on September 26, 2014. The notice of rescheduled public hearing was mailed or emailed to all property owners within 200 feet of the Property as well as to Advisory Neighborhood Commission (“ANC”) 2F on September 25, 2014.
5. The parties to the case were the Applicant and ANC 2F, which was in support of the application.
6. The Commission convened a hearing on January 29, 2014, which was concluded that same evening. At the hearing, the Applicant presented four witnesses in support of its applications: Robert Knopf, Jr., Quadrangle Development on QC 369 LLC; C. Robert Neal, AIA, Cooper Carry TVS Architects; and Erwin Andres, Gorove/Slade Associates. Based upon their professional experience and qualifications, Mr. Neal was recognized as an expert in architecture and Mr. Andres as an expert in transportation engineering, and the Commission accepted his Transportation Impact Study (“TIS”) into the record. (Exhibit [“Ex.”] 50F.) The Commission also qualified Mr. Peter Green of TVS Design as an expert in architecture; Mr. Lindsley Williams, Holland & Knight LLP, as an expert in land use and planning; Mr. Eric Smart, Bolan Smart Associates, expert in real estate financial impacts; and Ms. Emily Eig, EHT Traceries, as an expert in architectural history and historic preservation. Expert reports submitted by Mr. Smart and Ms. Eig were also accepted into the record. (Ex. 50D, 50E.)
7. Stephen Gyor, Development Review Specialist at OP, and Anna Chamberlain of the District’s Department of Transportation (“DDOT”) testified in support of the application with certain comments and conditions.

8. On January 29, 2015, ANC 2F submitted its resolution to the record in support of the application. The Commission also received letters of support from Mr. Gregory O'Dell of DC Events, and the D.C. Preservation League, in support of the preservation component of the project. Both the Whitman Condominium and the Quincy Court Condominium Association initially submitted letters in opposition to the Project. Subsequently, the Whitman Condominium submitted a letter in support and the Quincy Court Condominium submitted a letter indicating that it no longer objected to the Project. Mr. Alex Padro and Rev. Arthur Williams, Emmaus Services for the Aging, appeared as persons in opposition to the Applicant's community contributions.
9. The record was closed at the conclusion of the hearing, except to receive additional submissions from the Applicant, as requested by the Commission, and responses thereto from the parties. The Commission also requested proposed findings of fact and conclusions of law from the parties.
10. At its public meeting held on February 23, 2015, the Commission took proposed action to approve with conditions the PUD and related map amendment. The Commission left the record open for a report from OP regarding the Project's proposed roof structures and whether they complied with the Zoning Regulations and the Height of Buildings Act of 1910.
11. On March 2, 2015, the Applicant submitted its list of proffers and draft conditions, and drawings showing revised roof structure setbacks for the roof top pool, the mechanical plinth space, and handrail. (Ex. 66.) On March 16, 2015, the Applicant submitted its final list of proffers and draft conditions. (Ex. 68.)
12. The application was referred to the National Capital Planning Commission ("NCPC") for review of any impacts on the federal interest under the Comprehensive Plan. By delegated action dated February 27, 2015, NCPC's Executive Director recommended that the application would not be inconsistent with the Comprehensive Plan for the National Capital. (Ex. 69.)
13. The Commission took final action to approve the PUD on March 30, 2015.

### **The Property and Surrounding Area**

14. The Property is located at the northwest corner of 9<sup>th</sup> and L Streets, N.W. and is comprised of Lots 40, 62, 65-67, 801- 805, 838, 842, 848, 859, and 878 in Square 369. The Property has a land area of 70,787 square feet. Square 369 is split-zoned, with the existing historic buildings fronting on 9<sup>th</sup> Street located in the Downtown Development Overlay (DD)/C-2-A Zone District, and the remaining western portion of the square located in the DD/C-2-C Zone District. The historic buildings, located on

Lots 65, 66, 801, 802, 838, 839, 942, 879, and 881, date from the period of significance for the Shaw Historic District (1833-1932).

15. The remainder of Square 369 primarily includes multifamily houses and condominiums, two and three story row dwellings with ground floor retail, and surface parking lots. Square 369 is bisected by a 15-foot wide public alley that runs north-south between L and M Streets. The square also includes several other east-west and north-south alley segments. Portions of the alleys would be closed to facilitate the proposed Project.
16. Surrounding squares have some mixed-use, higher density structures. To the east of the Property, on the east side of 9<sup>th</sup> Street, N.W., between Massachusetts Avenue and N Street N.W., is the Washington Convention Center; to the north of the property, zoned DD/C-2-A, are low-density commercial structures and a multifamily building; to the west of the Property is a multifamily building, zoned DD/C-2-C; and to the south of the property, across L Street, is the Marriott Marquis Hotel. The property is near four Metrorail stations (Mount Vernon Square-Convention Center, Gallery Place-Chinatown, Judiciary Square, and Union Station), and has access to Metrobus routes, the DC Circulator, and Capital Bikeshare.

### **Existing and Proposed Zoning**

17. The Property is split-zoned DD/C-2-C and DD/C-2-A, and is located within Housing Priority Area A, as that area is defined in § 1706.8 of the Zoning Regulations. In order to facilitate the proposed development of the Property, the Applicant seeks to modify the current zone designations for the majority of the Property from the DD/C-2-C and DD/C-2-A Zone Districts to the DD/C-3-C Zone District. The historic properties fronting 9<sup>th</sup> Street, N.W. will remain in the DD/C-2-A Zone District to an average depth of approximately 40 feet. The boundary line will follow the rear portions of the retained buildings.
18. The Downtown Development ("DD") Overlay is applied to the core of the Downtown area, including the Convention Center and Mount Vernon Square areas. The C-2-A zoning classification on the east portion of the Property is designed to provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District outside of the central core. (11 DCMR § 720.2.) The C-2-A Zone Districts permit development to medium proportions and accommodate a major portion of existing commercial strip developments. (11 DCMR §§720.4-5.) Buildings may be constructed to a height of 110 feet (unless a greater height is permitted under the 1910 Height Act), with a maximum density of 8.0 FAR. (11 DCMR §§ 1701.7; 1706.4.)
19. The C-2-C zoning classification on the western portion of the Property is designed to serve commercial and residential functions with relatively high densities and mixed uses. (11 DCMR § 720.9.) C-2-C Zone Districts are compact and located in or near the Central Employment Area. (11 DCMR § 720.11.) Buildings in the C-2-C Zone District

may be entirely residential or may be a mixture of commercial and residential uses. (11 DCMR § 720.12.)

20. The C-3-C Zone District permits medium-high density residential and mixed-use developments. (11 DCMR § 740.8.) Buildings in the C-3-C Zone District may be constructed to a maximum height of 90 feet, with no limitation on the number of stories, and a maximum density of 6.5 FAR. (11 DCMR §§ 770 and 771.) Buildings in the C-3-C Zone District may occupy 100% of the lot, but must provide a rear yard measuring 2.5 inches per foot of vertical height, but not less than 12 feet. ( 11 DCMR §§ 772, 774.) Corner lots may provide a court in lieu of a rear yard in the C-3-C Zone Districts.
21. Under both the PUD guidelines and the DD Overlay, the maximum building height permitted in the C-3-C Zone District is 130 feet , provided there is no conflict with the 1910 Height Act. (11 DCMR §§ 2405 and 1701.7.) In the DD/C-3-C Zone District, the matter of right density is 9.5 FAR, which may be devoted to all residential use or may include commercial or residential uses, provided at least 3.5 FAR is devoted to residential use. (11 DCMR §1706.5(a) and (b).) Based on the proposed split-zoning, the Property may be developed to a maximum aggregate density of 8.77 FAR; the Applicant proposes to construct the project to a maximum aggregate density of 8.23 FAR.

### **Description of the PUD Project**

22. The Applicant proposes to construct a new 12-story mixed use building at the Property with residential, hotel, and retail and service uses. The hotel uses will consist of a Residence Inn by Marriott and a Courtyard by Marriott. The Residence Inn will provide spacious studios and one and two-bedroom suites with rooms designed for extended-stay travelers with separate living and sleeping areas, kitchens, and work areas. This portion of the hotel will be located on the southeast corner of the Property, with the majority of the suites facing L Street to the south, and the remaining suites facing 9<sup>th</sup> Street to the east or into an interior courtyard. The Applicant proposes to provide approximately 144 guest rooms marketed as part of the Residence Inn, all of which will be located in new construction.
23. The Courtyard by Marriott will be located at the northeast portion of the Property and will be comprised primarily of one-bedroom units with two queen beds or one king-sized bed per guest room. This segment of the hotel will include approximately 360 hotel guest rooms facing, north, south, or west into a courtyard, or east toward 9<sup>th</sup> Street, N.W.
24. The project will provide a large lobby to accommodate the two different hotel types, both accessed from L Street as well as the corner of L and 9<sup>th</sup> streets, and through the historic buildings on 9<sup>th</sup>. The ground floor of the hotel will also contain a restaurant and bar that will occupy four of the six ground floors of the historic buildings on 9<sup>th</sup> Street.

These spaces will operate as public food and beverage outlets open to the public as well as for the use of all hotel guests. Additionally, the ground floor will have a business center and back of house hotel uses. The Residence Inn will provide a separate hearth and breakfast area/buffet for guests, as well as a small market. These will be oriented toward the internal courtyard as they will have access restricted to Residence Inn guests. The ground floor will also include retail space accessed from 9<sup>th</sup> Street, N.W. This retail space as well as the public bar and restaurant will all be located in the historic 9<sup>th</sup> Street structures, which will be renovated and incorporated into the new construction.

25. The second floor of the hotel will include seven separate meeting rooms, three hospitality suites, a boardroom, pre-function, and back of house spaces. The boardroom, three hospitality suites, and three meeting rooms will be located in historic structures. Floors 3-12 will house the hotel guest rooms. An internal court is located in the center of the building and will include turf with lounge seating, wood plank pavers and benches, landscaped areas, a fire pit, a water feature, and an optional yoga deck. The building will also incorporate an outdoor terrace at the fourth level of the hotel, which will provide lounge seating nooks and benches, ornamental grasses and perennial banding, wood plank paving, and a water feature, for use and enjoyment by hotel guests. Rooftop amenities will be provided, as well. The overall streetscape at the ground level will incorporate linear paving and lighting, landscaped areas with ornamental fencing, new and existing street trees, lighted bollards, and new pedestrian-oriented sidewalk furniture.
26. Below-grade parking for hotel guests will be accessed from the new access easement from 9<sup>th</sup> Street and will accommodate approximately 149 parking spaces (including vault and valet spaces) on two levels. Loading will be provided on the ground level, accessed from either the same alley or the north-south alley at M Street.
27. The residential portion of the building is located on the western side of the Property. The new apartment building will rise to a height of 110 feet and will include approximately 203 units comprised of studios, one- and two-bedroom units on floors 2-12. The existing 52-foot tall brick apartment building facing south onto L Street (the "Lurgan Building") will be retained, preserved and converted into 18 residential units, with two units in the basement, two units on the ground floor, and four units on floors 2-4. The ground floor of the main residential portion of the building will include a lobby accessed from L Street, an exercise room, and a mail room. Below-grade residential parking will be accessed from the alley to the west of the Property and will contain approximately 105 parking spaces (including vault spaces) for residential use.
28. The project shall be designed to meet a LEED-Silver rating, and the Applicant will register to obtain the certification from the United States Green Building Council.

## **Historic Preservation**

29. The project calls for demolition of 913 L Street, retention and relocation of the front half of 911 L Street, retention of the Lurgan Building on L Street, and removal of the rear portions of the six buildings along 9<sup>th</sup> Street. The proposal includes many design aspects that successfully integrate the historic structures with the new construction, including significant setbacks along 9<sup>th</sup> Street.

## **Zoning Flexibility Requested**

30. The Applicant requested flexibility to allow a roof structure not meeting the one-to-one setback requirements of § 770.6(b) in order to accommodate the necessary mechanical equipment for the building. Due to historic preservation constraints, the hotel portion of the new construction is set back more than 47 feet from 9<sup>th</sup> Street and has a very narrow penthouse. If the Applicant were required to set back the penthouse on both the east and west sides of the hotel, only 27 feet would remain to house the cooling towers and other mechanical equipment, which is inadequate for the hotel needs. The equipment cannot be shifted to the north bar of the penthouse along the alley because it will block key rooftop views of the residents of the adjacent Whitman Condominium. The Whitman condominium supported the PUD partly because key viewsheds would be maintained. In response to comments raised by the Commission during proposed action on the PUD, the Applicant successfully set back the penthouse from all other exterior walls of the building and courtyard; only in this one area is the penthouse not set back. Based on the sightlines submitted to the record, this portion of the penthouse will be only slightly perceptible from the street, but for the most part will be blocked by the Flemish gable of the Lurgan Building. Consequently, the Commission finds this minor deviation from the setback requirements to be appropriate.
31. The Applicant also requested flexibility to allow certain rooftop safety guardrails not to be set back the full distance equal to their height at the west wall of the residential building. The guardrails are 42 inches in height above the mechanical plinth, which is three feet, 11 inches, in height, thus necessitating a setback of 7.4 feet. (See Views 3 and 4 on Sheet A-216, Ex. 66B.) A portion of the guardrail is located along an interior lot line and thus does require a setback. The north portion of the guardrail, however, overlooks the court area created by the new access easement, as shown on the supplemental drawings submitted after proposed action, and does not require a setback. Because guardrails are not governed by the 1910 Height Act and the proposed railings are not visible at any point from the street, the Commission also finds the relief to be appropriate.
32. The Commission likewise finds the deviations requested by the Applicant from the court requirements to be acceptable in order to allow the Applicant to integrate the new construction around the historic structures. The area and width of the existing nonconforming interior court at the Lurgan Building may be reduced to accommodate an air intake shaft of the ground floor. Similarly, the width of the open court above the

retained and relocated 911 L Street, N.W., may be reduced to create an appropriate backdrop for this historic structure. Finally, minor deviations from the court requirements in the area above the alley easements to be dedicated for public access on the west of the Property are necessary for the enhanced circulation of the Property and will not compromise the light and air of residents.

33. The Applicant also sought relief from the parking requirements. Under § 2120.3, approximately 139 spaces are required for the hotel uses, and approximately 45 spaces are required for the residential uses, generating a total requirement for 185 parking spaces. The Applicant proposes to provide 191 zoning compliant spaces, 99 of which will be devoted to hotel uses and 92 of which will be devoted to residential uses. Additionally, the Applicant will provide 50 vault and valet spaces for the hotel, and 14 vault and valet spaces for the residential uses. The Commission finds the parking ratios for each use to be adequate and acceptable.
34. Finally, the Applicant requested flexibility to reduce the number of required loading facilities and instead provide two berths at 45 feet deep and a service/delivery space at 25 feet deep for the hotel; and two loading berths at 30 feet deep for the residential building. Based on the expert report of the transportation engineer and the DDOT report, the Commission finds the deviation to be acceptable.
35. The Applicant also requests flexibility in the following areas:
  - a. To increase the interior area of the rooftop penthouses devoted to accessory communal recreational space and fitness center to 36.5% of the total rooftop recreation space;
  - b. To provide a range in the number of residential and hotel units of plus or minus 10% from the number shown on the Plans;
  - c. To vary the sustainable design features of the building, provided the total number of LEED points achievable for the project does not decrease below the LEED Silver rating under the LEED 2009 for New Construction and Major Renovations rating standards;
  - d. 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;
  - e. To vary the final selection of the exterior building materials and public space 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 refinements to exterior details and dimensions, including

curtainwall 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, to comport with final design comments from the Historic Preservation Review Board, the DDOT Public Space Committee, or that are otherwise necessary to obtain a final building permit;

- f. To vary the selection of plantings in the landscape plan depending on seasonal availability within a range and quality as proposed in the plans;
- g. To vary the final selection of all exterior signage on the building; and
- h. 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.

### **Project Benefits and Amenities**

- 36. Urban Design, Architecture, Landscaping and Open Space - § 2403.9(a): The project implements a number of urban design and architectural best practices, which will contribute to the ongoing development of the Mount Vernon Square neighborhood as a major mixed-use district within the city. The construction of a new building with hotel and residential uses will provide a formal presence at the corner of 9<sup>th</sup> and L Streets, N.W. The architectural design and elements of the project will reflect an appropriate level of modernity while respecting the traditional Washington, D.C. architecture and highlighting the existing historic structures. The building façades will have articulations that break up the massing of the building, similar to the Convention Center, so as to not overwhelm the existing urban scale and aesthetic. High-quality exterior building materials will enhance the urban building fabric, and high-quality landscape materials, patterns, and pedestrian-oriented lighting and street fixtures will improve the streetscape surrounding the project. Glass exposure at the street level, coupled with the preservation of the existing historic structures along 9<sup>th</sup> Street, N.W., will animate the streets and enliven the area with new residents and visitors to the Mount Vernon Square/Shaw neighborhood. All four elevations of the building will be fully articulated in deference to the historic district and adjacent residents within the square.
- 37. Site Planning and Efficient and Economical Land Utilization - § 2403.9(b): The design of the proposed PUD provides several examples of exemplary site planning and efficient and economical land utilization. The building will incorporate a ground floor interior courtyard, which will include artificial turf with lounge seating, wood plank pavers and benches, landscaped areas with a green wall, a fire pit, a water feature, and an optional yoga deck. The building will provide an outdoor terrace at the fourth level of the hotel, which will include lounge seating nooks and benches, ornamental grasses and perennial banding, wood plank paving, and a water feature. The residential portion of the

building will have a roof-top communal recreation space and pool deck with a grill area, lounge seating, a fire pit, and chess board turf. The overall streetscape at the ground level will incorporate linear paving and lighting, landscaped areas with ornamental fencing, new and existing street trees, and lighted bollards. Furthermore, traffic impacts will be mitigated, since access to the parking garage and loading facilities will be located from public alleys to the north and west of the Property. Hotel drop off and pickup, including buses and taxis will be accommodated in a layby located on L Street, N.W., thus minimizing conflict on 9<sup>th</sup> Street, N.W.

38. **Historic Preservation of Private or Public Structures, Places, or Parks – § 2403.9(d):** The Applicant's Project seamlessly integrates eight existing historic structures into the design and program of the new construction. The PUD will highlight the historic nature of the existing structures, as well as their street presence, and will preserve and protect the salvageable portions of the deteriorated historic buildings.
39. **Housing and Affordable Housing – § 2403.9(f):** The Applicant proposes to provide 222,027 square feet of gross floor area devoted to residential uses comprised of 203 new residential units, including studios, one- and two- bedroom apartments. The Project would be located in the Mount Vernon Square neighborhood, which is a Housing Priority Area as provided by § 1706.8. The Project's residential component would help accomplish the balanced mixture of uses essential to a "Living Downtown". Further, the historic Lurgan apartment building would be retained and used for residential units. Additionally, although properties in the DD Overlay are specifically exempt from the Inclusionary Zoning requirements of Chapter 26, the Applicant has nevertheless committed to include an affordable housing component in the project. For a period of five years, or longer as specified herein, the Applicant shall provide a total of four units in the Lurgan Apartment Building at 919 L Street, N.W. to households earning no more than 80% of the area mean income for the Washington Metropolitan Statistical Area. The units designated for affordable housing shall be two one-bedroom units and two studio units (L-001 through L-004). The five-year period will begin upon the issuance of the certificate of occupancy for the Lurgan Building. At the conclusion of the five-year period, a qualifying tenant in possession of the affordable unit may continue occupancy at the affordable rate until the tenant vacates the unit or is no longer able to meet its rent or lease obligations. The affordability rate will be based on a qualifying household devoting no more than 30% of its income to rent.
40. **Employment and Training Opportunities.** The project is expected to create 170 full time permanent jobs and 450 full-time temporary construction jobs. (Ex. 50E.) The Applicant will seek qualified applicants residing in the District of Columbia from the Department of Employment Services ("DOES") for the temporary construction jobs and permanent hotel jobs created the PUD.

41. Use of Special Value to the Neighborhood or the District as a Whole - § 2403.9(i): The proposed PUD will be of special value to the District by (i) providing lodging and conference facilities and other ancillary meeting space to support the Washington Convention Center, (ii) providing additional lodging options that support the District's hospitality and tourism industry, (iii) constructing a substantial amount of new, high-density housing, and (iv) preserving and incorporating eight historic structures into the design and program of the proposed building. The project also has special value to the Mount Vernon Square/Shaw neighborhood because it will replace an underutilized site and abandoned buildings with an exemplary, well-designed convention hotel and apartment house that promotes the continued redevelopment of this segment of the District. In addition, the restaurant and bar at the ground floor of the hotel will provide services to the neighborhood and enliven the streetscape.
42. Financial Contributions to Community Organizations. The Applicant will make the following financial contributions to community organizations to support efforts to enhance the neighborhood and residential activities:
  - a. *Friends of Gompers Park* – The Applicant will contribute \$20,000 to this organization to help fund the following improvements to Gompers Park located at 10<sup>th</sup> and L Streets, N.W.: the refurbishment of the grass turf (removal of existing turf, regrading for property drainage, installation of new sod and maintenance), and refurbishment of the flower beds (recreate historic flower beds, amend soil, install metal bed edging, install annuals);
  - b. *Friends of 10<sup>th</sup> Street Park* – The Applicant will contribute \$20,000 to this organization, to help fund the following improvements to 10<sup>th</sup> Street Park located in Square 369: park maintenance and new plantings, community bulletin board, additional seating, repair/replacement of light bollard, additional seating, and improvements to soft-play surface; and
  - c. *Thomson Elementary Parent-Teacher Association* – The Applicant will contribute \$5,000 to this organization for the purchase of Imagination Playground Blocks, a nationally recognized educational tool for igniting cognitive development through unstructured play, for use by students at Thomson Elementary School, 1200 L Street, N.W.
43. The Applicant also stated that it would abide by the construction management plan submitted into the record. (Ex. 63C.)
44. The Commission finds that the benefits and amenities package is commensurate with the level of flexibility requested. Each proffered category is at a minimum acceptable, but the benefits and amenities are particularly superior in the categories of urban design, architecture, and historic preservation.

45. The Commission further finds that the impacts of the project are favorable, capable of being mitigated or acceptable, in compliance with § 2403 of the PUD regulations. The construction of the new hotel and residential building, which incorporates eight historic buildings into the design, provides efficient use of land compatible with uses of the surrounding property. The project does not cause any adverse traffic impacts and provides sufficient parking to meet demand, as confirmed by the reports of Gorove/Slade Associates and DDOT. The proposed height is consistent with other existing buildings in the vicinity. The conceptual approval from the Historic Preservation Review Board assures that the design will be of high quality and not incompatible with the character of the Shaw Historic District.

## Comprehensive Plan

46. The Future Land Use Map of the Comprehensive Plan designates the Property for High Density Residential and High Density Commercial land uses. The proposed development is consistent with that designation. The Property is designated as a Land Use Change Area and a Neighborhood Conservation Area on the District of Columbia Comprehensive Plan Generalized Policy Map. The proposed development furthers numerous policies and objectives of the Comprehensive Plan, as discussed below.
47. Policy H-1.1.3 - Balanced Growth - The project supports Policy H-1.1.3 by creating housing on vacant and underutilized land in the city and by helping to ensure that the city meets its long-term housing needs, including the need for higher-density housing.
48. Policy H-1.1.4 - Mixed Use Development - In accordance with Policy H-1.1.4, the project will help to promote mixed use development, including housing, on commercially zoned land in a neighborhood commercial center that is well served by public transportation.
49. Policy H-1.1.6 - Housing in the Central City - The PUD will support this policy by absorbing a substantial component of the demand for new high-density housing in Central Washington and by creating a mixed-use neighborhood to conserve single-family residential neighborhoods throughout the city. Mixed income, higher density downtown housing will create vibrant street life to support the restaurants, retail, entertainment, and other amenities that are desired and needed in the heart of the city.
50. Policy ED 1.1.1 - Core Industries - The PUD will support Policy ED 1.1.1 by supporting and growing the District's core industries, including hospitality.
51. Policy ED 2.3.1 - Growing the Hospitality Industry - Consistent with Policy ED 2.3.1, the PUD will help to develop an increasingly robust tourism and convention industry. The hotel will allow more visitors to stay overnight in the District rather than in suburban hotels, and to stay for longer periods of time. The Property will become a

preferred base for tourists to explore the city's attractions, as well as a preferred overnight base for visiting regional attractions.

52. *Policy ED 2.3.4 - Lodging and Accommodation* - The PUD will support Policy ED 2.3.4 by developing two new hotel typologies serving travelers of varying needs, tastes, and budgets. This policy also encourages new hotels within Central Washington.
53. *Policy HP 2.4.1 - Rehabilitation of Historic Structures* - The PUD promotes Policy HP 2.4.1 by preserving the eight historic buildings through an effective design review process. The Applicant will apply design guidelines without stifling creativity, allowing for a new development project that achieves an appropriate balance between restoration and adaptation that is suitable for the Property.
54. *Policy HP 2.4.3 - Compatible Development* - Consistent with this policy, the Applicant will preserve the important historic features of the existing structures on the Property while constructing compatible new infill development. The Applicant will preserve the established form of development, while ensuring that new construction, repair, maintenance, and improvements are in scale with and respect the historic context through sensitive siting and design and the appropriate use of materials and architectural detail.
55. *Policy HP 2.4.5 - Protecting Historic Building Integrity* - The PUD supports this goal by protecting the historic buildings on the Property from demolition and protecting their integrity as whole buildings. The project will not incorporate treatments such as facadism or relocation. The project will also remedy the deteriorated condition that currently characterizes these resources.
56. *Near Northwest Area Element*. The PUD is consistent with many of the policies of the Near Northwest Area Element. For example, *Policy NNW 1.1.4 - Neighborhood Commercial Revitalization*, calls for the improvement of the neighborhood shopping areas along 9<sup>th</sup> Street, N.W. (among other streets), and *Policy NNW 2.1.5 - 7<sup>th</sup> and 9<sup>th</sup> Street Corridors*, encourages the location of retail development within the Shaw/Convention Center Area in a manner that best serves residents, creates the best environment for businesses to succeed, and uses land already zoned for commercial uses. The 7<sup>th</sup> and 9<sup>th</sup> Street corridors should attract convention-goers, residents, and visitors, and should include both new and existing businesses. Consistent with these goals, the new PUD will include residential, hotel, and retail space that will improve the neighborhood shopping area along 9<sup>th</sup> Street, N.W. and improve the pedestrian experience. The PUD will serve residents within the building and in the surrounding neighborhood, will create an excellent environment for businesses to succeed, and will attract all types of residents and visitors to the area.

### **Office of Planning Report**

57. By report dated January 19, 2015, OP recommended approval of the proposed PUD and related Zoning Map amendment. In its report, OP stated that the proposal would particularly further the Land Use, Housing, Economic Development, Environmental Protection, Historic Preservation, and Urban Design Citywide Elements, as well as the Near Northwest Area Elements and policies.
58. By report dated March 24, 2015, OP commented on the changes the Applicant made to the design of the Project's roof structures. (Ex. 70.) The report stated that OP had reviewed the Project's roof structures as they were revised by the Applicant after the Commission took proposed action, consulted with the Zoning Administrator, and concluded that the revised roof structures (shown in Ex. 66B) were consistent with the Zoning Regulations and the Height of Buildings Act of 1910.

### **DDOT Report**

59. By report dated January 20, 2015, DDOT stated it had no objection to the Applicant's request for a PUD and related map amendment provided the following conditions were met: (i) install a minimum of 67 long-term and 10 short-term bicycle spaces for the residential building; (ii) install a minimum of 15 long-term spaces and six short-term bicycle racks for the proposed hotel and retail uses; (iii) install a Transit Screen in each residential and hotel lobby; (iv) become a Hotel Partner or Corporate Member of Capital Bikeshare; (v) provide a one-time Capital Bikeshare membership or carshare membership at initial lease and/or sale of each residential unit; (vi) unbundle parking costs from the price of all commercial and residential leases; and (vii) provide shower and changing facilities for hotel staff. The Applicant agreed to these additional measures at the hearing.

### **ANC 2F Report**

60. By report dated January 29, 2015, ANC 2F recommended approval of the PUD and related map amendment. It noted that the proposed development provides important public benefits and the impacts of the project on the surrounding area are all either favorable, to be mitigated, or acceptable given the quality of public benefits in the project. In addition to the other community benefits identified in the application, the ANC supported the specific community benefits that included a \$20,000 donation to Friends of Gompers Park for park maintenance and improvement, \$20,000 to Friends of Gompers Park for park maintenance and improvement, and \$5,000 to Thomson Elementary Parent-Teacher Association for student equipment.

### **Persons in Opposition**

61. Alex Padro of Shaw Main Streets testified in opposition to the Applicant's proffered benefits, stating that the Applicant is not to be trusted in its present commitments

because a related entity of the Applicant failed to meet its obligations under the PUD for the Marriott Marquis in Square 370 immediately to the south. According to Mr. Padro, the Applicant's related entity did not make its promised contributions to several non-profit organizations in Z.C. Case No. 08-13. The Applicant directly refuted these claims and provided evidence in the record demonstrating that related entity made the full \$50,000 contribution as required under the conditions of Z.C. Order No. 08-13. (Ex. 63F.) The Commission credits the testimony and evidence of the Applicant, finds that all required contributions were made, and find that there is no evidence in the record to suggest that the Applicant or any related entity has failed to honor its commitments.

### **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, 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 project with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
4. The PUD complies with the development standards of the Zoning Regulations. The hotel, retail, and residential uses for this project are appropriate for the Property. The impact of the Project on the surrounding area and the operation of city services is acceptable, given the quality of the public benefits in the project. Accordingly, the project should be approved.
5. The application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
6. The Applicant's request for flexibility from the Zoning Regulations is not inconsistent with the Comprehensive Plan. The Commission also concludes that the project benefits and amenities are reasonable trade-offs for the requested development flexibility in accordance with §§ 2400.3 and 2400.4.

7. 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 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.
8. The proposal to rezone the Property from the DD/C-2-A and DD/C-2-C to the DD/C-2-A and DD/C-3-C Zone District is not inconsistent with the Property's designation on the Future Land Use Map and the Generalized Policy Map.
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 has carefully considered the ANC 2F'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.

## **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 consolidated review and approval of a planned unit development and related map amendment from the DD/C-2-A and DD/C-2-C Zone Districts to the DD/C-2-A and DD/C-3-C Zone District for the Property located at Lots 40, 62, 65- 67, 801-805, 838, 839, 842, 848, 859, 878, and portions of two public alleys to be closed in Square 369, as delineated on the rezoning plan attached to the drawings as Sheet A-004. 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 plans and materials submitted by the Applicant, dated January 9, 2015, and marked as Exhibit 50A in the record, as supplemented by Exhibits 59A, 63A, and 66B ("Plans"), and as modified by the guidelines, conditions and standards of this Order.

2. In accordance with the plans, the PUD shall be a mixed-used project consisting of approximately 582,822 square feet of gross floor area. Approximately 360,315 square feet of gross floor area will be devoted to hotels with accessory retail/service uses, and approximately 222,507 square feet of gross floor area will be devoted to residential uses. The PUD shall have a maximum aggregate density of 8.23 FAR and a maximum height of 110 feet.
3. The hotel component of the PUD shall provide 99 zoning-compliant vehicle parking spaces, and may provide an additional 50 valet and vault spaces, as shown on Exhibits 59A and 59B (Sheets A-003A, A-201 and A-202). The residential component of the PUD shall provide 92 zoning-compliant vehicle parking spaces, and may provide an additional 14 valet and vault spaces, as shown on as shown on Exhibits 59A and 59B (Sheets A-003A, A-201 and A-202).
4. The Applicant shall have zoning flexibility with the PUD in the following areas:
  - a. To vary the number, location and arrangement of parking spaces shown on Exhibits 59A and 59B, provided that parking shall be provided for no fewer than 185 vehicles;
  - b. To reduce the required amount of loading facilities and instead provide two berths at 45 feet deep and a service/delivery space at 25 feet deep for the hotel; and two loading berths at 30 feet deep for the residential building;
  - c. To reduce the width and area requirements for the courts located within the Lurgan Building, above the relocated historic building known as 911 L Street, and along the western property line above the public easement area;
  - d. To set back the mechanical penthouses and rooftop safety railings a distance less than their height, all as shown on Exhibit 66B;
  - e. To increase the interior area of the rooftop penthouses devoted to accessory communal recreational space and fitness center to 36.5% of the total rooftop recreation space;
  - f. To provide a range in the number of residential and hotel units of plus or minus 10% from the number shown on the Plans;
  - g. To vary the sustainable design features of the building, provided the total number of LEED points achievable for the project does not decrease below the LEED Silver rating under the LEED 2009 for New Construction and

Major Renovations rating standards, and the Applicant will register to obtain the LEED Silver certification from the United States Green Building Council;

- h. 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;
- i. To vary the final selection of the exterior building materials and public space 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 refinements to exterior details and dimensions, including curtainwall 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, to comport with final design comments from the Historic Preservation Review Board, the DDOT Public Space Committee, or that are otherwise necessary to obtain a final building permit;
- j. To vary the selection of plantings in the landscape plan depending on seasonal availability within a range and quality as proposed in the plans;
- k. To vary the final selection of all exterior signage on the building; and
- l. 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.

**B. Public Benefits**

- 1. Historic Preservation. The Applicant shall retain and rehabilitate eight of the nine historic buildings on the Property, consistent with the approved Plans.
- 2. Affordable Housing. **For a period of five years**, the Applicant shall reserve a total of four units in the Lurgan Apartment Building at 919 L Street, N.W. to households of one or more individuals with a total annual income adjusted for household size equal to between 51% and 80% of the Washington Metropolitan Statistical Area median. The units designated for affordable housing shall be two one-bedroom units and two studio units (L-001 through L-004). **The five-year period will begin upon the issuance of the certificate of occupancy for the Lurgan Building.** At the conclusion of the five-year period, a qualifying tenant in possession of the affordable unit may continue occupancy at the affordable rate until the tenant vacates the unit or

is no longer able to meet its rent or lease obligations. The affordability rate will be based on a qualifying household devoting no more than 30% of its income to rent. The Zoning Administrator shall not approve an application for a certificate of occupancy for the PUD unless the Applicant has executed monitoring and enforcement documents with the District of Columbia, consistent with § 2409.10 of the regulations.

3. Transportation Demand Management ("TDM") Measures. **Prior to issuance of the certificate of occupancy for the hotel or residential building**, the Applicant shall implement the following TDM measures at the PUD, as applicable to the separate uses:
  - a. Identify a TDM Leader, who will print materials related to local transportation alternatives available to residents and employees upon request and at move-in for new tenants;
  - b. Install a minimum of 67 long-term and 10 short-term bicycle spaces for the residential building;
  - c. Install a minimum of 15 long-term spaces and six short-term bicycle racks for the proposed hotel and retail uses;
  - d. Install a transit screen in each residential and hotel lobby;
  - e. Dedicate one space on site for a car-sharing services with right of first refusal;
  - f. Become a Hotel Partner or Corporate Member of Capital Bikeshare;
  - g. Provide a one-time Capital Bikeshare membership or carshare membership for the first lease and/or sale of each residential unit;
  - h. Unbundle parking costs from the price of all commercial and residential leases; and
  - i. Provide shower and changing facilities for hotel staff.
4. LEED Qualification: The PUD shall be designed to meet a LEED-Silver rating, and the Applicant shall register to obtain the certification from the United States Green Building Council.
5. Contributions to Community Organizations: **Prior to issuance of the building permit**, the Applicant shall contribute funds to the following community organizations to support their efforts as described below. The Applicant shall provide proof to the Zoning Administrator that the items or services funded have been or are being provided in order to obtain the building permit:
  - a. *Friends of Gompers Park* – The Applicant shall contribute \$20,000 to this organization to help fund the following improvements to Gompers Park located at 10<sup>th</sup> and L Streets, N.W.: the refurbishment of the grass turf (removal of existing turf, regrading for property drainage, installation of new sod and maintenance),

and refurbishment of the flower beds (recreate historic flower beds, amend soil, install metal bed edging, install annuals);

- b. *Friends of 10<sup>th</sup> Street Park* – The Applicant shall contribute \$20,000 to this organization, to help fund the following improvements 10<sup>th</sup> Street Park located in Square 369: park maintenance and new plantings, community bulletin board, additional seating, repair/replacement of light bollard, additional seating, and improvements to soft-play surface; and
- c. *Thomson Elementary Parent-Teacher Association* – The Applicant shall contribute \$5,000 to this organization for the purchase of Imagination Playground Blocks, a nationally recognized educational tool for igniting cognitive development through unstructured play, for use by students at Thomson Elementary School, 1200 L Street, N.W.

6. Employment for District Residents. The Applicant will seek qualified applicants residing in the District from the Department of Employment Services (“DOES”) for the temporary construction jobs and permanent hotel jobs created the PUD. **Prior to issuance of the certificate of occupancy for the hotel or residential portion of the building**, the Applicant shall provide evidence to the Zoning Administrator of its efforts to employ District residents.

**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 of the Department of Consumer and Regulatory Affairs. Such covenant shall bind the Applicant and all successors in title to construct and use the property 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 Zoning Commission Order No. 14-09. Within such time, an application must be filed for a building permit for the construction of the project as specified in 11 DCMR § 2409.1. Construction of the project must commence within three years of the effective date of Zoning Commission Order No. 14-09. The Applicant shall have the right to proceed with matter-of-right development at its election.
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

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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. The failure or refusal of the Applicant 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 February 23, 2015, upon the motion of Chairman Hood, as seconded by Commissioner Miller, the Commission approved the application at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

On March 30, 2015, upon the motion of Commissioner, as seconded by Chairman Hood, the Commission **ADOPTED** this Order at its public meeting by a vote of **4-1-0** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt; Marcie I. Cohen, opposed).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the D.C. Register; that is on May 1, 2015.



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ANTHONY J. HOOD  
CHAIRMAN  
ZONING COMMISSION



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SARA BARDIN  
DIRECTOR  
OFFICE OF ZONING