

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 14-21
Z.C. Case No. 14-21
BARRY PLACE PARTNERS, LLC
(Consolidated PUD and Related Map Amendment @
Square 2882, Lots 742-769, 1034, 1038, and 1039)
June 29, 2015

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on May 21, 2015, to consider an application for a consolidated planned unit development ("PUD") and related Zoning Map amendment filed by Barry Place Partners, 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 Applications, Parties, Hearings, and Post-Hearing Filings

1. On November 7, 2014, the Applicant filed an application with the Commission for consolidated review of a PUD and a related Zoning Map amendment from the R-5-B Zone District to the C-2-B Zone District for the approximately 1.3-acre parcel located at the northeast corner of the intersection of Sherman Avenue and Barry Place, N.W., which is more particularly described as Lots 742-769, 1034, 1038, and 1039, and also includes a portion of a public alley to be closed in Square 2882 ("Subject Property").
2. The Applicant proposes to redevelop the Subject Property with a six-story building that has ground floor commercial/retail use and residential units both at grade and five stories above. The project will have approximately 237,455 square feet of residential use generating approximately 319 dwelling units and approximately 11,517 square feet of commercial/retail uses primarily fronting on Sherman Avenue. The density for the project will be approximately 5.0 floor area ratio ("FAR"), and the maximum building height will be 80 feet.
3. By report dated December 31, 2014, the District of Columbia Office of Planning ("OP") recommended that the application be set down for a public hearing. (Exhibit ["Ex."] 23.)

At its public meeting held on January 12, 2015, the Commission voted to schedule a public hearing on the application.

4. The Applicant submitted its prehearing statement for the application on March 2, 2015 and a hearing was timely scheduled for the matter for May 21, 2015. (Ex. 26.) A description of the proposed development and the notice of the public hearing in this matter were published in the *D.C. Register* on March 27, 2015. (Ex. 29.) The notice of public hearing was mailed to all owners of property located within 200 feet of the Subject Property and to Advisory Neighborhood Commission (“ANC”) 1B on March 19, 2015. (Ex. 31.)
5. At its regularly scheduled public meeting on March 10, 2015, for which notice was properly given and a quorum was present, ANC 1B voted 10-0 to support the application. (Ex. 32.)
6. The Applicant also presented the application to ANC 5E, which, at its regularly scheduled public meeting on March 17, 2015, for which notice was properly given and a quorum was present, voted 9-0 to support the application. (Ex. 34C.)
7. On May 1, 2015, the Applicant submitted a supplemental prehearing statement that included the following materials: (i) updated architectural drawings for the PUD with a modified color scheme; (ii) letters of support from ANC 1B and ANC 5E; and (iii) an updated list of the proposed public benefits and project amenities. (Ex. 34-34C.)
8. On May 6, 2015, the District Department of the Environment (“DDOE”) submitted a report that summarized DDOE’s comments on the development and provided guidance on regulations and areas where the Applicant could exceed existing guidelines as a public benefit or amenity for the project. (Ex. 35.)
9. On May 11, 2015, OP submitted a report to the Commission recommending approval of the application and the requested areas of zoning flexibility, subject to the Applicant providing details regarding the job training proffered in connection with the PUD and the extent and value of the renovations for the community rooms at the LeDroit Park Apartments and the Garfield Terrace Apartments. (Ex. 36.)
10. On May 11, 2015, the District Department of Transportation (“DDOT”) submitted a report finding no objection to the application, subject to the conditions listed on page 2 of its report. (Ex. 37.)
11. The parties to the case were the Applicant and ANC 1B.

12. The Commission held a public hearing on the application on May 21, 2015. At the hearing, Charles Frazier, the developer's representative, and Stephen Gresham of Niles Bolton Associates, the project architect, testified on behalf of the Applicant. Ms. Jami Milanovich from JM Wells Associates, testified as the transportation consultant for the project. Ms. Maybelle Bennett, the Director of the Howard Community Advisory Council, also addressed the Commission.
13. At the public hearing, the Applicant submitted the following: (i) a letter from the District of Columbia Housing Authority ("DCHA") accepting the Applicant's proffer of proposed improvements to the community rooms at LeDroit Park Apartments and Garfield Terrace Apartments; (ii) a matrix and plans for the Inclusionary Zoning ("IZ") units and affordable units reserved for Howard University; and (iii) a list of proposed conditions for the approval of the PUD. (Ex. 40, 41, 42.)
14. OP and DDOT testified at the hearing. They were supportive of the application, subject to the conditions listed in their respective reports.
15. No individuals testified in support of the application at the public hearing. However, the record includes letters of support from the following community organizations: (i) Pleasant Plains Civic Association; (ii) Georgia Avenue Community Development Task Force; (iii) LeDroit Park Civic Association; and (iv) Bloomingdale Civic Association. (Ex. 26D-26G.)
16. The record was closed at the conclusion of the public hearing, except to receive additional information from the Applicant as requested by the Commission, and the Commission took proposed action to approve the application. The proposed action was referred to the National Capital Planning Commission ("NCPC") on May 26, 2015, pursuant to § 492 of the Home Rule Act.
17. On May 28, 2015, the Applicant submitted its draft list of final proffers and draft conditions required by 11 DCMR § 2403.16. (Ex. 46.)
18. On June 3, 2015, the Applicant submitted a letter to the Commission requesting a revised filing deadline for the post-hearing submissions. (Ex. 47.) The request was granted by the Commission.
19. The Executive Director of NCPC, by delegated action dated June 5, 2015, 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. (Ex. 48.)

20. On June 17, 2015, DDOT submitted a supplemental report responding to the Applicant's post-hearing submission. The report stated that the concept plan submitted with the Applicant's post-hearing submission addresses the conditions stated in DDOT's previous report.
21. The Commission took final action to approve the PUD on June 29, 2105.

The PUD Site and Surrounding Area

22. The Subject Property is located at the northeast corner of the intersection of Sherman Avenue and Barry Place, N.W. (Lots 742-769, 1034, 1038, and 1039 and a portion of a public alley to be closed in Square 2882). To the north of the Subject Property is a surface parking lot owned by Howard University; to the south are the Howard Plaza Towers; to the west are the Garfield Terrace Apartments; and to the east is the Banneker Recreation Center.
23. The Subject Property is presently improved with a vacant warehouse building that once housed a refrigeration supply company, six row dwellings along Sherman Avenue (five of which are vacant), and a surface parking lot for Howard University that extends from 9th Street to Sherman Avenue. The Applicant proposes to raze the existing structures in connection with redevelopment of the Subject Property.
24. The Subject Property is designated in the mixed-use Medium-Density Residential/ Medium-Density Commercial land use category on the District of Columbia Comprehensive Plan Future Land Use Map, for which C-2-B is a corresponding zone district. The Subject Property is located in the Howard University Town Center Land Use Change Area on the District of Columbia Comprehensive Plan Generalized Policy Map.

The Applicant

25. The Applicant is a partnership between Gateway Investment Partners, the Refrigeration Supply Company, and Ambling University Development Group ("Ambling"). Ambling is a national leader in apartment developments with experience that includes market rate, affordable, and student housing. Its core business includes 63 campus developments and over 15,000 student housing apartment units in the past decade.

Existing and Proposed Zoning

26. The Subject Property is in the R-5-B Zone District. The R-5-B Zone District includes the following development requirements:

- 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, 2405.1.)
 - A maximum matter-of-right density of 1.8 FAR; 2.16 FAR with the IZ bonus; and 3.0 FAR as a PUD; (11 DCMR §§ 402.4, 2604.2, 2405.2.)
 - A maximum percentage of lot occupancy of 60%; (11 DCMR §§ 403.2, 2604.2.)
 - 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.)
 - 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 § 405.9.)
 - A minimum open court width of four inches per foot of height of court, but not less than 10 feet; (§ 406.1.)
 - A minimum closed court width of four inches per foot of height of court, but not less than 15 feet, and a minimum closed court area of twice the square of the required width of court, based on the height of court, but not less than 350 square feet; (§ 406.1.)
 - For an apartment house or multiple dwelling, one off-street parking space for each two dwelling units; and (11 DCMR § 2101.1.)
 - 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).
27. The Applicant is requesting a map amendment to rezone the Subject Property to the C-2-B Zone District. The C-2-B Zone District includes the following development requirements:
- A maximum matter-of-right height of 65 feet with no limit on the number of stories, and a maximum height of 90 feet as a PUD; (11 DCMR §§ 770.1, 2405.1.)
 - A maximum matter-of-right density of 3.5 FAR which may be devoted entirely to residential use or a public school, and up to 1.5 FAR may be devoted to other permitted uses; 4.2 FAR under IZ; and 6.0 FAR as a PUD, all of which may be

devoted to a residential use and up to 2.0 FAR may be devoted to commercial uses, including hotels and motels; (11 DCMR §§ 771.2, 2604.2, 2405.2.)

- A maximum matter-of-right lot occupancy of 80%; (11 DCMR § 772.1.)
- A minimum rear yard depth of 15 feet; (11 DCMR § 774.1.)
- If provided, a side yard of at least two inches wide per foot of height of building, but not less than six feet wide; (11 DCMR § 775.5.)
- Where a court is provided for a building or a portion of a building devoted to non-residential uses, at any elevation in the court, the width of the open court shall be a minimum of three inches per foot of height, measured from the lowest level of the court to that elevation; provided that in no case shall the width of the court be less than 12 feet. (11 DCMR § 776.1.) In the case of a closed court for a building or a portion of a building devoted to non-residential uses, the minimum area shall be at least twice the square of the width of court based upon the height of court, but not less than 250 square feet; (11 DCMR § 776.2.)
- Where a court is provided for a building or a portion of a building devoted to residential uses, at any elevation in the court, the width of court must be a minimum of four inches per foot of height, measured from the lowest level of the court to that elevation, but not less than 15 feet. (11 DCMR § 776.3.) In the case of a closed court for a building or portion of a building devoted to residential uses, the minimum area must be at least twice the square of the width of court based upon the height of court, but not less than 350 square feet; (11 DCMR § 776.4.)
- For an apartment house or multiple dwelling, one off-street parking space for each three dwelling units; (11 DCMR § 2101.1.)
- For a retail or service establishment, one off-street parking spaces for each 750 square feet of gross floor area in excess of 3,000 square feet; (11 DCMR § 2101.1.)
- 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; and (11 DCMR § 2201.1.)
- For a retail or service establishment with 5,000 to 20,000 square feet of gross floor area, one loading berth at 30 feet, and one loading platform at 100 square feet. (11 DCMR § 2201.1.)

Description of the PUD Project

28. The Applicant seeks consolidated PUD approval and a Zoning Map amendment in order to redevelop the Subject Property with a six-story building with ground floor commercial/retail use and residential units both at grade and five stories above. The mix of residential units includes 14 units oriented as flats fronting on Barry Place, six two-story apartments fronting on 9th Street and approximately 299 multi-family apartment units on Levels 2 through 6 of the building. The flats and the two-story units will have pedestrian access directly from Barry Place and 9th Street, respectively. The entrance for the lobby of the apartment house will be at the south end of Sherman Avenue. The commercial/retail space totals approximately 11,517 square feet and will primarily front on Sherman Avenue.
29. Vehicular access to the project will be on the north side of the Subject Property on 9th Street where a drive aisle leads to an at-grade surface parking lot at the center of the project and a ramp down to Level P1. The project will have approximately 144 off-street parking spaces where 117 parking spaces are required. For loading, the project will have one 12'x30' loading berth, in lieu of a 12'x55' berth, one 12'x30' berth, and one 20' space for delivery vehicles.
30. The density for the project will be approximately 5.0 FAR, of which 0.2 FAR will be devoted to commercial/retail use. The maximum building height will be 80 feet. The lot occupancy for the project at the first residential level is 93% where 80% is permitted.
31. Approximately 19,667 square feet, or 8.28% of the gross floor area, being devoted to residential use, will be reserved for IZ units required under Chapter 26 of the Zoning Regulations, which will include 15 studios, eight one-bedroom units, and four two-bedroom units. The studios and one-bedroom units will be set aside for households with incomes not exceeding 80% of the area median income ("AMI"). All of the two-bedroom units (totaling 4,941 square feet) will be set aside for households with incomes not exceeding 60% of the AMI.
32. Of the approximately 319 units programmed for the PUD, a minimum of 59 units in the building will be leased or available for lease by Howard University faculty, staff and graduate students at all times. Nine of the 59 units, totaling 7,043 square feet and approximately three percent of the gross floor area of the project being devoted to residential use, will be set aside as affordable units as follows: four studios, three one-bedrooms, and two two-bedrooms. The studios and one-bedroom units will be reserved for households with incomes not exceeding 80% of the AMI. The two-bedroom units (totaling 2,470 square feet) will be reserved for households with incomes not exceeding 60% of the AMI.

33. The project will create a vibrant, mixed-use community that will serve and enhance the neighborhood by providing new housing and retail adjacent to Howard University. At the corner of Sherman Avenue and Barry Place, the building is anchored by a transparent entrance that connects vertically through three floors of common space, and is capped with an open sky terrace that provides views along Barry Place and Sherman Avenue. The existing mural on the exterior of the refrigeration supply building will be digitally reproduced and displayed in the lobby of the residential building. Retail tenants, public seating, and landscaping for the project will increase street level activity and continue to revitalize the developing Sherman Avenue corridor.
34. The streetscape has been designed to prioritize the pedestrian. The building is pulled back five feet from the property line on Sherman Avenue, Barry Place, and 9th Street, which maximizes space on the sidewalk and maintains a strong urban edge with pedestrian-scaled massing and activity. Retail uses are provided along Sherman Avenue and residential units are directly accessed from Barry Place and 9th Street. Materials at the street level are primarily masonry and glazing with accents defined by canopies and residential stoops into individual units.
35. Along Barry Place, the Subject Property slopes towards 9th Street. The building has a base of two levels of dwelling units, keeping the building's street face at a human scale. Along 9th Street, two-story residences face the street along the pedestrian way. As the street slopes up to the north, the units take on an English Basement relationship with the sidewalk.
36. Two roof elements are designed—one along Sherman Avenue and one on 9th Street—that connect into a parapet at the building layer to provide cover for balconies and a buffer from mechanical units on the roof. A bi-level community deck is incorporated on the southwest corner of the building, which is planned as a residential communal space. The upper level of the deck has a 360-degree view of the city and reaches out past the south building façade allowing views east, down Barry Place.
37. The project will incorporate many sustainable elements, including bio-retention for storm water management, a major green roof installation, and the building will be LEED-Gold certified. The programmed amenities for the building include a fitness center, bicycle storage, and indoor gathering spaces.

Zoning Incentives and Flexibility

38. The Applicant requested flexibility from the following areas of the Zoning Regulations:
 - a. *Flexibility from the Lot Occupancy Requirements.* The Applicant seeks flexibility from the lot occupancy requirements. Within the C-2-B Zone District, the

maximum permitted commercial lot occupancy is 100% while the maximum permitted residential lot occupancy is 80%. The Applicant proposes a lot occupancy for the PUD of 93% for the retail and residential uses combined on the ground floor and 73% on the upper residential floors. Typically, in mixed-use projects, retail uses occupy the entire ground floor with the residential use above. In this case, the ground floor has a combination of retail and residential uses, and was configured as such to enliven Barry Place and 9th Street. The resulting ground-floor lot occupancy of 93% will not cause any adverse impact and will instead provide a desirable mix of unit types and dynamic, visually interesting streetscapes;

- b. *Flexibility from the Loading Requirements.* The Applicant seeks flexibility from § 2201.1 of the Zoning Regulations in order to have a 12'x30' loading berth for the residential use in lieu of a 12'x55' loading berth. The proposed 30-foot berth is sufficient to serve the building's residential uses. Due to the size of the proposed units, most of the building residents are expected to use 30-foot trucks or smaller, or will otherwise be able to make arrangements with a loading dock manager who will coordinate with DDOT if larger trucks need to access the Subject Property. In addition, the Applicant has agreed to a loading management plan that establishes guidelines and procedures for loading and delivery operations to avoid adverse impacts on residents of the building and the surrounding community. Elements of the loading management plan, including the loading dock manager's duties, are outlined in the DDOT report (Ex. 37) and set forth in Decision No. C.2 of this Order; and
- c. *Flexibility from the Roof Structure Requirements.* The Applicant seeks flexibility from the roof structure requirements in §§ 770.6, 777, and 411 of the zoning Regulations in order to have multiple roof structures. The PUD includes two elevator penthouses and one stair tower in three separate enclosures. The location and number of roof structures is driven by the building's core elements and interior layout, and they have been configured and designed to reduce their visual impact from the street. While a single enclosure for the roof structures could theoretically be constructed, doing so would cover a large portion of the roof, would be visible from the street, would reduce the amount of green roof proposed for the project, and would be inconsistent with § 411 of the Zoning Regulations to "exercise a reasonable degree of control upon roof structures."

Development Flexibility

- 39. In addition to the zoning relief described above, the Applicant also requests flexibility in the following areas:

- a. To be able to provide a range in the number of residential units in the project of 319 units 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 building;
- c. To vary the number, location, and arrangement of parking spaces, 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; and
- e. To vary the sustainable design features of the building, provided the total number of LEED points is sufficient to achieve LEED-Gold certification status.

Project Benefits and Amenities

- 40. Housing and Affordable Housing (11 DCMR § 2403.9(f)) – The project provides the following housing and affordable housing:
 - a. The project shall provide a total of approximately 237,455 square feet (“sq. ft.”) of residential gross floor area (“GFA”) of housing, approximately 210,745 sq. ft. of GFA of this total will be market-rate housing, and approximately 26,710 sq. ft. will be affordable housing comprised of the IZ noted in part (b), and the Affordable Housing for Howard Faculty, Staff, and Graduate Students noted in part (c) below;
 - b. Inclusionary Zoning. For so long as the project exists, the Applicant shall provide no less than 19,667 sq. ft. of GFA reserved as IZ units required under Chapter 26 of the Zoning Regulations. This reserved space shall be comprised of:

- (1) No less than 4,941 sq. ft. of GFA set aside for households with incomes not exceeding 60% of the area median income (“AMI”), which shall be comprised of no less than four two-bedroom units; and
- (2) No less than 14,726 sq. ft. of GFA set aside for households with incomes not exceeding 80% of the AMI, which shall be comprised of no less than 23 units.

The IZ Covenant for the project will include a provision requiring compliance with this deeper level of affordability;

- c. Affordable Housing for Howard Faculty, Staff, and Graduate Students. In addition to the Inclusionary Units required under Chapter 26 of the Zoning Regulations as described above, for so long as the project exists, the Applicant shall reserve 7,043 sq. ft. of GFA of affordable housing for Howard University faculty, staff, and graduate students. This reserved space shall be comprised of:

- (1) No less than 2,470 sq. ft. of GFA set aside for households with incomes not exceeding 60% of AMI, which shall be comprised of no less than two two-bedroom units; and
- (2) No less than 4,573 sq. ft. of GFA set aside for households with incomes not exceeding 80% of AMI, which shall be comprised of no less than seven units.

The distribution of the Howard University affordable units will be in substantial accordance with the matrix and plans marked as Ex. 42 of the record and Sheet 12 of the Plans; and (Ex. 49A2.)

- d. Housing for Howard Faculty, Staff, and Graduate Students. The Applicant and the University shall enter into an agreement whereby the Applicant is obligated to make no fewer than 50 units within the project for lease by Howard University faculty, staff and graduate students at all times, for the life of the project. These units shall be in addition to the nine affordable units reserved for Howard faculty, staff, and graduate students.

Prior to the issuance of a building permit for the project, the Applicant shall furnish a letter from Howard University confirming said agreement between the parties.

41. Employment Benefits (11 DCMR § 2403.9(e)) – During the operation of the project, for a five-year period the Applicant, through the Refrigeration Supply Company, agrees to provide 50 scholarships for HVAC Technician training and EPA Type I, II, and III and Universal Certification. The scholarships will be limited to persons who reside within ANC 1B. The Applicant shall advertise the training program through the Pleasant Plains Civic Association and the Single Member District Representative for ANC 1B-11.

Prior to the issuance of a certificate of occupancy for the PUD, the Applicant will furnish sufficient evidence to the Zoning Administrator that the training program is fully operational. Sufficient evidence will include a copy of the agreement between the Applicant and the organization responsible for processing the scholarship applications, names of those persons who have applied for and are receiving the training, and the location(s) of the training site(s).

42. Environmental Benefits (11 DCMR § 2403.9(h)) – The project provides the following environmental benefits:
- a. LEED Certification. The Applicant commits that the resulting PUD will be certified as LEED-Gold; and
 - b. Green Roof. The project features an extensive 29,000 sq. ft. green roof that covers 76% of the roof area. The green roof will reduce heat island effect, promoting community health and assisting with storm water management. It also provides additional insulation for the building. By covering a substantial part of the upper roof with plant material and providing shade in the courtyard through the use of roof top trees, the amount of reflective heat will be greatly diminished from a traditional roof top condition. In addition to the environmental benefits, the human condition will be improved by providing a space that can be used for active and passive recreation. The planting areas will not just be an aesthetic amenity. These areas will filter and store storm water for re-use on the project. In addition to the roof covering the parking deck, a sky lounge with a green wall or hydroponic garden is planned on the upper floor of the roof tower.

Comprehensive Plan

43. 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 District through the provision of a high-quality, state-of-the-art, eco-friendly mixed-use development that will add approximately 319 new residential units and ground-floor retail, without generating any adverse impacts.

44. The Future Land Use Map of the Comprehensive Plan designates the PUD Site for mixed-use Medium-Density Residential/Medium-Density Commercial uses. The Medium Density Residential designation is used to define neighborhoods or areas where mid-rise (four-to-seven) 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.) The Medium Density Commercial land use designation is used to define shopping and service areas that are somewhat more intense in scale and character than the moderate-density commercial areas. Retail, office, and service businesses are the predominant uses. Areas with this designation generally draw from a citywide market area. Buildings are generally larger and/or taller than those in moderate density commercial areas but generally do not exceed eight stories in height. The corresponding zone districts are generally C-2-B, C-2-C, C-3-A, and C-3-B, although other districts may apply. (10A DCMR § 225.10.)
45. The Applicant's proposal to rezone the Subject Property from the R-5-B Zone District to the C-2-B Zone District to construct a mixed-use development is consistent with the Comprehensive Plan designation. The C-2-B Zone District is specifically identified as a Medium Density Commercial zone district. One of the primary purposes of the C-2-B Zone District is to provide commercial and residential functions within a single building, which is also consistent with the stated principles of the mixed-use designation of the Subject Property. The Subject Property is located along a major transportation corridor and is in proximity to the U Street Metrorail Station and multiple Metrobus routes. Given the District's stated policy of channeling new residential and retail growth into areas near transit stations and along bus routes, the PUD and Zoning Map Amendment are consistent with the Comprehensive Plan's land use designation of the Subject Property.
46. The District of Columbia Comprehensive Plan Generalized Policy Map designates the Subject Property in the Howard University Town Center Land Use Change Area. The guiding philosophy in Land Use Change Areas is to encourage and facilitate new development and promote the adaptive reuse of existing structures. Many of these areas have the capacity to become mixed-use communities containing housing, retail shops, services, workplaces, parks, and civic facilities. (10A DCMR § 223.11.) As Land Use Change Areas are redeveloped, the District aspires to create high quality environments that include exemplary site and architectural design and that are compatible with and do not negatively impact nearby neighborhoods. (10A DCMR § 223.12.) Consistent with the purpose of Land Use Change Areas, the PUD includes a mix of uses, including housing, retail shops, and services, which will help to improve and positively impact the surrounding urban environment.

47. The 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 follows:
- a. *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 is an important part of reinvigorating and enhancing neighborhoods. (10A DCMR § 217.6.) The PUD is fully consistent with each of these goals. Redeveloping the Subject Property into a vibrant, mixed-use development in an infill location along a major District corridor will revitalize the neighborhood and help improve the surrounding community;
 - b. *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 worked closely with ANC 1B, ANC 5E, and many other community organizations to ensure that the development provides a positive impact to the surrounding neighborhood; and
 - c. *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 Subject Property 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. Moreover, the building will achieve LEED-Gold certification.
48. In addition to the Comprehensive Plan's guiding principles, 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 and in the OP reports. (Ex. 12, 23, 36.)

Office of Planning Reports

49. On December 31, 2014, OP submitted a report recommending set down of the application. (Ex. 23.) The OP report stated that the application is not inconsistent with the Comprehensive Plan Future Land Use recommendation for the Subject Property as

mixed-use Medium-Density Residential and Medium-Density Commercial and that the project furthers many policies in various elements of the Comprehensive Plan. The report also recommended that the Applicant provide the following information on the Application: (i) a fully dimensioned roof plan; (ii) the range of units for which flexibility is requested; and (iii) a rationale for not providing a Certified Business Enterprises (“CBE”) agreement. The Applicant provided this requested information to OP and the Commission.

50. On May 11, 2015, OP submitted a report recommending approval of the application. (Ex. 36.) The report restated that the PUD is not inconsistent with the Comprehensive Plan, including the Future Land Use Map designation for mixed use, Medium-Density Residential and Medium-Density Commercial development, and that the project furthers many policies in various elements of the Comprehensive Plan. The OP report recommended approval of the application, subject to the Applicant providing details regarding the proffered job training and the extent and value of the renovations proposed for the recreation rooms at LeDroit Park Apartments and the Garfield Terrace Apartments. The Applicant provided the requested information at the public hearing on the application.

DDOT Report

51. On May 11, 2015, DDOT submitted a report finding no objection to the application, subject to the conditions listed on page 2 of its report. (Ex. 37.) The Applicant agreed to all the conditions listed in the DDOT report, and they are included as conditions of this Order.
52. On June 17, 2015, DDOT submitted a supplemental report responding to the Applicant’s post-hearing submission. The report stated that the concept plan submitted with the Applicant’s post-hearing addresses the conditions stated in DDOT’s previous report.

DDOE Report

53. On May 6, 2015, DDOE submitted a report that provided guidance on regulations and areas where the Applicant could exceed guidelines as a public amenity or benefit. (Ex. 35.)

ANC Reports

54. By letter dated March 24, 2015, ANC 1B indicated that at its regularly scheduled public meeting on March 10, 2015, for which notice was properly given and a quorum was present, ANC 1B voted unanimously by a vote of 10-0 to support the application. The report stated that ANC 1B’s support was conditioned on the delivery of community

benefits in the areas of affordable housing, housing for Howard University faculty and staff, job training, sustainable design elements, transportation, improvements to community recreation space, and through the design of the project, that were listed in the ANC's written report. (Ex. 32.)

55. The project site is located within the boundary of ANC 1B.
56. By letter dated March 24, 2015, ANC 5E indicated that at its regularly scheduled public meeting on March 17, 2015, for which notice was properly given and a quorum was present, ANC 5E voted unanimously by a vote of 9-0 to support the application. The report stated that the support was conditioned on the delivery of the community benefits outlined in the Applicant's pre-hearing statement to the Commission. (Ex. 34C.)
57. The project site is located approximately three blocks away from the boundary of ANC 5E.

Post-Hearing Submission

58. On June 3, 2015, the Applicant filed with the Commission a request to revise the filing deadlines for the agreed-to post-hearing materials. (Ex. 47.) The request was granted on June 4, 2015. (Ex. 47.)
59. On June 10, 2015, the Applicant filed with the Commission revised plans and additional information on the following elements of the application: job training scholarships, reproduction of the mural on the exterior wall of the existing warehouse building, a security plan for the garage, a courtyard elevation, response to the DDOE report, proposed sidewalk improvements on Barry Place, the loading dock configuration, and the height of the elevator override at the loading dock elevator on 9th Street. (Ex. 49-49C.)

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, or courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.

3. Development of the Subject 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 application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
7. The Applicant's request for flexibility from the Zoning Regulations is consistent with the Comprehensive Plan. Moreover, the project'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 affected ANC in this case is ANC 1B. The Commission carefully considered ANC 1B's recommendation for approval and concurs in its recommendation. The Commission has included conditions in this Order sufficient to ensure that the community benefits listed in ANC 1B's reports are delivered. Because the project is

located three blocks away from the boundary of ANC 5E, the Commission does not consider it an affected ANC. The Commission nonetheless carefully considered its recommendation and comments. The Commission concurs with its recommendation, and believes that the conditions in this Order are sufficient to ensure that the community benefits of the PUD outlined in the pre-hearing statement are delivered.

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 C-2-B Zone District for the approximately 1.3-acre parcel located at the northeast corner of the intersection of Sherman Avenue and Barry Place, N.W. (Lots 742-769, 1034, 1038, and 1039, and also a portion of a public alley to be closed in Square 2882). 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 titled “Lower Sherman Avenue Redevelopment PUD Document,” prepared by Niles Bolton Associates, dated June 10, 2015, and marked as Exhibits 49A1-49A5 of the record (the “Plans”).
2. In accordance with the Plans, the PUD shall be a six-story building with ground floor commercial/retail use and residential units both at grade and in the five stories above. The project shall have approximately 237,455 square feet of residential use generating approximately 319 dwelling units and approximately 11,517 square feet of commercial/retail uses primarily fronting on Sherman Avenue. The density for the project shall be approximately 5.0 floor area ratio (“FAR”) and the maximum building height shall be 80 feet.
3. The Applicant is granted flexibility from the lot occupancy requirements (11 DCMR § 772.1); the loading requirements (11 DCMR § 2201.1); and the roof structure requirements (11 DCMR §§ 770.6, 777 and 411), consistent with the Plans and as discussed in the Development Incentives and Flexibility section of this Order.

4. The Applicant shall also have flexibility with the design of the PUD in the following areas:
 - a. To provide 319 residential units, 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 building;
 - c. To vary the number, location, and arrangement of parking spaces, 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 does not decrease below the equivalent of a LEED Gold 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. Housing and Affordable Housing (11 DCMR § 2403.9(f)) – The project shall provide the following housing and affordable housing:
 - a. The project shall provide a total of approximately 237,455 square feet (“sq. ft.”) of residential gross floor area (“GFA”) of housing,

approximately 210,745 sq. ft. of GFA of this total will be market-rate housing, and approximately 26,710 sq. ft. will be affordable housing comprised of the Inclusionary Zoning noted in part (b), and the Affordable Housing for Howard Faculty, Staff, and Graduate Students noted in part (c) below;

- b. Inclusionary Zoning. **For so long as the project exists,** the Applicant shall provide no less than 19,667 sq. ft. of GFA reserved as Inclusionary Units required under Chapter 26 of the Zoning Regulations. This reserved space shall be comprised of:

- (1) No less than 4,941 sq. ft. of GFA set aside for households with incomes not exceeding 60% of the area median income (“AMI”), which shall be comprised of no less than four two-bedroom units; and
- (2) No less than 14,726 sq. ft. of GFA set aside for households with incomes not exceeding 80% of the AMI, which shall be comprised of no less than 23 units.

The IZ Covenant for the project shall include a provision consistent with this condition;

- c. Affordable housing for Howard Faculty, Staff, and Graduate Students. **For so long as the project exists,** in addition to the IZ units required under Chapter 26 of the Zoning Regulations described in part (b) of this condition, prior to the issuance of a certificate of occupancy for the project, the Applicant shall reserve 7,043 sq. ft. of GFA of affordable housing for Howard University faculty, staff, and graduate students. This reserved space shall be comprised of:

- (1) No less than 2,470 sq. ft. of GFA set aside for households with incomes not exceeding 60% of AMI, which shall be comprised of no less than two two-bedroom units; and
- (2) No less than 4,573 sq. ft. of GFA set aside for households with incomes not exceeding 80% of AMI, which shall be comprised of no less than seven units.

The distribution of the Howard University affordable units shall be in substantial accordance with the matrix and plans marked as Exhibit 42 of

the record and Sheet 12 of the Plans. The monitoring and enforcement documents required by 11 DCMR § 2409.10 shall include a provision requiring compliance with this Condition B.1(c); and

- d. Housing for Howard Faculty, Staff, and Graduate Students. The Applicant and the University shall enter into an agreement whereby the Applicant is obligated to make no fewer than 50 units within the project for lease by Howard University faculty, staff, and graduate students at all times, **for the life of the project.** These units shall be in addition to the nine (9) affordable units reserved for Howard faculty, staff, and graduate students.

Prior to the issuance of a building permit for the project, the Applicant shall furnish a letter to the Zoning Administrator from Howard University confirming said agreement between the parties.

2. Environmental Benefits (11 DCMR § 2403.9(h)) – The project shall provide the following environmental benefits:
 - a. LEED Certification. **Prior to the issuance of a certificate of occupancy for the building,** the Applicant shall furnish a copy of its LEED certification application to the Green Building Certification Institute. The PUD shall fulfill or exceed LEED-Gold Certification; and
 - b. Green Roof. **For so long as the project exists,** the project shall include a 29,000-square-foot green roof that covers 76% of the roof area. The planting areas on the green roof will be designed to filter and store storm water for re-use on the project. In addition, the project shall include a sky lounge on the upper floor of the roof tower with a green wall or hydroponic garden. The green roof and sky lounge shall be designed in substantial accordance with the Plans.
3. Employment Benefits (11 DCMR § 2403.9(e)) – Job Training Scholarships. **During the operation of the project,** for a five-year period the Applicant, through the Refrigeration Supply Company, shall provide a minimum of 50 scholarships for HVAC Technician training and EPA Type I, II, and III and Universal Certification. The scholarships shall be available to those persons who reside within the boundaries of ANC 1B. The Applicant shall advertise the training program through the Pleasant Plains Civic Association and the Single Member District Representative for ANC 1B-11.

Prior to the issuance of a certificate of occupancy for the PUD, the Applicant will furnish sufficient evidence to the Zoning Administrator that the training program is fully operational. Sufficient evidence will include a copy of the agreement between the Applicant and the organization responsible for processing the scholarship applications, names of those persons who have applied for and are receiving the training, and the location(s) of the training site(s).

4. **Other Public Benefits and Project Amenities (11 DCMR § 2403.9(j)) - Improvements to Community Recreation Spaces.** **Prior to the issuance of a building permit for the project**, the Applicant shall either (1) donate \$110,308 to the DC Housing Authority (“DCHA”) to cover the cost of certain improvements to the community rooms at the LeDroit Park Apartments and the Garfield Terrace Apartments, respectively, or (2) enter into an agreement with DCHA to make the improvements to said spaces. This obligation shall be in accordance with the letter from DCHA, including the attached plans, marked as Exhibit 40 of the record.

C. **Transportation Mitigation Measures**

1. **Traffic/Pedestrian Improvements.** **Prior to the issuance of a certificate of occupancy for the project**, the Applicant shall complete or cause the completion of the following traffic and pedestrian improvements, at its sole expense:
 - a. The installation of a turn pocket at the westbound approach to the Sherman Avenue/Barry Place intersection, which requires re-striping, the relocation of the parking to the north side of the street, and the potential elimination of curbside parking spaces;
 - b. Improve four substandard crosswalks within the immediate vicinity of the site – northwest bound approach at the Florida Avenue/Barry Place/10th Street intersection; eastbound approach at the Barry Place/9th Street intersection, and the northbound and southbound approaches at the Barry Place/Georgia Avenue intersection; and
 - c. Install a four-foot-wide concrete sidewalk that circumvents the two existing catch basins, as depicted in the sketch attached as Exhibit C of the Applicant’s post-hearing submission. (Ex. 49C.) The details for said improvement shall be subject to review and approval by DDOT at the time of public space review. The Applicant shall not be obligated to make any sidewalk improvement for this section of Barry Place beyond the concept sketch in Ex. 49C.

2. Loading Management Plan. **For the life of the Project,** the Applicant shall implement a loading management plan as described on page 5 of the DDOT report marked as Exhibit 37 of the record.
3. Transportation Demand Management (“TDM”). **For the life of the project,** the Applicant shall implement a TDM plan with strategies to limit the need for and use of vehicles at the proposed residential building. The TDM plan shall include:
 - a. A member of the property management team will be designated as the Transportation Management Coordinator (“TMC”). The TMC will be responsible for ensuring that information is disseminated to tenants of the building. The position may be part of other duties assigned to the individual;
 - b. Information on and/or links to current transportation programs and services will be provided on the property management website. Such programs and services may include:
 - (1) Capital Bikeshare;
 - (2) Car-sharing services;
 - (3) Uber;
 - (4) Ridescout;
 - (5) Commuter Connections Rideshare Program;
 - (6) Commuter Connections Guaranteed Ride Home;
 - (7) Commuter Connections Pools Program;
 - (8) DDOT’s DC Bicycle Map;
 - (9) Nearby Bicycle vendors and service providers;
 - (10) goDCgo.com; and
 - (11) WMATA;
 - c. An electronic display will be provided in a common, shared space in the building and will provide public transit information such as nearby Metrorail stations and schedules, Metrobus stops and schedules, car-sharing locations, and nearby Capital BikeShare locations indicating the number of bicycles available at each location;
 - d. Convenient and covered secure bike parking facilities will be provided with storage for a minimum of 140 bicycles and an additional 38 short-term bicycle parking spaces in the public space;
 - e. **For the first five years the building is open,** at the initial occupancy of each unit, the Applicant will provide a one-time, one-year Capital

BikeShare membership or one-year carshare membership to all new residents of the project;

- f. A minimum of 10 bicycle helmets will be made available for use by the residents;
- g. Install a bicycle maintenance facility on the P-1 parking level;
- h. Unbundle parking costs from the price of lease or purchase; and
- i. Reserve one parking spot in the parking garage for a carshare company, if there is interest in the use of a space by a carshare company.

D. 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 Subject 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 Z.C. Order No. 14-21. 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 this Order.
- 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.

4. Each Applicant shall file with the Zoning Administrator a letter identifying how it is in compliance with the conditions of this order at such time as the Zoning Administrator requests and shall simultaneously file that letter with the Office of Zoning.

On May 21, 2015, upon the motion of Chairman Hood as seconded by Commissioner Miller, the Zoning Commission **APPROVED** the application at the conclusion 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 June 29, 2015, upon the motion of Commissioner Turnbull, as seconded by Vice Chairperson Cohen, this Order was **ADOPTED** by the Zoning Commission 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 July 31, 2015.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING