



2017050455-34

PLANNED UNIT DEVELOPMENT COVENANT

Z.C. CASE NO. 15-05

**Riverside Baptist Church and P.N. Hoffman and Associates, Inc.
(Consolidated PUD and Related Map Amendment @ Square 472, Lot 127)**

THIS PLANNED UNIT DEVELOPMENT COVENANT (this “**Covenant**”), is made as of this 8th day of May, 2017, by and between (i) **680 EYE ST, L.L.C.**,¹ a District of Columbia limited liability company and **RIVERSIDE BAPTIST CHURCH**, a District of Columbia non-profit corporation (collectively, the “**Owner**”), and (ii) the **DISTRICT OF COLUMBIA**, a municipal corporation (the “**District**”).

W I T N E S S E T H:

WHEREAS, Owner owns in fee simple the property currently known as Lots 828 and 829 in Square 24 (the “**PUD Site**”).² The PUD Site is known as premises address 680 I Street, SW, Washington, DC, as is more particularly described in Zoning Commission Case No. 15-05 and on Exhibit A attached hereto and incorporated herein;

WHEREAS, pursuant to Chapter 24 of the version of Zoning Regulations of the District of Columbia in effect at the time (the “**1958 Zoning Regulations**”), the Zoning Commission for the District of Columbia (the “**Zoning Commission**”) approved an application for a planned unit development (the “**PUD**”) and related Zoning Map amendment for the PUD Site by Zoning Commission Order No. 15-05, dated February 29, 2016, which became final and effective on March 18, 2016 (the “**Order**”);

¹ 680 Eye St, L.L.C. is an affiliate of P.N. Hoffman and Associates, Inc., and together with Riverside Baptist Church, now an owner of the PUD Site (as such term is defined herein).

² Following publication of the Order (as such term is defined herein), Lot 127 in Square 472 was subdivided into A&T Lots 828 and 829.

L-10 PZ

WHEREAS, Chapter 24 of the 1958 Zoning Regulations requires that Owner enter into this Covenant with the District assuring Owner's (and its successors in title) development and use of the PUD Site as approved by the Zoning Commission in the Order and all modifications, alterations or amendments thereto;

WHEREAS, on September 6, 2016, the 1958 Regulations were repealed and replaced by a new set of regulations (the "**2016 Zoning Regulations**"); and

WHEREAS, Subtitle X § 311.3 of the 2016 Zoning Regulations continues to require this Covenant (all subsequent citations to zoning regulations made herein are to the 2016 Zoning Regulations).

NOW, THEREFORE, in consideration of the foregoing recitals, which are a material part hereof, it is agreed between the parties hereto as follows:

1. Approved Plans, Terms and Conditions. The terms and conditions of the Zoning Commission's approval of the PUD and related Zoning Map amendment for the PUD Site in the Order (as the same may be amended and/or modified from time to time), are incorporated herein by reference and made a part hereof as Exhibit B and shall be considered a part of this Covenant. The PUD Site shall be developed and used in accordance with the plans approved by the Order and in accordance with the conditions and restrictions contained in the Order, subject to such changes thereto as the Zoning Administrator of the District of Columbia may authorize pursuant to Subtitle A § 304.5 or Subtitle X § 311.6, or changes made by the Zoning Commission pursuant to Subtitle Z §§ 703 or 704. Owner covenants that it shall use the PUD Site only in accordance with the terms of the Order, as the same may be further amended and/or modified from time to time, subject to the terms and conditions contained herein and the provisions of Subtitle X Chapter 3 of the Zoning Regulations.

2. Additional Time to Construct PUD. If Owner should fail to file for a building permit for and/or to commence construction of the approved PUD within the time specified in Subtitle Z §§ 702.2 or 702.3 and the Order, the Zoning Commission may duly consider an application for an extension of time for good cause in accordance with and subject to the limitations of Subtitle Z § 705.

3. Default. In the event that Owner fails to file for a building permit for and/or to commence construction of the approved PUD within the time specified in Subtitle Z §§ 702.2 and 702.3 and in the Order, or within any extension of time granted by the Zoning Commission for good cause shown pursuant to Subtitle Z § 705, the benefits granted by the Order shall terminate pursuant to Subtitle Z § 702.6 and this Covenant shall be deemed null and void.

4. Future Conveyance. Owner covenants that if any conveyance of all or any part of the PUD Site takes place, such conveyance shall contain a specific covenant binding the grantee, its successors and assigns, to develop and use the PUD Site in accordance with the terms and conditions of this Covenant and the grantee, its successors and assigns shall be considered a declarant to this covenant.

5. Covenants to Run with the Land. The covenants and restrictions contained herein shall be deemed real covenants running with the land and shall bind the parties hereto, their successors and assigns, and shall inure to the benefit of the parties hereto, their successors and assigns. Such covenants are not binding upon any party who no longer has a property interest in the PUD Site. The District shall have the right to enforce all covenants, conditions, and restrictions contained herein.

6. Recordation. Owner shall record this Covenant, as fully executed by the parties hereto, among the land records of the District of Columbia (the “**Land Records**”), and shall file a certified copy of this Covenant with the Zoning Administrator and the Zoning Commission.

7. Counterparts. This Covenant may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

8. Rescission/Alteration of Chapter 24 Covenant. If the Order is modified or amended by the Zoning Commission, no formal amendment of this Covenant shall be required, provided that Owner, or its successors or assigns, records a notice of modification in the Land Records together with a copy of the written order authorizing the modification or amendment. No other amendment of the obligations created by this Covenant is permitted without the written consent of the District and, if determined by the Office of the Attorney General to be necessary, without the prior approval of the Zoning Commission.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, 680 Eye St, L.L.C. and Riverside Baptist Church have caused this Covenant to be executed and delivered under seal as of the date first written above.

OWNER:

680 EYE ST, L.L.C.
a District of Columbia limited liability company

By: _____

Name: Paul Nassetta

Title: Authorized Signatory

DISTRICT OF COLUMBIA, to wit:

This Covenant was acknowledged before me on the 26th day of January, 2016,
by Paul Nassetta, the duly appointed Auth. Signatory of 680 Eye St, L.L.C.

WITNESS my hand and official seal this 26th day of January, 2016.

[Notarial Seal]

CELESTE CROSSE
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires January 14, 2018

Notary Public

My Commission Expires: _____



RIVERSIDE BAPTIST CHURCH
a District of Columbia non-profit corporation

By *Luke S Wassum*
Name: Luke S Wassum
Title: Chair of Trustees

DISTRICT OF COLUMBIA, to wit:

This Covenant was acknowledged before me on the 1st day of February, 2017,
by Luke S Wassum, the duly appointed Chair of Trustees of Riverside Baptist
Church.

WITNESS my hand and official seal this 1st day of February, 2017.



Joanna Salguero
Notary Public

My Commission Expires: 4/30/2019

IN WITNESS WHEREOF, the Mayor of the DISTRICT OF COLUMBIA, having first considered and approved the foregoing Covenant, has directed the execution thereof in the name of said DISTRICT OF COLUMBIA, by the Secretary, D.C., who has hereunto set her hand and affixed the seal of the District of Columbia hereto under authority of the Act of Congress entitled "An Act to Relieve the Commissioners of the District of Columbia of Certain Ministerial Duties," approved February 11, 1932.

DISTRICT:

DISTRICT OF COLUMBIA,
a municipal corporation

By: 
Secretary of the District of Columbia

[CORPORATE SEAL]

DISTRICT OF COLUMBIA, ss:

I, Arlethia Thompson, a Notary Public in and for the District of Columbia, do hereby certify that Lauren C. Vaughan, who is personally well known to me as the person named as Secretary of the DISTRICT OF COLUMBIA in the foregoing Covenant, and hereunto annexed, personally appeared before me in said District and, as Secretary of the DISTRICT OF COLUMBIA aforesaid, and by virtue of the authority in her vested, acknowledged the same to be the act and deed of the Mayor of the DISTRICT OF COLUMBIA.



under my hand and seal this 1 day of May, 2017.


Notary Public, D.C.

My commission expires: 09/14/2021.

APPROVED:

Matthew Le Gut 3-3-17

Zoning Division, Department of
Consumer and Regulatory Affairs

APPROVED AS TO LEGAL SUFFICIENCY:

A handwritten signature in blue ink, appearing to read "Alan Zepher", is written over a horizontal line.

Assistant Attorney General
Office of the Attorney General
for the District of Columbia

EXHIBIT A

LEGAL DESCRIPTION OF THE PUD SITE

All that certain lot or parcel of land situated, lying and being in the District of Columbia, and being more particularly described as follows:

Lot 127 in Square 472 in the District of Columbia as per plat of subdivision made by the Grantor and recorded among the records of the Surveyor of the District of Columbia in Book 149, Page 34, consisting of 36,014.95 square feet.

EXHIBIT B

ZONING COMMISSION ORDER NO. 15-05

[appended]

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 15-05

Z.C. Case No. 15-05

Riverside Baptist Church and P.N. Hoffman and Associates, Inc.
(Consolidated PUD and Related Map Amendment @ Square 472, Lot 127)
February 29, 2016

Pursuant to proper notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on November 30, 2015 to consider an application by Riverside Baptist Church and P.N. Hoffman and Associates, Inc. (together, the “Applicant”) for consolidated review and approval of a planned unit development (“PUD”) and related amendment of the Zoning Map of the District of Columbia from R-5-B to C-3-A for Square 472, Lot 127 (“Application”). The Commission considered the application pursuant to Chapter 24 and Chapter 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. The Commission approves the application, subject to the conditions below.

FINDINGS OF FACT

Application, Parties, and Hearing

1. The project site consists of Square 472, Lot 127 (“Property”) and is located 680 I Street, S.W.
2. On March 16, 2015, the Applicant filed an application for consolidated review and approval of a PUD and related Zoning Map amendment from R-5-B to C-3-A. (Exhibit [“Ex.”] 2-2I.)
3. During its public meeting on July 27, 2015, the Commission unanimously voted to set down the Application for a public hearing. Notice of the public hearing was published in the *D.C. Register* on October 16, 2015 (62 DCR 13449) and was mailed to Advisory Neighborhood Commission (“ANC”) 6D and to owners of property within 200 feet of the Property. (Ex. 19, 20.)
4. The Application was further updated by pre-hearing submissions filed on September 21, 2015¹, October 8, 2015, and November 10, 2015. (Ex. 16, 21, 26.)

¹ The September 21, 2015 pre-hearing submission amended and restated previous statements filed on August 7, 2015 and August 14, 2015.

5. A public hearing was conducted on November 30, 2015. The Commission accepted Brian Pilot and John Wittman as experts in the field of architecture and Dan Van Pelt as an expert in the field of traffic engineering. The Applicant provided testimony from these experts as well as from Reverend Dr. Michael Bledsoe, pastor of Riverside Baptist Church and Shawn Seaman and Bao Vuong of P.N. Hoffman.
6. In addition to the Applicant, ANC 6D was automatically a party in this proceeding and submitted a report in support of the application. (Ex. 28.) Townhome Management One, Inc. ("THM1") also submitted a request for party status in opposition. (Ex. 27.) At the public hearing, the Commission approved a waiver from THM1 to file a late amended request for party status and subsequently approved THM1 as a party in opposition. (Ex. 37.) THM1 provided testimony in opposition to the project at the public hearing.
7. At the hearing, the Commission heard testimony and received evidence from the Office of Planning ("OP") and the District Department of Transportation ("DDOT") in support of the application. (Ex. 29, 30.) The Commission also heard testimony from persons in support of and in opposition to the Application. (Ex. 31, 32, 34.)
8. At the close of the hearing, the Commission asked the Applicant to address certain design issues and operational concerns. The Applicant addressed these issues and concerns in a post-hearing submission dated December 14, 2015. (Ex. 40-40B.)
9. THM1 submitted a letter responding to the Applicant's post-hearing submission dated December 21, 2015. The letter also expressed additional issues and concerns about the project. (Ex. 43.)
10. At its public meeting on January 11, 2016, the Commission took proposed action to approve the Application and plans that were submitted into the record.
11. The Applicant submitted its proposed list of final proffers and draft conditions on January 17, 2016, and its final list on February 1, 2017. (Ex. 45, 46.) One of the proffers was a \$25,000 subsidy to help attract a daycare tenant. The proposed condition stated that, if the Applicant could not attract a daycare center as a tenant, ANC 6D could choose an alternative beneficiary of the \$25,000 subsidy.
12. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the Home Rule Act. NCPC's Executive Director, by delegated action dated February 11, 2016, found that the proposed PUD would not be inconsistent with the Comprehensive Plan for the National Capital, nor would it adversely affect any other identified federal interests. (Ex. 47.)
13. At its public meeting on February 29, 2016 the Commission considered whether to adopt the Applicant's proposed condition allowing ANC 6D to choose an alternative beneficiary of the \$25,000 if the Applicant could not secure a daycare tenant, and decided not to include this alternative in this Order. The Commission took final action to approve the Application.

THE MERITS OF THE APPLICATION

Overview of the Property

14. The Property consists of approximately 36,015 square feet of land area and is bounded by I Street, S.W., 7th Street, S.W., and Maine Avenue, S.W.² The Property is currently improved with the existing Riverside Baptist Church and a surface parking lot. (Ex. 2.)
15. The entrance to the Waterfront Metrorail Station is located approximately four blocks from the Property, and entrances to the L'Enfant Plaza Metrorail station is located approximately six blocks from the Property. (Ex. 2.)
16. To the east and south of the Property is the Waterside Towers complex, which consists of a mix of 10-story apartment buildings and three-story townhouse-style units. Further to the southeast is Arena Stage. To the northwest of the Property is the DAV (Disabled American Veterans) building; further northwest is Jefferson Middle School. To the north of the Property is Town Square Towers, a nine-story tall condominium building. Further to the northeast are a collection of townhouses along I Street, S.W., 6th Street, S.W., and H Street, S.W. that are collectively known as Townhouse Management One. (Ex. 2, 37.)
17. The proposed redevelopment of the Southwest Waterfront, known as The Wharf, is across Maine Avenue to the southwest of the Property. Immediately across from the Property will be a 130-foot-tall building and the 7th Street Park approved by the Commission in Z.C. Case No. 11-03. (Ex. 2.)
18. The Property is located in the R-5-B Zone District. Property to the southeast is also located in the R-5-B Zone District. Property immediately to the north and east of the Property is located in the R-5-D Zone District. Property to the northwest is located in the W-1 Zone District. Property in The Wharf to the southwest was rezoned to the C-3-C Zone District in Z.C. Order No. 11-03. (Ex. 2.)
19. The Future Land Use Map of the Comprehensive Plan designates the Property in the Moderate-Density Residential Land Use Category. However, the D.C. Council approved the Southwest Small Area Plan pursuant to Resolution R21-0170 on July 14, 2015, pursuant to which the PUD site was designated as appropriate for Mixed-Use Medium-Density Residential/Low-Density Commercial land use. Subsection 1-306.03(c)(4) of the D.C. Official Code states that “[o]nce approved, the small area action plan shall provide supplemental guidance to the Zoning Commission and other District agencies in carrying out the policies of the Comprehensive Plan.” (Ex. 2-2I, 26-26C.)

The Project

20. The Applicant requested approval to redevelop the property with a new building containing a new home for Riverside Baptist Church and an apartment building with

² Technically, the Property fronts along a 20-foot wide strip of land owned by the District of Columbia that is adjacent to and parallel to Maine Avenue, and is administered by DDOT as if it is public space.

approximately 167 units and approximately 6,900 to 9,100 square feet of a ground-floor community-serving retail use ("Project"). (Ex. 2-2I, 26-26C.)

21. The Project has been arranged to place the new church on Maine Avenue, in the most visible location and closest to the waterfront. The residential component of the Project extends back into and within the Southwest neighborhood. This is consistent with the overall pattern of development in Southwest, which generally places civic and institutional buildings along the primary streets and focuses residential development within the heart of the neighborhood. (Ex. 2.) The Project's site plan is also driven by the presence of underground Metro facilities.
22. The height of the Project modulates, from the two-story church to the seven-story tall residential portion along I Street, closest to the residential neighborhood, and with the nine-story tall portion of the project along 7th Street and set back from I Street. The setback along I Street also reduces the apparent height and mass of the Project. The variation in height also mimics the overall development pattern of Southwest, which contains a combination of moderate and taller height structures. (Ex. 2).
23. The Project includes approximately 169 parking spaces, accessed from a curb cut off I Street. (Ex. 2, 26.) Loading is also accessed from the same curb cut, and consists of two internal loading berths. The curb cut is able to accommodate truck turnaround movements so that trucks are able to enter and exit the property front-first. (Ex. 2, 26.) The proposed curb cut received concept approval from the District of Columbia Public Space Committee on October 22, 2015. Finally, the Project includes a minimum of 64 bicycle parking spaces within the Project and an additional 20 bicycle parking spaces in public space in front of the Project. (Ex. 26.)
24. The residential component of the Project will be constructed to a minimum of LEED-Gold certification. (Ex. 26.)
25. The Project includes a series of streetscape improvements that include reconfiguration of the existing intersection at 7th and I Streets; relocation of the curb and widening of the sidewalk along 7th Street, and landscaping of the 20-foot strip of public land along the Maine Avenue right-of-way. These improvements also received concept approval from the Public Space Committee. (Ex. 26.)
26. The Project will contain an occupiable penthouse with approximately 3,070 square feet devoted to residential units and the remainder devoted to mechanical equipment and communal recreation space. Pursuant to §§ 411.16, 2603.2 and 2603.10, the residential units generate an affordable housing requirement for approximately 246 square feet of affordable housing set aside at 50% of the area median income ("AMI"). (Ex. 26.)
27. The total gross floor area for the Project is approximately 164,485 square feet for a total density of approximately 4.57 floor area ratio ("FAR") and a lot occupancy of approximately 73%. The building will reach a maximum height of approximately 90 feet. (Ex. 26.)

Zoning Map Amendment

28. The Property is located in the R-5-B Zone District. The maximum height allowed in the R-5-B Zone District is 50 feet, and the maximum density is 1.8 FAR (2.16 FAR for residential developments that trigger inclusionary zoning).
29. The Applicant requested a PUD-related Zoning Map amendment to the C-3-A Zone District to permit the Project to achieve the requested mix of uses, height, and density. The maximum height permitted in the C-3-A Zone District under the PUD guidelines is 90 feet, and the maximum density permitted is 4.5 FAR (with an additional increase in FAR of up to five percent permitted pursuant to § 2405.3 of the Regulations).

PUD Flexibility Requested

30. The Applicant requested approval to construct a building to a maximum height of 90 feet and density of 4.57 FAR, which are within the PUD standards set forth in 11 DCMR § 2405, as well as a PUD-related Zoning Map amendment for the Property to the C-3-A Zone District. The Applicant requested an increase in the maximum permitted FAR of the Project pursuant to § 2405.3 as well as flexibility from the rear yard, courts, parking, and loading requirements in order to accommodate the proposed design of the Project, as detailed in the Applicant's written submission and the OP Final Report. (Ex. 2, 26, 29.)

Project Amenities and Public Benefits

31. As detailed in the Applicant's testimony and written submissions, the proposed Project will implement the following project amenities and public benefits:
 - a. Exemplary urban design, architecture, and landscaping, including high-quality materials, pedestrian-oriented streetscape improvements, including water walls that will function as public art, clear separation of pedestrian and vehicular entrances and circulation patterns, and sustainable features; (Ex. 2, 26.)
 - b. Site planning and efficient land utilization, through the redevelopment of a strategic underutilized site located along a key gateway into the Southwest neighborhood; (Ex. 2, 26.)
 - c. Effective and safe vehicular and pedestrian access and transportation management measures. Specific features include:
 - i. Agreement to restrict residents and tenants of the Project from participating in the residential parking permit ("RPP") program; (Ex. 26, 40.)
 - ii. Approximately 64 bicycle parking spaces and a bicycle repair facility within the garage and an additional 20 parking spaces at ground level as shown on the approved plans (a total of 26 spaces more than required); and

iii. Transportation and streetscape infrastructure improvements, including:

1. Reconfiguration of the 7th and I Street intersection to significantly enhance the multi-modal accessibility and increase pedestrian safety of the intersection;
2. Creation of a landscaped public space at the new intersection;
3. Relocation of the curb lane on 7th Street to widen the sidewalk and planting zone; and
4. Landscaping of the 20-foot-wide publicly-owned strip of land parallel to Maine Avenue;

(Ex. 26.)

- d. Housing and affordable housing, through the creation of approximately 167 residential units, including approximately 6,004 square feet of gross floor area (or approximately eight units) set aside for households earning up to 50% of the area median income and approximately 8,635 square feet of gross floor area (or approximately 12 units) set aside for households earning up to 80% of the area median income. (Ex. 2, 26, 40.) This represents a significant increase in the amount and depth of affordable housing over both a matter-of-right project in the underlying R-5-B Zone District (6,483 square feet of affordable housing, with 3,232 square feet at 50% AMI and 3,241 square feet at 80% AMI) and over the base requirements of the C-3-A Zone District sought through the PUD (11,516 square feet at 80% AMI):

TABLE 1: Affordable Housing Chart

Residential Unit Type	GFA / Percentage of Total	Units*	Income Type**	Affordable Control Period	Affordable Unit Type***	Notes
Total	143,930 SF / 100%	167				
Market Rate	129,537 SF / 90%	147				
IZ (50% AMI)	6,004 SF / 4%**	8	50% AMI	Life of the Project	Rental	
IZ (80% AMI)	8,635 SF / 6%	12	80% AMI	Life of the Project	Rental	

* The Applicant requested flexibility to modify the final number of units, which may impact the final number and location of affordable units.

** Includes an additional 246 square feet, which represents eight percent of the floor area of the habitable residential units within the penthouse of the Project.

- e. Environmental benefits, including a commitment to achieve LEED-Gold certification under the LEED 2009 rating system for the residential component of the Project; and (Ex. 26.)
- f. Uses of special value, including:
 - i. Approximately 6,900 to 9,100 square feet of ground-floor space devoted to neighborhood-serving retail and service, daycare, or clinic use;
 - ii. A \$25,000 subsidy to help attract a daycare to the Project; and
 - iii. Retention of Riverside Baptist Church in the neighborhood through the construction of a new home and an endowment for the Church. The Church's contributions to the neighborhood were detailed by the Applicant in its written submissions and in testimony at the public hearing.

(Ex. 2, 26.)

- 32. THM1 stated that it believed the water feature and newly designed intersection should not count as public benefits of the project because they were only for the benefit of the Applicant. (Ex. 43.) The Commission believes the water feature should count as a public benefit because it will be visible from public space, and the newly designed intersection should also count as a public benefit because it will be public space.

Transportation Issues

- 33. The Project is located near several modes of transportation, including the nearby Waterfront and L'Enfant Plaza Metrorail stations, Metrobus and D.C. Circulator lines, bicycle facilities, a connected and developed urban network of pedestrian sidewalks and paths, and a connected network of arterial, collector, and local streets. (Ex. 21-21A.)
- 34. The Applicant's traffic expert submitted a detailed transportation impact analysis that concluded that the proposed Project, including the proposed reconfiguration of the 7th and I Street intersection, would not generate an adverse traffic impact on the surrounding roadway network or cause objectionable impacts in the surrounding neighborhood due to traffic or parking impacts. The Applicant's traffic consultant also concluded that the number of parking and loading spaces as well as the location of the parking and loading entrances would accommodate the parking and loading needs for the Project and not generate adverse or objectionable impacts on neighboring property. (Ex. 21-21A.)
- 35. DDOT submitted a report recommending approval of the Project. DDOT concurred with the scope, methodology, and findings of the Applicant's transportation study, and agreed that the Project would have minimal impact on the surrounding roadway network. DDOT supported the Project's proposed vehicle parking, bicycle parking, and loading. In its report, DDOT supported the Project's transportation demand management ("TDM") plan, as amended by the Applicant to include additional measures requested by DDOT. (Ex. 30.)

36. RPP. At the request of ANC 6D, the Applicant agreed to restrict residents of the Project from participating in the RPP program. (Ex. 26.) At the hearing and in its post-hearing submission, the Applicant agreed to enforce this prohibition through a lease provision or similar mechanism. (Ex. 40.)
37. Loading Dock Door. At the request of ANC 6D, the Applicant agreed to select a loading dock door that is consistent with the architectural integrity of the building and a depiction of that door was shown during the public hearing on November 30, 2015.
38. Curb Cut Location. At the hearing, THM1 raised concerns regarding the location of the curb cut on I Street, and requested that the Applicant relocate the curb cut to 7th Street or Maine Avenue. In response, the Applicant's traffic consultant testified that the curb cut had been located on I Street because: (1) consistent with District policy, curb cuts are located on the lowest volume street; (2) Maine Avenue and 7th Street each have medians that would preclude left turns in and out of the Project; and (3) 7th Street is likely to be selected as the street for a future streetcar line. DDOT's representative concurred with the Applicant's traffic consultant.
39. Curbside Management. THM1 expressed concerns about impacts related to pick-up and drop-off activity related to the Project. In response, the Applicant agreed to request a "no parking building entrance" zone in front of the residential entrance to provide a place for drop-off and pick-up activity. Furthermore, the Applicant agreed to request the use of the curb lane on 7th Street for pickup and drop-off activity for the daycare, in the event that the daycare is secured as a tenant in the Project. (Ex. 40.) In a post-hearing submission, THM1 stated concerns about the project's transportation impact because it lacked an on-site pick-up and drop-off area, and what THM1 believed was insufficient daily and short-term parking, and requested a parking set aside in case DDOT does not approve the Applicant's request for short term parking spaces on 7th Street, S.W. (Ex. 43.)
40. The Project will not cause unacceptable impacts on vehicular or pedestrian traffic, as demonstrated by the testimony and reports provided by the Applicant's traffic expert and DDOT. The Commission finds that:
 - a. The Project will not impose adverse impacts on the surrounding transportation network. The Commission credits the findings of the Applicant's traffic expert that the Project will not create any adverse impacts when compared with future background conditions;
 - b. The number of vehicular parking spaces will not result in adverse conditions and is appropriate given the transit-oriented location. The Commission concludes that the number of vehicular and bicycle parking spaces provided within the Project, combined with the site's proximity to multiple transportation options, and the Applicant's agreement to restrict residents and tenants from participating in the RPP program, will ensure that the Project does not adversely impact on-street parking in the surrounding neighborhood;
 - c. The location of the parking and loading entrance will not generate adverse conditions, for the reasons set forth above; and

- d. The Project will not impose adverse impacts on the surrounding pedestrian and bicycle network, and will in fact create significant public benefits as described above. The Commission also credits DDOT's acceptance of the pedestrian and related streetscape measures proffered by the Applicant subject to final approval by DDOT. The Commission recognizes that DDOT will determine the final measures to be installed through the public space approval process. The Commission believes the transportation mitigation measures included in the conditions of this Order are adequate to mitigate any potential transportation related impacts of the project, such that an additional set aside in the event DDOT does not approve the Applicant's request for short-term parking on 7th Street, S.W. is necessary.

Construction Impacts

41. At the request of the ANC, the Applicant agreed to enter into a construction management plan and a rodent abatement program to mitigate impacts from the construction of the Project. (Ex. 26.)

THM1 Site Issues

42. THM1 expressed concerns regarding existing impacts from the public on its property. Specifically, THM1 expressed concern about members of the public who walk their pets through the common areas at the rear of the townhouses. THM1 also expressed concern about members of the public using THM1's surface parking lot. THM1 expressed concern that the Project would exacerbate these existing issues.
43. In response to THM1's concerns, the Applicant agreed to construct both a perimeter fence around the common area at the rear of THM1's property, and a pedestrian gate at the private sidewalk that provides access to the common area from the public sidewalk. The Applicant also agreed to construct a parking gate arm to control access to THM1's surface parking lot. (Ex. 40.)
44. In its post-hearing submission, THM1 requested that it receive final input and sign-off on the sign and gate feature to ensure that the measures are safe, secure, and within the design aesthetic of the community.
45. The Commission finds that these measures adequately address THM1's concerns; not only will they mitigate the potential impacts of the Project, they will also help to reduce existing impacts unrelated to the Project. The Commission does not believe that it is necessary to give THM1 final input and sign-off on the sign and gate because the Commission believes the Applicant's proposal is adequate to address the concerns expressed by THM1.

Project Height and Density

46. THM1 and other opponents of the Project raised concerns about the proposed height and density of the Project. Concerns included the location of the taller residential component

of the Project at the 7th and I intersection rather than along Maine Avenue and the potential impact of the Project on views.

47. The Commission finds that the PUD's height and density are appropriate given the Project's location and surrounding context, which includes existing apartment buildings of the same height or higher. The Commission has also found that the site organization, which focuses the church along Maine Avenue with other institutional and public institutions (such as Arena Stage) and places the residential component deeper into the residential neighborhood itself, is appropriate given the surrounding development patterns. The Commission notes that the Applicant has incorporated a two-story stepdown in height along I Street to reduce the apparent height and scale of the Project closest to THM1 and other residential neighbors. The Commission also notes that the Applicant included a solar study that demonstrates the Project will not cast shadows for the vast majority of the year, except during certain times surrounding the winter solstice when other buildings would already cast shadows.
48. THM1 expressed concern that the Project lacked sufficient open space. The Commission finds that the Project complies with the lot occupancy requirements for the C-3-A Zone District and therefore provides adequate open space.
49. THM1 also expressed concern that the PUD would set a precedent for other development sites in the immediate area to be approved to a similar height and density. The Commission reviews each PUD and related map amendment on its own merits, and each application must separately meet the standards for approval set forth in the Zoning Regulations.
50. Finally, THM1 expressed concern regarding whether the proposed Project conformed with the medium density land use designation set forth in the Small Area Plan. For the reasons explained elsewhere in this Order, the Commission concludes that the Project is not inconsistent with the guidance of the Small Area Plan and Comprehensive Plan, including the Small Area Plan's "Mixed-Use Medium-Density Residential/Low-Density Commercial" land use designation.
51. THM1 stated that the penthouse feature of the Project could only be built if changes to the zoning regulations authorizing the structure were enacted. (Ex. 43.) The Zoning Regulations regarding penthouses were modified, effective January 8, 2016, such that penthouse in this project complies with the current regulations.

Compliance with PUD Standards

52. In evaluating a PUD application, the Commission must "judge, balance, and reconcile the relative value of project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects." The Commission finds that the development incentives for the height, density, flexibility, and related rezoning to C-3-A are appropriate and fully justified by the additional public benefits and project amenities proffered by the Applicant. The Commission finds that the Applicant has satisfied its burden of proof under the Zoning Regulations regarding the requested flexibility from the

Zoning Regulations and satisfaction of the PUD standards and guidelines as set forth in the Applicant's statement and the OP report. (Ex. 2, 26, 29.)

53. The Commission credits the testimony of the Applicant and its architectural experts as well as OP, DDOT, and ANC 6D, and finds that the superior design, site planning, streetscape, sustainable design features, transportation infrastructure improvements, housing and affordable housing, ground-floor neighborhood-serving uses, and uses of special value (including the retention of the Riverside Baptist Church in the neighborhood) of the Project all constitute acceptable project amenities and public benefits.
54. The Commission finds that the Project is acceptable in all proffered categories of public benefits and project amenities, and is superior in public benefits and project amenities relating to urban design, landscaping and open space, housing and affordable housing, site planning, transportation measures, environmental benefits, and uses of special value to the neighborhood and District as a whole.
55. The Commission disagrees with the testimony of persons in opposition that the proposed amenities and benefits are insufficient for the Project. The Commission credits the testimony of the Applicant regarding the community-based planning effort that guided the development of the Project, and finds that the process resulted in amenities that reflect community preferences and priorities. The Commission credits the testimony of persons in support as well as OP and ANC 6D that the PUD provides significant and sufficient public benefits and project amenities.
56. The Commission finds that the character, scale, mix of uses and design of the Project are appropriate, and finds that the site plan is consistent with the intent and purposes of the PUD process to encourage high quality developments that provide public benefits.
57. The Commission credits the testimony of OP and the Applicant regarding the Property's designation as Mixed-Use Medium-Density Residential/Low-Density Commercial on the Southwest Small Area Plan, and the relationship of the Small Area Plan designation of the site as Moderate-Density Residential on the Future Land Use Map of the Comprehensive Plan. The Commission finds that:
 - a. Small Area Plans provide specific land use analysis for selected geographic areas and, by law, may include "specific zoning recommendations" required to realize the goals and policies of the Small Area Plan as well as the Comprehensive Plan. (D.C. Official Code § 1-306.03(c)(1).) Guidance from an approved Small Area Plan is intended to provide "supplemental guidance to the Zoning Commission" as well as other District agencies; (D.C. Official Code § 1-306.03(c)(4).)
 - b. The Framework Element of the Comprehensive Plan notes that Small Area Plans constitute the "third tier" of planning next to the citywide and area elements of the Comprehensive Plan itself. The Framework Element lays out "interpretation guidelines" for the Comprehensive Plan's Future Land Use Map. Regarding Small Area Plans, the Framework Element states that "Zoning of any given site should be guided by [the Future Land Use] map, interpreted in conjunction with

the text of the Comprehensive Plan including the citywide and area elements as well as approved Small Area Plans”;

- c. The Interpretation Guidelines for the Future Land Use Map also state that the Future Land Use Map is not a zoning map and does not specify allowable uses or dimensional standards. The Guidelines also indicate that the typical building heights and densities included in the land use category simply describe the “general character” of the area, and state that the “granting of density bonuses [through PUDs] may result in heights that exceed the typical ranges cited here.” Finally, the Guidelines indicate that the Future Land Use Map designations are not parcel-specific and should be interpreted in conjunction with the text of the Plan;
- d. Here, the D.C. Council has adopted the Southwest Small Area Plan, and the Small Area Plan has specifically identified the Property as appropriate for Mixed- Use Medium-Density Residential/Low-Density Commercial land use. The D.C. Council has expressly stated that small area plans should provide guidance on zoning decisions, both in the statute establishing the small area plan process and in the Comprehensive Plan itself. Therefore, the Commission concludes that, pursuant to the guidance of the Small Area Plan, the Mixed-Use Medium-Density Residential/Low-Density Commercial Land Use Category is the appropriate land use category for evaluation of the proposed PUD and related rezoning;
- e. The Small Area Plan identifies the Property as appropriate for mixed-use development supporting Medium-Density Residential and Low-Density Commercial uses. The Medium-Density Residential category defines similarly-sized buildings in neighborhoods where mid-rise (four to seven stories) apartment buildings are the predominant use. The Framework Element lists the R-5-B and R-5-C Zone Districts as corresponding zone districts for the Medium-Density Residential land use category. However, the mixed-use designation of the Property for Low-Density Commercial land use as well necessitates the selection of a commercial zone district designation for the Property. The corresponding medium density commercial zones identified in the Framework Element are the C-2-B, C-2-C, C-3-A, and C-3-B Zone Districts; and
- f. The proposed rezoning to the C-3-A Zone District is consistent with the Small Area Plan. The Zoning Regulations define the C-3-A Zone District as a medium-density zone, with a density incentive for residential development. (11 DCMR § 740.4.) The C-3-A Zone District is also identified in the Comprehensive Plan as a zone appropriate for both “moderate” and “medium” density development. The proposed Project’s height, ranging from two to seven to nine stories, is generally consistent with the upper limits listed in the definitions in the Medium-Density Residential and Medium-Density Commercial areas particularly when, as the Future Land Use map notes, that “heights may exceed the typical ranges” when bonuses are granted through a PUD. The proposed Project’s density, at 4.57 FAR, is within the framework of medium-density

development, as testified to by OP at the public hearing and set forth by the Applicant in its post-hearing submission. (Ex. 40.)

58. The Commission finds that the proposed Map Amendment to the C-3-A Zone District is not inconsistent with the Comprehensive Plan, as it was given greater detail by the Small Area Plan, or the character of the surrounding area. The Commission notes that the proposed zoning is consistent with the Property's location near multiple Metrorail stations and along a major urban corridor. The rezoning is necessary to permit the mix and density of uses appropriate for this strategic, transit-oriented site. Further, the rezoning is part of a PUD application, which allows the Commission to review the design, site planning, and provision of public benefits and amenities against the requested zoning flexibility.
59. The Commission credits the testimony of OP and ANC 6D that the Project will provide benefits and amenities of substantial value to the community and the District commensurate with the additional density and height sought through the PUD. Further, the Commission credits OP's testimony that the impact of the PUD on the level of services will not be unacceptable.
60. For the reasons detailed in this Order, the Commission credits the testimony of the Applicant's traffic consultant and DDOT and finds that the traffic, parking, and other transportation impacts of the Project on the surrounding area are capable of being mitigated through the measures proposed by the Applicant and are acceptable given the quality of the public benefits of the PUD.
61. For the reasons detailed in this Order, the Commission credits the Applicant's proposed improvements to THM1's property as reasonable efforts to mitigate the impacts of the construction of the Project.
62. The Commission credits the testimony of the Applicant and OP regarding the compliance of the Project with the District of Columbia Comprehensive Plan, as it was given greater detail by the Southwest Small Area Plan. The development is fully consistent with and furthers the goals and policies in the map, citywide and area elements of the plans, including:
 - a. Designation of the Property as Mixed-Use Medium-Density Residential/Low-Density Commercial use on the Southwest Small Area Plan as well as provisions of the Framework Element of the Comprehensive Plan that explicitly state that (1) Small Area Plans guide the interpretation of the Future Land Use Map and (2) density and height gained through the PUD process are bonuses that may exceed the typical ranges listed in the Comprehensive Plan;
 - b. Land Use Element policies promoting redevelopment around Metrorail stations, strengthening of residential neighborhoods, support for churches as neighborhood anchors, and mitigation of commercial development;
 - c. Housing Element policies promoting the even distribution of mixed-income housing across the city;

- d. Other policies in the Transportation and Urban Design Elements related to the Land Use policies and goals stated above;
- e. Policies in the Lower Anacostia Waterfront/Near Southwest Area Element regarding new waterfront development along Maine Avenue and strengthening pedestrian connections to the waterfront; and
- f. Goals in the Southwest Small Area Plan related to redevelopment of the Property as a gateway into the community as well as for improved pedestrian and bicycle infrastructure, and design guidelines in the Southwest Small Area Plan calling for a combination of low-scale (church) and high-rise (residential) heights, high-quality materials, articulated design, and extensive public landscaping.

Agency Reports

- 63. By report dated November 20, 2015 and by testimony at the public hearing, OP recommended approval of the application and concluded that the Applicant had addressed all previous concerns raised by OP and the Commission, including the modifications to building design, reconfigured penthouse, increases in sustainability, and improved public benefits package. OP concluded that the PUD and related rezoning was not inconsistent with the Comprehensive Plan, as considered within the context of additional guidance provided by the Small Area Plan. OP evaluated the PUD and related rezoning under the evaluation standards set forth in Chapter 24 of the Zoning Regulations and concluded that the Project's benefits and amenities package was appropriate given the size and nature of the PUD and related requests for rezoning and flexibility. (Ex. 29.)
- 64. By report dated November 20, 2015 and by testimony at the public hearing, DDOT expressed no objection to the PUD provided that the Applicant provide additional TDM measures, which the Applicant agreed to at the hearing. DDOT found that the Project would have minimal impact on the existing roadway network and agreed that the proposed amount of vehicle and bicycle parking was sufficient given the Project's location and other features. DDOT also noted that it would continue to work with the Applicant on public space matters, including curbside management, streetscape design, and the final design of the proposed intersection reconfiguration. (Ex. 30.)

ANC 6D Report

- 65. At a regularly scheduled and duly noted public meeting on November 9, 2015, with a quorum present, ANC 6D voted to support the proposed PUD and related rezoning, based on a community benefits agreement and draft construction management plan offered by the Applicant. (Ex. 28.)

Testimony in Support

- 66. At the hearing, the Commission heard testimony and received testimony from nearby residents and church members in support of the Application.

Testimony in Opposition

67. At the hearing, the Commission heard testimony from THM1. THM1 raised concerns regarding the height and density of the Project (including its consistency with the Property's medium density designation under the Small Area Plan), the location of the curb cut, the precedent created by the approval of the PUD for other development sites in the neighborhood, and the potential use of THM1's parking lot and private commons area by residents of the Project. For the reasons set forth in this Order, the Commission finds that the Applicant has satisfactorily addressed THM1's concerns.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process provides a means for creating a "well-planned development." The objectives of the PUD process are to promote "sound project planning, efficient and economical land utilization, attractive urban design and the provision of desired public spaces and other amenities." (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, the Commission has the authority to consider this application as a consolidated PUD. (11 DCMR § 2402.5.) The Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, FAR, 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. (11 DCMR § 2405.)
3. The proposed PUD meets the minimum area requirements of 11 DCMR § 2401.1.
4. Proper notice of the proposed PUD and related rezoning was provided in accordance with the requirements of the Zoning Regulations.
5. The development of the Project will implement the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter-of-right standards. Here, the height, character, scale, mix of uses, and design of the proposed PUD are appropriate, and the proposed construction of an attractive mixed-use building that capitalizes on the Property's transit-oriented location is compatible with the citywide and area plans of the District of Columbia as well as the Southwest Small Area Plan.
6. The Applicant seeks a PUD-related zoning map amendment to the C-3-A Zone District, an increase in the maximum permitted FAR pursuant to 11 DCMR § 2405.3, and as flexibility from the rear yard, courts, parking, and loading requirements. The Commission has judged, balanced, and reconciled the relative value of the project amenities and public benefits offered, the degree of development incentives requested,

and any potential adverse effects, and concludes approval is warranted for the reasons detailed below.

7. The PUD is within the applicable height and bulk standards of the Zoning Regulations. The proposed height and density will not cause an adverse effect on nearby properties, are consistent with the height and density of surrounding and nearby properties, and will create a more appropriate and efficient utilization of land at a significant gateway location near multiple Metrorail stations. The mix of residential, church, and retail uses are also appropriate for the site's location.
8. The project provides superior features that benefit the surrounding neighborhood to a significantly greater extent than a matter-of-right development on the Property would provide. The Commission finds that the urban design, site planning, efficient and safe traffic circulation, sustainable features, housing and affordable housing, ground-floor retail, and uses of special value are all significant public benefits. The impact of the project is acceptable given the quality of the public benefits of the Project.
9. The impact of the Project on the surrounding area and the operation of city services is not unacceptable. The Commission agrees with the conclusions of the Applicant's traffic expert and DDOT that the proposed project will not create adverse traffic, parking, or pedestrian impacts on the surrounding community. The application will be approved with conditions to ensure that any potential adverse effects on the surrounding area for the Project will be mitigated.
10. Approval of the PUD and rezoning is not inconsistent with the Comprehensive Plan. The Commission agrees with the determination of OP and finds that the proposed project is consistent with the Property's Mixed-Use Medium-Density Residential/Low Density Commercial Designation on the Southwest Small Area Plan and furthers numerous goals and policies of the Comprehensive Plan in the Land Use Element, Housing Element, and other citywide elements and policies as well as policies in the Lower Anacostia Waterfront/ Near Southwest Area Element as delineated in the OP Report.
11. The Commission concludes that the proposed PUD-related Zoning Map amendment for the Property from the R-5-B to the C-3-A Zone District is not inconsistent with the Comprehensive Plan, including the Property's designation as Mixed-Use Medium-Density Residential/Low-Density Commercial on the Southwest Small Area Plan, and is appropriate given the superior features of the PUD, the benefits and amenities provided through the PUD, the goals and policies of the Comprehensive Plan, and other District of Columbia policies and objectives.
12. The PUD and rezoning for the Property will promote orderly development of the Property in conformance with the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
13. 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. OP recommended approval and,

accordingly, the Commission concludes that approval of the consolidated PUD and related rezoning should be granted.

14. In accordance with § 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)), the Commission must give great weight to the written issues and concerns of the affected ANC. The Commission accorded the issues and concerns raised by ANC 6D the “great weight” to which they are entitled, and in so doing fully credited the unique vantage point that ANC 6D holds with respect to the impact of the proposed application on the ANC’s constituents. ANC 6D recommended approval, provided that the Applicant agree to certain conditions. The Commission concludes that the Applicant has addressed these conditions and, accordingly, the PUD and related rezoning should be approved.
15. The Applicant 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 approval of a PUD and related rezoning from the R-5-B Zone District to the C-3-A Zone District for property consisting of Square 472, Lot 127 (“Property”). This approval is subject to the following guidelines, conditions, and standards of this Order.

A. PROJECT DEVELOPMENT

1. This project shall be developed in accordance with the plans marked as Exhibit 26, Tab A and Exhibit 40, Tab A of the Record, as modified by guidelines, conditions, and standards herein (collectively, the “Plans”).
2. The Property shall be rezoned from R-5-B to C-3-A. Pursuant to 11 DCMR § 3028.9, the change of zoning shall be effective upon the recordation of the covenant discussed in Condition No. D.1.
3. The Project shall include a mixed-use building containing approximately 167 residential units; a place of worship and related accessory uses; approximately 6,900 to 9,100 square feet for a ground-floor neighborhood-serving retail or service use, daycare or clinic; and a parking garage containing approximately 169 parking spaces, as shown on the Plans.
4. The Applicant shall be permitted to construct the Project to a maximum density of 4.57 FAR, and shall have flexibility from the rear yard, courts, parking, and loading requirements of the Zoning Regulations as shown on the approved Plans.
5. The Applicant shall have flexibility with the design of the PUD in the following areas:

- a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration or appearance of the structure;
- b. To vary final selection of the exterior materials within the color ranges of the materials types as proposed based on availability at the time of construction;
- c. To vary the final selection of landscaping materials utilized, based on availability and suitability at the time of construction;
- d. To vary the final streetscape design and materials, including the final design and materials on Lot 820, in response to direction received from District public space permitting authorities;
- e. To make minor refinements to exterior details and dimensions, including balcony enclosures, belt courses, sills, bases, cornices, railings, and trim, or any other changes to comply with Construction Codes;
- f. To vary the final design of the ground-floor retail space frontage, including the number, size, design and locations of windows, doors, awnings, canopies, signage, and similar features, to accommodate the needs of the ground-floor tenants over the life of the Project;
- g. To modify the design of the outdoor space at the rear of the Project to accommodate the ground-floor tenant (for example, if a day care use is secured, the rear area may be revised to create a playground and outdoor space for the children);
- h. To vary the number of residential units plus or minus 10%, and accordingly adjust the number and location of affordable units to reflect the final unit mix of the Project, provided that the Applicant complies with Condition B.2 of this Order; and
- i. To vary the number of parking spaces plus or minus five percent.

B. PUBLIC BENEFITS

1. LEED-Gold. Prior to the issuance of a certificate of occupancy for the Project, the Applicant shall provide the Zoning Administrator with evidence that the residential portion of the Project is on track to secure LEED-Gold certification or higher from the U.S. Green Building Council under the LEED-2009 rating system. Within 12 months after the issuance of the certificate of occupancy for the Project, the Applicant shall submit evidence that it has secured such LEED-Gold certification.

2. Affordable Housing. **For so long as the project exists,** the Applicant shall set aside the following amount of gross floor area for Inclusionary Units governed by the Inclusionary Zoning Regulations:
 - a. A minimum of 6,004 square feet of gross floor area for households earning up to 50% AMI. This amount represents the sum of four percent of the residential gross floor area of the Project and eight percent of the floor area of habitable residential units within the penthouse of the Project; and
 - b. A minimum of 8,635 square feet of gross floor area for households earning up to 80% AMI. This amount represents six percent of the residential gross floor area of the project.
3. Ground-Floor Community-Serving Retail Use.
 - a. **For the life of the Project,** the Applicant shall set aside approximately 6,900 to 9,100 square feet of the ground floor of the Project for neighborhood-serving retail and service, daycare, or clinic use;
 - b. **Prior to the issuance of a certificate of occupancy for the Project,** the Applicant shall demonstrate that it has provided a \$25,000 subsidy to help attract a daycare to the ground-floor space; and
 - c. **For the life of the Project,** the Applicant shall develop and implement a plan to mitigate light and noise impacts from the ground-floor tenant's use of the outdoor area of the rear of the Project; specifically, the Applicant shall ensure that light is directed away from surrounding properties and that noise from the ground-floor tenant use is managed to comply with District of Columbia noise regulations.
4. Public Space Improvements.
 - a. **Prior to the issuance of a certificate of occupancy for the Project,** the Applicant shall demonstrate that it has constructed the intersection reconfiguration and landscape public space improvements at 7th and I Streets, S.W. as shown on the Plans, including any signal modification required to the intersection's traffic signal. The final design of such improvements shall be subject to the approval of DDOT; and
 - b. **Prior to the issuance of a certificate of occupancy for the Project,** the Applicant shall demonstrate that it has constructed the streetscape improvements along the perimeter of the Project as shown on the Plans. The final design of such improvements shall be subject to the approval of DDOT.
5. **For the life of the Project,** the Project shall include the water walls that function as public art depicted on page 67 of Exhibit 26, Tab A; provided, the Applicant

shall have flexibility to cease operation of the water component seasonally, and as needed for regular maintenance.

C. MITIGATION MEASURES

1. Church Parking. **For the life of the Project**, the Applicant shall ensure that at least 35 vehicular parking spaces are made available to the Church on Sundays.
2. Residential Permit Parking. **For the life of the Project**, the Applicant shall prohibit tenants and residents of the Project from participating in the District's Residential Parking Permit ("RPP") program through a lease provision or similar mechanism.
3. Bicycle Parking. **For the life of the Project**, the Applicant shall provide a minimum of 64 bicycle parking spaces and an on-site bicycle repair facility within the building and a minimum of 20 bicycle parking spaces on racks outside the building. The final number and location of improvements in public space shall be subject to the discretion of DDOT.
4. Transportation Demand Management Plan. **For the life of the Project**, the Applicant shall provide the following transportation demand management ("TDM") measures:
 - a. Unbundle the cost of residential parking from the cost of lease or purchase, and set parking rates at no less than the rate of the lowest fee garage within 1/4 mile of the Project;
 - b. Identify one or more TDM leaders at the residential building to work with building residents to distribute and market various transportation alternatives;
 - c. Dedicate two parking spaces for car sharing services within the Project, if requested for use by a carsharing service, with such spaces available to members of the carsharing service 24 hours a day, seven days a week;
 - d. Dedicate one parking space within the Project for an electric vehicle charging station;
 - e. Provide each new household with an option to select either a one-year membership in Capital Bikeshare or a one-time membership fee subsidy to a carsharing program, up to a maximum of \$20,000 expended on such memberships for the life of the Project; and
 - f. Provide one or more electronic message boards in the residential building lobby that provide real-time transit information.
5. Curbside Management.

- a. Prior to the issuance of a Certificate of Occupancy for the Project, Applicant will request that DDOT approve a “no parking building entrance” zone in the curb lane of 7th Street in front of the residential lobby of the Project; and
 - b. In the event that a daycare is secured as a tenant in the Project, prior to the issuance of a Certificate of Occupancy for the daycare, Applicant will request that DDOT approve the use of the 7th Street curb lane for pick-up and drop-off activity.
6. Townhome Management One (“THM1”) – Fence and Gate Improvements.
- a. Common Area Fence. Prior to the issuance of a Certificate of Occupancy for the Project, Applicant will construct up to a 42-inch-tall black aluminum fence around the perimeter of the common area located within the THM1 Property (“Common Area Fence”), generally in the location and similar to the style shown on Exhibit 40, Tab B of the Record. The fence will cover approximately 350 linear feet of distance and include three gates to enable THM1 access into the common area, with the final location of the gates to be determined by THM1;
 - b. Parking Gate Arm. Prior to the issuance of a Certificate of Occupancy for the Project, Applicant will construct and install a working electronic parking gate arm with an access control feature that enables THM1 to manage access to the parking lot generally in the location and similar to the style shown on Exhibit 40, Tab B of the Record. THM1 shall be solely responsible for the use, operation, and maintenance of the parking arm, as well as providing all users of the parking lot, including those not part of THM1, with up-to-date access capabilities;
 - c. Perimeter Gate. Prior to the issuance of a Certificate of Occupancy for the Project, Applicant will install up to a six-foot-tall by six-foot-wide pedestrian gate across the private sidewalk near the parking lot in the location shown on Exhibit 40, Tab B of the Record. The purpose of the perimeter gate is to further control access from the public into THM1’s common area; and
 - d. Timing and Installation. Upon written notification from Applicant that it intends to proceed with the fence and gate improvements (i.e., the Common Area Fence, Parking Gate Arm, and Perimeter Gate), THM1 shall provide Applicant with any written authorization required to proceed with the construction of the improvements (e.g. signature on required building permits and license to access THM1’s property to construct the improvements) within 90 days of such notification. Applicant shall then pay for and secure all required permits required to construct and install the fences and gates (including electrical work, if required). All work will comply with all applicable codes and regulations. If THM1 does not provide authorization to proceed with the improvements as set forth

above, Applicant shall not be required to construct the fence and gate improvements.

7. Rooftop Use. **For the life of the Project**, the Applicant shall ensure that lighting on the outdoor roof space is directed away from surrounding properties and noise from the outdoor roof space is managed to comply with District of Columbia noise regulations.
8. Rodent Abatement Program. **Prior to the issuance of a building permit**, the Applicant shall demonstrate that it has established a rodent abatement program during the construction of the Project.
9. Construction Management Plan. **Prior to the issuance of a building permit**, the Applicant shall demonstrate that it has finalized a construction management plan similar in form to the draft plan attached to Exhibit 28 of the Record.

D. MISCELLANEOUS

1. No building permit shall be issued for this project until the owner of the Property has recorded a covenant among the land records of the District of Columbia between the owners and the District of Columbia that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs. Such covenant shall bind the owner of the Property and all successors in title to construct on or use the Property in accordance with this Order and any amendment thereof by the Commission.
2. The application approved by this Commission shall be valid for a period of two years from the effective date of this Order. Within such time, an application must be filed for the building permit as specified in 11 DCMR § 2409.1. Construction must begin within three years after the effective date of this Order for the PUD to remain valid.
3. The 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
4. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01, et seq. ("Act") and this Order is conditioned upon full compliance with those provisions. In accordance with the Act, the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by

the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On January 11, 2016, upon the motion of Vice Chairperson Cohen, as seconded by Commissioner Miller, the Zoning 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 February 29, 2016, upon the motion of Commissioner Miller, as seconded by Vice Chairperson Cohen, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 2038, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on March 18, 2016.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING

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WASH DC RECORDER OF DEEDS IDA WILLIAMS

RECORDING FEES	\$25.00
SURCHARGE	\$6.50