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October 30, 2015

VIA IZIS

Ms. Sharon Schellin
Secretary to the Zoning Commission for the
District of Columbia
Office of Zoning
441 Fourth Street, NW, Suite 210-S
Washington, DC 20001

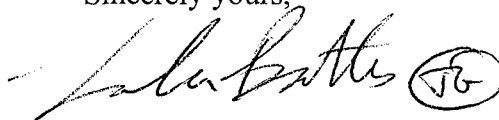
Re: Deanwood Hills, LLC (ZC Case No. 15-10)
Draft Findings of Fact and Conclusions of Law

Dear Ms. Schellin:

On behalf of Deanwood Hills, LLC, we respectfully submit the attached draft findings of facts and conclusions of law in connection with the above-referenced application.

Thank you for your considerate attention to this matter.

Sincerely yours,



Leila M. Jackson Batties

Attachment

cc: Advisory Neighborhood Commission 7C c/o Chairperson Antawan Holmes
(via U.S. Mail/electronic mail)
Alan Bergstein, Esq. Office of the Attorney General (via electronic mail)
Karen Thomas, Office of Planning (via electronic mail)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 15-10
Z.C. Case No. 15-10
DEANWOOD HILLS, LLC
(Consolidated PUD and Related Map Amendment
@ Square 5197, Lot 809)**

November 23, 2015

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission” or “Zoning Commission”) held a public hearing on October 15, 2015, to consider an application for a consolidated planned unit development ("PUD") and related Zoning Map amendment filed by Deanwood Hills, LLC (the "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

A. The Applications, Parties, Hearings, and Post-Hearing Filings

1. On April 13, 2015, the Applicant filed an application with the Commission for consolidated review of a PUD and a related Zoning Map amendment from the C-M-1 District to the R-5-B District for an approximately 2.1-acre parcel located on the south side of Hayes Street, NE, west of Division Avenue. The property address is 5201 Hayes Street, NE and is more particularly described as Square 5197, Lot 809 (the "Property").
2. The Applicant proposes to redevelop the Property with a four-story, multi-family building with a partial basement. The building will include on-site amenities, including a multi-purpose room, exercise facility, community tot lot, courtyard lawn and patio, game room, and a cyber café.
3. The PUD will have approximately 152,500 square feet of residential gross floor area, resulting in approximately 150 affordable dwelling units comprised of studios, 1-bedroom, 2-bedroom, 3-bedroom, and 4-bedroom units, with a surface parking lot for 75 vehicles. The density will be 1.63 floor area ratio (“FAR”), and the building height will be 59’-8”.
4. The Applicant requests flexibility from the following requirements of the Zoning Regulations: (i) to have 56% of the required parking spaces as compact where only 40% compact space are permitted under Section 2115.2; (ii) to provide a 30-foot loading berth and a 100 square-foot loading platform in lieu of a 55-foot loading berth and 200 square-foot loading platform under Section 2201.1; and (iii) to have a side

yard of 9'-2" on the east side of the Property and 7'-3" for a portion of the west side of the Property where a minimum side yard of 15'-7" is required under Section 405.6.

5. By report dated June 19, 2015, the District of Columbia Office of Planning ("OP") recommended that the application be set down for a public hearing. (Exhibit ["Ex."] 14.) At its public meeting held on June 29, 2015, the Commission voted to schedule a public hearing on the application.
6. The Applicant submitted its prehearing statement for the application on August 4, 2015 (Ex. 17) and a hearing was timely scheduled for the matter for October 15, 2015. A description of the proposed development and the notice of the public hearing in this matter were published in the *D.C. Register* on August 28, 2015. (Ex. 20.) The notice of public hearing was mailed to all owners of property located within 200 feet of the Property and to Advisory Neighborhood Commission ("ANC") 7C on August 18, 2015. (Ex. 21.)
7. At its regularly scheduled public meeting on September 10, 2015, for which notice was properly given and a quorum was present, ANC 7C voted unanimously by a vote of 4-0 to support the application. (Ex. 39.)
8. On September 25, 2015, and September 28, 2015, the Applicant submitted supplemental prehearing statements that included updated affordable housing charts. (Ex. 26 and Ex. 30.)
9. On October 5, 2015, OP submitted a report to the Commission recommending approval of the application and the requested areas of zoning flexibility. (Ex. 31.)
10. On October 5, 2015, the District Department of Transportation ("DDOT") submitted a report finding no objection to the application, subject to certain conditions listed on page 2 of its report. (Ex. 32.)
11. The parties to the case were the Applicant and ANC 7C.
12. The Commission held a public hearing on the application on October 15, 2015. At the hearing, Ms. Ivy Dench Carter, Vice President of Development for Pennrose Properties, LLC, Mr. Lee Goldstein of the Office of the Deputy Mayor for Planning and Economic Development, and Ms. Stephanie Farrell of Torti Gallas Urban, Inc., the architect for the PUD, and Mr. Warren Williams, principle of The Warrenton Group, testified on behalf of the Applicant. Mr. Erwin Andres from Gorove/Slade Associates, Inc., testified on behalf of the Applicant as an expert witness in transportation planning and traffic engineering.
13. At the public hearing, the Applicant submitted the following: (i) a letter withdrawing the request for flexibility from the height requirements in Section 2405.1 of the Zoning Regulations; and (ii) a comprehensive set of the updated architectural drawings. (Ex. 35 and Exs. 41.A1-41.A3.)

14. OP and DDOT testified in support of the application at the public hearing.
15. No individuals testified in support of, or in opposition to, the application at the public hearing. However, the record includes a letter of support from the Deanwood Civic Association. (Ex. 33.)
16. The record was closed at the conclusion of the public hearing, except to respond to the Commission's recommendations about replacing the chain link fence on the adjacent property, from Hayes street to the PUD property, with an 8-foot high metal ornamental fence and replacing the architectural elements on the south side of the building with sunshades. At the hearing, the Commission took proposed action to approve the application. The proposed action was referred to the National Capital Planning Commission ("NCPC") on _____, 2015, pursuant to § 492 of the Home Rule Act.
17. On October 21, 2015, the Applicant submitted a chart of proffers and conditions pursuant to Sections 2403.16 through 2403.18 of the Zoning Regulations. (Ex. 46.)
18. On October 22, 2015, the Applicant submitted their post-hearing submission in response to the Commission's recommendations. (Ex 48.)
19. The Executive Director of NCPC, by delegated action dated _____, 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. __.)
20. The Commission took final action to approve the PUD on November 23, 2015.

B. The PUD Site and Surrounding Area

21. The Property consists of approximately 93,540 square feet of land area (approximately 2.1 acres) and is located on the south side of Hayes Street, west of Division Avenue. (Lot 809 in Square 5197). It is bounded by Hayes Street to the north, 51st Street the Deanwood Rehabilitation and Wellness Center to the west, and a surface parking lot owned by Tabernacle Baptist Church to the east. To the south, the Property backs up to Holy Christian Missionary Baptist Church and George's Carry Out restaurant, both of which front on Nannie Helen Burroughs Avenue.
22. The Property is vacant. Prior to the District purchasing the Property in 2008, for more than 15 years it was utilized as a sorting and storage facility for bulk trash and recyclable material. It also previously housed a bakery.
23. The Property is designated in the Mixed Use Low Density Commercial/Moderate Density Residential land use category on the District of Columbia Comprehensive Plan Future Land Use Map, for which R-5-B is a corresponding zone district. The

Property is located in the Neighborhood Enhancement Area on the District of Columbia Comprehensive Plan Generalized Policy Map and the PUD is consistent with the *Lincoln Heights & Richardson Dwellings New Communities Initiative Revitalization Plan*.

C. The Applicant

24. Deanwood Hills LLC is a partnership between Pennrose Properties, LLC (“Pennrose”) and The Warrenton Group. Pennrose is a private full-service real estate development firm that has been active in real estate development for over 40 years. It has developed over 15,000 housing units in more than 200 separate developments throughout 13 states and the District of Columbia, most of which Pennrose continues to own, manage, and maintain. Pennrose is one of the leading developers in the nation of mixed-finance developments and has been a designated redeveloper in over 80 municipalities. The Warrenton Group is a Local Minority-Owned Business Enterprise and District of Columbia Certified Business Enterprise with over 20 years of experience working throughout the District of Columbia creating mixed income residential communities, including two New Communities Initiative developments.

D. Existing and Proposed Zoning

25. The Property is presently in the C-M-1 District. The C-M-1 District includes the following development requirements:
- A maximum height of 40 feet and three stories. 11 DCMR § 840.1.
 - A maximum density of 3.0 FAR. 11 DCMR § 841.1.
 - A minimum rear yard depth of 2.5 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 12 feet. 11 DCMR § 842.2.
 - No side yard is required, except where a side lot line of the lot abuts a Residence District, in which case a side yard shall be provided along that side lot line with a minimum width of at least three inches per foot of height of building, but not less than eight feet. 11 DCMR § 843.
 - If provided, an open court must have a minimum width of 2.5 inches per foot of height of court, but not less than six feet. 11 DCMR § 844.2.
 - If provided, a closed court must have a minimum width of 2.5 inches per foot of height of court, but not less than 12 feet and a minimum area of twice the square of the required width of court based on height of court, but not less than 250 square feet. 11 DCMR §§ 844.3, 844.4.

26. The Applicant requests a map amendment to rezone the Property to the R-5-B District. The R-5-B District includes the following development requirements:
- A maximum height of 50 feet with no limit on the number of stories, and 60 feet as a PUD. 11 DCMR §§ 400.1, 2405.1.
 - A maximum density of 1.8 FAR, and 3.0 FAR as a PUD. 11 DCMR §§ 402.4, 2405.2.
 - A maximum percentage of lot occupancy of 60 percent. 11 DCMR § 403.2.
 - A minimum rear yard depth of four inches per foot of height 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 minimum side yard width of three inches per foot of height of building, but not less than eight feet. 11 DCMR § 405.6.
 - If provided, an open court must have a minimum width of four inches per foot of height of court, but not less than ten feet. 11 DCMR § 406.1.
 - If provided, a closed court must have a minimum width of four inches per foot of height of court, but not less than 15 feet and a minimum area of twice the square of the required width of court based on height of court, but not less than 350 square feet. 11 DCMR §§ 844.3, 406.1.

E. Description of the PUD Development

27. The Applicant seeks approval of a Consolidated PUD and related Zoning Map Amendment in order to develop the Property with an affordable mixed-income apartment building consisting of approximately 152,500 square feet of residential gross floor area, resulting in approximately 150 dwelling units comprised of studios, 1-bedroom, 2-bedroom, 3-bedroom, and 4-bedroom units. Fifty of the residential units will be set aside as replacement public housing units for Lincoln Heights and Richardson Dwellings in accordance with the *Lincoln Heights & Richardson Dwellings New Communities Initiative Revitalization Plan*. The PUD will provide affordable units in accordance with the following chart:

Residential Unit Type	GFA & Percentage of Total	Units	Income Type	Affordable Control Period	Affordable Unit Type	Notes
Total	154,755 s.f.	150				
Market Rate		0				
IZ	N/A					Exempt, § 2602.3
Affordable Non IZ	15,475 s.f. /10%	15	30% AMI – 80% AMI	For the life of the development	Rental	In satisfaction of § 2603.7
Affordable Non IZ	38,689 s.f. / 25%	38	30% AMI	40 years	Rental	For as long as operating subsidy is in place; otherwise up to 60% AMI
Affordable Non IZ	100,591 s.f. / 65%	97	60% AMI	40 years	Rental	

28. All vehicular, including truck, access to the development will be through a north-south public alley to the east of the site. The Applicant will construct or cause the construction of the unimproved 15-foot wide public alley adjacent to the Property in order to connect Hayes Street with an existing public alley that runs north-south from Nannie Helen Burroughs Avenue. Additionally, the Applicant will improve plus a 5-foot wide access easement within the Property boundary, resulting in a 20-foot wide alley extending from Hayes Street to the southern boundary of the Property.
29. The PUD will have 75 surface parking spaces, 56% of which will be compact spaces. For loading, the development will have one 30-foot loading berth, one 20-foot service space, and one 100 square-foot platform. A minimum of 78 covered secure bicycle parking spaces will be provided in the basement of the building.
30. The PUD will have a density of 1.63 FAR; a building height of 59'-8"; and a lot occupancy of 40%.
31. The apartment building will include an array of on-site amenities, including a multi-purpose room, exercise facility, family garden and tot lot, community courtyard lawn and patio, game room, and a cyber café. The apartment building will also include on-site concierge services.
32. The massing and design of the PUD is intended to enhance the residential character of the immediate area. The development is designed with a series of three courtyards that open onto Hayes Street, with the center courtyard being aligned with the end of 52nd Street. The courtyards and the four "fingers" of the building that front on Hayes Street serve to modulate the scale of the building, vary the pedestrian experience along the street, and maximize green space for both the building and the neighborhood.

33. Due to the significant change in grade along Hayes Street from the high side at the east end (elevation 80.68') to the low side at the west end (elevation 59.65'), the PUD is designed as a stepped, four story building that is nestled sensitively into the existing grade. The architectural design includes projected masonry bays that are three stories in height and 20-30 feet in width, which relate directly in size and scale to the duplex townhouses on the north side of Hayes Street. Elements such as sunshades and Juliet balconies further break down the massing of the building and enhance its residential character.
34. A green roof will be provided on top of the building. Planted with sedums and other appropriate plant species, the green roof will be an asset to stormwater management and aid in regulating building temperature.

F. Development Incentives and Flexibility

35. The Applicant requested flexibility from the following areas of the Zoning Regulations:
 - a. *Compact Parking Space Requirements.* The Applicant seeks flexibility to have 56% of the required parking as compact spaces where only 40% compact spaces is permitted under Section 2115.2 of the Zoning Regulations. The Applicant also requests flexibility to have two contiguous compact parking spaces located in their own grouping where Section 2115.4 of the Zoning Regulations requires that compact parking spaces be placed in groupings of at least five contiguous spaces with access from the same aisle. The Applicant designed the parking lot to maximize the number of parking spaces on the Property, given its irregular shape, and to increase the ease and efficiency of use of the lot for building residents. Vehicles accessing parking spaces will have sufficient maneuverability for both ingress and egress. The Applicant proposes to maximize the amount of off-street parking in order to minimize any spillover parking on adjacent residential streets.
 - b. *Loading Requirements.* The Applicant requests flexibility to provide a 30-foot loading berth and a 100 square-foot loading platform in lieu of a 55-foot loading berth and a 200 square-foot loading platform as required under Section 2201.1 of the Zoning Regulations. The Applicant contends that the proposed loading facilities are sufficient to service the PUD.
 - c. *Side Yard Width Requirements.* The Applicant seeks flexibility to have a side yard of 9'-2" on the east side of the Property and 7'-3" for a portion of the west side of the Property where a minimum side yard of 15'-7" is required under Section 405.6 of the Zoning Regulations. The reduced side yards will not result in any adverse impacts to the open space on the Property or on the enjoyment of building residents. There is ample open space, light, and air surrounding the building in all directions. The side yard on the east side is

bounded by a 15' public alley. There is a large 31,550 square-foot rear yard to the south of the building with an average depth of 79'-2" inches. Also, there is significant open space on the north side of the building comprised of three compliant open courts and a front yard that is 15'-11" wide.

36. The Applicant also requests flexibility in the following areas:
- a. To be able to provide a range in the number of residential units of plus or minus ten percent from the 150 units depicted on the Plans;
 - 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 and the number of compact spaces is no greater than 56% of the required parking;
 - 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 final selection of all exterior signage on the building.

G. Project Benefits and Amenities

37. Urban Design, Architecture and Landscaping (11 DCMR § 2403.9(a)) – The PUD will significantly improve the fabric of Hayes Street, between 50th Street and Division Avenue, by redeveloping a large site that has been underutilized or vacant for years. The PUD will enhance safety by activating the corridor while relating to and respecting the existing residential community to the north. The north-facing courtyards, streetscape improvements and significant open space will significantly improve the aesthetics of the area. The PUD also includes a 950-square foot tot lot and large bioretention area along Hayes Street, which will provide open space for both the residents of the PUD and the immediate neighborhood. The tot lot will also further activate and enhance the pedestrian experience along Hayes Street.

38. Affordable Housing (11 DCMR § 2403.9(f)) – The PUD will be a mixed-income, affordable residential community and include replacement housing for the Lincoln Heights and Richardson Dwellings public housing communities. The PUD will provide affordable units in accordance with the following chart:

Residential Unit Type	GFA & Percentage of Total	Units	Income Type	Affordable Control Period	Affordable Unit Type	Notes
Total	154,755 s.f.	150				
Market Rate		0				
IZ	N/A					Exempt, § 2602.3
Affordable Non IZ	15,475 s.f. / 10%	15	30% AMI – 80% AMI	For the life of the development	Rental	In satisfaction of § 2603.7
Affordable Non IZ	38,689 s.f. / 25%	38	30% AMI	40 years	Rental	For as long as operating subsidy is in place; otherwise up to 60% AMI
Affordable Non IZ	100,591 s.f. / 65%	97	60% AMI	40 years	Rental	

39. Effective and Safe vehicular and pedestrian access (11 DCMR § 2403.9 (c)) – Transportation Demand Management.
- a. In order to further encourage the use of non-auto modes of transportation, the Applicant will implement a Transportation Demand Management (TDM) plan with strategies to limit the need for and use of vehicles at the proposed residential building. The TDM plan will include the following:
 - i. The Applicant will provide 78 long-term bicycle parking spaces and a secure bicycle repair station within the long-term bicycle storage room in the building.
 - ii. The Applicant will install a minimum of eight short-term bicycle storage parking spaces (four racks) near the building entrances.
 - iii. The Applicant will offer each new household a one-year Capital BikeShare or CarShare membership. The memberships will be available on a first come, first served basis, and shall have an aggregate value of up to \$12,000. In order to ensure residents are aware of the BikeShare or CarShare benefit, the Applicant will provide a proactive marketing strategy.

- b. In order to enhance vehicular and pedestrian circulation, subject to review and approval by DDOT, the Applicant will construct or cause the construction of the following improvements:
 - i. The 15-foot wide “paper alley” along the eastern boundary of the Property plus a 5-foot wide access easement with the Property boundary, resulting in a 20-foot wide alley extending from Hayes Street to the southern boundary of the Property.
 - ii. A new sidewalk along the south side of Hayes Street that will extend from the Property east to Division Street.
 - iii. A safe pedestrian connection to the north side of Hayes Street at either 51st Street or near 50th Place.
 - iv. A new curb ramp and receiving ramp at the southwest and southeast corners of Hayes Street and Division Street.
- 40. Employment (11 DCMR § 2403.9(e)) – The Applicant will host a job fair to advertise employment opportunities targeted to residents within the boundaries of ANC 7C. The employment opportunities will include, but are not limited to, construction jobs and positions for the ongoing maintenance and operation of the building. During the construction of the PUD, the Applicant will maintain a job listing targeted to residents of ANC 7C, which will include the contact information for the person designated to coordinate employment efforts on behalf of the Applicant.
- 41. First Source Agreement (11 DCMR § 2403.9(e)) – The Applicant has entered into a First Source Employment Agreement with the Department of Employment Services.
- 42. Environmental Benefits (11 DCMR § 2403.9(h)) – The PUD will be developed in accordance with the Enterprise Green Communities standard for residential buildings.
- 43. Other Public Benefits and Development Amenities- Community Recreation Spaces (11 DCMR § 2403.9(j)) – The community space in the development will be available to ANC 7C to assist in the ANC’s community outreach efforts.

H. Comprehensive Plan

- 44. 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, affordable residential development that will generate 100 new housing units in the Deanwood neighborhood, in addition to 50 new replacement

units for the Lincoln Heights and Richardson Dwelling public housing communities. The PUD will create much needed new housing in this area of the District and will provide a range of unit sizes to accommodate a diverse population, including families, without generating any adverse impacts.

45. The Future Land Use Map of the Comprehensive Plan designates the PUD Site for Mixed-Use Moderate Density Residential and Low Density Commercial. The Moderate Density Residential category is used to define the District's row house neighborhoods, as well as its low-rise garden apartment complexes. The designation also applies to areas characterized by a mix of single family homes, 2-4 unit buildings, row houses, and low-rise apartment buildings. In some of the older inner city neighborhoods with this designation, there may also be existing multi-story apartments, many built decades ago when the areas were zoned for more dense uses (or were not zoned at all). The R-3, R-4, R-5-A Zone Districts are generally consistent with the Moderate Density Residential category; the R-5-B district and other zones may also apply in some locations.
46. The Low Density Commercial category is used to define shopping and service areas that are generally low in scale and character. Retail, office, and service businesses are the predominant uses. Areas with this designation range from small business districts that draw primarily from the surrounding neighborhoods to larger business districts uses that draw from a broader market area. Their common feature is that they are comprised primarily of one- to three-story commercial buildings. The corresponding zone districts are generally C-1 and C-2-A, although other districts may apply.
47. The Applicant's proposal to rezone the Property from the C-M-1 District to the R-5-B District is consistent with the Moderate Density Residential and Low Density Commercial Comprehensive Plan designation.
48. The District of Columbia Comprehensive Plan Generalized Policy Map designates the Property as a Neighborhood Enhancement Area. The guiding philosophy in Neighborhood Enhancement Areas is to ensure that new development fits in and responds to the existing character, natural features, and existing/planned infrastructure capacity. New housing should be encouraged to improve the neighborhood; the unique and special qualities of each area should be maintained and conserved; and overall neighborhood character should be protected as development takes place. The proposed map amendment for the Property, from C-M-1 to R-5-B, will continue to protect and strengthen the existing residential uses in the area while creating a new, high-quality residential community that responds to the existing character, natural features, and infrastructure of the neighborhood.
49. The PUD is consistent with many guiding principles in the Comprehensive Plan for managing growth and change, creating successful neighborhoods, connecting the city, 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 diversity and asserts that the District “cannot sustain itself by only attracting small, affluent households. To retain residents and attract a diverse population, the city should provide services that support families [and prioritize] sustaining and prompting safe neighborhoods... and housing for families.” 10A DCMR § 217.2. Diversity also means maintaining and enhancing the District’s mix of housing types... [with] housing developed for households of different sizes, including growing families as well as singles and couples.” 10A DCMR § 217.3. 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 Property into a vibrant, affordable development with approximately 150 residential units that range in size from studios to four bedrooms will attract a diverse population of residents, including families. The development also takes advantage of a large, vacant site, which will further help to restore the neighborhood fabric.
- b. *Creating Successful Neighborhoods.* One of the guiding principles for creating successful neighborhoods is to protect, maintain, and improve residential neighborhoods. 10A DCMR § 218.1. The preservation of existing affordable housing and the production of new affordable housing both are essential to avoid a deepening of racial and economic divides in the city. 10A DCMR § 218.3. Public input in decisions about land use and development is an essential part of creating successful neighborhoods, from development of the Comprehensive Plan, to implementation of the Plan's elements. 10A DCMR § 218.8. The PUD furthers these goals because it will simultaneously protect and improve the existing residential neighborhood while producing new affordable housing on a large, vacant site. The Applicant has engaged neighborhood stakeholders to ensure that redevelopment of the site creates a positive impact on the neighborhood.
- c. *Connecting the City.* The development will help implement a number of the guiding principles of this citywide element. Consistent with 10A DCMR § 220.2, the PUD will include streetscape improvements to encourage better mobility and circulation in and around the Property. The access points for the required parking and loading facilities will appropriately balance the needs of pedestrians, bicyclists, transit users, automobiles, and delivery trucks, as well as the needs of residents and others to move around and through the city. *Id.* Moreover, and consistent with 10A DCMR § 220.3, the PUD’s streetscape improvements will help reinforce and improve this section of the city by creating a walkable, pedestrian-friendly and well-designed streetscape that improves public safety and encourages all modes of transportation.
- d. *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 development will meet the requirements of the Enterprise Green Communities standard for residential buildings. The development will employ environmentally sustainable strategies as called for in the Green Communities standard such as compact development, surface water management, green roofs, water-permeable parking areas, native and soil appropriate plantings, sunshading devices, natural ventilation features, Energy Star rated appliances, low volatile organic compounds (VOC) finishes, water conserving plumbing fixtures, and Energy star rated residential unit light fixtures.

50. 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. 4, 14, 31.)

I. Office of Planning Reports

51. On June 19, 2015, OP submitted a report recommending set down of the application. (Ex. 14.) The OP report stated that the application is not inconsistent with the maps and written elements of the Comprehensive Plan and the collaborative effort of the New Community Initiative program in support of the Lincoln Heights/Richardson Dwelling Neighborhood. The report also recommended that the Applicant provide the following information on the Application: (i) improved drawings for the public hearing; (ii) a revised plan to include a rear security gate; (iii) more information about external lighting and security cameras; and (iv) revised plans including treatment of the retaining wall. The Applicant provided this requested information to OP and the Commission.
52. On October 5, 2015, OP submitted a report recommending approval of the application. (Ex. 31.) The report restated that the PUD is not inconsistent with the maps and written elements of the Comprehensive Plan and that the proposal is largely consistent with the requirements of the R-5-B District. The development would increase the range of housing options within the Lincoln Heights neighborhood and add to the available family-sized units sought by the District as replacement housing of the Lincoln Heights/Richardson Dwelling Neighborhood.

J. DDOT Report

53. On October 5, 2015, DDOT submitted a report (Ex. 32.) finding no objection to the application, subject to the following conditions:
 - a. The Applicant shall construct or cause the construction of the following improvements:

- i. The 15-foot wide “paper alley” along the eastern boundary of the Property plus a 5-foot wide access easement resulting in a 20-foot wide alley extending from Hayes Street to the southern boundary of the Property.
 - ii. A new sidewalk along the south side of Hayes Street that will extend from the Property east to Division Street.
 - iii. A safe pedestrian connection to the north side of Hayes Street at either 51st Street or near 50th Place.
 - iv. A new curb ramp and receiving ramp at the southwest and southeast corners of Hayes Street and Division Street.
- b. The Applicant shall implement a Transportation Demand Management (TDM) plan with strategies to limit the need for and use of vehicles at the proposed residential building. The TDM plan shall include the following:
- i. The Applicant shall provide 78 long-term bicycle parking spaces and a secure bicycle repair station within the long-term bicycle storage room in the building.
 - ii. The Applicant shall install a minimum of eight short-term bicycle storage parking spaces (four racks) near the building entrances.
 - iii. The Applicant shall offer each new household a one-year Capital BikeShare or CarShare membership. The memberships shall be available on a first come, first served basis, and shall have an aggregate value of up to \$12,000. In order to ensure residents are aware of the BikeShare or CarShare benefit, the Applicant shall provide a proactive marketing strategy.

K. ANC Support

54. By letter dated September 10, 2015, ANC 7C indicated that at its regularly scheduled public meeting on September 10, 2015, for which notice was properly given and a quorum was present, ANC 7C voted unanimously by a vote of 4-0 to support the application. (Ex. 39.)

L. Post-Hearing Submission

55. On October 22, 2015, the Applicant submitted its post-hearing submission in response to the Commission’s recommendations that the Applicant consider: (i) replacing the chain link fence on the adjacent property, from Hayes street to the PUD property, with an 8-foot high metal ornamental fence; and (ii) replacing the architectural elements on the south side of the building with sunshades. (Ex 48.)

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 development "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." (11 DCMR § 2400.2.)
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking and loading, or for yards and courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.
3. Development of the Property included in this application carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
4. The PUD meets the minimum area requirements of §2401.1 of the Zoning Regulations.
5. The PUD, as approved by the Commission, complies with the applicable height, bulk and density standards of the Zoning Regulations. The residential use for this development is appropriate for the Property. The impact of the development on the surrounding area is not unacceptable. Accordingly, the PUD 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 development's benefits and amenities are reasonable tradeoffs for the requested development flexibility.
8. Approval of the PUD is appropriate because the proposed development is consistent with the present character of the area and is not inconsistent with the Comprehensive Plan. In addition, the proposed development will promote the orderly development of the PUD site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
9. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001)), to give great weight to OP recommendations. The Commission carefully

considered the OP report and, as explained in this decision, finds its recommendation to grant the applications persuasive.

10. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the issues and concerns raised in the written report of the affected ANC. The Commission carefully considered ANC 7C's recommendation for approval and concurs in its recommendation.
11. The application for a PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401 et seq. (2007 Repl.)).

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application for consolidated review and approval of a planned unit development and related map amendment from the C-M-1 District to the R-5-B District for the approximately 2.1-acre parcel located at 5201 Hayes Street, NE (Lot 809 in Square 5197). For the purposes of these conditions, the term "Applicant" means the person or entity then holding title to the PUD Site. If there is more than one owner, the obligations under this Order shall be joint and several. If a person or entity no longer holds title to the Property, that party shall have no further obligations under this Order; however, that party remains liable for any violation of these conditions that occurred while an Owner. 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 "Deanwood Hills", prepared by Torti Gallas Urban, Inc., dated October 15, 2015, and marked as Exhibits 41.A1-41.A3 of the record (the "Plans").
2. In accordance with the Plans, the PUD shall be four-story, multi-family residential building with a partial basement. It shall have approximately 152,500 square feet of residential gross floor area resulting in approximately 150 affordable dwelling units comprised of studios, 1-bedroom, 2-bedroom, 3-bedroom, and 4-bedroom units, with a surface parking lot for 75 vehicles. The PUD shall have a density of 1.63 FAR, a building height of 59'-8", and a lot occupancy of 40%.
3. The Applicant is granted flexibility from the compact parking space requirements (11 DCMR § 2115.2); the loading requirements (11 DCMR § 2201.1); and the side yard width requirements (11 DCMR § 405.6), 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:
- To be able to provide a range in the number of residential units of plus or minus ten percent from the 150 units depicted on the Plans;
 - 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;
 - 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 and the number of compact spaces is no greater than 56% of the required parking;
 - 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
 - To vary the final selection of all exterior signage on the building.

B. Public Benefits

Residential Unit Type	GFA & Percentage of Total	Units	Income Type	Affordable Control Period	Affordable Unit Type	Notes
Total	154,755 s.f.	150				
Market Rate		0				
IZ	N/A					Exempt, § 2602.3
Affordable Non IZ	15,475 s.f. /10%	15	30% AMI – 80% AMI	For the life of the project	Rental	In satisfaction of § 2603.7
Affordable Non IZ	38,689 s.f. / 25%	38	30% AMI	40 years	Rental	For as long as operating subsidy is in place;

						otherwise up to 60% AMI
Affordable Non IZ	100,591 s.f. / 65%	97	60% AMI	40 years	Rental	

1. Affordable Housing (11 DCMR § 2403.9(f)) – The PUD shall provide affordable units in accordance with the following chart:

2. Effective and Safe vehicular and pedestrian access (11 DCMR § 2403.9 (c)) – Transportation Demand Management. In order to further encourage the use of non-auto modes of transportation, 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 the following:
 - a. The Applicant shall provide 78 long-term bicycle parking spaces and a secure bicycle repair station within the long-term bicycle storage room in the building.
 - b. The Applicant shall install a minimum of eight short-term bicycle storage parking spaces (four racks) near the building entrances.
 - c. The Applicant shall offer each new household a one-year Capital BikeShare or CarShare membership. The memberships shall be available on a first come, first served basis, and shall have an aggregate value of up to \$12,000. In order to ensure residents are aware of the BikeShare or CarShare benefit, the Applicant shall provide a proactive marketing strategy.

3. Employment (11 DCMR § 2403.9(e)) – Prior to the issuance of a building permit for the PUD, the Applicant shall furnish a letter from ANC 7C confirming that the Applicant hosted a job fair to advertise employment opportunities targeted to residents within the boundaries of ANC 7C. The employment opportunities shall include, but are not limited to, construction jobs and positions for the ongoing maintenance and operation of the building. During the construction of the PUD, the Applicant shall maintain a job listing targeted to residents of ANC 7C and the job listing shall include the contact information for the person designated to coordinate employment efforts on behalf of the Applicant.

4. First Source Agreement (11 DCMR § 2403.9(e)) – Prior to the issuance of a building permit for the PUD, the Applicant shall furnish a copy of its executed First Source Employment Agreement with the Department of Employment Services.

5. Environmental Benefits (11 DCMR § 2403.9(h)) – The PUD shall be developed in accordance with the Enterprise Green Communities standard for residential buildings.

6. Other Public Benefits and Development Amenities-Community Recreation Space (11 DCMR § 2403.9(j)) – During the operation of the PUD, the community space in

the development shall be made available to ANC 7C to assist in the ANC's community outreach efforts.

C. Traffic/Pedestrian Improvements

1. Prior to the issuance of a certificate of occupancy for the PUD, and subject to the review and approval of DDOT, the Applicant shall construct or cause the construction of the following improvements:
 - a. The 15-foot wide "paper alley" along the eastern boundary of the Property plus a 5-foot wide access easement within the Property boundary resulting in a 20-foot wide alley extending from Hayes Street to the southern boundary of the Property.
 - b. A new sidewalk along the south side of Hayes Street that extends from the Property east to Division Street.
 - c. A safe pedestrian connection to the north side of Hayes Street at either 51st Street or near 50th Place.
 - d. A new curb ramp and receiving ramp at the southwest and southeast corners of Hayes Street and Division Street.

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 Property in accordance with this Order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
2. The PUD shall be valid for a period of two years from the effective date of Zoning Commission Order No. 15-10. Within such time, an application must be filed for a building permit for the construction of the development as specified in 11 DCMR § 2409.1; the filing of the building permit application will vest the Order. Construction of the development 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. The failure or refusal of the Applicant to comply shall furnish grounds for the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

On DATE, upon the motion of Commissioner _____ as seconded by Commissioner _____, the Zoning Commission APPROVED the application by a vote of _____ (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

On DATE, upon the motion of _____, as seconded by _____, this Order was ADOPTED by the Zoning Commission at its public meeting by a vote of _____.