

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 15-12
Z.C. Case No. 15-12
J River 1401 Pennsylvania Avenue, LLC
(Consolidated PUD and Related Zoning Map Amendment
(Square 1065, Lots 30, 31, 32, 33, 142, and 820))
March 14, 2016

Pursuant to proper notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on February 4, 2016 to consider an application by J River 1401 Pennsylvania Avenue, LLC (“Applicant”) for consolidated review and approval of a planned unit development (“PUD”) and related Zoning Map amendment from the C-2-A and R-4 Zone Districts to the C-2-B Zone District for Square 1065, Lots 30, 31, 32, 33, 142, and 820 (“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, Hearing, and Post Hearing Submissions

1. The project site consists of Square 1065, Lots 30, 31, 32, 33, 142, and 820 (“Property”) with the address of 1401-1433 Pennsylvania Avenue, S.E.
2. On May 29, 2015, the Applicant filed an application for consolidated review and approval of a PUD and related Zoning Map Amendment from the C-2-A and R-4 Zone Districts to the C-2-B Zone District. (Exhibit (“Ex.”) 1-1H.)
3. On July 17, 2015, the Office of Planning (“OP”) filed a report recommending that the Application be set down for a public hearing. (Ex. 7.)
4. During its public meeting on July 27, 2015, the Commission voted to set down the Application for a public hearing. Notice of the public hearing was published in the *D.C. Register* on November 30, 2015 and mailed to Advisory Neighborhood Commission (“ANC”) 6B and to owners of property within 200 feet of the Property. (Ex. 12, 13; 7/27/2015 Transcript [“Tr.”] at pp. 71-72.)

5. The Application was further updated by pre-hearing submissions that the Applicant filed on November 19, 2015 and January 14, 2016. (Ex. 9-9B, 16-16E.)
6. The Commission held a public hearing on the Application on February 4, 2016. The Commission accepted Kevin Sperry as an expert in the field of architecture and Daniel Van Pelt as an expert in the field of traffic engineering. (Ex. 16E.) The Applicant provided testimony from these experts as well as from Kevin Riegler and Robin Betteral of CAS Riegler. (2/4/2016 Tr. at pp. 11-60.)
7. In addition to the Applicant, ANC 6B was automatically a party in this proceeding and submitted a report in support of the application. (Ex 20.) Kirt Beatley submitted a request for party status in opposition and a letter in opposition. (Ex. 17, 27.) At the public hearing, Mr. Beatley requested to change his party status to a party in support. (2/4/2016 Tr. at pp. 7-8.) The Commission granted this request. (2/4/2016 Tr. at p. 8)
8. At the public hearing, the Commission heard testimony and received reports from OP and the District Department of Transportation (“DDOT”) in support of the Application. (Ex.18,19.) The Commission also heard testimony from persons in support of the Application. No one testified in opposition. (2/4/2016 Tr. at pp. 98-120.)
9. At the public hearing, the Commission took proposed action to approve the Application and with a request that the Applicant respond to some outstanding comments and concerns prior to the Commission taking final action. (2/4/2016 Tr. at pp. 129-133.) The proposed action of the Commission was referred to the National Capital Planning Commission (“NCPC”) pursuant to § 492 of the Home Rule Act. (Ex. 31.) NCPC did not provide a report in this case.
10. On February 11, 2015, the Applicant submitted its list of proffers and proposed conditions pursuant to 11 DCMR § 2403.16. (Ex. 32.)
11. On February 25, 2015, the OP submitted a supplemental report, the contents of which are discussed below in the agency reports section. (Ex. 33.)
12. The Applicant responded to the Commission’s comments and concerns in a post-hearing filing that it submitted on February 25, 2016. (Ex. 35-35B.)
13. On February 25, 2016, the Applicant submitted its final list of proffers and proposed conditions pursuant to 11 DCMR § 2403.19. (Ex. 36.)
14. The Commission took final action to approve the Application at a public meeting on March 14, 2016.

THE MERITS OF THE APPLICATION

Overview of the Property

15. The Property contains approximately 28,098 square feet of land area. It is bounded by Pennsylvania Avenue, S.E. and Potomac Avenue, S.E. to the north, a 10-foot-wide public alley and residential properties to the south, a residential property to the east, and 14th Street, S.E. to the west. The Property is currently improved with a free-standing one-story fast food restaurant and accompanying surface parking lot and a small residential building. The remainder of the Property is unimproved. (Ex. 1).
16. The entrance to the Potomac Avenue Metrorail station is located approximately 300 feet directly across Potomac Avenue from the Property. (Ex. 1A, 28.)
17. The surrounding area is mostly a mix of residential uses and commercial/retail uses. Across Pennsylvania Avenue to the north is a row of commercial retail/service buildings and the Potomac Avenue Metrorail station. Further north beyond the Metrorail station are primarily townhouses/flats and small apartment buildings. Directly across 14th Street to the west, properties are used primarily as small apartment buildings and townhouses/flats. Slightly further to the west, at the corner of Potomac Avenue and Pennsylvania Avenue is the Jenkins Row mixed-use development, with ground-floor retail, including a Harris Teeter supermarket, and residential condominiums above. Properties to the south are primarily townhouse/flats and apartment buildings. Properties to the east and west along Pennsylvania Avenue are townhouses/flats, retail/commercial buildings, or mixed uses. (Ex. 1, 28.)
18. The Property is zoned C-2-A with a small portion zoned R-4. Most properties along Pennsylvania Avenue are zoned C-2-A, but the Jenkins Row project (less than one block west) is zoned C-2-B. Several apartment buildings at 13th and G Streets, S.E. are zoned R-5-B. Other nearby properties off Pennsylvania Avenue are zoned R-4. (Ex. 1A, 28.)
19. The Future Land Use Map (“FLUM”) of the Comprehensive Plan designates the Property in the Moderate-Density Commercial Land Use Category along Pennsylvania Avenue with a Moderate-Density Residential designation for a small portion of the rear of the Property. The Generalized Policy Map (“GPM”) includes the majority of the Property in the Main Street Mixed-Use Corridor category with a small portion of the Property in the rear designated as a Neighbor Conservation Area. (Ex. 1, 19.)

The Project

20. The Applicant plans to redevelop the Property as a seven-story, mixed-use building with ground-floor retail and residential apartments above (“Project”). The Project will contain 170-190 residential units and a total of approximately 148,919 gross square feet, which equates to a density of 5.29 floor area ratio (“FAR”). Approximately 23,548 gross square feet will be dedicated to street-activating ground-floor retail uses. (Ex. 1, 1A, 9A.)

21. The ground-floor retail will wrap all street frontages of the building. The retail spaces will have approximately 18-foot ceilings, box windows, and abundant glass fronts to create an inviting retail experience for pedestrians. The corner of 14th Street and Pennsylvania Avenue will be activated with a squared-off prominent retail entrance and bays that will be a distinguishing feature of the Project. The second through seventh stories of the building will contain the apartments. The apartment layout will be based around a double-loaded corridor. (Ex 1, 1A, 9A, 28.)
22. The total height of the Project is 78 feet, but the entire 7th floor will be set back from the lower floors. The southeast wing of the Project will include significant transitions to the nearby row dwellings. At this section of the building, from the second to fourth floors, the building will be set back eight feet from the southern property line. At the fourth floor, the building will be set back between eight and 16 feet from the southeast corner. At the fifth floor, the building will be set back between 16 and 24 feet from the southern property line. At the sixth and seventh floors, the building will be set back 24 and 39 feet, respectively, from the southern property line. On the east elevation, the second and third floors will be set back 11 feet at the southeast corner and 11 feet from the eastern property. The Project will not have a penthouse above the 7th floor. (Ex. 1, 9, 9A, 19, 28.)
23. The Project will include 58 underground parking spaces with 50 allocated to the residential and eight to the retail. (Ex. 28.) The parking will be accessed from 14th Street through the 20-foot alley (10-foot public alley and 10-foot alley easement proffered by the Applicant) at the rear of the Property. (Ex. 16, 16B, 28.) Loading will also be accessed via the rear alley and will consist of two internal 30-foot loading berths. The alley will be able to accommodate truck turnaround movements so that trucks are able to enter and exit the property front-first. (Ex. 23, 28.) Finally, the Project is required to provide 63 bicycle spaces but will include a total of 198 bicycle parking spaces within the Project and an additional 20 bicycle parking spaces in public space in along the perimeter of the Project. (Ex. 18, 23, 28.)
24. The Project will be designed so as to satisfy the standards for at least LEED-Gold certification. (Ex. 9, 19.)
25. Open space and green features will be incorporated throughout the Project. At the rear of the second floor, the Project will offer a large outdoor terrace for resident recreation. The terrace will have a screen to the rear of the building to obscure its view from nearby other properties. Residential units opening onto the terrace will also have a landscape buffer from the rest of the terrace. Additional outdoor terraces for individual units will be provided for various other units on upper floors. A green roof will occupy a significant portion of the building's roof. (Ex. 28, 35.)

Zoning Map Amendment

26. The Property is located primarily in the C-2-A Zone District, with some R-4 to the rear. As a matter of right, the maximum height allowed in the C-2-A Zone District is 50 feet,

and the maximum density is 2.5 FAR (3.0 FAR for residential developments that trigger inclusionary zoning).

27. The Applicant requested a PUD-related Zoning Map amendment to the C-2-B Zone District to permit the Project to achieve the requested mix of uses, height, and density. The maximum height permitted in the C-2-B Zone District under the PUD guidelines is 90 feet, and the maximum density permitted is 6.0 FAR.

PUD Flexibility Requested

28. The Applicant requested flexibility from court, 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. The court flexibility is necessary and justified to accommodate various setbacks along the south and east sides of the building as well as to allow no penthouse on the roof. The parking flexibility is justified by the Project's proximity to a Metrorail station as well as the fact that the Project will provide more parking than necessary under the new Zoning Regulations. The loading flexibility is justified by the fact that the provided berths will accommodate the demand for loading in the Project. (Ex. 1, 9A, 19, 28, 35.)
29. With respect to the exterior design of the Project, the Applicant requested flexibility to eliminate the proposed pool. (Ex. 35.)

Project Amenities and Public Benefits

30. 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, superior architecture, pedestrian-oriented streetscape improvements (including, clear separation of pedestrian and vehicular entrances and circulation patterns), and sustainable features; (Ex. 1A, 9A, 28, 35.)
 - b. Site planning and efficient land utilization, through the redevelopment of an underutilized parcel into an apartment building with significant retail of a strategic underutilized site located along a key gateway into the Capitol Hill neighborhood; (Ex. 1, 1A, 9A, 16, 16A, 20, 28; 2/4/2016 Tr. at pp. 12-14.)
 - c. Public Space and Park Improvements (Ex. 16, 16A, 20; 2/4 Tr. at pp. 30-35):
 - i. Potomac Avenue Metro Plaza Improvements: The Applicant will install improvements to the Potomac Avenue Metro Station plaza. Subject to WMATA's final approval, these improvements will include removal of aging fencing around the plaza; replacement of existing bike racks with new bike racks in a bright color; and the addition of a public art piece or historical interpretive signage detailing the history of and interesting facts

about the neighborhood. The Applicant will not be required to spend more than \$50,000 on these improvements provided that they are completed to WMATA's satisfaction;

- ii. Friendship Chamberlain Elementary: The Applicant shall design, furnish, and install improvements to the playground area at the Friendship Chamberlain Elementary campus. Playground improvements to include:
 - 1. Installation of age-inclusive fitness options;
 - 2. Upgrades to fencing and gates; and
 - 3. Improved signage and wayfinding; and
 - iii. Hopkins Apartments Playground: The Applicant shall design, furnish, and install improvements to the playground area at Hopkins Apartments (1430 L Street, S.E.). Playground improvements to include:
 - 1. New children's play equipment; and
 - 2. Improved signage and wayfinding; and
 - iv. Tree Canopy Improvement: The Applicant shall provide funding (\$5,000) to Casey Trees (or equivalent provider) to make trees (at ~\$350/tree) available to residents of ANC 6B to support Ward 6 tree canopy goals. This will include support for distribution and planting;
- d. Transportation and streetscape infrastructure improvements, including:
- i. Enhanced and Improved Alley System: The Applicant will dedicate an easement over approximately 1,800 square feet of private property in order to widen the public alley off of 14th Street at the rear of the Property from 10 feet to 20 feet;
 - ii. The entire rear alley from 14th Street, S.E. to Ives Place, S.E. will be paved to satisfy DDOT's "Green Alley" standards, and lighting will be installed on the building façade that faces the alley;
 - iii. Additional Alley Improvements: The Applicant will provide additional features to improve the functionality and safety of the alley including security cameras, mirrors, and bollards to protect neighboring homes and vehicles; and
 - iv. Reduction in Curb Cuts: The Applicant will eliminate curb cuts creating more on-street parking. By closing existing curb cuts, approximately 55 feet of additional frontage will be available on both Pennsylvania Avenue, S.E. and 14th Street, S.E.;

(Ex. 16A, 28, 35.)

- e. Housing and affordable housing, through the creation of 170 to 190 residential units, including approximately 9,973 square feet of residential gross floor area set aside for affordable units. As required by the Inclusionary Zoning Regulation, eight percent of the Project's 124,474 square feet of residential gross floor area is being set aside for a total of 13 Inclusionary Zoning Units. Four units with a total of approximately 4,007 square feet of gross floor area will be set aside for households earning up to 50% of the area median income, and nine units with a total of 5,966 square feet of gross floor area will be set aside for households earning up to 80% of the area median income ("AMI"). This represents a significant increase in amount and depth of affordable housing over both a matter-of-right project in the underlying C-2-A Zone District (five percent of the residential gross floor area at 50% AMI and five percent of the residential gross floor area at 80% AMI) and over the base requirements of the C-2-B Zone District sought through the PUD (eight percent of the residential gross floor area at 80% AMI); (Ex. 35.)
- f. Environmental benefits, including a commitment to achieve LEED-Gold for the Project. (Ex. 16A, 28, 33; 2/4/2016 Tr. at pp. 84). The Project will also include specific sustainable design features such as extensive green roof and courtyard, maximizing daylight throughout the building, high efficiency HVAC units, two electric car charging station, and environmental remediation to mitigate potential contaminants from the former gas station on the Property; and
- g. Uses of special value, including:
 - i. Approximately 23,548 square feet of ground-floor space will be provided for neighborhood-serving retail and service:
 - 1. The Applicant will reserve 10% of the retail space for existing or emerging local businesses; and
 - 2. Ensure Class-A retail design standards and construction methods are used to attract prominent/catalyst retail tenants;
 - ii. Through the landscape design and architectural features, focus on creating a pedestrian friendly streetscape including new paving, street lighting fixtures, varied storefront designs, and preserving old-growth trees and providing additional green space;
 - iii. Potomac Gardens Capital Improvements: The Applicant shall provide and complete needed capital improvement projects for security. Such improvements may include new high-definition security cameras, modifications to sections of the property's exterior fence, or infrastructure and equipment to facilitate increased resident access to Wi-Fi;
 - iv. Tree Protection: Establish and implement a tree protection plan; and

- v. Public Infrastructure & Utilities: J. River will extend and/or replace public infrastructure and utilities within the neighborhood to serve the project and allow for future utilization by neighboring properties.

(Ex. 16, 16A, 28, 35; 2/4/2016 Tr. at pp. 33.)

Transportation Issues

31. The Applicant's traffic expert submitted a detailed transportation impact analysis that concluded that the proposed Project 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. 16D, 23.)
32. 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, the implementation of which is a condition of this Order. (Ex. 18.)
33. 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:
 - a. The Commission finds that the Project will not impose adverse impacts on the surrounding transportation network. The Commission credits the findings of the Applicant's traffic expert as verified by DDOT that the Project will not create any adverse impacts when compared with future background conditions;
 - b. The Commission finds that the number of vehicular parking spaces will not result in adverse parking conditions in the neighborhood 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 TDM plan, will ensure that the Project does not adversely impact on-street parking in the surrounding neighborhood;
 - c. The Commission finds that the location of the parking and loading entrance will not generate adverse conditions, for the reasons set forth above; and
 - d. The Commission finds that 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.

Construction Impacts

34. Working with the ANC 6B and the adjacent neighbors, the Applicant agreed to enter into a Memorandum of Understanding governing construction and operations to mitigate impacts from the construction of the Project. (Ex. 20.)

Project Height and Density

35. Although supportive of the overall Project, some neighbors raised concerns about the height of the Project as viewed from the rear, particularly from Ives Place. OP also raised concerns about the adequacy of the setbacks on the southwestern side of the Project. (2/4 Tr. at pp. 108-115.)
36. The Commission finds that the PUD's height and density are appropriate given the Project's transit-oriented location and surrounding context, which includes many development parcels along Pennsylvania Avenue that can be developed to similar heights or higher. The Commission finds that the top floor setback for the entire building as well as the multiple setbacks on the east façade and at the southwest corner of the Project are adequate to reduce the apparent height and scale of the Project closest to the adjacent residential neighbors to the south. Also, the reduction in the bays at the front of the building minimize the appearance of height along Pennsylvania Avenue. Furthermore, the Commission finds that additional setbacks at the southwest corner of the Project are unnecessary. At this location, the Project will be separated from nearby buildings by a 20-foot-wide alley, and the height differential in such a situation is common in the District and is equally appropriate here. The Commission also notes that the Applicant included a solar study that demonstrates the Project will not cast substantially different shadows on adjacent properties than a matter of right building would cast. (Ex. 16, 28.)

Building Materials

37. While they were generally supportive of the Project, several neighbors expressed concern about the materials on the building's rear façade. In response, the Applicant changed the materials so that the building's rear façade will be composed primarily of masonry. (2/4/2016 Tr. at pp. 108-115; Ex. 35-35A.)
38. The Commission finds that the materials of the Project will be high-quality and will be appropriate for the neighborhood context. All building façades will feature attractive and time-tested materials to ensure that the Project's material visual quality will not degrade over time. (Ex. 35-35A.)

Compliance with the Comprehensive Plan

39. The Commission finds that the PUD advances the goals and policies in the Land Use, Transportation, Housing, Urban Design and Capitol Hill Area Elements of the District of Columbia Comprehensive Plan (“Plan”).
40. The Land Use Element of the Plan includes the following policies advanced by the Project:
- **Policy LU-1.3.1: Station Areas as Neighborhood Centers** – Encourage the development of Metro stations as anchors for economic and civic development in locations that currently lack adequate neighborhood shopping opportunities and employment. The establishment and growth of mixed use centers at Metrorail stations should be supported as a way to reduce automobile congestion, improve air quality, increase jobs, provide a range of retail goods and services, reduce reliance on the automobile, enhance neighborhood stability, create a stronger sense of place, provide civic gathering places, and capitalize on the development and public transportation opportunities which the stations provide. This policy should not be interpreted to outweigh other land use policies which call for neighborhood conservation. Each Metro station area is unique and must be treated as such in planning and development decisions. The Future Land Use Map expresses the desired intensity and mix of uses around each station, and the Area Elements (and in some cases Small Area Plans) provide more detailed direction for each station area.
 - **Policy LU-1.3.2: Development Around Metrorail Stations** – Concentrate redevelopment efforts on those Metrorail station areas which offer the greatest opportunities for infill development and growth, particularly stations in areas with weak market demand, or with large amounts of vacant or poorly utilized land in the vicinity of the station entrance. Ensure that development above and around such stations emphasizes land uses and building forms which minimize the necessity of automobile use and maximize transit ridership while reflecting the design capacity of each station and respecting the character and needs of the surrounding areas;
 - **Policy LU-1.3.3: Housing Around Metrorail Stations – Recognize the** opportunity to build senior housing and more affordable “starter” housing for first-time homebuyers adjacent to Metrorail stations, given the reduced necessity of auto ownership (and related reduction in household expenses) in such locations.
 - **Policy LU-1.3.4: Design to Encourage Transit Use – Require architectural and** site planning improvements around Metrorail stations that support pedestrian and bicycle access to the stations and enhance the safety, comfort and convenience of passengers walking to the station or transferring to and from local buses. These improvements should include lighting, signage, landscaping, and

security measures. Discourage the development of station areas with conventional suburban building forms, such as shopping centers surrounded by surface parking lots.

- **Policy LU-1.4.1: Infill Development** – Encourage infill development on vacant land within the city, particularly in areas where there are vacant lots that create “gaps” in the urban fabric and detract from the character of a commercial or residential street. Such development should complement the established character of the area and should not create sharp changes in the physical development pattern.
- **Policy LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods** – Recognize the importance of balancing goals to increase the housing supply and expand neighborhood commerce with parallel goals to protect neighborhood character, preserve historic resources, and restore the environment. The overarching goal to “create successful neighborhoods” in all parts of the city requires an emphasis on conservation in some neighborhoods and revitalization in others.
- **Policy LU-2.2.4: Neighborhood Beautification** – Encourage projects which improve the visual quality of the District’s neighborhoods, including landscaping and tree planting, facade improvement, anti-litter campaigns, graffiti removal, improvement or removal of abandoned buildings, street and sidewalk repair, and park improvements.
- **Policy LU-2.4.5: Encouraging Nodal Development** – Discourage auto-oriented commercial “strip” development and instead encourage pedestrian-oriented “nodes” of commercial development at key locations along major corridors. Zoning and design standards should ensure that the height, mass, and scale of development within nodes respects the integrity and character of surrounding residential areas and does not unreasonably impact them.
- **Policy LU-2.4.6: Scale and Design of New Commercial Uses** – Ensure that new uses within commercial districts are developed at a height, mass, scale and design that is appropriate and compatible with surrounding areas.

The Commission finds that the PUD will advance the land use element of the Comprehensive Plan. The Project will anchor development in the neighborhood by establishing a mixed-use project in close proximity to the Metro and will allow the Property to be used to its highest and best potential given the neighborhood context. The Project will support transit-oriented development, provide more housing, and will create a greater sense of place by capitalizing on its location along Pennsylvania Avenue. The Project will promote the policy of better infill development and concentrating development (and housing in particular) around Metro stations, which is important in this case of the Metro station being less than 300 feet away. This Property’s location, in

particular, will allow the Project to balance the goals of a neighborhood-defining development with a greater concentration of housing around a Metrorail station while preserving the residential character nearby through high quality design and compatible features. The Project will embody nodal development with its neighborhood-serving retail options that are consistent with the scale and design that is compatible with the neighborhood. (Ex. 1, 9A, 19, 28.)

41. The Project will advance the following policies of the Transportation Element of the Plan:

- **Policy T-1.1.4: Transit-Oriented Development** – Support transit-oriented development by investing in pedestrian-oriented transportation improvements at or around transit stations, major bus corridors, and transfer points.
- **Policy T-1.2.3: Discouraging Auto-Oriented Uses** – Discourage certain uses, like “drive-through” businesses or stores with large surface parking lots, along key boulevards and pedestrian streets, and minimize the number of curb cuts in new developments. Curb cuts and multiple vehicle access points break-up the sidewalk, reduce pedestrian safety, and detract from pedestrian-oriented retail and residential areas.

The Commission finds that the Project will promote these policies of the Comprehensive Plan because it will be a transit-oriented development since that will contribute multiple new housing units of various sizes across the street from a Metrorail station and adjacent to a major Metrobus corridor. The Property’s proximity to public transportation makes it a prime location for additional density, new residences, and more retail. Also, in support of the applicable policy, the Project will eliminate the auto-oriented fast food restaurant with surface parking that currently exists on the Property and replace it with street-facing, pedestrian-focused retail. (Ex. 1, 9A, 19, 28.)

42. The Urban Design Element of the Plan includes the following policies that the Project will advance:

- **Policy UD-1.4.1: Avenues/Boulevards and Urban Form** – Use Washington’s major avenues/boulevards as a way to reinforce the form and identity of the city, connect its neighborhoods, and improve its aesthetic and visual character. Focus improvement efforts on avenues/boulevards in emerging neighborhoods, particularly those that provide important gateways or view corridors within the city.
- **Policy UD-1.4.5: Priority Avenues/Boulevards** – Focus the city’s avenue/boulevard design improvements on historically important or symbolic streets that suffer from poor aesthetic conditions. Examples include North and South Capitol Streets, Pennsylvania Avenue SE, and Georgia Avenue and the avenues designated by the “Great Streets” program.

- **Policy UD-2.2.3: Neighborhood Centers** – Undertake strategic and coordinated efforts to create neighborhood centers, civic buildings, and shopping places that reinforce community identity (see Figure 9.11).
- **Policy UD-2.2.4: Transitions in Building Intensity** – Establish gradual transitions between large-scale and small-scale development. The relationship between taller, more visually prominent buildings and lower, smaller buildings (such as single family or row houses) can be made more pleasing when the transition is gradual rather than abrupt. The relationship can be further improved by designing larger buildings to reduce their apparent size and recessing the upper floors of the building to relate to the lower scale of the surrounding neighborhood.
- **Policy UD-2.2.5: Creating Attractive Facades** – Create visual interest through well-designed building facades, storefront windows, and attractive signage and lighting. Avoid monolithic or box-like building forms, or long blank walls which detract from the human quality of the street.
- **Policy UD-2.2.6: Maintaining Facade Lines** – Generally maintain the established facade lines of neighborhood streets by aligning the front walls of new construction with the prevailing facades of adjacent buildings. Avoid violating this pattern by placing new construction in front of the historic facade line, or by placing buildings at odd angles to the street, unless the streetscape is already characterized by such variations. Where existing facades are characterized by recurring placement of windows and doors, new construction should complement the established rhythm.
- **Policy UD-2.2.7: Infill Development** – Regardless of neighborhood identity, avoid overpowering contrasts of scale, height and density as infill development occurs.
- **Policy UD-3.1.7: Improving the Street Environment** – Create attractive and interesting commercial streetscapes by promoting ground level retail and desirable street activities, making walking more comfortable and convenient, ensuring that sidewalks are wide enough to accommodate pedestrian traffic, minimizing curb cuts and driveways, and avoiding windowless facades and gaps in the street wall.

The Commission finds that the Project will embody many urban design goals and will promote the urban design policies above. The Project will be the quintessential infill project that will close a gap in the streetscape. Its design will enhance and improve the aesthetics of one of the city’s most important avenues: Pennsylvania Avenue. The Project will be along a stretch of Pennsylvania Avenue that is still redeveloping, so the Project will help encourage additional improvements. The Project also will help establish a neighborhood landmark with a well-designed structure and significant retail

options. The Project's design will incorporate many elements to create an attractive façade (material changes, box windows for retail, tall retail ceilings) that will avoid a monolithic street wall, but the Project will maintain the historic façade line of Pennsylvania Avenue by constructing the building to the property line (other than projections consistent with the neighborhood). The design will also include transitions to the adjacent and nearby properties to make the overall Project compatible and not overpowering. The street environment will be entirely pedestrian-oriented since all curb cuts will be eliminated, and all street frontages will contain retail spaces to allow for a more active pedestrian experience. (Ex. 1, 9A, 19, 28.)

43. The PUD will advance the following goals and policies from the Housing Element of the Plan:

- **H-1.1 Expanding Housing Supply** – Expanding the housing supply is a key part of the District's vision to create successful neighborhoods. Along with improved transportation and shopping, better neighborhood schools and parks, preservation of historic resources, and improved design and identity, the production of housing is essential to the future of our neighborhoods. It is also a key to improving the city's fiscal health. The District will work to facilitate housing construction and rehabilitation through its planning, building, and housing programs, recognizing and responding to the needs of all segments of the community. The first step toward meeting this goal is to ensure that an adequate supply of appropriately zoned land is available to meet expected housing needs.
- **Policy H-1.1.1: Private Sector Support** – Encourage the private sector to provide new housing to meet the needs of present and future District residents at locations consistent with District land use policies and objectives.
- **Policy H-1.1.3: Balanced Growth** – Strongly encourage the development of new housing on surplus, vacant and underutilized land in all parts of the city. Ensure that a sufficient supply of land is planned and zoned to enable the city to meet its long-term housing needs, including the need for low- and moderate-density single family homes as well as the need for higher-density housing.
- **Policy H-1.1.4: Mixed Use Development** – Promote mixed use development, including housing, on commercially zoned land, particularly in neighborhood commercial centers, along Main Street mixed use corridors, and around appropriate Metrorail stations.
- **Policy H-1.1.6: Housing in the Central City** – Absorb a substantial component of the demand for new high-density housing in Central Washington and along the Anacostia River. Absorbing the demand for higher density units within these areas is an effective way to meet housing demands, create mixed-use areas, and conserve single-family residential neighborhoods throughout the city. Mixed income, higher density downtown housing also provides the opportunity to create

vibrant street life, and to support the restaurants, retail, entertainment, and other amenities that are desired and needed in the heart of the city.

- **Policy H-1.3.1: Housing for Families** – Provide a larger number of housing units for families with children by encouraging new and retaining existing single family homes, duplexes, row houses, and three- and four-bedroom apartments.

The Commission finds this Project will expand the District’s housing supply in an established, central residential neighborhood on a prominent site along Pennsylvania Avenue that is currently underutilized. The Project will embody the policy of mixed-use development by contributing significant neighborhood-oriented retail with the additional residents to support it. By providing approximately 170-190 new housing units, the Project will promote housing in the central part of the city. Also, the Project will offer a sizeable number of two-bedroom units, which will accommodate families. In addition, some of the housing units will be affordable at levels of affordability deeper than required. (Ex. 1, 9A, 19, 28.)

44. The PUD will promote the following policies from the Capitol Hill Element of the Plan:

- **Policy CH-1.1.3: Upgrading Commercial Districts** – Reinforce and upgrade the major commercial districts of Capitol Hill, including the H Street and Benning Road corridors, the Pennsylvania Avenue corridor, 7th and 8th Streets, S.E., and Massachusetts Avenue between Union Station and Stanton Park. Support the further development of these areas with local-serving retail services, provided that such uses are compatible with surrounding land uses and the historic architecture and scale of the shopping districts themselves. Support the retention of existing neighborhood-serving businesses in these areas through programs that provide technical and financial assistance to small, locally-owned establishments.
- **Policy CH-1.1.4: Directing Growth** – Direct growth in the Capitol Hill Planning Area to commercially zoned land, with a particular emphasis on the H Street/Benning Road corridor. Mixed use development combining ground floor retail and upper story residential uses should be supported in this area, along with streetscape improvements that improve visual and urban design qualities and enhance pedestrian, bus, and auto circulation. As in all parts of the city, the scale of development must be sensitive to adjacent uses and should reflect the capacity of roads, infrastructure, and services to absorb additional growth.
- **Policy CH-1.1.6: Inappropriate Commercial Uses** – Prevent the proliferation of fast food outlets, self-service gas stations, convenience mini-marts, and other “drive-through” businesses along Capitol Hill’s commercial corridors, recognizing that these streets are part of the historic L’Enfant Plan and shape the city’s identity and national image.

- **Policy CH-2.2.1: Pennsylvania Avenue “Great Street”** – Improve Pennsylvania Avenue, S.E. as the ceremonial gateway to the U.S. Capitol. The design of the avenue, including adjacent buildings, land uses, and public spaces should adhere to high aesthetic standards and should enhance the avenue’s role as a neighborhood commercial center and walkable street.
- **Policy CH-2.2.2: Neighborhood Shopping Improvements** – Sustain existing businesses and encourage additional neighborhood serving retail uses along Barracks Row, on 7th Street, S.E. between Pennsylvania Avenue and North Carolina Avenue, and along Pennsylvania Avenue between 2nd Street and 4th Street, S.E., 6th and 9th Streets, S.E., and 12th and 16th Streets, S.E. Any improvements or alterations in these areas should protect and preserve the historic texture, scale, and features of the existing buildings and adjoining neighborhoods.
- **Policy CH-2.2.6: Potomac Avenue Metrorail Station** – Support the revitalization of vacant commercial space and additional moderate density mixed use development around the Potomac Avenue Metro station. Such development should be located on existing commercially zoned property and developed in a manner that is consistent with existing zoning (including established provisions for planned unit developments and pending programs for inclusionary housing). Any infill development should be relatively low-scale, respecting the character of the adjacent row house community.

The Commission finds that the Project will advance six important policies of the Capitol Hill Area Element by enhancing Pennsylvania Avenue with an infill project on commercially-zoned land with much desired pedestrian-oriented new retail and by eliminating a low-density, automobile-oriented use. The Project’s design will enhance this part of Pennsylvania Avenue with attractive new architecture, so it will contribute to the “gateway” feel of Pennsylvania Avenue that currently lacks in this location. The Project will contribute significantly more retail options than are currently available on the Property. Importantly, the Project will concentrate mixed-use development near the Potomac Avenue Metrorail station in a way that is compatible with the existing neighborhood fabric. (Ex. 1, 9A, 19, 28.)

Compliance with PUD Standards

45. 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-2-B 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 evidence and testimony and the OP report. (Ex. 1, 9, 16, 19, 28, 35.)

46. The Commission credits the testimony of the Applicant and its architectural expert as well as OP, DDOT, and ANC 6B, and finds that the superior design, site planning, streetscape, sustainable design features, transportation infrastructure improvements, housing and affordable housing, ground-floor retail uses, and uses of special value of the Project all constitute acceptable project amenities and public benefits.
47. 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.
48. 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 6B that the PUD provides significant and sufficient public benefits and project amenities.
49. 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.
50. The Commission credits the testimony of OP and ANC 6B 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.
51. 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.
52. The Commission credits the testimony of the Applicant and OP that the Project is not inconsistent with the District of Columbia Comprehensive Plan. The Project is 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 Moderate-Density Commercial with Moderate-Density Residential in the rear of the Property as well as provisions of the Framework Element of the Comprehensive Plan that explicitly state 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, 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. The Capitol Hill Area Element of the Comprehensive Plan; and
- f. The Generalized Policy Map (“GPM”) which includes the majority of the Property in the Main Street Mixed-Use Corridor category.

Agency Reports

- 53. By report dated January 25, 2016 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, increase in sustainability, and improved public benefits package. OP did raise several supplemental comments to be addressed at the hearing: more brick and stucco than EFIS where possible; consideration of an additional setback at the western bar adjacent to the alley; written confirmation of agreement from WMATA and other parties about the metro station improvements; and consideration of deeper levels of affordability for a portion of the three-bedroom IZ units. The Applicant agreed to address these items at the hearing and in its post hearing submission. OP concluded that the PUD and related rezoning was not inconsistent with the Comprehensive 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. 19; 2/4/2016 Tr. at pp. 84, 89.)
- 54. By report dated February 25, 2016, OP provided additional analysis of the Applicant’s amended affordable housing proffer filed on February 25, 2016, and analysis of the precedent scale and height transition examples provided during the Applicant’s public hearing presentation. The Commission requested this analysis during the public hearing. With respect to affordable housing, the report stated that the Applicant was amending its affordable housing proffer to include four units at the 50% AMI level. With respect to the scale and height examples provided at the hearing, the report stated that all but one of the other examples cited by the Applicant at the hearing are located in an area where there is a FLUM designation of “Medium” which is generally associated with greater height and/or density than the “Moderate” FLUM designation for this property. Additionally, most of these areas are either subject to an overlay incentive zone or subject to a recent small area plan. However, all of the provided examples share the common

characteristic that they are in close proximity to a Metro Station, and this property is closest to a Metro Station of all the examples. (Ex. 33.)

55. By report dated January 26, 2016 and by testimony at the public hearing, DDOT expressed no objection to the PUD. 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 and streetscape design. (Ex. 18; 2/4/2016 Tr. at pp. 84-85.)

ANC 6B Report

56. At a regularly scheduled and duly-noted public meeting on January 19, 2016, with a quorum present, ANC 6B voted to support the proposed PUD and related rezoning, based on a community benefits agreement and MOU offered by the Applicant. (Ex. 20.)
57. At the February 4, 2016 public hearing, a representative of the ANC testified in support of the application and commended the Applicant for its work with the community. (2/4/2016 Tr. at pp. 95-98.)

Testimony in Support

58. At the public hearing, the Commission heard testimony from the party in support and from nearby residents in support of the Application. (2/4/2016 Tr. at pp. 98-115.)

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, density, lot occupancy, parking, loading, yards, and courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment. (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.
6. The Applicant seeks a PUD-related zoning map amendment to the C-2-B Zone District, and flexibility from the courts, parking, and loading requirements in the Zoning Regulations. 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 Commission concludes that approval of the PUD and related 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 Moderate Density Commercial and Moderate-Density Residential Designation on the FLUM and is consistent with the Property's Main Street Main Street Mixed-Use Corridor and Neighborhood Conservation Area on the GPM. The Project will further numerous goals and policies of the Comprehensive Plan in the Land Use Element, Housing Element, and other citywide elements and policies as delineated by the Applicant and in the OP report. The Commission concludes that:
 - a. The Interpretation Guidelines for the FLUM 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;
 - b. Furthermore, the Interpretation Guidelines for the FLUM indicate that it should be considered in conjunction with the policies and guidelines in the text of the Comprehensive Plan. The location and uses of the PUD will advance many policies in the text of the Comprehensive Plan, such as transit-oriented development and redevelopment of Pennsylvania Avenue. With this context, the proposed scale of the Project is not inconsistent with Moderate-Density Commercial (and Moderate-Density Residential) development;

- c. The C-2-B Zone District is identified in the text of the Comprehensive Plan as a zone appropriate for Moderate-Density Commercial development. The proposed Project's height of seven stories without a penthouse, is generally consistent with the upper limits listed in the definitions in the Moderate-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 5.29 FAR, is within the framework of Moderate-Density Commercial development, as testified to by OP at the public hearing and as set forth by the Applicant in its submissions; (Ex. 9, 35; 2/4/2016 Tr. at pp. 89-90.)
 - d. Furthermore, the design of the Project incorporates multiple elements to minimize the appearance of height and massing where appropriate that advance its Moderate-Density Commercial character and sensitivity to the surrounding context. The reduced bays along the front of the building, the series of setbacks at the southeast corner, the setback from the eastern property line, and the setback of the top floor from all sides all allow the Project to blend into the surrounding context and contribute to a scale that is not inconsistent with Moderate-Density Commercial development; and
 - e. The Commission finds that the proposed Map Amendment to the C-2-B Zone District is not inconsistent with the Comprehensive Plan or the character of the surrounding area. The Commission notes that the proposed zoning is consistent with the Property's location directly across from the Potomac Avenue Metrorail station 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.
8. The Commission concludes that the proposed PUD-related Zoning Map Amendment for the Property from the C-2-A and R-4 Zone Districts to the C-2-B Zone District is not inconsistent with the Comprehensive Plan, including the Property's designation as Moderate-Density Commercial and Moderate-Density Residential, 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.
 9. The PUD will be 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 to Capitol Hill directly across the street from the Potomac Avenue Metrorail station. The mix of residential and retail uses also will be appropriate for the site's location.

10. The Project will provide 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 all are significant public benefits. The impact of the Project will be acceptable given the quality of the public benefits of the Project.
11. The impact of the Project on the surrounding area and the operation of city services will not be 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.
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) 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 6B the "great weight" to which they are entitled, and in so doing fully credited the unique vantage point that ANC 6B holds with respect to the impact of the proposed application on the ANC's constituents. ANC 6B 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 of the District of Columbia **ORDERS APPROVAL** of the Application for consolidated approval of a PUD and related rezoning to the C-2-B Zone District for the Property. This approval is subject to the following guidelines, conditions, and standards of this Order:

A. **Project Development**

1. The Project shall be developed in accordance with the plans marked as Exhibits 9A, 16B, and 35A of the record, as modified by guidelines, conditions, and standards herein (collectively, the “Plans”).
2. The Property shall be rezoned from C-2-A and R-4 to C-2-B. Pursuant to 11 DCMR § 3028.9, the change of zoning shall be effective upon the recordation of the covenant discussed in Condition No. D1.
3. 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 and 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, 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, trim, louvers, or any other changes to comply with Construction Codes;
 - f. To vary the number of residential units between 170-190 and to accordingly adjust the final unit type mix of the Project; and
 - g. To eliminate the pool on the rear courtyard of the Project.

B. **Public Benefits**

1. Housing. **For so long as the project exists**, the Applicant shall provide housing including affordable housing in accordance with the following table. The term

“IZ” signifies that units will be subject to the Inclusionary Zoning Regulations currently codified at Chapter 26 of Title 11 DCMR.

Residential Unit Type	GFA / Percentage of Total	Units*	Income Type
Total	124,474 (gross)/100%	170-190	
Market Rate	114,516(gross)/92%	157-177	Any
IZ	Approximately 4007(gross)/3.2%	4	50% AMI
IZ	Approximately 5966(gross)/4.8%	9	80% AMI

2. The Project shall be designed to achieve a LEED-Gold certification, but the Applicant shall not be required to obtain LEED-Gold certification from the U.S. Green Building Council. Prior to the issuance of a certificate of occupancy, the Applicant shall submit to the Zoning Administrator a LEED scorecard showing that the Project will receive sufficient points to achieve Gold certification.
3. **Prior to the issuance of a certificate of occupancy** for the Project, the Applicant shall complete or provide the following:
 - a. The Applicant shall install improvements to the Potomac Avenue Metro Station plaza. Subject to WMATA’s final approval, these improvements will include removal of aging fencing around the plaza; replacement of existing bike racks with new bike racks in a bright color; and the addition of a public art piece or historical interpretive signage detailing the history of and interesting facts about the neighborhood. The Applicant shall not be required to spend more than \$50,000 on these improvements provided that they are completed to WMATA’s satisfaction;
 - b. The Applicant shall design, furnish and install improvements to the playground area at Hopkins Apartments (1430 L Street, S.E.). The playground improvements will include new children’s play equipment and improved signage for wayfinding. The Applicant will spend \$20,000 on these improvements;
 - c. The Applicant shall design, furnish, and install improvements to the playground area at the Friendship Chamberlain Elementary campus. The playground improvements shall include installation of age-inclusive

fitness options, upgrades to fencing and gates, and improved signage and wayfinding. The Applicant will spend \$75,000 on these improvements;

- d. The Applicant shall record a public use easement for a 10-foot-wide section of its property in order to widen the public alley off of 14th Street to 20 feet;
 - e. The Applicant shall repave the entire alley from 14th Street, S.E. to Ives Place, S.E., and it will be paved to satisfy DDOT's "Green Alley" standards;
 - f. The Applicant shall install additional features to improve the functionality and safety of the alley including security cameras, mirrors, and bollards to protect neighboring homes and vehicles, consistent with the plan included as page 26 of Exhibit 35A in the Record;
 - g. The Applicant shall provide funds to Casey Trees (or similar service) to make trees (at approximately \$350/tree) available to residents of ANC 6B to support Ward 6 tree canopy goals. The Applicant will provide \$5,000 toward this service. **Prior to the issuance of a certificate of occupancy for the project**, the Applicant shall provide evidence that the funds have been or are being used for this purpose; and
 - h. The Applicant shall install new security equipment at the Potomac Gardens Apartments, for a value of up to \$20,000.
4. **For the life of the project** the Applicant shall reserve 10% of the Project's retail space for existing or emerging local businesses. A local business shall be defined as one having five or fewer locations in the Washington metropolitan region.

C. **Mitigation**

1. **For the life of the Project**, the Applicant shall implement the following transportation demand management ("TDM") measures:
 - a. The Project shall provide 218 bicycle parking spaces. This includes 198 secure on-site spaces and 20 short-term spaces around the perimeter. The Project also will include a bike service area and a shower/changing area;
 - b. The Applicant shall unbundle the cost of residential parking from the cost of lease or purchase;
 - c. The Applicant shall identify a TDM Leader (for planning, construction, and operations). The TDM Leader will work with residents in the building to distribute and market various transportation alternatives and options;

- d. The Applicant shall provide TDM materials to new residents in the Residential Welcome Package materials;
- e. The Applicant shall install a Transportation Information Center Display (electronic screen) within the residential lobby, containing real-time information related to local transportation alternatives;
- f. The Applicant shall provide each unit's incoming residents for the first three years with either; a one-year membership to Capital Bikeshare or a one-year membership to a Carsharing service;
- g. Retail tenants of the development shall offer SmartBenefits for all retail employees regardless of the size of the business (under 20 employees) or level of employment (part-time/full-time); and
- h. The Applicant shall provide access to bike showers, changing area, and bike repair station for retail employees.

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, 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, 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 February 4, 2016, on a motion made by Vice Chairperson Cohen, as seconded by Commissioner Miller, the Zoning Commission **APPROVED** the Application at the conclusion of its public hearing by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

On March 14, 2016, on a motion made by Vice Chairperson Cohen, as seconded by Commissioner Miller, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Marcie I. Cohen, Robert E. Miller, Peter G. May, Michael G. Turnbull to adopt; Anthony J. Hood to adopt by absentee ballot).

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 April 22, 2016.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING