

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 15-16

Z.C. Case No. 15-16

MRP 600 RI LLC and B&R Associates

Consolidated and First Stage PUD @ 524-528 and 600-602 Rhode Island Avenue, NE
Square 3629, Lots 7, 813 and 814

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held public hearings on May 19, 2016 and May 25, 2016 to consider an application from MRP 600 RI LLC and B&R Associates (“Applicant”) for review and approval of a consolidated and first stage planned unit development (“PUD”) for Lots 7, 813 and 814 in Square 3629 (“Property”). The application proposes a mixed-use development consisting retail, office and residential uses (the “Project”). The Commission considered the application pursuant to Chapters 24 and 30 and § 102 of the D.C. Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”). The public hearings were conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application with conditions.

FINDINGS OF FACT

Application, Parties, and Hearing

1. The Property consists of Lots 7, 813, and 814 in Square 3629 and is located at 524-528 and 600-602 Rhode Island Avenue. (Exhibit 2)
2. On July 14, 2015, the Applicant submitted an application to the Commission for the review and approval of a PUD in the C-3-A Zone District. The original application requested review and approval of a consolidated PUD for Phase I (Buildings 1A and 1B) and a First Stage approval for the other five phases of development. (Exhibit 2)
3. The PUD application does not include a PUD-related Map Amendment. (Exhibit 2)
4. On November 13, 2015, the Office of Planning submitted a setdown report recommending that a public hearing be held on the application. It requested additional information on several items prior to the public hearing: (Exhibit 15)
 - Design of private streets;

- Justification of curbcut for Block 4 from 4th Street;
 - Collaboration with DDOT regarding MBT signage, maintenance and amenities;
 - Lighting plan;
 - Detailed landscaping plan;
 - Increase in affordable housing proffer, which may include levels of deeper affordability or larger unit sizes.
 - Details on sustainability initiatives and stormwater management requirements;
 - Refine design of plaza area;
 - Bicycle parking;
 - Site grading information; and
 - Detailed benefits and amenities.
5. On November 23, 2015, the Zoning Commission set the application down for a public hearing, supporting the Office of Planning's request for additional information prior to the public hearing. (November 23 Transcript, p. 72)
 6. The Applicant filed its pre-hearing statement on February 29, 2016, including responses to the Office of Planning's and Zoning Commission's comments above. It also modified its application to request consolidated review and approval of Building 5B. It further modified the site plan for the First Stage PUD approval, which was reflected in the plans submitted with the pre-hearing statement. (Exhibit 53)
 7. Notice of the public hearing was published in the D.C. Register on March 21, 2016 and was mailed to Advisory Neighborhood Commission ("ANC") 5E and to owners within 200 feet of the Property on March 21, 2016. (Exhibits 20 and 21).
 8. Edgewood West filed for party status in opposition to the application on May 4, 2016, citing concerns with respect to green space, height and circulation. (Exhibit 33). The party is made up of neighbors living within 400 feet of the project. The Zoning Commission granted its request for party status given their proximity to the Project. (May 19 Transcript, p. 8). After the public hearing and before proposed action on this application, Edgewood West submitted a letter dated _____, stating _____.

9. A public hearing was held on May 19, 2016, during which the Applicant gave its presentation and responded to cross-examination; and the ANC gave its presentation and responded to cross-examination. The public hearing was continued to May 25, 2016, at which time the Office of Planning and District Department of Transportation gave their reports in support of the application and Edgewood West provided its presentation in opposition to the application. (May 19 Transcript)
10. The Applicant proffered, and the Zoning Commission accepted, Erwin Andres as an expert in transportation engineering and Don Hoover as an expert in landscape architecture. The Applicant proffered Federico Olivera Sala as an expert in architecture; however, the Commission noted that they required experts to be registered in the District of Columbia. Seeing as Mr. Sala was not registered as an architect in the District of Columbia, he was not accepted as an expert. Mr. Sala, nevertheless, testified to the architectural features of the project. (May 19 Transcript, pp. 10-11)
11. In addition to the Edgewood West, ANC 5E was accepted as a party to the proceeding. The ANC submitted a report in opposition of the Project at the public hearing and proffered testimony in opposition of the application at the public hearing. (Exhibit 75A). The ANC submitted a subsequent letter in support of the project, dated _____, conditioning its support on an increase in the set aside for affordable housing. (Exhibit ____).
12. Edgewood West provided a presentation in opposition to the application at the public hearing. (Exhibit 82)
13. At the public hearing, the Commission heard testimony and received evidence in support of the Project from the Office of Planning (“OP”) and the District Department of Transportation (“DDOT”). (May 25 Transcript)
14. Ninety-one letters of support were submitted into the record, including letters in support from the Community Preservation Development Corporation, Rhode Island Main Street Program, the Washington Area Bicycling Association, Gearin’ Up Bicycle, the Coalition for Smarter Growth, Washington, DC Economic Partnership, and residential neighbors of the project. (Exhibits 34-52, 54, 57-61, 63, 64, 66, 67, and 69)
15. Three letters in opposition were submitted into the record, including a letter submitted by a resident in ANC 5E. (Exhibits 62 and 76)
16. Suzanne Welch, a representative of the Community Preservation and Development Corporation (“CPDC”), the immediate neighbor to the north of the project, testified at the public hearing in support of the application, noting areas where CPDC wanted continued collaboration with the Applicant including the proffer regarding the affordability levels of the project, the buffer between the two properties, and the location of the stair connection between the properties. (Exhibits 66 and 78)

17. Claire Jaffe, a representative of the Coalition for Smarter Growth, testified in support of the application at the public hearing. She noted that the project was a transit-oriented development that improved connections within the community. (May 25 Transcript, pp.19-24)
18. Patricia Williams, the Single Member District representative for ANC 5E02, testified in opposition to the application at the public hearing noting that she was “coming around” to supporting it. She testified that there were many aspects of the project that she supported; however, she still had concerns regarding the level of affordable housing being proffered. (May 25 Transcript, pp. 68-73)
19. Cheryl Cort, Kyle Todd, and Joe Kakesh attended the public hearing on May 19 and requested an opportunity to testify in support of the project; however, because the opportunity for public testimony was continued to May 25, they did not have an opportunity to testify. (Exhibit 83)
20. Abigail DeRoberts, Michael Clark of the Edgewood Civic Association, and Denetta Clark attended the public hearing on May 19 and requested an opportunity to testify in opposition to the project; however, because the opportunity for public testimony was continued to May 25, they did not have an opportunity to testify. (Exhibit 83)
21. At the conclusion of the second night of the public hearing, the Commission closed the record except for the Applicant’s post-hearing submission and proposed order as well as responses to the Applicant’s post-hearing submission from OP, DDOT, ANC 5E and Edgewood West. The Commission requested additional information regarding:
 - a. The functionality of the drive aisle around Block 1A;
 - b. The feasibility of stepping down the buildings with frontage on 4th Street to a lower height along 4th Street;
 - c. Reconsideration of the proposed affordable housing scheme;
 - d. Consideration of increasing the LEED proffer to LEED Gold;
 - e. Provide written explanation of the phasing of the project;
 - f. Additional renderings, including renderings of the road between Buildings 1A and 1B, the area of the retaining wall and its relationship to the trail; a view of the project from 4th Street, Edgewood Commons and Rhode Island Avenue; and a rendering of the connection between Edgewood Commons and the Property.
 - g. Details regarding the plantings in the terraced area of the retaining wall;
 - h. Details regarding the treatment of the slope in the northeast corner of the property;
 - i. Consider making the materials for 1B “warmer” and more residential;
 - j. Provide a section of 4th Street; and
 - k. Provide more information regarding the proposed jobs program.
22. The Commission specifically asked the Applicant to meet with the ANC prior to submission of the post-hearing materials.

23. The Applicant filed its post-hearing submission and draft order on June 28, 2016. Its submission provided responses to each item requested by the Commission.
24. At its public hearing on July 11, 2016, the Zoning Commission took proposed action to _____ by a vote of __ to __.
25. The proposed action of the Commission was referred to the National Capital Planning Commission (“NCPC”) as required by the District of Columbia Home Rule Act on _____, 2016. NCPC, by delegated action dated _____, found that the proposed PUD would not adversely affect the federal establishment or other identified federal interests in the National Capital and would not be inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital.
26. On _____, the Applicant submitted its list of final proffered public benefits of the PUD and draft conditions, pursuant to 11 DCMR § 2403.16 - 2403.18.
27. On _____, the Commission voted to take final action to approve the application subject to the conditions enumerated in this Order.

THE MERITS OF THE APPLICATION

Description of Property and Surrounding Areas

28. The Subject Property includes just over 13 acres of land and is improved with a strip shopping center and surface parking lot. The Subject Property has frontage on both 4th Street and Rhode Island Avenue, yet the bulk of the site is set back from street frontage. (Exhibit 2)
29. The shopping center was initially developed in 1984, when there had been a dearth of retail opportunities in this part of Ward 5 and it has remained largely unchanged since that time. The design of the shopping center is a product of the times in which it was built: it is auto-centric, set back from the street and does not interact with the greater community; it does not facilitate connections within the community but rather isolates itself, creating a barrier between the Metropolitan Branch Trail and the pedestrian path to the Rhode Island Avenue-Brentwood Metrorail Station. (Exhibit 2)
30. The Subject Property is defined by a significant grade change from south to north. There is a 40 foot grade difference between the Subject Property’s frontage on Rhode Island Avenue and the northeast corner of the Subject Property. (Exhibit 2)
31. There are a series of retail uses as well as a church that are not included in the PUD that stand between the Subject Property and Rhode Island Avenue. (Exhibit 2)

32. To the west of the Property are a series of low-scale commercial establishments lining 4th Street, as well as low-scale residential rowhouses; to the north of the Property are residential apartment buildings, including an eleven-story apartment house that stands approximately 110 feet tall; to the east of the Property are railroad tracks that separate the Property from a series of low-scale commercial, industrial and residential uses; finally, to the south of the Property are low-scale industrial and commercial uses on the south side of Rhode Island Avenue. The Property is located across Rhode Island Avenue from the Rhode Island Avenue-Brentwood Metrorail station and is immediately adjacent to the Metropolitan Branch Trail. It is also located along the G8, D8 and P6 bus lines. (Exhibit 2)
33. The existing strip commercial shopping center along Rhode Island Avenue, NE is located in the C-3-A Zone District. The Subject Property is located in the Medium Density Residential land use and Mixed-Use, Moderate Density Commercial land use categories on the District of Columbia's Comprehensive Plan Future Land Use Map. (Exhibit 2)
34. The Subject Property is located within the boundaries of Advisory Neighborhood Commission 5E. (Exhibit 2)

The Project

35. The Project consists of six blocks, nine buildings, and six phases. The final and controlling details of the massing, uses and design of the Project are detailed in Exhibit 86D. Excerpts concerning the details of the project are provided herein for ease of reference. The first phase of development will be a consolidated PUD and will include the two eastern blocks of development: Blocks 1A and 1B as well as Block 5B, which has frontage on Rhode Island Avenue. These blocks represent the first phase of development since they provide the key link to Rhode Island Avenue, the Rhode Island Avenue Metrorail Station, the Metropolitan Branch Trail and the CPDC property. (Exhibits 2, 86)
36. Blocks 1A and 1B are immediately adjacent to the pedestrian bridge that provides access to the station and will serve as the eastern gateway to the project. The link to Metrorail is crucial to the success of this project; accordingly, the Applicant will begin development with the eastern edge of the site, working in concert with the natural fluidity of the site and building on the momentum created by the Metrorail Station. Block 5B represents the second point of ingress and egress from Rhode Island Avenue. (Exhibits 2, 86)
37. Block 1A will be located in the northeast corner of the site; it will not have street frontage on any public rights of way. Rather, it will front on the internal roadway network established by this project. It will have up to a 2.6 FAR and will include approximately 212 units. Up to .29 FAR will be dedicated to retail use. The Applicant seeks flexibility to convert a portion of residential use to retail use in the event there is demand for retail in this location. The building will be seven stories in height, or up to 90 feet, as

measured from the finished grade at the front of the building. Loading and parking will both be provided on-site. One 40 foot loading berth will be provided with access from the private drive. Approximately 127 parking spaces will be provided in a below-grade garage. The garage will include a below-grade link to the Block 1B garage, which will provide up to an additional 371 parking spaces. The Applicant will reserve space in Block 1A for use by the Metropolitan Police Department. (Exhibit 86D)

38. Block 1A is composed by the interactions of three parts; a body, the structure and a hinge element. The body, a sequence of heavy dark masonry piers with a warehouse feel, marches along the train tracks as one would expect, but suddenly it bends into the site creating a funnel that draws one in to the site from metro as well as attention as one passes by the trail. The masonry body serves as a sound attenuator from the train tracks. At the same time it anchors the building to the ground and with its texture creates a scalable relationship with pedestrians. With the technology of the industrial era, the structure was an omnipresent denominator. In this case the structure reveals itself past and in between the masonry. The structure is characterized as “the bare bones” of the building. This minimalistic treatment of glass and structure represents underlying geometry that generates the façade. And finally “the hinge element” that it is purposely located at the bend of the building and as a multitask signifier. This element is raised from the ground to provide transparency for the public functions of the building as well as an announcer of the main entrance and beacon like expression in the roof line. Also this element is carved out at the top to allow outdoor activities while interacting visually with the surroundings. (Exhibits 2, 86D)
39. Block 1B will be located on the southeast corner of the Subject Property and have frontage directly on Rhode Island Avenue. It will include up to 141 residential units and have a total FAR of up to 3.56. Approximately .96 FAR will be reserved for retail uses; there is flexibility to convert a portion of residential use to retail use once retail demand is established at this location. The retail will be located on the ground floor and will screen portions of the garage that are not below grade so that they are not visible from the roadway. The building will be up to 90 feet tall, as measured from its frontage on Rhode Island Avenue. It will include one 40 foot loading berth to serve both the residential and retail uses. (Exhibits 2, 86D)
40. The building site for Block 1B is bounded by Rhode Island Avenue, the main road entrance, the central open space and the MBT. The building bends and rotates to define the edge of the public domain and at the same time create opportunities to articulate the facade. The building presents a stone base that recalls “train related” structures of another era, but with a contemporary combination of glass and metal. This very distinctive vernacular allows the retail future tenant to have his own identity and at the same time creates a strong foundation for the building. Atop of this stone plinth, three corner buildings reside. With simple lines, dark metal frame-like “superstructures” with embedded windows, shape those corners buildings. These frame structures work as point

of reference for orientation around the site as well as ambassadors for the project to the city as you approach the site from all directions. In between these corner elements there is a masonry fabric that knits the building together. Again the heavy masonry helps with sound attenuation from the train track but also brings a residential “punch openings” type texture to the composition. The articulation and combination of a secondary brick creates a rhythmic pattern in the façade that simulates the use of different window sizes as you would expect in a residential building. To crown the vertical composition the “superstructure” appears above the heavy brick façade bringing lightness to the top floor and relating it to the articulation of the corner. (Exhibits 2, 86D)

41. Block 5B will be located on Rhode Island Avenue. It will include up to 131 residential units. It will have a residential FAR of up to 3.55 but has flexibility to convert some residential space to office use should a market for office be established. Up to .84 FAR of retail will be provided on the ground floor. Up to 156 parking spaces will be provided in the garage. The building will be up to 90 feet in height and will include one 40 foot loading dock. (Exhibit 86D)
42. The design of Block 5B will adopt the same industrial theme that informs the aesthetic of Blocks 1A and 1B. The design juxtaposes masonry materials with metal panels to create a warehouse feel for the building. The rooftop incorporates a sawtooth design that distinguishes the building from both Blocks 1A and 1B while also establishing a presence along Rhode Island Avenue. (Exhibits 17A, 86D)
43. The Applicant is seeking Stage I PUD approval for Blocks 2, 3, 4, 5A and 6; accordingly, it only seeks approval for the massing, site plan and uses for these phases. With the exception of Block 2B, each of the blocks will include ground floor retail with multifamily residential above. Block 2B will be dedicated entirely retail uses, including a movie theater. (Exhibit 86D)
44. Blocks 2A and 2B are located immediately west of Block 1A. Along with its southern counterpart, Block 6, they will establish the retail stronghold on the site as it will line the interior roadway with retail uses, creating a pedestrian-friendly experience through the site that links the MBT and Metrorail with 4th Street. To that end, Block 2B will be dedicated to a movie theater and will include additional retail uses on the ground floor. The Building will be up to 90 feet in height, have a FAR of up to 1.97 and will include 142 parking spaces. Block 2A will be a residential building with ground floor retail. It will have a maximum height of 90 feet, a FAR of up to 3.79, with up to .4 FAR being reserved for retail uses. Block 2A will include up to 265 parking spaces. Both Blocks will include a 40 foot loading dock. (Exhibit 86D)
45. Block 3 will include up to 368 residential units for a total residential FAR of up to 2.73. This phase will include a .72 FAR of retail uses. This phase will incorporate a full-service grocery store, which will be a significant convenience for the residents of the Project and the adjacent neighborhood. Up to 646 parking spaces will be provided in the

- garage, along with three loading berths at 55 feet and one at 40 feet. The loading berths will all be located along the northern edge of the building to avoid any pedestrian or vehicular conflicts with the interior roadway. Block 3 has frontage on 4th Street. It is oriented to have a major presence on 4th and to attract those who are driving or walking by. The building will have a maximum height of 90 feet; however, it will step down to a maximum height of 65 feet along 4th Street. (Exhibit 86D)
46. Block 4 also has frontage along 4th Street and given its limited street frontage, the proposed retail will correspond to the grocery store to its north. Block 4 will have up to a 3.47 residential FAR and .53 retail FAR. It will include up to 163 residential units and include up to 125 parking spaces. The building will be a maximum height of 90 feet but will step down to a maximum height of 65 feet for its frontage on 4th Street. It will include one 40 foot loading berth on-site. (Exhibit 86D)
 47. Block 5A will have a maximum residential FAR of 3.99 and a maximum retail FAR of .55. It will include up to 164 residential units. The maximum height for Block 5A will be 90 feet. It will include up to 150 parking spaces in its garage and include one 40 foot loading berth. (Exhibit 86D)
 48. Block 6 will include up to 116 residential units and 88 parking spaces. It will have a maximum residential FAR of 2.59 and a retail FAR of .27. It will have a maximum height of 90 feet and will include one 40 foot loading berth. (Exhibit 86D)
 49. Central to the planning of the project is the creation of an engaging and exciting public realm that focuses on developing streets that extend the city grid and that are highly activated, human scaled and pedestrian oriented. The project's framework is established by a tree-lined Bryant Street with retail frontages, outdoor dining and residential lobbies that helps create a vibrant and activated spine that runs through the project. Along its length, Bryant Street includes a collection of small public spaces and plazas that further enrich the public realm. Bryant Street also includes a dedicated off-street bicycle lane that also activates the street experience. The Project incorporates a fully integrated bicycle network that connects two major existing routes: The Metropolitan Branch Trail and the 4th Street bicycle lanes. (Exhibits 2, 86D)
 50. The two most significant green spaces along Bryant Street include an outdoor plaza and green space on Block 3 and an urban plaza and Bryant Street Park on the eastern edge of the site. (Exhibit 86D)
 51. The Block 3 plaza and park was created in response to comments received from residents living to the west of 4th Street who requested additional green space on-site. The original plaza area was comprised entirely of hardscape and consisted of 13,385 square feet of area. The Applicant redesigned the plaza to respond to the comments of neighbors to incorporate green space and to enlarge the space up to 30,750 square feet. (Exhibit 86A and D)

52. Bryant Street culminates at an urban plaza that engages directly with the Metropolitan Branch Trail and the Rhode Island Avenue-Brentwood Metrorail Station pedestrian access bridge. The plaza is activated with outdoor dining, an interactive water feature, and public art. It will serve as a community gathering space for events and performances. In addition, a portion of Bryant Street that wraps around Block 1A will be developed using similar special treatments including distinctive permeable paving and curb-less edges. Together, the plaza and Bryant Street Park offer a significant space for larger public gatherings and events. The Applicant has worked with the community to create a Memorandum of Understanding that will allow the community to take part in the programming of this space. (Exhibits 2, 86A and D)
53. The Project will incorporate two stair connections with the property to its north. These connections will improve porosity for the community, as it will allow more direct access to the Metrorail pedestrian bridge and the MBT. The Applicant has worked with the neighboring property owner regarding the location of the stair on their property; as the neighboring property is not a part of the PUD, the final location of both stairs on the northern property can continue to be coordinated with the property owner. (Exhibit 86D)

PUD Flexibility Requested

54. *Use:* The Applicant sought flexibility to provide retail uses in Block 1A along its eastern facade, facing the MBT and to relocate the residential lobbies on the ground floor for both Blocks 1A and 1B. Given the isolation of the eastern frontage, retail may not be feasible immediately. The flexibility will allow the Applicant to dedicate this space for residential use and allow a conversion to retail use, when feasible. (Exhibits 31, 86)

Related to the provision of retail uses, the Applicant sought flexibility for the height of the retail space for Blocks 1A, 1B, and 5B. Depending on the retailers ultimately secured, additional floor-to-ceiling height may be required. Accordingly, the Applicant requested flexibility to adjust the height of the retail level so long as the maximum building height does not exceed 90 feet. (Exhibits 31, 86)

The Applicant sought flexibility to convert one floor of Block 5B from residential use to office use, if market demand allows. Block 5B is located along Rhode Island Avenue and provides an opportunity to provide creative office/incubator space in a location where office use does not currently exist. Again, market demands may not allow this use immediately, however, the Applicant sought flexibility to convert the second floor of the building if and when market conditions allow. (Exhibits 31, 86)

The Applicant seeks flexibility to provide an additional level of parking for Blocks 1A, 1B and 5B as noted on the plans submitted as Exhibit 86D of the record. (Exhibits 31, 86)

The Applicant also requested flexibility to provide interim uses on the Phase I PUD properties before construction of the later phases begins. This will help generate interest in the site and will activate the site prior to the application for a Stage 2 application. The Applicant also sought flexibility to locate temporary retail kiosks on the eastern edge of the site. The Applicant proposed that the kiosks would not be permanently affixed to the ground, no greater than 500 square feet each, and would rotate periodically. (Exhibit 31)

55. **Loading:** The Applicant requested relief from the loading requirements for each development block. Each block, with the exception of Block 2B, requires 1-55 foot berth for the residential use, whereas the Applicant is proposing 40 foot berths, which will be shared with the retail uses. In sum, 24 loading berths are required for this site (11@55' and 13@30'); the Applicant is providing 12 loading berths (3@55' and 9 @ 40'). (Exhibits 31, 86D)
56. **Section 2516:** The Applicant is proposing nine buildings on a single record lot, which is permitted pursuant to Section 2516. The Applicant requested flexibility from Section 2516.5(b), which requires front yards for each principal building and 2516.5(c), which requires a rear yard for each building. None of the buildings are providing a front yard as the Applicant believes it is more appropriate to pull the building faces as close to Main Street as possible. This creates a more urban site plan, as opposed to setting the buildings back. Rear yard relief is required for Blocks 2A and 2B which are not set back from the northern lot line, rather than the requisite 18.75 feet. There is a significant grade change immediately to the north of the building, which requires a retaining wall; as such, there is no adverse impact from the reduction in the depth of the rear yard. (Exhibits 31, 86)
57. **Parking:** Parking flexibility is required for Blocks 2B, 5A and 5B. Parking will be shared between Blocks 1A and 1B. (Exhibits 31, 86D)

Project Amenities and Public Benefits

58. As detailed in the Applicant's testimony and written submissions, the proposed PUD will provide the following project amenities and public benefits:
 - (i) Exemplary Urban Design, Architecture, and Open Spaces The Project creates an urban fabric where one does not currently exist. It also addresses significant topographic challenges that enables porosity and connections with the community. The building designs incorporate high quality materials and enable enhanced open spaces to better serve the community. (Exhibit 2)
 - (ii) Site Planning and Efficient Land Utilization This development reflects this benefit by replacing an underutilized site with a mixed-use development. As noted above, the Project provides vehicular, pedestrian and bicycle connections that do not currently exist. These connections integrate the site with the existing community in a way that the existing shopping center does not. The introduction

of residential uses on this property is an appropriate proposal given its proximity to the Metrorail station as well as the MBT. (Exhibit 2)

- (iii) Housing and Affordable Housing. This project provides for the creation of approximately 1,600 residential units on the Property; eight percent (8%) of the residential gross floor area will be reserved for affordable housing. In Phase One, half of the set aside (4% of residential GFA in Phase I) will be reserved for households with an annual income no greater than 50% of the Area Median Income (“AMI”). The other half of the set aside (4% of residential GFA in Phase I) will be set aside for households with an annual income no greater than 80% of the AMI. For the remaining phases (Blocks 2A, 3, 4, 5A and 6), 8% of the residential GFA will be set aside for affordable housing: 5% of the residential GFA of the later phases will be reserved for households with an annual income no greater than 50% AMI and 3% of the residential GFA will be reserved for households with an annual income no greater than 80% AMI. (Exhibit 86)
- (iv) Effective and Safe Vehicular and Pedestrian Access and Transportation Demand Management Measures. The expected pedestrian and vehicular circulation associated with this project has been carefully and thoroughly studied by the Applicant. By extending the street grid, the Applicant is creating a safer vehicular and pedestrian experience for those traversing the site. The extended street grid helps create clarity and predictability, which is safer for both drivers, bicyclists, and pedestrians. The Applicant attempts to remove any vehicular conflicts by removing all parking and loading access from the main internal drive and locating all entrances from private alleyways. Finally, the Applicant is proposing to improve the Metropolitan Branch Trail along the eastern edge of its site and will encourage biking among its residents. (Exhibits 2, 86D)
- (v) Uses of Special Value: The Applicant is offering the following benefits and amenities as uses of special value, in addition to those items referenced above:
 - a. **Affordable Residential Units**. For Phase I, Applicant shall set aside 4% of the total amount of the residential gross floor area for households earning up to 80% of the Area Median Income (AMI). Applicant shall set aside another 4% of the residential gross floor area in Phase I for households earning up to 50% of the AMI. For all remaining phases (Buildings 2A, 3, 4, 5A and 6) of the PUD, Applicant shall set aside 8% of the total amount of the residential square footage for affordable housing: 5% of the residential gross floor area of the later phases shall be reserved for households with an annual income no greater than 50% AMI and 3% of the residential gross floor area shall be reserved for households with an annual income no greater than 80% AMI.

- b. Construction.** Applicant shall abide by the terms of the Construction Management Plan entered into the Record for Case No. 15-16 as Exhibit 86A.
- c. Security.** Applicant shall implement the Security Plan outlined in Exhibit 31A of the Record up to a cost of \$300,000 per year for a period of no less than five years from the date of issuance of the certificate of occupancy for Building 1A. This plan shall include: (Exhibit 86C)
- **Private Security.** The Applicant shall retain a private security firm to provide security on-site 24 hours per day, 7 days per week.
 - **Security Call Boxes.** The Applicant shall provide two security call-boxes. One call-box shall be located at the base of the stairs leading to the pedestrian bridge for the Metrorail Station and the second call-box shall be located at 8th Street and Edgewood Street.
 - **Metropolitan Police Department.** The Applicant shall reserve at least 500 square feet in Building 1A, as defined in the Record, for use by the Metropolitan Police Department.
 - **Lighting.** The Security Plan shall incorporate the lighting depicted in Exhibit 31A as well as lighting along the MBT below the staircase leading to the pedestrian bridge to the Metrorail Station.
- d. Seabury Transportation for Seniors.** Applicant shall partner with Seabury Transportation for Seniors and the District Department on Aging to provide services, at a cost up to \$30,000 per year, to transport seniors at the Edgewood Commons community to the Site at least once a week for five years. These services shall begin upon the issuance of building permit for Building 1A and at the request of Edgewood Commons. (Exhibit 86C)
- e. Green Area Ratio.** The Applicant is providing a GAR in excess of the required .25. (Exhibit 86C)

- f. Murals.** Applicant will retain, restore or replace in-kind the mosaic on 4th Street exterior wall of Forman Mills up to a cost of \$50,000. This work will be completed in connection with the construction of Block 3 and the timing will be further refined during the Stage 2 PUD process. The Applicant will retain, restore or replace in-kind the mural wall along the rear of the property up to a cost of \$100,000. The Applicant will work with Peter Krsko, the original artist, to recreate the mural in its original likeness through the Open Walls DC Program. Similar to the painting of the original mural, its re-creation will involve the work of District of Columbia students. The timeframe for the completion of this work will be finalized during the Stage 2 application for Block 2. (Exhibit 86C)
- g. Sculptures.** Applicant will preserve and relocate existing sculptures along the MBT. This work will be completed prior to issuance of a certificate of occupancy for Building 1A. (Exhibit 86C)
- h. Connections.** Applicant will construct two pedestrian staircases between the Site and Edgewood Commons. The location of the staircases are depicted in Exhibit 86D and may be refined in coordination with the neighboring property owner, District Department of Transportation and the Office of Planning. The connection shall integrate benches and solid-backed 6.5 inch risers and 11 inch treads to accommodate those with limited mobility. The eastern staircase shall also incorporate a bicycle trough. The eastern staircase shall be constructed during the construction of Phase I while the western staircase shall be constructed during construction of Block 2. Applicant shall provide a gate on both stair connections. The gates shall be closed between 1:00 am and 4:30 am Monday through Friday and between 3:00 am and 6:30 am Saturday and Sunday. Signage shall be provided to notify pedestrians and bikers of the stair hours. (Exhibit 86)
- i. MBT Improvements.** Applicant will improve the MBT including realignment, signage, wayfinding, landscaping, and lighting, including security lighting underneath the staircase to the Metro pedestrian bridge. These improvements shall be completed prior to issuance of a certificate of occupancy for Building 1A, in accordance with the Construction Management Plan in Exhibit 86A, and in consultation with the District Department of Transportation. The Applicant will also contribute \$10,000 towards pedestrian/sidewalk improvements between the MBT and Franklin Street. (Exhibit 86C)
- j. Community Meeting Room.** Applicant will allow the ANC 5E, Single Member District representative and the Edgewood Civic Association to use

the common area in Building 1A, or another mutually agreeable building, for public meetings once a month on a mutually agreeable date. (Exhibit 86C)

- k. ANC Office.** Applicant will reserve space in the Development for use by ANC 5E. This requirement may be satisfied by providing a membership to the co-working space proposed for Building 5B. (Exhibit 86C)
- l. D.C. Workforce Investment Council.** Applicant will partner with the D.C. Workforce Investment Council to create and fund an employment program targeting Ward 5 residents up to a cost of \$200,000. (Exhibit 86)
- m. Local Businesses.** Applicant will partner with Bald Cypress, a Ward 5 company, to publicize opportunities to engage small and local businesses in this project up to a cost of \$10,000. (Exhibit 86C)
- n. Edgewood Adult Reading Program.** Applicant shall contribute \$5,000 to the Edgewood Adult Reading Program prior to issuance of a certificate of occupancy for Building 1A. (Exhibit 86C)
- o. Beacon House.** Applicant shall contribute \$10,000 to Beacon House prior to issuance of a certificate of occupancy for Building 1A. (Exhibit 86C)
- p. Community Preservation and Development Corporation Food Pantry Program.** Applicant shall contribute \$15,000 to the CPDC Food Pantry Program prior to issuance of a certificate of occupancy for Building 1A. (Exhibit 86C)
- q. McKinley Technology Education Campus.** Applicant shall contribute \$10,000 to the McKinley Technology Education Campus's greenhouse program prior to issuance of a certificate of occupancy for Building 1A. (Exhibit 86C)
- r. Edgewood Recreation Summer Camp.** Applicant shall contribute \$10,000 to the Edgewood Recreation Summer Camp prior to issuance of a certificate of occupancy for Building 1A. (Exhibit 86C)
- s. Edgewood Recreation Center Equipment.** Applicant shall contribute \$10,000 to the Department of Parks and Recreation to be designated for equipment for the Edgewood Recreation Center. This contribution shall be made prior to issuance of a certificate of occupancy for Building 1A. (Exhibit 86C)

- t. **Scholarship Funding.** Applicant shall contribute \$16,000 to the Community Foundation of the National Capital Region for local scholarships to be administered by the Foundation. (Exhibit 86C)
- u. **Bryant Street and 4th Street.** Applicant shall reconfigure the traffic signal at Bryant Street and Fourth Street. The timeline for the completion of this work shall be determined during the Stage Two PUD application for Block 3, as defined in the Record. Applicant will discuss appropriate signage for Bryant Street with the District Department of Transportation during the Stage 2 application for Block 3. (Exhibit 86C)
- v. **Channing Street and 4th Street.** Applicant shall reconfigure the entrance of Edgewood Commons and install a traffic signal to align with Channing Street NE. The timeline for this work shall be determined during the Stage Two PUD application for Block 3, as defined in the Record. Applicant will discuss appropriate signage for Channing Street with the District Department of Transportation during the Stage 2 application for Block 3. (Exhibit 86C)
- w. **Rhode Island and 3rd Street.** Applicant will contribute up to \$60,000 to the provision of a stop light at the intersection of Rhode Island Avenue and 3rd Street. These funds shall be pooled with contributions provided on behalf of other development projects. If the cost exceeds \$60,000, the Applicant shall work with DDOT to reallocate funds otherwise dedicated to TDM measures. The Applicant will be responsible for constructing the light prior to issuance of a certificate of occupancy for Building 1A. (Exhibit 86C)
- x. **Rhode Island Pedestrian Improvements.** The Applicant will provide pedestrian and intersection improvements in coordination with input from DDOT at the intersection of 5th Street and Rhode Island Avenue, this work will include signal modifications. (Exhibit 86C)
- y. **Bikeshare.** Applicant will purchase, install and fund the operation and maintenance of a Capital Bikeshare station along the MBT for a period of one year. The installation of this station shall occur prior to the issuance of the certificate of occupancy for the last building in Phase I, subject to the schedule of the Capital Bikeshare distributor. The Applicant will purchase, install and fund the operation and maintenance of a second Capital Bikeshare station on 4th Street between Bryant Street and Franklin Street. The timeframe for this station will be determined during the Stage 2 application for Block 3. (Exhibit 86C)
- z. **Transportation Welcome Package.** The Applicant proposes to provide \$225 per residential unit in alternative transportation incentives that can be used as

an annual membership for Capital Bikeshare, an annual carshare membership, a carshare driving credit, or for bicycle repair/maintenance. These funds, currently anticipated to be a total of \$330,075, will be pooled during each phase of the project into a fund that would make incentives available to residents until it is exhausted. This benefit shall be codified in rental/condominium documents for all of the residential units planned within the project, both in Phase 1 and future phases. This fund must be exhausted within five years of certificate of occupancy of each phase, otherwise will be disbursed to a TDM-related entity or organization at DDOT direction. (Exhibit 86C)

- aa. Transit Screens.** A total of ten (10) transportation information screens are proposed for the Project. Eight are proposed to be placed in residential lobbies (one per lobby), one is proposed to be placed in the office lobby in Building 5b, and one is proposed to be placed in the plaza on the eastern end of the development. (Exhibit 86C)
- bb. Electric Charging Stations.** The Applicant will provide a total of nine 240-volt electric car charging stations: at least six spaces will be provided in the residential building garages, two in the grocery store garage and one on the street. (Exhibit 86C)
- cc. Tree Boxes and Banners.** The Applicant will assist in beautifying 4th Street between Rhode Island Avenue and Channing Street, by providing tree boxes and Edgewood lamp post banners up to a cost of \$50,000. The timeline for this work will be refined during the Stage 2 application for Building 4. (Exhibit 86 C)
- dd. Memorandum of Understanding.** The Applicant will abide by the terms of the Memorandum of Understanding in Exhibit 86B. Events shall take place on a mutually agreeable date and the calendar of events will be finalized at the Applicant's sole discretion, to be exercised in good faith. (Exhibit 86B, C)
- ee. Landscaping.** The Applicant will host a public meeting, with notice provided to the ANC, in a good faith effort to discuss the final landscape plan for Bryant Park. The details of the landscape plan will be finalized at the Applicant's sole discretion. The final plan will include a bike "fix-it" station, a drinking water fountain, a public message board, trash and recycling receptacles, relocating the existing "little free library" and the existing tulips, unless otherwise agreed upon by the community. (Exhibit 86C)

Compliance with PUD Standards

59. 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 and flexibility 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 set forth in the Applicant’s statement and the OP report.
60. The Commission credits the testimony of the Applicant and its experts as well as OP and DDOT, and finds that the superior design, site planning, streetscape and MBT improvements, housing and affordable housing, uses of special value, transportation demand and loading management plans all constitute acceptable project amenities and public benefits.
61. The Commission finds that the PUD as a whole is acceptable in all proffered categories of public benefits and project amenities. In fact, the Commission notes that the benefits and amenities package exceeds the typical level of proffers, particularly for a project that does not receive additional density from the PUD process. The proposed benefits and amenities are superior as they relate to urban design, landscaping, and open space, housing and affordable housing, effective and safe transportation access, and uses of special value to the neighborhood and the District as a whole. These benefits and amenities, including the affordable housing proffer, shall serve as the benefits and amenities for the Second Stage applications for the remaining phases. No additional benefits and amenities shall be expected when the Second Stage applications are processed.
62. The Commission believes the final benefits and amenities package addresses the comments and concerns noted by the party in opposition, Edgewood West, and the ANC. The Commission credits the testimony of OP and agrees that the PUD provides significant and sufficient public benefits and project amenities.
63. The Commission finds that the character, scale, massing, mix of uses and design of the PUD 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. Specifically, the Commission credits the testimony of the Applicant and the Applicant’s architectural and transportation planning witnesses that the PUD represents an efficient and economical redevelopment of a strategic and transit-oriented parcel located near a Metrorail Station and along the MBT.

64. The Commission credits the testimony of OP and DDOT, and accepts the ANC's report, noting that the PUD will provide benefits and amenities of substantial value to the community and the District commensurate with the additional height sought through the PUD process. The Commission notes that the Applicant is seeking a development that proposes approximately 670,000 less square feet on-site than is permitted as a matter-of-right and acknowledges that the PUD is providing additional height, not density, than would otherwise be allowed. The Zoning Commission agrees with the Applicant that given the Property's location adjacent to the MBT, Metrorail, Rhode Island Avenue, and given the topographical challenges of the site, the 90 foot proposed height is appropriate.
65. The Commission credits OP and DDOT's testimony that the impact of the PUD on the level of services will not be unacceptable. The Commission notes that the Transportation Demand Management measures that the Applicant undertakes will mitigate any impacts of the Project.
66. The Commission credits the testimony of the Applicant's traffic consultant, who submitted a comprehensive transportation review that concluded that the PUD would not have adverse effects due to traffic or parking impacts. The Applicant is providing a substantial TDM package, that DDOT supports, which will not only mitigate impacts from the Project but generally improve existing conditions. Specifically, the Applicant will improve pedestrian, bicycling, and vehicular conditions on the Property and nearby intersections. Any traffic, parking, or other transportation impacts of the PUD 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, particularly in light of the robust transportation demand management plan being proffered.

Compliance with the Comprehensive Plan

67. The Commission credits the testimony of OP and the Applicant regarding the Property's designation as appropriate for Medium Density Residential and Moderate Density Commercial development pursuant to the Future Land Use Map of the District of Columbia. The proposed height of the PUD is consistent with this designation. The proposed density is significantly less than what would be permitted as a matter-of-right on the Property.
68. The Commission credits the testimony of the Applicant and OP regarding the compliance of the PUD with the District of Columbia Comprehensive Plan. The development is fully consistent with and furthers the goals and policies in the map, citywide, and area elements of the plan.
 - (i) The Commission finds that the proposed PUD is not inconsistent with the written elements of the Comprehensive Plan and promotes the policies of its Land Use,

Transportation, Housing, and Urban Design Citywide Elements and its Upper Northeast Area Element.

- (ii) The project implements Land Use Element policies that designate the area around the Brentwood - Rhode Island Avenue Metrorail station, as well as along the MBT, for future growth and encourage infill development and development near Metrorail stations. The PUD brings growth and revitalization to an underutilized lot along a high transit corridor.
- (iii) The project implements Transportation Element policies that promote transit-oriented development and urban design improvements. The PUD brings new housing and retail uses within walking distance of the Metrorail station, the MBT and Rhode Island Avenue, and, through its Transportation Demand Management Plan, provides effective incentives to discourage motor vehicle use.
- (iv) The project implements Housing Element policies that encourage expansion of the city's supply of high-quality market-rate and affordable housing, including affordable housing units that provide deeper affordability limits.
- (v) The project implements Urban Design Element policies that call for enhancing the aesthetic appeal and visual character of areas around major thoroughfares. The PUD significantly improves an underutilized parcel of land along a vital corridor in the District of Columbia.
- (vi) The project implements the Upper Northeast Area Element policies particularly those calling for development of additional medium-to high-density mixed use development around the Rhode Island Avenue Metro station, particularly on the surface parking lots in the station vicinity; improving the visual quality of streets in Upper Northeast, especially along North Capitol Street, Rhode Island Avenue, Bladensburg Road, Eastern Avenue, Michigan Avenue, Maryland Avenue, Florida Avenue, and Benning Road. Landscaping, street tree planting, street lighting, and other improvements should make these streets more attractive community gateways; and encouraging [similar] pedestrian-oriented retail development along Rhode Island Avenue.
- (vii) The Commission credits the testimony of the Applicant that the PUD is consistent with and furthers the goals of the Diamond in the District Small Area Plan, particularly as it designates this subarea as appropriate for medium-high density, making this project's 90 foot heights and 3.6 FAR entirely appropriate.

Agency Reports

69. By report dated May 9, 2016 and by testimony at the public hearing on May 25, 2016, OP recommended approval of the application. OP confirmed that the Project supports the written elements of the Comprehensive Plan and is not inconsistent with Future Land Use and Generalized Policy maps of the Comprehensive Plan. OP concluded that the benefits and amenities of the PUD were commensurate given the development incentives requested. (Exhibit 55)
70. OP specifically noted that the Applicant worked to address the concerns expressed by the Commission and OP at the setdown meeting as well as the ANC and the neighboring CPHOA. (Exhibit 55)
71. OP noted in its report that it supports relocating loading for Block 5B to a private alley between Block 5A and 5B once Block 5A is constructed. OP supported an interim condition of street side loading for Block 5B. (Exhibit 55)
72. OP supported the Applicant's request for relief from record lot, rear yard, parking and loading requirements. OP also supported the requests for flexibility for temporary uses, phasing, approved uses, height of the retail space. (Exhibit 55)
73. DDOT submitted a request to file its report out of time on May 9, 2017. (Exhibit 56)
74. DDOT filed its report on May 13, 2016, in support of the PUD. It found that the site plan was logical and the proposed street network has the potential to disperse site traffic in a way that minimizes the project's impacts on the external road network and improve connectivity to adjacent neighborhoods. It further found the Applicant's methodology to be sound and that the project would minimally increase travel delay in most study area locations. The project includes significant improvements to the pedestrian and bicycle network and the proposed transportation demand management ("TDM") measures are robust and support the proposed non-auto mode split. (Exhibit 65)
75. DDOT found the proposed TDM to be appropriate, including: provision of two pedestrian staircases to provide a connection between the project and Edgewood Commons; appropriate signalization at the intersections of 4th Street and Bryant Street and 4th Street and Channing Street; modified intersections at Rhode Island Avenue and 5th Street NE, provision of a CCTV camera at Rhode Island and 4th Street; a \$10,000 contribution toward improvements to the connection between the MBT and Franklin Street; improvement of the MBT, with a mutually agreeable maintenance agreement; provision of a Capital Bikeshare Station; multimodal street design on the private portion of Bryan Street to include dedicated bicycle facilities; and offering a robust TDM to encourage non-auto modes. (Exhibit 65)

76. DDOT sought additional mitigation with a commitment to construct a signal at 3rd Street and Rhode Island Avenue, in conjunction with contributions from prior developments. The Applicant agreed to contribute \$60,000 toward the light and to construct the light prior to issuance of a certificate of occupancy for Building 1A. If the cost exceeds \$60,000, the Applicant and DDOT may reallocate funds from its TDM proffer.

Advisory Neighborhood Commission 5E Report

77. ANC 5E submitted a letter in opposition to the application on the day of the hearing, May 19, 2016. The Chair of ANC 5E testified to its objections at the public hearing. (Exhibit 75, May 19 Transcript, p. 132)
78. Chairman Quin testified at the public hearing in opposition to the application. She noted that the Applicant did extensive public outreach from the outset of this project; however, it was in a challenging situation given the timing in the turnover of the Single Member District representative for ANC 5E02. (May 19 Transcript, p. 132)
79. She further testified that the ANC voted in opposition to the application in large part due to the level of affordability being proffered. The ANC requested that more than 8% of the residential gross floor area be dedicated to affordable housing and that it be provided at deeper AMI levels. (May 19 Transcript, p. 133)
80. The Applicant subsequently modified its affordable program, as noted in paragraph ____, in response to comments from the ANC. (Exhibit 86C)
81. The Applicant attended the ANC's public meeting on June 21, 2016. The ANC voted in support of the application contingent on increasing the affordable housing proffer to setting aside 14% of the residential gross floor area for households with an annual income no greater than 60% AMI. (Exhibit __)

Party in Opposition

82. Edgewood West submitted a request for party status in opposition to the application on May 4, 2016. (Exhibit 33)
83. The party was comprised of residents living within 400 feet of the proposed project. They cited concerns regarding social, economic and environmental impacts. (Exhibit 33)
84. Edgewood West testified at the public hearing on May 25, 2016, noting their concerns regarding the desire to incorporate additional green space in the project, limit the heights of the buildings along 4th Street to a maximum height of 65 feet, and to improve access through the site during construction. (May 25 Transcript, p. 42)

85. With respect to the first item, Edgewood West requested the Applicant consider narrowing the drive aisle circling Building 1A in order to convert some of the hardscape to green space. The Applicant noted that a minimum width of 20 feet is required for fire access, thus it cannot be minimized; however, the drive aisle is comprised of permeable pavers, which mitigates the impact of the pavers. Nevertheless, the Applicant revised its site plan to provide additional green space with Block 3. The initial proposal included a plaza consisting of 13,835 square feet of area; the Applicant increased the set aside to 30,750 square feet and converted a portion of the plaza area to green space. (Exhibit 86)
86. With respect to the height of the buildings along 4th Street, the Applicant agreed that although a maximum height of 90 feet is permitted for Blocks 3 and 4 that both buildings would step down to a maximum height of 65 feet for their frontage along 4th Street. (Exhibit 86)
87. Finally, the Applicant committed to work in good faith to minimize the length of time through access on the Property was not permitted to the MBT during construction of Phase I. Edgewood West requested a more specific commitment; however, the Applicant noted that it could not provide such a commitment prior to starting construction. Nevertheless, the Applicant committed to hosting quarterly meetings to provide updates on the status of construction. At the public hearing, Edgewood West acknowledged that the Property was privately owned. (Exhibit 86A)
88. The Applicant made further modifications to its proposal in direct response to comments from Edgewood West. In addition to the items noted above, the Applicant committed to a Memorandum of Understanding that outlines the terms under which public events can take place on the PUD green spaces; it modified its construction management plan to incorporate requested language from the community regarding provision of notice of construction; it committed to hosting a public meeting concerning the landscaping of the area adjacent to the MBT; it committed to an additional Capital Bikeshare station; and it committed to additional resources to be dedicated to the Edgewood Recreation Center. (Exhibit 86)

Persons and Organizations in Support or Opposition

89. Suzanne Welch, a representative of the Community Preservation and Development Corporation (“CPDC”), the immediate neighbor to the north of the project, testified at the public hearing in support of the application. CPDC included testimony and documentation in the record requesting that the Applicant commit to an enhanced affordable housing program; that it combine the entrance to the Project with the entrance to Edgewood Commons at 4th Street and Channing Street and provide a light; it relocate the eastern stair proposed for the Property; that the Applicant provide a gate on the stairs to be coordinated with the hours of Metro; and that the Applicant provide additional buffering between the properties. (May 25 Transcript, p. 15)

90. As noted above, the Applicant modified its affordable program to address comments from the community regarding the proffered AMI levels. With respect to CPDC's other concerns, the Applicant committed to the intersection improvements requested by CPDC at 4th Street and Channing Street and these improvements are reflected in the PUD plans submitted as Exhibit 86D in the record. Subsequent to the hearing, the Applicant modified the location of the stair location on CPDC's property in coordination with CPDC. These modifications are reflected in the plans submitted as Exhibit 86D in the record. The stair will provide a gate, the location and operation of which will be determined in coordination with CPDC. Finally, the Applicant committed to providing additional buffering between the two properties, as noted on the plans submitted in the record as Exhibit 86D.
91. Claire Jaffe, a representative of the Coalition for Smarter Growth, testified in support of the application at the public hearing. She noted that the project was a transit-oriented development that improved connections within the community. She strongly supported the proposal and cited numerous attributes of the proposal, including the pedestrian and bicycling networks it would establish. (May 25 Transcript, p. 19)
92. Patricia Williams, the Single Member District representative for ANC 5E02, testified in opposition to the application at the public hearing. She noted that despite her opposition, she was "coming around" to a position of support. She testified that her primary basis of opposition was the level of affordability being proffered for the residential units. As noted, the Applicant modified this proposal subsequent to the public hearing. (May 25 Transcript, p. 68)

CONCLUSIONS OF LAW

1. Pursuant to Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, welfare, and convenience." (11 DCMR § 2400.2.)
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider the applicant as a consolidated PUD for Phase I and a one- stage PUD for the remaining phases. The Commission may impose development guidelines, conditions, and standards that may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, parking, loading, yards, or courts.
3. The Property meets the minimum area requirements of §§ 1326.2 and 2401.1 of the Zoning Regulations.

4. Proper notice of the proposed PUD was provided in accordance with the requirements of the Zoning Regulations and as approved by the Zoning Commission.
5. The development of the PUD 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, massing, mix of uses, and design of the proposed PUD are appropriate. The proposed redevelopment of the Property, with a mix of residential and commercial uses, capitalizes on the Property's transit-oriented location and is compatible with citywide and area plans of the District of Columbia, including strategic development plans such as Diamond in the District.
6. The Commission has judged, balanced, and reconciled the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects, and concludes approval is warranted for the reasons detailed below.
7. The PUD complies with the applicable height and bulk standards of the Zoning Regulations and will not cause a significant adverse effect on any nearby properties. In fact, the PUD is proposing significantly less density than would otherwise be permitted on-site as a matter-of-right. The residential, retail, and office uses for this PUD are appropriate for the Property's location. The PUD's height, bulk, and uses are consistent with the District's planning goals for the surrounding neighborhood.
8. The PUD provides superior features that benefit the surrounding neighborhood to a significantly greater extent than the matter-of-right development on the Property provides. The Commission finds that the urban design, site planning, creation of the road, bicycling and pedestrian networks, efficient and safe transportation features and measures, housing and affordable housing, ground-floor retail uses, and uses of special value are all significant public benefits. The impact of the PUD is acceptable given the exceptional quality of the public benefits of the PUD. The level of benefits and amenities proffered in this application are truly exceptional given the limited level of flexibility sought in this PUD.
9. The impact of the PUD on the surrounding area and the operation of city services is not unacceptable. The Commission agrees with the conclusions of the Applicant's traffic expert and DDOT that the proposed PUD will not create adverse traffic, parking, loading 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 from the development will be mitigated.
10. Approval of the PUD is not inconsistent with the Comprehensive Plan. The Commission agrees with the determination of OP and finds that the proposed PUD is consistent with the Property's Moderate Density Commercial and Medium Density Residential

designation on the Future Land Use Map and furthers numerous goals and policies of the written elements of the Comprehensive Plan as well as other District planning goals for the immediate area.

11. The Commission concludes that the proposed PUD is appropriate given the superior features of the PUD, the benefits and amenities provided through the PUD, the goals and policies of the Comprehensive Plan, and other District of Columbia policies and objectives.
12. The PUD will promote the orderly development of the site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Zoning Map of the District of Columbia.
13. The Applicant proposed improvements for the public space immediately abutting is property and while the Zoning Commission does not have jurisdiction over the development of public space, it supports the proposed improvements. It understands the Applicant will work with DDOT regarding the specific improvements to the public space.
14. 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 the recommendations of OP in all zoning cases. The Commission carefully considered the OP reports and found OP's reasoning persuasive in recommending approval of the application.
15. 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 the ANC 6C position supporting approval of the application and concurred in its recommendation of approval. The Commission was not persuaded by the ANC's request for a gate along the southern property line to control entrance to the garage and loading area. The Commission agreed with DDOT's testimony that providing such a gate would have adverse impacts on alley circulation.
16. The Applicant is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application for the review and approval of a Consolidated and First Stage Planned Unit Development for the Property for the mixed-use development described herein, subject to the following conditions:

A. Project Development

1. The Project will be developed in accordance with the architectural drawings submitted into the record on June 28, 2016, as Exhibit 86D, as modified by the guidelines, conditions, and standards herein (collectively, the "Plans").
2. The Project will have flexibility from the parking, loading, and lot requirements as noted herein.
3. The Applicant will have flexibility with the design of the PUD in the following areas:
 - a. To vary the location and design of all interior components, including but not limited to partitions, structural slabs, doors, hallways, columns, signage, 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 same color palette as the color approved and the same material type as the material approved, based on availability at the time of construction;
 - c. To vary the number of parking levels in the garages for Buildings 1A, 1B and 5B so long as the final number of parking spaces is within the range reflected in Exhibit 86D.
 - d. To modify the floor to ceiling heights of the retail space so long as the height of the buildings does not exceed 90 feet;
 - e. To vary the location of the affordable units so long as the proffered levels of affordable housing remain the same and Section 2605.6 is satisfied;
 - f. To make minor refinements to exterior details, dimensions, and locations, including belt courses, sills, bases, cornices, railings, balconies, trim, frames, mullions, spandrels, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit, or are needed to address the structural, mechanical, or operational needs of the building uses or systems;
 - g. To vary the size, location and design features of the retail spaces to accommodate the needs of specific retail tenants;
 - h. To modify the size and location of the MPD space so long as it is located in Building 1A.

4. The Applicant will have flexibility with the programming of the PUD in the following areas:
 - a. To modify the mix of uses in Buildings 1A and 1B to incorporate additional retail space as depicted in the plans submitted as Exhibit 86D should market conditions allow;
 - b. To modify the mix of uses in Building 5B to incorporate office use as depicted in the plans submitted as Exhibit 86D should market conditions allow;
 - c. To modify the location of the residential lobbies in Buildings 1A, 1B and 5B;
 - d. To incorporate Project signage, including wayfinding signage, in coordination with DDOT;
 - e. To incorporate temporary retail kiosks along the eastern edge of the site so long as the uses are not permanently affixed to the ground and that no single kiosk is greater than 500 square feet in size. The kiosks shall be permitted to rotate as necessary.
 - f. To continue existing retail uses on-site and incorporate new interim uses on the site of the Phase I PUD so long as the new interim uses are permitted as a matter-of-right. The new interim uses shall not be located in permanent structures.

B. Transportation

1. The Applicant shall unbundle the cost of residential parking from the cost of lease or purchase and set the pricing at the average market rate within ¼ mile of the site.
2. The Applicant shall identify TDM Leaders (for planning, construction, and operations) at the residential and office buildings. The TDM Leaders will work with residents and employees in the building to distribute and market various transportation alternatives and options.
3. The Applicant shall provide TDM materials to new residents in the Residential Welcome Package materials. The residential property management company or person in charge of TDM for the new development needs to register with goDCgo, DDOT's free TDM services provider.
4. All TDM commitments will be posted to the Project's website.
5. The Applicant shall install Transportation Information Center Displays (kiosks or screens) within the lobbies of the residential multi-family and office buildings and one in the urban

plaza on the east end of the property, containing information related to local transportation alternatives. This is expected to be 10 displays in all, with one allocated to each of the eight residential lobbies, one in the office lobby, and one proposed for the plaza on the eastern end of the development.

6. The Applicant proposes to provide \$225 per residential unit in alternative transportation incentives that can be used as an annual membership for Capital Bikeshare, an annual carshare membership, a carshare driving credit, or for bicycle repair/maintenance. These funds, currently anticipated to be a total of \$330,075, will be pooled during each phase of the project into a fund that would make incentives available to residents until it is exhausted. This benefit shall be codified in rental/condominium documents for all of the residential units planned within the project, both in Phase 1 and future phases. This fund must be exhausted within five years of the issuance of a certificate of occupancy of each phase, otherwise will be disbursed to a TDM-related entity or organization at DDOT direction. Though this item is listed as a TDM commitment, the amount proffered is above and beyond what would otherwise be required for this project; accordingly, this is also a considered a benefit and amenity of the project.
7. The Applicant shall provide at least 502 secure indoor bicycle parking spaces and 59 outdoor bicycle racks (accommodating 118 bicycles). This exceeds the ZR2016 required bicycle parking of 313 long-term (secure) bicycle spaces and 100 short-term (outdoor) bicycle spaces by 189 and 18 spaces, respectively.
8. The Applicant shall provide bicycle repair stations within the eight bicycle rooms proposed in the development.
9. The Applicant shall make available a cargo bicycle for residents to rent or borrow and use for errands for each of the eight residential buildings.
10. The Applicant shall make available two grocery carts with wheels per building for residents in each of the eight residential buildings to use for grocery shopping purposes.
11. Retail leases shall be written such that tenants should encourage alternative modes for retail employees.
12. Applicant shall reconfigure the traffic signal at Bryant Street and Fourth Street. The timeline for the completion of this work shall be determined during the Stage Two PUD application for Block 3, as defined in the Record. Applicant will discuss appropriate signage for Bryant Street with the District Department of Transportation during the Stage 2 application for Block 3.
13. Applicant shall reconfigure the entrance of Edgewood Commons and install a traffic signal to align with Channing Street NE. The timeline for this work shall be determined

during the Stage Two PUD application for Block 3, as defined in the Record. Applicant will discuss appropriate signage for Channing Street with the District Department of Transportation during the Stage 2 application for Block 3.

14. Applicant will contribute up to \$60,000 to the provision of a stop light at the intersection of Rhode Island Avenue and 3rd Street. These funds shall be pooled with contributions provided on behalf of other development projects. If the cost exceeds \$60,000, the Applicant shall work with DDOT to reallocate funds otherwise dedicated to TDM measures. The Applicant will be responsible for constructing the light prior to issuance of a certificate of occupancy for Building 1A.
15. Applicant shall install a CCTV camera at the intersection of 4th Street, NE and Rhode Island Avenue, NE to help DDOT better monitor and react to traffic flows along the Rhode Island corridor adjacent to the Project.

C. Construction

1. The Applicant shall abide by the terms of the construction management plan submitted as Exhibit 86A.

D. Benefits and Amenities

1. **Affordable Residential Units.** For Phase I, Applicant shall set aside 8% of the residential gross floor area for affordable housing: 4% of the residential gross floor area in Phase I shall be reserved for households earning up to 80% of the Area Median Income (AMI) and 4% of the residential gross floor area shall be reserved for households earning up to 50% of the AMI. For all remaining phases of the PUD (Buildings 2A, 3, 4, 5A and 6), Applicant shall set aside 8% of the residential gross floor area for affordable housing: 5% of the residential gross floor area shall be reserved for households with an annual income no greater than 50% AMI and 3% of the residential gross floor area shall be reserved for households with an annual income no greater than 80% AMI.
2. **Security.** Applicant shall implement the Security Plan outlined in Exhibit 31A of the Record up to a cost of \$300,000 per year for a period of no less than five years from the date of issuance of the certificate of occupancy for Building 1A. This plan shall include:
 - b. **Private Security.** The Applicant shall retain a private security firm to provide security on-site 24 hours per day, 7 days per week.
 - c. **Security Call Boxes.** The Applicant shall provide two security call-boxes. One call-box shall be located at the base of the stairs leading to the pedestrian bridge for the Metrorail Station and the second call-box shall be located at 8th Street and Edgewood Street.

- d. **Metropolitan Police Department.** The Applicant shall reserve at least 500 square feet in Building 1A, as defined in the Record, for use by the Metropolitan Police Department.
 - e. **Lighting.** The Security Plan shall incorporate the lighting depicted in Exhibit 31A as well as lighting along the MBT below the staircase leading to the pedestrian bridge to the Metrorail Station.
3. **Seabury Transportation for Seniors.** Applicant shall partner with Seabury Transportation for Seniors and the District Department on Aging to provide services, at a cost up to \$30,000 per year, to transport seniors at the Edgewood Commons community to the Site at least once a week for five years. These services shall begin upon the issuance of building permit for Building 1A and at the request of Edgewood Commons.
4. **Green Area Ratio.** The Applicant shall provide a GAR greater than .25 for Phase I.
5. **Murals.** Applicant will retain, restore or replace in-kind the mosaic on 4th Street exterior wall of Forman Mills up to a cost of \$50,000. This work will be completed in connection with the construction of Block 3 and the timing will be further refined during the Stage 2 PUD process. The Applicant will retain, restore or replace in-kind the mural wall along the rear of the property up to a cost of \$100,000. The Applicant will work with Peter Krsko, the original artist, to recreate the mural in its original likeness through the Open Walls DC Program. Similar to the painting of the original mural, its re-creation will involve the work of District of Columbia students. The timeframe for the completion of this work will be finalized during the Stage 2 application for Block 2.
6. **Sculptures.** Applicant will preserve and relocate existing sculptures along the MBT. This work will be completed prior to issuance of a certificate of occupancy for Building 1A.
7. **Connections.** Applicant will construct two pedestrian staircases between the Site and Edgewood Commons. The location of the staircases may be refined in coordination with the neighboring property owner, District Department of Transportation and the Office of Planning. The connection shall integrate benches and solid-backed 6.5 inch risers and 11 inch treads to accommodate those with limited mobility. The eastern staircase shall also incorporate a bicycle trough. The eastern staircase shall be constructed during the construction of Phase I while the western staircase shall be constructed during construction of Block 2. Applicant shall provide a gate on both stair connections. The gates shall be closed between 1:00 am and 4:30 am Monday through Friday and between 3:00 am and 6:30 am Saturday and Sunday. Signage shall be provided to notify pedestrians and bikers of the stair hours. The gates may be removed at any point in the future without modification of this Order with the approval of Edgewood Commons.
8. **MBT Improvements.** Applicant will improve the MBT including realignment, signage, wayfinding, landscaping, and lighting, including security lighting underneath the staircase to the Metro pedestrian bridge. These improvements shall be completed prior to issuance of a

certificate of occupancy for Building 1A, in accordance with the Construction Management Plan in Exhibit 86A, and in consultation with the District Department of Transportation. The Applicant will also contribute \$10,000 towards pedestrian/sidewalk improvements between the MBT and Franklin Street.

9. **Community Meeting Room.** Applicant will allow the ANC 5E, Single Member District representative and the Edgewood Civic Association to use the common area in Building 1A, or another mutually agreeable building, for public meetings once a month on a mutually agreeable date.
10. **ANC Office.** Applicant will reserve space in the Development for use by ANC 5E. This requirement may be satisfied by providing a membership to the co-working space proposed for Building 5b.
11. **D.C. Workforce Investment Council.** Applicant will partner with the D.C. Workforce Investment Council to create and fund an employment program targeting Ward 5 residents up to a cost of \$200,000.
12. **Local Businesses.** Applicant will partner with Bald Cypress, a Ward 5 company, to publicize opportunities to engage small and local businesses in this project up to a cost of \$10,000.
13. **Edgewood Adult Reading Program.** Applicant shall contribute \$5,000 to the Edgewood Adult Reading Program prior to issuance of a certificate of occupancy for Building 1A.
14. **Beacon House.** Applicant shall contribute \$10,000 to Beacon House prior to issuance of a certificate of occupancy for Building 1A.
15. **Community Preservation and Development Corporation Food Pantry Program.** Applicant shall contribute \$15,000 to the CPDC Food Pantry Program prior to issuance of a certificate of occupancy for Building 1A.
16. **McKinley Technology Education Campus.** Applicant shall contribute \$10,000 to the McKinley Technology Education Campus's greenhouse program prior to issuance of a certificate of occupancy for Building 1A.
17. **Edgewood Recreation Summer Camp.** Applicant shall contribute \$10,000 to the Edgewood Recreation Summer Camp prior to issuance of a certificate of occupancy for Building 1A.
18. **Edgewood Recreation Center Equipment.** Applicant shall contribute \$10,000 to the Department of Parks and Recreation to be designated for equipment for the Edgewood Recreation Center. This contribution shall be made prior to issuance of a certificate of occupancy for Building 1A.

19. **Scholarship Funding.** Applicant shall contribute \$16,000 to the Community Foundation of the National Capital Region for local scholarships to be administered by the Foundation.
20. **Rhode Island Pedestrian Improvements.** The Applicant will provide pedestrian and intersection improvements in coordination with input from DDOT at the intersection of 5th Street and Rhode Island Avenue; these improvements include modification of the traffic signal.
21. **Bikeshare.** Applicant will purchase, install and fund the operation and maintenance of a Capital Bikeshare station along the MBT for a period of one year. The installation of this station shall occur prior to the issuance of the certificate of occupancy for the last building in Phase I, subject to the schedule of the Capital Bikeshare distributor. The Applicant will purchase, install and fund the operation and maintenance of a second Capital Bikeshare station on 4th Street between Bryant Street and Franklin Street. The timeframe for this station will be determined during the Stage 2 application for Block 3.
22. **Transportation Welcome Package.** As noted above, the Applicant proposes to provide \$225 per residential unit in alternative transportation incentives that can be used as an annual membership for Capital Bikeshare, an annual carshare membership, a carshare driving credit, or for bicycle repair/maintenance. These funds, currently anticipated to be a total of \$330,075, will be pooled during each phase of the project into a fund that would make incentives available to residents until it is exhausted. This benefit shall be codified in rental/condominium documents for all of the residential units planned within the project, both in Phase 1 and future phases. This fund must be exhausted within five years of certificate of occupancy of each phase, otherwise will be disbursed to a TDM-related entity or organization at DDOT direction.
23. **Electric Charging Stations.** The Applicant will provide a total of nine 240-volt electric car charging stations: at least six spaces will be provided in the residential building garages, two in the grocery store garage and one on the street.
24. **Tree Boxes and Banners.** The Applicant will assist in beautifying 4th Street between Rhode Island Avenue and Channing Street, by providing tree boxes and Edgewood lamp post banners up to a cost of \$50,000. The timeline for this work will be refined during the Stage 2 application for Building 4.
25. **Memorandum of Understanding.** The Applicant will abide by the terms of the attached Memorandum of Understanding. Events shall take place on a mutually agreeable date and the calendar of events will be finalized at the Applicant's sole discretion, to be exercised in good faith.
26. **Landscaping.** The Applicant will host a public meeting, with notice provided to the ANC, in a good faith effort to discuss the final landscape plan for Bryant Park. The details of the landscape plan will be finalized at the Applicant's sole discretion. The final plan will include

a bike “fix-it” station, a drinking water fountain, a public message board, trash and recycling receptacles, relocating the existing “little free library” and the existing tulips, unless otherwise agreed upon by the community.

27. **LEED Gold.** The Project shall be certified at the LEED Gold level (LEED for Homes Mid-Rise).

E. Miscellaneous

1. The Office of Zoning shall not release the record of this case to the Zoning Regulations Division of DCRA and no building permit shall be issued for Phase I until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs (DCRA). Such covenant shall bind the Applicant and all successors in title to construct and use the Phase I 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 Second Stage PUD approved by the Zoning Commission for Block 1A 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 a building permit for the Block 1A Building. Construction of the Block 1A building must begin within three years of the effective date of this Order.
3. The Second Stage PUD approved by the Zoning Commission for Blocks 1B and 5B shall be valid for a period of four years from the effective date of this Order. Within such time, an application must be filed for a building permit for each the Block 1B and Block 5B buildings. Construction of the Block 1B and 5B buildings must begin within 6 years of the effective date of this Order.
4. The First Stage PUD approved by the Commission for Blocks 2, 3, 4, 5A and 6 shall be valid for a period of 10 years. A Second Stage application for each Block must be filed within 10 years of the effective date of this Order.
5. In accordance with the DC Human Rights Act of 1977, as amended, DC Official Code §§ 2-1401 01 et al (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, familial 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 prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

For this reason stated above, the Commission concludes that the Applicant has met its burden, and it is hereby **ORDERED** that the application be **GRANTED**.

On July 11, 2016, upon the motion of Chairman May, as seconded by Commissioner Miller, the Zoning Commission **APPROVED** the application at the conclusion of its public hearing by a vote of **4-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, and Peter G. May to approve).

On _____, upon the motion of _____, as seconded by _____, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, and Peter G. May to adopt).

In accordance with the provisions of § 3028.8 of the Zoning Regulations, this Order shall become final and effective upon publication in the *D.C. Register* on _____.

ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION

SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING