

**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 @ Square 3629, Lots 7, 813 and 814)**  
**September 26, 2016**

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 of retail, office, and residential uses (“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”)<sup>1</sup>. 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, N.E. (Exhibit [“Ex.” 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. (Ex. 2-2G.)
3. The PUD application does not include a PUD-related Map Amendment. (Ex. 2.)
4. On November 13, 2015, the Office of Planning (“OP”) 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: (Ex. 15.)

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<sup>1</sup> Chapter 24 and all other provisions of Title 11 DCMR were repealed on September 6, 2016. Chapter 24 was replaced by Chapter 3 of Subtitle 11-X. However, because this application was set down for hearing prior to that date, the Commission’s approval was based upon the standards set forth in Chapter 24.

- Design of private streets;
  - Justification of curb cut for Block 4 from 4<sup>th</sup> Street;
  - Collaboration with the District Department of Transportation (“DDOT”) regarding Metropolitan Branch Trail (“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 Commission set the application down for a public hearing, supporting OP’s request for additional information prior to the public hearing. (11/23/2015 Transcript [“Tr.”], at p. 72.)
  6. The Applicant filed its pre-hearing statement on February 29, 2016, which included responses to OP’s and the Commission’s comments. 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. (Ex. 16, 17A1-17A17.)
  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. (Ex. 20-22.)
  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. (Ex. 33). The party is made up of neighbors living within 400 feet of the Project. The Commission granted its request for party status given their proximity to the Project. (5/19/2016 Tr., at p. 8.)

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 OP and DDOT gave their reports in support of the application and Edgewood West provided its presentation in opposition to the application. (5/19/2016 Tr.)
10. The Applicant proffered, and the 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. (5/19/2016 Tr., at pp. 10-11.)
11. In addition to Edgewood West, ANC 5E was 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. (Ex. 75A.) On July 11, 2016, the ANC submitted a subsequent letter in support of the Project conditioning its support on an increase in the set aside for affordable housing. (Ex. 89.)
12. Edgewood West provided a presentation in opposition to the application at the public hearing. (Ex. 82.)
13. At the public hearing, the Commission heard testimony and received evidence in support of the Project from OP and DDOT. (5/25/2016 Tr.)
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. (Ex. 34-52, 54, 57-61, 63, 64, 66, 67, 69.)
15. Three letters in opposition were submitted into the record, including a letter submitted by a resident in ANC 5E. (Ex. 62, 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. (Ex. 66, 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. (5/25/2016 Tr. at 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. (5/25/2016 Tr. at pp. 68-73.)
19. Cheryl Cort, Kyle Todd, and Joe Kakesh attended the public hearing on May 19, 2016 and requested an opportunity to testify in support of the Project; however, because the opportunity for public testimony was continued to May 25, 2016 they did not have an opportunity to testify. (Ex. 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, 2016, they did not have an opportunity to testify. (Ex. 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 4<sup>th</sup> Street to a lower height along 4<sup>th</sup> 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 4<sup>th</sup> 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 4<sup>th</sup> 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. (Ex. 87-87D18.) Its submission provided responses to each item requested by the Commission.
  24. On July 6, 2016, Edgewood West submitted its response to the Applicant’s post hearing submission. (Ex. 88.) The response was supportive of the Project.
  25. At its public hearing on July 11, 2016, the Commission took proposed action to approve the application. The Commission requested that the Applicant provide additional information about its affordable housing proffer, the Project’s 4<sup>th</sup> Street setback, access to the Metropolitan Branch Trail during construction of the Project, and the building signage proposed for Phase I of the Project.
  26. 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 July 13, 2016. NCPC did not submit any comments within 30 days after the Commission’s referral, and the Commission proceeded to approve the application, as authorized by § 492 of the Home Rule Act.
  27. On July 18, 2016 the Applicant submitted its preliminary list, and on August 1, 2016, the Applicant submitted its list of final proffered public benefits of the PUD and draft conditions, pursuant to 11 DCMR §§ 2403.16 -2403.18 and 2403.20. (Ex. 91, 92.)
  28. On August 19, 2016, the Applicant submitted its responses to each item requested by the Commission at proposed action. (Ex. 93-93C.) The Applicant attached plans showing proposed IZ unit locations, a building massing analysis showing the 4<sup>th</sup> Street setback, and proposed retail tenant storefront and signage design guidelines.
  29. On September 1, 2016, the Applicant requested to re-open the record so it could correct its parking count for Block 5B. (Ex. 94.) The Commission granted this request, and the Applicant submitted a corrected parking count. (Ex. 95, 95A.)
  30. At a public meeting on September 12, 2016, the Commission deferred taking final action and requested that the Applicant submit additional information about the Project’s 4<sup>th</sup>

Street setbacks and design, a revised signage plan, and to work with the Office of the Attorney General regarding the proposed conditions.

31. On September 20, 2016, the Applicant submitted a response to the Commission's requests. The submission attached an updated section drawing showing revised building massing along 4<sup>th</sup> Street. The submission attached the Applicant's proposed retail and residential signage for Phase I. The submission also requested additional flexibility to modify the proposed unit count in Phase I of the development. (Ex. 96, 96A, 96B.)
32. At a public meeting on September 26, 2016, the Commission again deferred taking final action and requested that the Applicant submit a revised signage plan.
33. On October 3, 2016, the Applicant submitted a revised signage plan. (Ex. 97, 98.)
34. On October 11, 2016, OP submitted a supplemental report stating that it supported the "overall general direction" of the Applicant's revised signage plan, but was opposed to the bladed signs shown on the plan. (Ex. 99.)
35. On October 12, 2016, the Applicant submitted a letter withdrawing its signage plan, and stating that it would "return to the Zoning Commission to modify the PUD once the branding for Phase I has been established." (Ex. 100.)
36. On October 17, 2016, the Commission voted to take final action to approve the application subject to the conditions enumerated in this Order. The Commission stated that it was not approving any of the signage shown in the plans, and that the Applicant would be required to submit an acceptable signage plan as a PUD modification if it wanted to include signage in the Project.

## **THE MERITS OF THE APPLICATION**

### **Description of Property and Surrounding Areas**

37. The Property includes just over 13 acres of land and is improved with a strip shopping center and surface parking lot. The Property has frontage on both 4<sup>th</sup> Street and Rhode Island Avenue, yet the bulk of the site is set back from street frontage. (Ex. 2.)
38. 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 ("MPT") and the pedestrian path to the Rhode Island Avenue-Brentwood Metrorail Station. (Ex. 2.)

39. The Property is defined by a significant grade change from south to north. There is a 40-foot grade difference between the Property's frontage on Rhode Island Avenue and the northeast corner of the Property. (Ex. 2.)
40. There are a series of retail uses as well as a church that are not included in the PUD that stand between the Property and Rhode Island Avenue. (Ex. 2.)
41. To the west of the Property are a series of low-scale commercial establishments lining 4<sup>th</sup> Street, as well as low-scale residential rowhouses; to the north of the Property are residential apartment buildings, including an 11-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. (Ex. 2.)
42. The existing strip commercial shopping center along Rhode Island Avenue, N.E. is located in the C-3-A Zone District. The 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. (Ex. 2.)
43. The Property is located within the boundaries of ANC 5E. (Ex. 2.)

### **The Project**

44. 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 the plans. (Ex. 87D, 96A.) 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 MBT and the CPDC property. (Ex. 2, 87.)
45. 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. (Ex. 2, 87.)
46. 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 a density of up to a 2.6 floor area ratio ("FAR")

and will include approximately 212 units. Up to 0.29 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. (Ex. 87D.)

47. 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 into 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 is purposely located at the bend of the building is 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. (Ex. 2, 87D.)
48. Block 1B will be located on the southeast corner of the Property and have frontage directly on Rhode Island Avenue. It will include up to 141 residential units and have a total density of up to 3.56 FAR. 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. (Ex. 2, 87D.)
49. 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 corner 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. (Ex. 2, 87D.)

50. Block 5B will be located on Rhode Island Avenue. It will include up to 131 residential units. It will have a residential density of up to 3.55 FAR 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. (Ex. 87D.)
51. 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. (Ex. 17A, 87D,)
52. The Applicant is seeking stage-one 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 to retail uses, including a movie theater. (Ex. 87D.)
53. 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 4<sup>th</sup> 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 density of up to 1.97 FAR 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 density of up to 3.79 FAR, with up to 0.4 FAR being reserved for retail uses. Block 2A will include up to 265 parking spaces. Both Blocks will include a 40-foot loading dock. (Ex. 87D.)

54. Block 3 will include up to 368 residential units for a total residential density of up to 2.73 FAR. This phase will include density of 0.72 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 4<sup>th</sup> Street. It is oriented to have a major presence on 4<sup>th</sup> 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 4<sup>th</sup> Street. (Ex. 87D.)
55. Block 4 also has frontage along 4<sup>th</sup> Street and given its limited street frontage, the proposed retail will correspond to the grocery store to its north. Block 4 will have a residential density of up to 3.47 FAR and a retail density of 0.53 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 4<sup>th</sup> Street. It will include one 40-foot loading berth on-site. (Ex. 87D.)
56. Block 5A will have a maximum residential density of 3.99 FAR and a maximum retail density of 0.55 FAR. 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. (Ex. 87D.)
57. Block 6 will include up to 116 residential units and 88 parking spaces. It will have a maximum residential density of 2.59 FAR and a retail density of 0.27 FAR. It will have a maximum height of 90 feet and will include one 40-foot loading berth. (Ex. 87D.)
58. 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 help 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 MBT and the 4<sup>th</sup> Street bicycle lanes. (Ex. 2, 87D.)
59. 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. (Ex. 87D.)
60. The Block 3 plaza and park was created in response to comments received from residents living to the west of 4<sup>th</sup> 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. (Ex. 87A, 87D.)

61. Bryant Street culminates at an urban plaza that engages directly with the MBT 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. (Ex. 2, 87A, D.)
62. 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. (Ex. 87D.)

### **PUD Flexibility Requested**

63. *Use:* The Applicant sought flexibility to provide retail uses in Block 1A along its eastern façade, 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 discussed below will allow the Applicant to dedicate this space for residential use and allow a conversion to retail use, when feasible: (Ex. 31, 87.)
  - a. 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; (Ex. 31, 87.)
  - b. 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; (Ex. 31, 87.)

- c. The Applicant requested flexibility to provide an additional level of parking for Blocks 1A, 1B, and 5B as noted on the plans submitted as Exhibit 87D of the record; and (Ex. 31, 87)
  - d. 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 second-stage 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. (Ex. 31)
64. **Loading:** The Applicant requested relief from the loading requirements for each development block. Each block, with the exception of Block 2B, requires one 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 at 55 feet and 13 at 30 feet); the Applicant is providing 12 loading berths (three at 55 feet and nine at 40 feet). (Ex. 31, 87D.)
65. **Section 2516:** The Applicant is proposing nine buildings on a single record lot, which is permitted pursuant to § 2516. The Applicant requested flexibility from § 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. (Ex. 31, 87.)
66. **Parking:** Parking flexibility is required for Blocks 2B, 5A, and 5B. Parking will be shared between Blocks 1A and 1B. (Ex. 31, 87D.)

### **Project Amenities and Public Benefits**

67. As detailed in the Applicant's testimony and written submissions, the proposed PUD will provide the following Project amenities and public benefits:
- a. 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; (Ex. 2.)

- b. 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; (Ex. 2.)
  
- c. Housing and Affordable Housing. This Project provides for the creation of approximately 1,600 residential units on the Property; eight percent of the residential gross floor area will be reserved for affordable housing. In Phase One, half of the set aside (four percent 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 (four percent 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), eight percent of the residential GFA will be set aside for affordable housing: five percent of the residential GFA of the later phases will be reserved for households with an annual income no greater than 50% AMI and three percent of the residential GFA will be reserved for households with an annual income no greater than 80% AMI. (Ex. 87.) The Project therefore includes affordable housing at a deeper level of affordability than is required under Chapter 26 of the Zoning Regulations. The Applicant is required to reserve eight percent of the residential GFA for affordable housing for households with an annual income of no greater than 80% of AMI. So all of the affordable housing reserved for households at the 50% of AMI level is at a deeper affordability level than required by Chapter 26 of the Zoning Regulations;
  
- d. 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; (Ex. 2, 87D.)

- e. 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:
- i. Construction. The Applicant shall abide by the terms of the Construction Management Plan; (Ex. 87A.)
  - ii. Security. The 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: (Ex. 87C.)
    - Private Security. The Applicant shall retain a private security firm to provide security on-site 24 hours per day, seven 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 8<sup>th</sup> 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; and
    - 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;
  - iii. Seabury Transportation for Seniors. The 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; (Ex. 87C.)
  - iv. Green Area Ratio (“GAR”). The Applicant is providing a GAR in excess of the required 0.25; (Ex. 87C.)
  - v. Murals. The Applicant will retain, restore, or replace in-kind the mosaic on the 4<sup>th</sup> 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 second-stage 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 second-stage application for Block 2; (Ex. 87C.)

- vi. Sculptures. The 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; (Ex. 87C.)
- vii. Connections. The Applicant will construct two pedestrian staircases between the Site and Edgewood Commons. The location of the staircases are depicted in Exhibit 87D and may be refined in coordination with the neighboring property owner, DDOT, and OP. 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 a.m. and 4:30 a.m. Monday through Friday and between 3:00 a.m. and 6:30 a.m. Saturday and Sunday. Signage shall be provided to notify pedestrians and bikers of the stair hours; (Ex. 87.)
- viii. MBT Improvements. The 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 87A, and in consultation with DDOT. The Applicant will also contribute \$10,000 towards pedestrian/sidewalk improvements between the MBT and Franklin Street; (Ex. 87C.)
- ix. Community Meeting Room. The Applicant will allow the ANC 5E, the 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; (Ex. 87C.)
- x. ANC Office. The 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; (Ex. 87C.)

- xi. D.C. Workforce Investment Council. The 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; (Ex. 87.)
- xii. Local Businesses. The 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; (Ex. 87C.)
- xiii. Edgewood Adult Reading Program. The Applicant shall contribute \$5,000 to the Edgewood Adult Reading Program prior to issuance of a certificate of occupancy for Building 1A; (Ex. 87C.)
- xiv. Beacon House. The Applicant shall contribute \$10,000 to Beacon House prior to issuance of a certificate of occupancy for Building 1A; (Ex. 87C.)
- xv. Community Preservation and Development Corporation Food Pantry Program. The Applicant shall contribute \$15,000 to the CPDC Food Pantry Program prior to issuance of a certificate of occupancy for Building 1A; (Ex. 87C.)
- xvi. McKinley Technology Education Campus. The 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; (Ex. 87C.)
- xvii. Edgewood Recreation Summer Camp. The Applicant shall contribute \$10,000 to the Edgewood Recreation Summer Camp prior to issuance of a certificate of occupancy for Building 1A; (Ex. 87C.)
- xviii. Edgewood Recreation Center Equipment. The 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; (Ex. 87C.)
- xix. Scholarship Funding. The Applicant shall contribute \$16,000 to the Community Foundation of the National Capital Region for local scholarships to be administered by the Foundation; (Ex. 87C.)
- xx. Bryant Street and 4<sup>th</sup> Street. The 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 second-stage PUD application for Block 3, as defined in the Record. The Applicant will discuss appropriate signage for Bryant Street with DDOT during the second-stage application for Block 3; (Ex. 87C.)

- xxi. Channing Street and 4<sup>th</sup> Street. The Applicant shall reconfigure the entrance of Edgewood Commons and install a traffic signal to align with Channing Street, N.E. The timeline for this work shall be determined during the second-stage 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 second-stage application for Block 3; (Ex. 87C.)
- xxii. Rhode Island and 3<sup>rd</sup> Street. The Applicant will contribute \$60,000 to the provision of a stop light at the intersection of Rhode Island Avenue and 3<sup>rd</sup> Street; (Ex. 87C.)
- xxiii. Rhode Island Pedestrian Improvements. The Applicant will provide pedestrian and intersection improvements in coordination with input from DDOT at the intersection of 5<sup>th</sup> Street and Rhode Island Avenue, this work will include signal modifications; (Ex. 87C.)
- xxiv. Bikeshare. The 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 4<sup>th</sup> Street between Bryant Street and Franklin Street. The timeframe for this station will be determined during the second-stage application for Block 3; (Ex. 87C.)
- xxv. 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 car-share 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 it will be disbursed to a TDM-related entity or organization at DDOT's direction; (Ex. 87C.)

- xxvi. Transit Screens. A total of 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; (Ex. 87C.)
- xxvii. 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; (Ex. 87C.)
- xxviii. Tree Boxes and Banners. The Applicant will assist in beautifying 4<sup>th</sup> 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 second-stage application for Building 4; (Ex. 87C.)
- xxix. Memorandum of Understanding. The Applicant will abide by the terms of the Memorandum of Understanding. (Ex. 87B.) 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; and (Ex. 87B, 87C.)
- xxx. 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. (Ex. 87C.)

**Compliance with PUD Standards**

68. 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.

69. 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, and transportation demand and loading management plans all constitute acceptable Project amenities and public benefits.
70. 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, 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.
71. 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.
72. 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.
73. 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 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.
74. 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 TDM measures that the Applicant undertakes will mitigate any impacts of the Project.

75. 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, and 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**

76. 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.
77. 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 as follows:
- a. 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;
  - b. 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;
  - c. 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;

- d. 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;
- e. 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;
- f. 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; and
- g. 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**

- 78. 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 the 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. (Ex. 55.)
- 79. OP specifically noted that the Applicant worked to address the concerns expressed by the Commission and OP at the setdown meeting. (Ex. 55.)
- 80. 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. (Ex. 55.)
- 81. 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, and height of the retail space. (Ex. 55.)

82. DDOT submitted a request to file its report out of time on May 9, 2017. (Ex. 56.)
83. 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. (Ex. 65.)
84. 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 4<sup>th</sup> Street and Bryant Street and 4<sup>th</sup> Street and Channing Street; modified intersections at Rhode Island Avenue and 5<sup>th</sup> Street, N.E., provision of a CCTV camera at Rhode Island and 4<sup>th</sup> 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. (Ex. 65.)
85. DDOT sought additional mitigation with a commitment to construct a signal at 3<sup>rd</sup> 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.
86. This Order includes conditions to ensure the potential adverse effect identified by DDOT will be mitigated.

#### **Advisory Neighborhood Commission 5E Reports**

87. ANC 5E submitted a letter in opposition to the application on the day of the hearing, May 19, 2016. The letter stated that the ANC's concerns were that the Applicant's affordable housing proffer was insufficient, the effect the Project would have on the views of neighboring residential properties, that two of the provisions of the community benefits agreement were potentially unenforceable, and that the ANC had not had enough time to fully consider the community benefits agreement.
88. The Chair of ANC 5E testified to its objections at the public hearing. (Ex. 75A; 5/19/2016 Tr. at pp. 132-138.)
89. The Applicant subsequently modified its affordable housing proffer in response to comments from the ANC. (Ex. 87, 87C.) At the time of the hearing, the Applicant

proposed reserving eight percent of the residential gross floor area of the entire PUD for affordable housing, with half set aside at the 50% of AMI level, and half set aside at the 80% of AMI level. The Applicant maintained the eight percent of the residential gross floor of the entire PUD for affordable housing, but increased the percentage of the affordable housing that is set aside at the deeper, 50% of AMI affordability level. In Phase I of the Project, the Applicant will provide the same four percent at the 50% AMI and four percent at 80% of AMI it presented at the hearing. In subsequent Phases of the Project, the Applicant will provide five percent of the residential gross floor area at the 50% of AMI level, and three percent of the residential gross floor area at the 80% of AMI level.

90. The Applicant also modified its construction management plan, and its future programming of open spaces with the PUD. (Ex. 87, 87A, 87D.)
91. On July 11, 2016, the ANC submitted a report (dated July 7, 2016) stating that it 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. (Ex. 89.) The report did not address the changes to the community benefits agreement.

### **Party in Opposition**

92. Edgewood West submitted a request for party status in opposition to the application on May 4, 2016, which was approved by the Commission. (Ex. 33.)
93. The party was comprised of residents living within 400 feet of the proposed Project. They cited concerns regarding social, economic, and environmental impacts. (Ex. 33.)
94. 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 4<sup>th</sup> Street to a maximum height of 65 feet, and to improve access through the site during construction. (5/25/2016 Tr. at pp. 42-58.)
95. 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. (Ex. 87.)
96. With respect to the height of the buildings along 4<sup>th</sup> 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 4<sup>th</sup> Street. (Ex. 87.)

97. 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. (Ex. 87A.)
98. 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. (Ex. 87.)

#### **Persons and Organizations in Support or Opposition**

99. 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 4<sup>th</sup> Street and Channing Street and provide a light; that it relocate the eastern stair proposed for the Property; that it provide a gate on the stairs to be coordinated with the hours of Metro; and that it Applicant provide additional buffering between the properties. (5/25/2016 Tr. at pp. 15-19.)
100. 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 4<sup>th</sup> Street and Channing Street and these improvements are reflected in the PUD plans. (Ex. 87D.) Subsequent to the hearing, the Applicant modified the location of the stair location on CPDC’s property in coordination with CPDC. (Ex. 87D.) 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 87D.



101. 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. (5/25/2016 Tr.at pp. 19-24.)
102. 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 § 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 its property and while the 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 ANC 5E's reports. ANC 5E's initial report stated the ANC was opposed to the Project, and raised the following issues and concerns: (a) the affordable housing proffer was insufficient, (b) the effect the Project would have on the views of neighboring residential properties, (c) that two of the provisions of the community benefits agreement were potentially unenforceable, and (d) that the ANC had not had enough time to fully consider the community benefits agreement. ANC 5E's second report stated that it supported the Project, but stated that such support was conditioned upon the Applicant modifying its affordable housing proffer so that the Applicant was providing 14% of the residential gross floor area at the 60% of AMI level. We address each below:

- (a) Sufficiency of the affordable housing proffer, and ANC 5E's conditional support unless the Applicant provided 14% of the residential gross floor area at the 60% of AMI level.

In response to ANC 5E's first report, the Applicant enhanced its affordable housing proffer by providing a greater percentage of the affordable housing at a deeper level of affordability. The Commission believes the affordable housing proffered by the Applicant, in combination with the other benefits of the Project, are sufficient to justify approval.

With respect to ANC 5E's second report, the Commission notes that the Applicant provided affordable housing at the 50% and 80% of AMI levels, which are compatible with the District's IZ program. ANC 5E's report recommended that the housing should be provided at the 60% of AMI level, which is not compatible with the District's IZ program. The Commission believes it is advantageous to the District that the Applicant is providing its affordable housing in a manner compatible with the IZ program.

With respect to the advice that the Applicant should provide 14% of the residential gross floor area, the Commission concludes that it may not compel an applicant to add to proffered public benefits, but shall deny a PUD application if

the proffered benefits do not justify the degree of development incentives requested. Here, it believes the benefits are sufficient.

The Commission therefore believes it is appropriate to approve the Project even though the affordable housing component does not comply with the threshold stated in ANC 5E's second report;

- (b) Effect on views of neighboring properties.

The PUD does not include a change of the underlying zoning, and the existing matter-of-right zoning of the property permits buildings that would have a similar impact on the views of neighboring properties as the development approved in this PUD. In response to the comments made by the Commission and Edgewood West, the Applicant modified its design of the buildings fronting on 4<sup>th</sup> Street to minimize their impact on the views of neighboring properties. The Applicant also modified the design to add open space on the west side of the Project. The Commission believes that these changes were adequate to address the issue raised by ANC 5E; and

- (c) Community benefits agreement, and (d) Time for ANC consideration.

In ANC 5E's first report, it had concerns about the enforceability of "at least two" of the terms of the community benefits agreement, and that it did not have enough time to thoroughly assess the community benefits the Applicant was proposing. After the hearing, the Applicant continued to work with the ANC, and modified the terms of the agreement. ANC 5E then had additional time to consider the revised terms before submitting a supplemental report to the Commission. In its supplemental report, the ANC did not indicate that it had any remaining concerns about the community benefits agreement, or that it did not have enough time to evaluate them. The Commission therefore believes the issues were addressed by the modifications to the agreement.

- 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 shall be developed in accordance with the architectural drawings submitted into the record on June 28, 2016, as Exhibit 87D, as modified by the drawings submitted as Exhibit 93B and 95B, as modified by the drawings submitted as Exhibit 96A, and as modified by the guidelines, conditions, and standards herein (collectively, the "Plans"), except that to the extent the Plans show any signage, no signage is approved.
2. The buildings on Blocks 1A, 1B, 2A, 2B, 3, 4, 5A, 5B, and 6 shall have a maximum height of 90 feet. Penthouses are permitted above the maximum height of 90 feet. The buildings on Blocks 3 and 4 shall step down to a maximum height of 60 feet along 4<sup>th</sup> Street. The buildings on Blocks 3 and 4 shall set back one foot for every foot of height above 60 feet up to the maximum height of 90 feet.
3. The maximum density approved for each block shall be as follows:

Block	Residential FAR	Commercial FAR	Parking FAR	Total FAR
1A	2.15 - 2.31	.09 - .29	NA	2.24 - 2.6
1B	2.6	.96	NA	3.56
2A	3.79	.19 - .4	.41 - .62	4.39 – 4.8
2B	NA	1.87 - 1.97	.32	2.19 - 2.29
3	2.52 - 2.73	.72	.06	3.3 - 3.51
4	3.4 - 3.47	.53	.1	4.03 – 4.10
5A	3.6 - 3.99	.55	NA	4.15 – 4.54
5B	2.93 - 3.55	.15 - .84	.43	3.51 – 4.8
6	2.3 - 2.59	.27	NA	2.57 – 2.86

4. The Applicant shall not install any signage until the Applicant has submitted, and the Commission approves, a signage plan as a modification of this Order. **The Applicant shall submit its signage plan prior to the issuance of a building permit for Block 1A.**
5. The Project will have flexibility from the parking, loading, and lot requirements as noted herein.
6. 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 87D;
  - 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 their location is generally consistent with the locations noted in Exhibits 74 and 93 in that they must remain consistent with the requirements of § 2605.6. The proffered levels of affordable housing not be modified;
  - 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 on the ground floor of Building 1A, and is at least 500 square feet in size; and
  - i. To modify the total unit count in each building by five percent.
7. 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 87D 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 87D should market conditions allow;

- c. To modify the location of the residential lobbies in Buildings 1A, 1B, and 5B;
- d. 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; and
- e. To continue existing retail uses on-site and to 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 under the C-3-A Zone District. The new interim uses shall not be located in permanent structures. The interim uses shall be permitted until the expiration of the stage-one PUD approval for Blocks 2, 3, 4, 5A, and 6.

**B. Transportation Mitigations**

- 1. Transportation Mitigations. The Applicant shall provide the following transportation mitigations:
  - a. The Applicant shall reconfigure the traffic signal at Bryant Street and Fourth Street. **The Applicant shall submit its timeline for the completion of this work with the second-stage PUD application for Block 3.** The Applicant will discuss appropriate signage for Bryant Street with DDOT during the second-stage application for Block 3;
  - b. Applicant shall reconfigure the entrance of Edgewood Commons and install a traffic signal to align with Channing Street, N.E. **The Applicant shall submit its plans for this work with the second-stage application for Block 3;**
  - c. **For the life of the Project,** the Applicant shall install a CCTV camera at the intersection of 4<sup>th</sup> Street, N.E. and Rhode Island Avenue, N.E. to help DDOT better monitor and react to traffic flows along the Rhode Island corridor adjacent to the Project;
  - d. The Applicant will provide pedestrian and intersection improvements in coordination with input from DDOT at the intersection of 5<sup>th</sup> Street and Rhode Island Avenue. The details of this work shall be coordinated with DDOT but shall include modification of the traffic signal. **Plans for these improvements shall be provided with the second-stage application for Block 4;**

- e. **The Applicant shall submit with each second-stage application** details of its loading facilities for each building, and maneuvering analysis of trucks to and from loading facilities, and shall coordinate this information and analysis with DDOT during its second-stage PUD applications;
- f. The Applicant shall create a new bicycle route through the Property along Bryant Street connecting the Metropolitan Branch Trail and the 4<sup>th</sup> Street bicycle facilities. **The Applicant shall submit its timeline for the completion of this work with its second-stage PUD application for Block 3;**
- g. The Applicant shall 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;**
- h. The Applicant shall purchase, install, and fund the operation and maintenance of a second Capital Bikeshare station on 4<sup>th</sup> Street between Bryant Street and Franklin Street. **The Applicant shall submit its plans to install and fund this station with its second-stage application for Block 3;**
- i. The Applicant shall construct two pedestrian staircases between the Property and Edgewood Commons. The location of the staircases may be refined in coordination with the neighboring property owner, DDOT, and OP. The staircases 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. Applicant shall provide a gate on both stair connections. The gates shall be closed between 1:00 a.m. and 4:30 a.m. Monday through Friday and between 3:00 a.m. and 6:30 a.m. 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. **Prior to the issuance of a certificate of occupancy for Building 1A, the Applicant shall complete construction of the eastern staircase. The Applicant shall submit its plans for the western staircase with its second-stage application for Block 2A;**
- j. **Prior to the issuance of a certificate of occupancy for Building 1A,** the Applicant shall 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 in accordance with the Construction Management Plan in Exhibit 87A, and in consultation with DDOT;

- k. The Applicant shall contribute \$10,000 towards pedestrian/sidewalk improvements between the MBT and Franklin Street. **The Applicant shall submit plans for these improvements with the second-stage application for Block 2A;** and
- l. **Prior to the issuance of a certificate of occupancy for Building 1A,** the Applicant shall contribute \$60,000 towards the traffic signal design and installation Project for the signal at the intersection of Rhode Island Avenue and 3<sup>rd</sup> Street.
2. **Transportation Demand Management. For the life of the Project (unless otherwise noted),** the Applicant shall provide the following TDM measures:
  - a. 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 one-quarter mile of the site;
  - b. 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;
  - c. 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;
  - d. All TDM commitments will be posted to the Project's website;
  - e. 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. There 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;
  - f. The Applicant shall provide \$225 per residential unit in alternative transportation incentives that can be used as an annual membership for Capital Bikeshare, an annual car-share membership, a car-share 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 it 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;

- g. The Applicant shall provide at least 502 secure indoor bicycle parking spaces and 59 outdoor bicycle racks (accommodating 118 bicycles) in the Project. 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;
- h. The Applicant shall provide bicycle repair stations within the eight bicycle rooms proposed in the development;
- i. 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;
- j. 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; and
- k. The Applicant shall write retail leases such that tenants should encourage alternative modes for retail employees.

**C. Construction**

- 1. **Prior to the issuance of a certificate of occupancy for each Building in Phase I**, the Applicant shall provide evidence of its compliance with the terms of the construction management plan submitted as Exhibit 87A.

**D. Benefits and Amenities**

- 1. **Housing and affordable housing.** The Applicant shall provide the following housing and affordable housing:

a. **Consolidated PUD:**

- i. Phase One shall include 393,621-427,821 square feet of gross floor area of residential use. Up to 362,132-403,195 square feet of gross floor area will be market-rate housing and approximately 31,490-34,226 square feet will be affordable housing;
- ii. The affordable housing shall be provided in accordance with the following chart:

<b>Block 1A</b>				
<b>Residential Unit Type</b>	<b>Residential GFA / Percentage of Total</b>	<b>Income Type</b>	<b>Affordable Control Period</b>	<b>Affordable Unit Type*</b>
Total	171,956-185,252 sf/100%		Life of Project	TBD
Market Rate	158,200-170,432 sf/92%	Market	Life of Project	TBD
IZ	6,878-7,410 sf/4%	80% AMI	Life of Project	TBD
IZ	6,878-7,410 sf/4%	50% AMI	Life of Project	TBD
<b>Block 1B</b>				
<b>Residential Unit Type</b>	<b>Residential GFA / Percentage of Total</b>	<b>Income Type</b>	<b>Affordable Control Period</b>	<b>Affordable Unit Type*</b>
Total	122,572 sf/100%		Life of Project	TBD
Market Rate	112,766 sf/92%	Market	Life of Project	TBD
IZ	4,903 sf/4%	80% AMI	Life of Project	TBD
IZ	4,903 sf/4%	50% AMI	Life of Project	TBD
<b>Block 5B</b>				
<b>Residential Unit Type</b>	<b>Residential GFA / Percentage of Total</b>	<b>Income Type</b>	<b>Affordable Control Period</b>	<b>Affordable Unit Type*</b>
Total	99,093-119,997 sf/100%		Life of Project	TBD
Market Rate	91,166-110,397 sf/92%	Market	Life of Project	TBD
IZ	3,964-4,800 sf/4%	80% AMI	Life of Project	TBD
IZ	3,964-4,800 sf/4%	50% AMI	Life of Project	TBD

- iii. The affordable housing units shall be distributed generally in accordance with the matrix and plans marked as Exhibit 93A of the record, subject to the flexibility noted on the plans; and

- iv. The monitoring and enforcement documents required by 11 DCMR § 2409.10 shall include a provision requiring compliance with Conditions D(1)(a)(ii). and D(1)(a)(iii).
  - b. **First-Stage PUD:**
    - i. For all remaining residential phases of the PUD (2A, 3, 4, 5A, and 6), the Applicant shall set aside eight percent of the residential gross floor area for affordable housing: five percent of the residential gross floor area shall be reserved for households with an annual income no greater than 50% AMI and three percent of the residential gross floor area shall be reserved for households with an annual income no greater than 80% AMI. **The Applicant shall submit with each second-stage application a chart setting forth the amount of residential square footage provided at market rates, at the 50% AMI level and at the 80% AMI level.**
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. **Evidence of implementing this security plan shall be provided prior to issuance of a certificate of occupancy for Building 1A.** The security plan shall include:
- a. **Private Security.** The Applicant shall retain a private security firm to provide security on-site 24 hours per day, seven days per week;
  - b. **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 8<sup>th</sup> Street and Edgewood Street;
  - c. **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; and
  - d. **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. Prior to issuance of a certificate of occupancy for Building 1A,** the Applicant shall provide evidence of its partnership 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, or to an alternative shopping location at their request, at least once a week for a maximum of four hours, for a period of five years. These services shall begin upon the issuance of building permit for Building 1A and at the request of Edgewood Commons. If Edgewood Commons does not request such service, the letter should state as much.

4. **Green Area Ratio.** Prior to the issuance of a building permit for each building in Phase I, the Applicant shall provide evidence of providing a GAR greater than .25.
5. **Murals.**
  - a. The Applicant shall retain, restore, or replace in-kind the mosaic on 4<sup>th</sup> Street exterior wall of Forman Mills up to a cost of \$50,000. The Applicant shall submit its plan for the proposed work with its second-stage application for Block 3; and
  - b. The Applicant shall 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 Applicant shall submit its plan for the proposed work with its second-stage application for Block 2B. The Applicant may complete this work in connection with Phase One, if so, it shall include evidence of its completion with its second-stage application for Block 2B.
6. **Sculptures.** Prior to the issuance of a certificate of occupancy for Building 1A, the Applicant shall preserve and relocate the existing sculptures along the MBT. The sculptures shall be relocated along the MBT.
7. **Community Meeting Room.** For the life of the Project, the Applicant shall allow the ANC 5E, Single Member District representative, and the Edgewood Civic Association to use the common area in a Phase I building, or another mutually agreeable building, for public meetings once a month on a mutually agreeable date, for a total of 12 meetings per year. The space shall be provided at no cost to ANC 5E or the Edgewood Civic Association. The organization shall reserve the meeting space with building management on an ongoing basis. Evidence of compliance with this condition shall be provided to the Zoning Administrator prior to issuance of a certificate of occupancy for Building 1A.
8. **ANC Office.** Prior to the issuance of a certificate of occupancy for Building 5B, the Applicant shall reserve space in the Development for use by ANC 5E, at no cost of ANC 5E. This requirement may be satisfied by setting aside space in

either Building 1A, 1B, or 5B or by providing a standard membership to the co-working space proposed for Building 5B.

9. **D.C. Workforce Investment Council.** Prior to the issuance of a certificate of occupancy for Building 1A, the Applicant shall partner with the D.C. Workforce Investment Council to create and fund an employment and training program targeting Ward 5 residents at a cost of \$200,000. The Applicant shall enter into a Memorandum of Understanding with the Workforce Investment Council outlining the terms of the partnership the objective of which will be to train and employ Ward 5 residents.
10. **Local Businesses.** Prior to the issuance of a certificate of occupancy for Building 1A, the 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. Prior to the issuance of a certificate of occupancy for Building 1A, the Applicant shall submit evidence to the Zoning Administrator in the form of a letter, confirming that the services have been funded or are being provided.
11. **Edgewood Adult Reading Program.** The Applicant shall contribute \$5,000 to the Edgewood Adult Reading Program for materials. Prior to the issuance of a certificate of occupancy for Building 1A, the Applicant shall submit evidence to the Zoning Administrator in the form of a letter, confirming that the services funded have been or are being provided.
12. **Beacon House.** The Applicant shall contribute \$10,000 to Beacon House in support of existing programming. Prior to the issuance of a certificate of occupancy for Building 1A, the Applicant shall submit evidence to the Zoning Administrator in the form of a letter, confirming that the services have been funded or are being provided.
13. **Community Preservation and Development Corporation Food Pantry Program.** The Applicant shall contribute \$15,000 to the CPDC Food Pantry Program in support of existing programming. Prior to the issuance of a certificate of occupancy for Building 1A, the Applicant shall submit evidence to the Zoning Administrator in the form of a letter, confirming that the services have been funded or are being provided.
14. **McKinley Technology Education Campus.** The Applicant shall contribute \$10,000 to the McKinley Technology Education Campus's greenhouse program to be used for growing accessories or systems maintenance, including greenhouse hardware and components, covering systems or systems control, prior to issuance of a certificate of occupancy for Building 1A. Prior to the issuance of a certificate of occupancy for Building 1A, the Applicant shall submit evidence

**to the Zoning Administrator in the form of a letter, confirming that the services have been funded or are being provided.**

15. **Edgewood Recreation Summer Camp.** The Applicant shall contribute \$10,000 to the Edgewood Recreation Summer Camp prior to issuance of a certificate of occupancy for Building 1A. **Prior to the issuance of a certificate of occupancy for Building 1A, the Applicant shall submit evidence to the Zoning Administrator in the form of a letter, confirming that the services have been funded or are being provided.**
16. **Edgewood Recreation Center Equipment.** The Applicant shall contribute \$10,000 to the Department of Parks and Recreation to be designated for equipment for the Edgewood Recreation Center. **Prior to the issuance of a certificate of occupancy for Building 1A, the Applicant shall submit evidence to the Zoning Administrator in the form of a letter, confirming that the services have been funded or are being provided.**
17. **Scholarship Funding.** The Applicant shall contribute \$16,000 to the Community Foundation of the National Capital Region for local scholarships to be administered by the Foundation. **Prior to the issuance of a certificate of occupancy for Building 1A, the Applicant shall submit evidence to the Zoning Administrator in the form of a letter, confirming that the services have been funded or are being provided.**
18. **Transportation Welcome Package.** As noted above, the Applicant shall provide \$225 per residential unit in alternative transportation incentives that can be used as an annual membership for Capital Bikeshare, an annual car-share membership, a car-share driving credit, or for bicycle repair/maintenance. These funds, currently anticipated to be a total of \$330,075, shall be pooled during each phase of the Project into a fund that shall 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 it will be disbursed to a TDM-related entity or organization at DDOT direction. **The Applicant shall provide an update of the fund with all future second-stage applications.**
19. **Electric Charging Stations.** The Applicant shall provide a total of nine 240-volt electric car charging stations: at least six spaces shall be provided in the residential building garages, two in the grocery store garage and one on the street. **Plans and progress updates on the installation of these charging stations shall be provided with all future second-stage applications.**

20. **Tree Boxes and Banners.** The Applicant shall assist in beautifying 4<sup>th</sup> Street between Rhode Island Avenue and Channing Street, by providing tree boxes and Edgewood lamp post banners up to a cost of \$50,000. **Plans for this work shall be provided with the second-stage application for Block 4.**
21. **Memorandum of Understanding.** The Applicant shall abide by the terms of the attached Memorandum of Understanding in Exhibit 87B. 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. **Evidence of compliance with such Memorandum of Understanding shall be provided prior to the issuance of a certificate of occupancy for the later of Buildings 1A or 1B.**
22. **Landscaping.** The Applicant shall 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. **The landscape work will be performed by the Applicant prior to the issuance of a certificate of occupancy for the later of Buildings 1A or 1B.**
23. **LEED-Gold.** **Prior to the issuance of a certificate of occupancy for each building,** the Applicant shall demonstrate that it has been designed to achieve the minimum number of points required to meet the LEED-Gold level (LEED for Homes Mid-Rise).

**E. Miscellaneous**

1. 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.



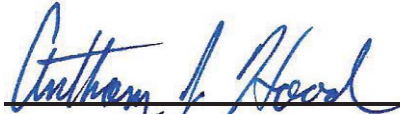
3. The second-stage PUD approved by the Zoning Commission for Blocks 1B and 5B shall be valid for a period of four years from the effective date of this Order. Within such time, an application must be filed for a building permit for each the Block 1B and Block 5B buildings. Construction of the Block 1B and 5B buildings must begin within six 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. 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.
6. 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.

For the reasons 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 Hood, as seconded by Commissioner Turnbull, the Zoning Commission took **PROPOSED ACTION** to **APPROVE** the application at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

On September 26, 2016, upon the motion of Chairman Hood, as seconded by Vice Chairman Miller, the Zoning Commission took **FINAL ACTION** to **APPROVE** the application at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, and Peter G. May to approve; Michael G. Turnbull to approve by absentee ballot; Third Mayoral appointee position, vacant, not voting).

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 December 9, 2016.

  
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**ANTHONY J. HOOD**  
**CHAIRMAN**  
**ZONING COMMISSION**

  
\_\_\_\_\_  
**SARA A. BARDIN**  
**DIRECTOR**  
**OFFICE OF ZONING**