



**BEFORE THE ZONING COMMISSION AND
BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA**



FORM 129 – ADVISORY NEIGHBORHOOD COMMISSION (ANC) REPORT

Before completing this form, please review the instructions on the reverse side.

Pursuant to Subtitle Z § 406.2 and Subtitle Y § 406.2 of Title 11 DCMR Zoning Regulations, the written report of the Advisory Neighborhood Commission (ANC) shall contain the following information:

IDENTIFICATION OF APPEAL, PETITION, OR APPLICATION:

Case No.:	16-20	Case Name:	3443 Benning LLC
Address or Square/Lot(s) of Property:	Square 5017 Lot: 839, 840, 841, and 842 portion of alley to be closed		
Relief Requested:			

ANC MEETING INFORMATION

Date of ANC Public Meeting:	1	2	/	0	9	/	1	7	Was proper notice given?:	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Description of how notice was given:	Meeting was announced via River Terrace Community List serv, door-to-door campaign, and phone calls to members; ANC 7D Commission meeting announced in community listservs: RTCO, Ward 7, East of the River Magazine, East of the River listservs, and Deanwood Citizens Assn. listservs.												
Number of members that constitutes a quorum:	4 Commissioners				Number of members present at the meeting:	5 Commissioners							

MATERIAL SUBSTANCE

The issues and concerns of the ANC about the appeal, petition, or application as related to the standards of the Zoning Regulations against which the appeal, petition, or application must be judged (a separate sheet of paper may be used):

Per the request of Chairman Hood, ANC 7D was requested to hold a meeting to allow for community engagement between NDC a/k/a 3443 Benning LLC and the River Terrace Community. A Special Meeting was held in collaboration with River Terrace Community Organization (President Malissa Freese) on 8/23/2017 at the Chateau Remix where Mr. Michael Guillioni presented on the Proffers and Conditions (see attached) to the RTCO community meeting. Mr. Guillioni took questions from the community and Commission. President Freese facilitated the Q & A and held a vote on the residents' support for and against the offer(s) made by NDC see attached.

The recommendation, if any, of the ANC as to the disposition of the appeal, petition, or application (a separate sheet of paper may be used):

ANC 7D Commission maintains its position against the ZC 16-20 application for the 3450 Eads Street project. In compliance with the request of Chairman Hood, ANC 7D Commission collaborated with President Malissa Freese to facilitate a community meeting of the River Terrace Community Organization to receive direct feedback on the part of the residents. The residents have expressed its deep concern of the adverse impacts of this projects which includes: parking, driving down property value of homeowners on Eads Street NE and the community at-large as well as traffic mitigation that NDC has not adequately addressed. It was reported that the Zoning

AUTHORIZATION

ANC	7	D	Recorded vote on the motion to adopt the report (i.e. 4-1-1):	5-0-0
Name of the person authorized by the ANC to present the report:			Commissioner Sherice A. Muhammad	
Name of the Chairperson or Vice-Chairperson authorized to sign the report:			Commissioner Sherice A. Muhammad	
Signature of Chairperson/ Vice-Chairperson:				Date: 9/18/17

ANY APPLICATION THAT IS FOUND TO BE INCOMPLETE MAY NOT BE ACCORDED "GREAT WEIGHT" PURSUANT TO 11 DCMR SUBTITLE Z § 406 AND SUBTITLE Y § 406.

Commission and the Office of Planning are in support of this application. Nonetheless, the community affected by this application maintains their opposition and do not accept the Proffers and Conditions offered by NDC.

We urge the Zoning Commission to review our prior reports which renders full details of the Commission's concerns at length and echoed by the River Terrace Community.

On the September 12, 2017 ANC 7D included Mr. Guilioni as a presenter to speak before the community. We recapped the special meeting on August 23, 2017, and reported to the larger community the response of the River Terrace Community members to Mr. Guilioni's presentation. Mr. Guilioni presented his Proffers and Conditions (dated 7/31/2017) to the larger body community present. River Terrace community members who were present, voiced their rejection. In fairness, we reported to the community that there were some who were in favor of the application. We acknowledge Mr. Guilioni's efforts to engage the community. However, what has been offered was clearly unaccepted. As ANC 7D Commission, we have no other alternative but to weigh on the side of the majority of the constituency who oppose the application. Mr. Guilioni expressed his bewilderment due to what he understood to be community requests expressed to him and included it in the application. Be that as it may, the opposition outnumbers the support and has been consistently expressed. ANC 7D Commission did inform the community of the Office of Planning and Zoning Commission's support of the applicant. In a vote of 5-0-0, ANC 7D Commission voted to maintain its opposition because the application did not warrant enough community support to rescind the position.

RTCO/ANC/NDC MEETING

August 23, 2017

6:30pm – 8:30pm

Chateau Remix

3439 Benning Road NE

Washington, DC 20019

Meeting Commenced 6:52 pm

- Introduction by Malissa Freese, President, River Terrace Community Organization.
- Presentation by Michael Giulioni, Project Manager, Neighborhood Development Company
- Resident question and answer

Speakers against 3443 Benning Road LLC Project at 3450 Eads Street NE

- Coliece Rice
- Cinque Culver
- Antwuan Wilson
- Keisha Deibel
- Joanne Prue
- Lawrence Jordan

47 Attendees

44 RT Residents

36 Voted

VOTE:	
FOR	2
AGAINST	26
ABSTAIN	7

DEMOGRAPHICS	
EADS ST NE	9
DIX ST NE	2
34 TH STREET NE	2
36 TH STREET NE	1

Fname	Lname	Address	Telephone
Bill	Melton	3332 Baker Street	202-388-0267
Pat	Withrow	3416 Baker Street NE	202-430-4222
George	Stover IV	3437 Clay Street NE	202-487-0315
Pernice	Rockingham	3339 Anacostia Ave, NE	202-399-6264
Adrian	Hasty	3370 Alden PI NE	202-398-7116
Joan	Monroe	3411 Clay Street NE	202-397-5775
Isoke	Proctor	3330 Ames St NE	202-294-2379
Rachel	Reynolds	339 36th Street NE	202-465-5470
Cinque	Culver	318 34th Place NE	202-907-8662
Jon	Rockingham	3439 Eads Street NE	202-717-1626
Thomas	Abney	2301 H Street NE	202-386-1110
Laverne	Queen	316 36th Street NE	202-396-6920
Susie	Leary	322 36th Street NE	202-399-3925
Wilbur	Wright	335 36th Street NE	202-550-0128
Rose Q.	Neverdon	245 33rd Street NE	202-399-4744
Rae N.	Allen	239 33rd Street NE	202-399-2939
JoAnne	Prue	313 34th Place NE	
Mildred	Mitchell	315 34th Place NE	
Part	Brown	3412 Eads Street NE	202-841-7186
Doris L.	Lamber	3412 Eads Street NE	202-397-3459
Antwuan	Williamson	3413 Eads Street NE	
Cheryl	Foster	321 34th Place NE	
Letitia	Westray	241 34th Street NE	202-399-3742
Marie	Tucker-Wint	318 35th Street NE	202-399-7916
Wanda	Carter	3321 Clay Place NE	202-398-7333
Juliette	Smith	107 Anacostia Avenue NE	202-603-4424
Coliece	Rice	3459 Eads St NE	
D.	Rideeson	35th Street NE	
A	Brod Smith	3428 Dix Street NE	202-399-5414
Cornelia	Dickens	3424 Dix Street NE	
Rosa	Lee	227 Anacostia Ave NE	202-399-4406
Juanita	Sizemore	3329 Blain Street NE	202-840-0272
K J	Carrick	3311 Baker Street NE	703-999-8581
Martha	Cunningham	3433 Eads Street NE	202-398-2319
Ambar	Calvillo	322 34th Street NE	915-309-2903
Keisha	Deibel	3451 Eads Street NE	330-795-0444
Mist	Pue	3320 Ames Street NE	301-537-3240
Jack	Gaskins	335 34th Street NE	202-396-1745
M. Brandon	Frazier	3335 Clay Street NE	
Sarah	Weis	3445 Eads Street NE	301-518-3942
Brenda	Johnson	123 33rd Street NE	202-396-4572
Lawrence	Jordan	319 34th Street NE	202-365-0312
Joelle	Robinson	33523 Alden Place NE	240-455-8657
Malissa	Freese	203 33rd Street	202-271-1449
Justin	Lini	Commissioner SMD 7D07	
Sherice	Muhammad	Chair - ANC 7D	

Michael	Giulioni	Neighborhood Development Company	
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mgiulioni@neighborhooddevelopment.com

July 31, 2017

VIA ELECTRONIC FILING

Mr. Anthony J. Hood, Chairperson
District of Columbia Zoning Commission
441 4th Street, NW, Suite 200-S
Washington, DC 20001

Re: Zoning Commission Case No. 16-20 – Application of 3443 Benning LLC (the “**Applicant**”) to the District of Columbia Zoning Commission for a Consolidated PUD and Zoning Map Amendment for 3540 Eads Street, NE (Square 5017, Lots 839, 840, 841, and 842, and a portion of the public alley abutting Lots 839 and 840) (the “**Property**”) – Final Proffer and Conditions

Dear Chairperson Hood and Members of the Commission:

Following the July 10, 2017, proposed action on the above-referenced Application and pursuant to the requirements of Section 308.8 of Subtitle X of Title 11 of the District Code of Municipal Regulations, the Applicant hereby submits its list of proffers and corresponding conditions of approval. Set forth below is a chart outlining the proffers for the above-referenced project and the corresponding draft condition that is both specific and enforceable. Capitalized terms not otherwise defined herein shall have the meaning first set forth in the Applicant’s draft Findings of Fact and Conclusions of Law at Exhibit 83A of the record in this Application.

<u>Benefits and Amenities</u>	<u>Proposed Condition</u>
<p><u>Site Planning.</u> The Project’s site plan is superior benefit of the Project. See X § 305.5(c). The benefits of the Project’s site plan and efficient land utilization are captured in the Project’s balance of density and respect for the surrounding single-family residential context. The following items indicative of superior site planning:</p>	<p>A.1. The Project shall be developed in accordance with plans and drawings filed in the record in this case as Exh. 80G (“Final Plans”), as modified by the guidelines, conditions, and standards herein.</p> <p>A.2. The Project shall consist of approximately 70 residential units, approximately 17 vehicular parking spaces in an enclosed garage, the Community Room, and the provision of exterior and streetscape improvements, all as</p>

<p>The proposed density of the Project is appropriate for the Property. The Project's overall FAR (3.81) is within the density standards allowed in the MU-5-A zone.</p> <p>The Project makes efficient use of the Property, which is currently used for surface parking. The Project is laid out in the tradition of the surrounding neighborhoods, with a strong street front presence and a modest setback in keeping with the building restriction line applicable to the other structures on the block.</p> <p>The Project's site plan improves adjacent sidewalks, adds street trees, and removes an existing curb cut.</p> <p>For these reasons, the Project's site plan is commendable: it achieves a laudable balance of new housing and contextually appropriate design and massing.</p> <p><u>Streetscape Improvements.</u> Provision of streetscape improvements is a public benefit. <i>Id.</i> § 305.5(1). The Project includes new sidewalks and tree planting zones within the Eads Street, NE right-of-way and also a planting area and amenity zone located in the front setback area that enhances the residential character of the streetscape. The Project's setback area is not required by the Zoning Regulations, a building restriction line, or any other regulations; it is provided solely as a benefit of the Project.</p>	<p>shown on the Final Plans and as further described herein. The Project shall comply with the height, yard, setback, and other dimensional requirements set forth in the Final Plans. The Project shall include an overall FAR of approximately 3.81 and a maximum lot occupancy of 80 percent.</p> <p>A.3. The Project shall have flexibility from the rear yard, side yard, penthouse, parking access, and loading, and IZ requirements of the Zoning Regulations all as set forth in the Final Plans.</p> <p>A.4. The Property shall be rezoned to the MU-5-A zone.</p> <p>A.5. The Applicant shall have flexibility in the following areas:</p> <ul style="list-style-type: none">a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, and toilet rooms, provided that the variations do not change the exterior configuration or appearance of the structure;b. To vary the final selection of the colors of the exterior materials based on availability at the time of construction, provided such colors are within the color ranges proposed in the Final Plans;c. To vary the final streetscape design and materials and the placement of any items in the public right-of-way, as required by District public space permitting authorities;d. To vary the final landscaping components of the Project in order to satisfy any permitting requirements of DC Water, DDOT, DOEE, the Department of Consumer and Regulatory
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	<p>Affairs (“DCRA”) or other applicable regulatory bodies; and</p> <p>e. To make minor refinements to exterior details and dimensions, including without limitation to belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit, or to address the structural, mechanical, or operational needs of the building uses or systems.</p>
<p><u>Housing and Affordable Housing.</u> Production of senior and affordable housing are public benefits that the PUD process is designed to encourage. For the following reasons, the Project’s housing and affordable housing benefits are commendable.</p> <p>Given the rapid appreciation in value of existing homes in the District, affordable housing is one of the most challenging issues today. Such housing is particularly valued when it is produced at a level above what would be required in a matter-of-right development or when it provides age-restricted senior housing. The Project is an all-affordable senior housing redevelopment of an existing vacant site that creates 70 new affordable housing units for seniors without any displacement of existing residents or businesses.</p> <p>The overall amount of housing exceeds what could be provided as a matter of right on the Property.</p> <p>The amount of affordable housing significantly exceeds the minimum inclusionary zoning requirements, both in terms of GFA devoted to affordable</p>	<p>B.1. <u>Housing and Affordable Housing.</u></p> <p>a. <u>For so long as the Project is subject to public financing-related affordability restrictions (“Initial Affordability Period”):</u></p> <p>i. No fewer than twenty percent (20%) of the Project’s residential units shall be reserved for residents earning no more than 30 percent AMI;</p> <p>ii. Up to eighty percent (80%) of the Project’s residential units shall be reserved for residents earning no more than 50 percent AMI;</p> <p>iii. One hundred percent (100%) of the Project’s residential units shall be reserved for residents aged 55 and over.</p> <p>Provided that the requirements of Subtitle C, Section 1001.7 of the Zoning Regulations are met, the Project shall be eligible for an exemption from the requirements of Subtitle C, Chapter 10 pursuant to Subtitle C, Section 1001.6(a).</p> <p><u>b. Following conclusion of the Initial Affordability Period and for so long thereafter as the Project exists, the Project shall reserve</u></p>

<p>housing uses and in terms of the levels of affordability. That is, the Project's affordability level is below that required pursuant to the IZ regulations.</p> <p>Twenty percent of the Project's units are set aside for households earning up to 30 percent of AMI.</p> <p>The remaining 80 percent of the Project's units are set aside for households earning up to 50 percent of AMI.</p> <p>All of the Project's units are reserved for seniors. Provision of such age-restricted housing is a specific benefit enumerated in the Zoning Regulations.</p> <p>Finally, the Applicant has agreed to include residents of River Terrace and the ANC in the marketing plan for the affordable housing selection for the Project.</p>	<p>no less than eight percent (8%) of the Project's GFA at 60 percent AMI.</p> <p>b.c. <u>Prior to the issuance of a certificate of occupancy for the Project</u>, the Applicant or its property manager shall provide information to the ANC about the lease application process for the Project.</p> <p>[See IZ chart attached hereto as Exhibit A.]</p>
<p><u>Employment and Training Opportunities.</u> The Applicant has proffered two separate employment and training benefits that are Public Benefits.</p> <p>The Applicant will participate in a First Source Employment Agreement as a part of the construction of the Project. Because such First Source Agreement related to the Applicant's pursuit of public financing for the Project, the Applicant will negotiate and execute such Agreement in conjunction with the Applicant's closing on such public financing.</p> <p>In addition, the Applicant will host a job fair in coordination and partnership with the ANC and the appropriate District</p>	<p>B.2. <u>Employment and Training Opportunities.</u> <u>Prior to the issuance of a building permit for the Project</u>, the Applicant shall deliver to the Zoning Administrator, with a copy to the Office of Zoning, evidence that it has:</p> <ol style="list-style-type: none"> a. Entered into a First Source Agreement with the District Department of Employment Services with respect to the Project; and b. Hosted a job fair in coordination and partnership with the ANC and the appropriate District agencies to identify qualified candidates for construction job openings, provided the evidence required in satisfaction of this Condition B.2.b may be given by, without limitation, a memorandum accompanied by sworn affidavit.

<p>agencies to identify qualified candidates for construction job openings</p>	
<p><u>Building Space for Special Uses.</u> The Project includes the 1,250-square foot Community Room which is to be available to the ANC, RTCO and other community organizations for meetings and events. The Community Room is designed to be accessed directly by authorized users (such as officers from RTCO) without the need to pass into residential portions of the Project.</p>	<p>B.3. <u>Building Space for Special Uses. For the life of the Project,</u> the Applicant shall make available to the ANC, RTCO and other community organizations the 1,250-square foot Community Room for meetings and events, subject to the Community Room Guidelines at Exh. 80D, provided the Applicant shall have the right, from time to time, to amend such Guidelines in accordance with the reasonable needs of the community organizations that use the Community Room.</p>
<p><u>Transportation Infrastructure.</u> The Project provides transportation improvements to the immediately surrounding area, and those improvements are additional superior aspects of the Project: The Applicant agreed to restrict its residents from participating in the District’s RPP program through a lease provision or similar mechanism. The Applicant committed provide shuttle service for Project residents to and from typical convenience destinations. The shuttle will operate at least twice a week and carry a minimum of ten passengers.</p>	<p>B.4. <u>Transportation Infrastructure. For the life of the Project:</u></p> <ul style="list-style-type: none"> a. Residents of the Project shall be ineligible to participate in the District’s RPP program by notice given and enforced through a lease provision or similar mechanism;¹ and b. The Applicant shall provide <u>round-trip</u> shuttle service for Project residents to and from typical convenience destinations, provided such shuttle shall operate at least <u>two weekdays</u>ie-a <u>per week, during daytime hours, for a minimum period of two hours</u> and carry a minimum of ten passengers.

¹ OAG suggested that this benefit be moved to the transportation mitigation items in Section C of the Conditions. The Applicant offered this item voluntarily and it was not a transportation mitigation item requested by DDOT. Accordingly, it is being proffered as a public benefit pursuant to Subtitle X, Section 305.

<p><u>Uses of Special Value and Other Public Benefits.</u> The Applicant has committed to provide RTCO with a contribution of \$47,000 to support ongoing community beautification and community gathering activities. This Public Benefit accrues primarily to River Terrace and therefore falls within the boundaries of the ANC.</p> <p>The Applicant has offered the two following additional benefits. These two security-related benefits substantially advance “safe streets” policy objectives of the Comprehensive Plan.</p> <p>The Project includes security camera equipment intended to help monitor the surrounding neighborhood and provide MPD with access to data from the cameras to assist in improving neighborhood safety.</p> <p>The Project also includes exterior lighting to support the effectiveness of the cameras and act as a general deterrent.</p>	<p>B.5. <u>Uses of Special Value to the Neighborhood. Prior to the issuance of a certificate of occupancy for the Project,</u> the Applicant shall:</p> <ul style="list-style-type: none"> a. Deliver to the RTCO a contribution of \$47,000 to support ongoing community beautification and community gathering activities;² b. Install security camera equipment to monitor the surrounding neighborhood, the recordings of which camera shall be capable of being delivered to MPD; and c. Install exterior lighting to support the effectiveness of the cameras and act as a general deterrent.
<p><u>Other Conditions</u></p>	<p><u>Transportation and Construction Mitigation</u></p> <p>C.1. <u>Transportation Demand Management. For the life of the Project (except as expressly set forth below),</u> the Applicant shall:</p> <ul style="list-style-type: none"> a. Unbundle the cost of residential parking from the cost of lease or purchase of the units; b. Install a transportation information center display (electronic screen) within the lobby of the Project, which screen must contain real-time information related to local transportation alternatives;

² [OAG raised a concern that this benefit does not satisfy the requirements of Subtitle X, Section 305.3 because it is not tangible. The Applicant has raised OAG’s concern about this item with the community and will revise as necessary prior to final action.](#)

	<ul style="list-style-type: none">c. Offer the initial occupant of each residential unit a one-time annual car sharing membership, a one-time annual Capital Bikeshare membership, or credits for use on private commuter shuttles to help alleviate the reliance on personal vehicles;d. Offer a one-time \$50 SmarTrip card to each initial residential tenant and employee in the Project to encourage non-auto mode usage;e. Identify a TDM coordinator to work with the Project's residents and employees to distribute and market transportation alternatives and provide TDM materials to new residents in the residential welcome package;f. Provide a bicycle repair station within the Project;g. <u>For the first three years after the Project's opening</u>, provide the equivalent value of an annual Capital Bikeshare membership (currently \$85) or credit for a shuttle service equal to the value of an annual bikeshare membership to all new residents; andh. Provide updated contact information for the TDM coordinator and report TDM efforts and amenities to goDCgo staff once per year. <p>C.2. <u>Construction Management Plan.</u> Throughout construction of the Project, the Applicant shall comply with the terms of the CMP as set forth in Exh. 80B, and prior to the issuance of certificate of occupancy for the Project, the Applicant shall deliver to the Zoning Administrator, with a copy to the Office of Zoning, evidence that it has complied with such CMP, provided such evidence may be given by, without limitation, a memorandum accompanied by sworn affidavit.</p>
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The Applicant will continue to work with the Office of the Attorney General in finalizing the language of the proposed benefit and amenity conditions. Please feel free to contact the undersigned with any questions.

Respectfully submitted,



David M. Avitabile



David A. Lewis

Enclosures

cc: Michael Giulioni

CERTIFICATE OF SERVICE

I hereby certify that I sent a copy of the foregoing document to the following addresses on or before July 31, 2017, by first class mail or e-mail:

Joel Lawson and Karen Thomas (2 copies)
District of Columbia Office of Planning
1100 4th Street, SW, Suite 650E
Washington, DC 20024

Evelyn Israel (2 copies)
Policy and Planning
District Department of Transportation
55 M Street SE, 5th Floor
Washington, DC 20009

Alan Bergstein (2 copies)
Land Use and Public Works
Office of the Attorney General for the District of Columbia
441 4th Street, NW, Suite 1010 South
Washington, DC 20001

Advisory Neighborhood Commission 7D (2 copies)
4058 Minnesota Avenue, NE
Suite 1400 (DOES Building)
Washington, DC 20019

Jo-Anne Prue, ANC 7D04 (1 copy)
313 34th Place, NE
Washington, DC 20019



Dave Lewis

Exhibit A

IZ Chart

<u>Residential Unit Type</u>	<u>GFA / Percentage of Total</u>	<u>Units</u>	<u>Income Type</u>	<u>Affordable control period</u>	<u>Affordable unit type</u>	<u>Notes</u>
<u>Total</u>	<u>67,477 sf (100%)</u>	<u>70</u>				
<u>Market Rate</u>	<u>0 (0%)</u>	<u>0</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	
<u>IZ</u>	<u>0 (0%)</u>	<u>0</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>IZ Exemption for District-financing</u>
<u>Affordable/Non-IZ (30% AMI)</u>	<u>20% of units*</u>	<u>14</u>	<u>30% AMI</u>	<u>Initial Affordability Period**</u>	<u>Senior Housing</u>	
<u>Affordable/Non-IZ (50% AMI)</u>	<u>80% of units*</u>	<u>56</u>	<u>50% AMI</u>	<u>Initial Affordability Period</u>	<u>Senior Housing</u>	

* The location and GFA of the 30% AMI and 50% AMI units will be determined in accordance with the Project's financing.

** As such term is defined above.