

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Zoning Commission**

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 19-16**  
**Z.C. Case No. 19-16**  
**MCF WALP Phase 1, LLC**  
**(Consolidated Planned Unit Development @ Square 481)**

**February 24, 2020**

Pursuant to notice, the Zoning Commission for the District of Columbia (the “**Commission**”) held a public hearing on January 16, 2020 to consider an application (the “**Application**”) from MCF WALP Phase 1, LLC (the “**Applicant**”), for review and approval of a consolidated planned unit development (“**PUD**”) for Lot 23 in Square 481, with an address of 1200 5th Street, N.W. (the “**Property**”). The Commission considered the Application pursuant to Subtitles X and Z of Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016, the “**Zoning Regulations**,” or “**ZR16**,” and to which all citations to regulations herein are made unless otherwise specified). For the reasons stated below, the Commission hereby **APPROVES** the Application.

**FINDINGS OF FACT**

**PROCEDURAL BACKGROUND**

1. On August 2, 2019, the Applicant filed the Application for review and approval of a consolidated PUD and requested that the Commission set down the Application for a public hearing. (Exhibit [“**Ex.**”] 2.)
2. At a public meeting of the Commission on September 23, 2019, the Commission unanimously voted to set down the Application for a public hearing. (Transcript of Zoning Commission Public Meeting [“**Tr. 1**”] at 47 (Sept. 23, 2019).)

**Notice**

3. On August 7, 2019, the Office of Zoning (“**OZ**”) sent notice of the public hearing to the affected Advisory Neighborhood Commission (“**ANC**”) 6E; the affected ANC Single Member District 6E03; the Office of Planning (“**OP**”); the District Department of Transportation (“**DDOT**”); the Department of Consumer and Regulatory Affairs (“**DCRA**”); the Office of the Attorney General; the District Department of the Environment (“**DOEE**”); the District of Columbia Housing Authority (“**DCHA**”) Relocation Committee; DC Councilmember Allen and the At-Large DC Councilmembers; and property owners owning property within 200 feet of the Property. (Exs. 15 and 15A.)

4. OZ also published notice of the January 16, 2020 public hearing in the *D.C. Register* on October 25, 2019 as well as through the calendar on OZ's website. (66 DCR 013369.) The Applicant posted notice of the Property pursuant to the Zoning Regulations. (Ex 20.)

### **Parties**

5. The parties to the case were the Applicant and ANC 6E, the ANC in which the Property is located. ANC 6E submitted a letter in support of the Application. The Metropolitan Community Church of DC ("MCCDC") initially submitted a request for Party Status in opposition to the Project on December 24, 2019. On January 15, 2020, MCCDC withdrew the request for Party Status. (Ex. 24 and 24A.)

## **DESCRIPTION OF THE PROPERTY AND PROJECT**

### **The Property and Surrounding Area**

6. The Property is located in the Northwest quadrant of the District within Ward 6 and ANC 6E03, and is at the boundary of the Shaw and Mount Vernon Square neighborhoods. N Street, NW bounds the Property to the north, 5<sup>th</sup> Street, NW to the east, M Street, NW to the south, and 6<sup>th</sup> Street, NW to the west. Approximately one block to the west of the Property is the Mount Vernon Square/7<sup>th</sup> Street/Convention Center Metrorail station stop, which is served by WMATA's Green and Yellow lines. (Ex. 2.)
7. The Property consists of approximately 92,394 square feet of land area, all of which is contiguous and located on a single lot of record that comprises an entire existing city block. The Property currently contains 63 garden apartment-style rental units constructed in the late 1960s and early 1970s plus nearly an acre of surface parking serving only those units. The garden apartment units are all vacant and slated for demolition. (Ex. 2.)
8. Surrounding Land Uses. The blocks immediately surrounding the Property contain primarily residential, religious-affiliated, and low-density commercial land uses. The blocks beyond are generally residential in character with the exception of the blocks to the west containing the Convention Center, the commercial corridors along 7<sup>th</sup> and 9<sup>th</sup> Streets, NW, and the City Market at 9<sup>th</sup> Street, NW between O and P Streets, NW. The block immediately to the north of the Property contains a pair of two- to three-story residential buildings and the Miles Memorial CME Church. The east side of 5<sup>th</sup> Street, NW to the east of the Property is lined with two-story brick rowhouses, two religious institutions, the Kingdom Hall of Jehovah's Witnesses and the Metropolitan Community Church of DC and associated parking, and is bookended by two corner stores, one at each of M and N Streets, NW. The block to the south of the Property is lined with three-story historic rowhouses. The blocks immediately to the east and south are within the Mount Vernon Square Historic District, but the Property itself is not within the Historic District. The block to the west of the Property includes a mix of garden apartment-style units and associated surface parking, plus one church at either end (i.e., First Rising Mt. Zion Baptist Church at the north end of the block and the United House of Prayer for All People at the south).

Beyond the immediately surrounding blocks are blocks containing rowhouses, garden apartments, and religious, educational, and recreational uses. (Ex. 2.)

9. Neighborhood Mobility Network. The District's existing and growing network of transit and other mobility options (e.g., Uber/Lyft, Zipcar, rentable scooters, and the like) make car-free living feasible and desirable at the Property. As noted, the Property is one block from the Mt. Vernon Sq./7<sup>th</sup> St./Convention Center Metrorail Station. Metrobus route 70 serves the Property with stops along 7<sup>th</sup> Street, NW one block to the west of the Property. All or nearly all of the blocks surrounding the Property have high quality sidewalks for pedestrians. With respect to bicycles, 5<sup>th</sup> Street, NW has a dedicated bicycle lane running from New York Avenue, NW to the south of the Property to Rhode Island Avenue, NW to the north. East-west bicycle lanes are on Q and R Streets, NW, four blocks north of the Property. A Capital BikeShare station is located at 7<sup>th</sup> and M Streets, NW one block from the Property. In general, the street grid surrounding the Property is porous, flat and generally bicycle- and pedestrian-friendly. For vehicles, the Property enjoys convenient vehicular access to Downtown and to the regional highway system via New York Avenue, NW and 9<sup>th</sup> Street, NW. (Ex. 2.)
10. Nearby Recreation and Amenities. Recreational opportunities near the Property include the Kennedy Recreation Center (which has basketball and tennis courts, a baseball field, and a playground) and Bundy Field and Park (a combined soccer/lacrosse/softball field) one block to the north and a District-managed playground and tot lot on N Street, NW, one block to the west of the Property. The Northwest One Neighborhood Library is one half-mile to the southeast of the Property and the Shaw (Watha T. Daniel) Neighborhood Library the same distance to the north. Commercial/retail uses proximate to the Property include City Market at O Street (which includes a full-service Giant grocery store) approximately three blocks northwest of the Property and City Vista (which includes a full-service Safeway grocery store) approximately three blocks to the southeast. A corner store, the 5<sup>th</sup> Street Market, is immediately across 5<sup>th</sup> Street, NW from the Property, and restaurants and shops line 7<sup>th</sup> and 9<sup>th</sup> Streets, NW and New York Avenue, NW just a few blocks further away. (Ex. 2.)
11. Nearby Development. Recent development activity in the vicinity of the Property include: Douglas Development's 756,000 sf mixed-use development at 655 New York Avenue, NE – one block to the south of the Property (which will house the Advisory Board Companies); and a mix of incremental improvements to individual or small clusters of rowhouses and block-scale mixed-use projects along 9<sup>th</sup> Street, NW and New York Avenue, NW. The Applicant stated that the residences on the blocks and neighborhoods surrounding the Property are in high demand, and this portion of the District needs to increase its supply of housing, consistent with the Mayor's Housing Order to add 36,000 new housing units, 12,000 of them affordable, across the District. The Applicant noted that the neighborhood in which the Property is located is appropriate for additional housing because it is: well-served by transit in order to reduce vehicular trips; on a lot with no existing residents who would be displaced by the development of the Project; near the Downtown core where there are numerous job opportunities; and convenient to shops and restaurants along 7<sup>th</sup> and 9<sup>th</sup> Streets, NW and New York Avenue, NW. (Ex. 2.)

12. Nearby Zoning, Economic, and Demographic Characteristics. The Property is located in the RA-2 zone, which also extends to the blocks south, west, and northeast of the Property. The blocks to the immediate north and east are in the RF-1 zone. Blocks to the south along New York Avenue, NW and near the Convention Center are in the D zones, and blocks to the west along and between 7<sup>th</sup> and 9<sup>th</sup> Streets, NW are in the MU-4, 5A, and 6 zones. (Ex. 2.)

## The Project

13. The Applicant posited that the Project transforms an existing underutilized property, which currently consists of 63 vacant garden apartment style units and a large surface parking lot, into a beneficial, thriving, and exciting new residential community with 360 apartments. The Applicant also noted that on May 10, 2019, Mayor Bowser issued an executive order<sup>1</sup> which outlined her administration’s aggressive and commendable goals for increasing housing production in the District. The Mayor’s Housing Order noted that, “Increased housing production and preservation is required to address growth and ensure the District lives up to its values of being diverse and inclusive. To do this, the District must create 36,000 new residential units by 2025.” The Applicant provided information as to how the Project is entirely consistent with, and significantly advances, the Mayor’s goal of creating 36,000 new residential units by 2025. The Applicant stated that the Project is exactly the type of new development necessary to achieve the laudable housing goals of the Mayor’s Housing Order. The Project alone achieves 1 percent of the Mayor’s goal and helps address the District’s compelling need for new housing and in particular, new permanently affordable housing, in a transit-oriented location. (Ex. 2.)
14. The Project includes new landscaped courtyard areas, streetscape improvements, and below-grade vehicle and bicycle parking. The Project has a maximum height of 50 feet (i.e., three to four stories) plus a habitable penthouse and creates a strong, appropriately-scaled and articulated streetwall along all four sides. (Ex. 2.)
15. Approximately 25% of the units will include two or three bedrooms and 12% of the residential square footage, including cellar space and penthouse, will be reserved as affordable. The net increase in units and the addition of permanently affordable units—where none exist today—are significant improvements over the existing conditions. The Project is proceeding as a PUD to obtain additional density and related lot occupancy relief and to provide a robust package of public benefits (the “**Public Benefits**”) as part of a public process. (Ex. 2.)
16. Program. The Project includes up to approximately 246,222 square feet of gross floor area (“**GFA**”) for an overall floor area ratio (“**FAR**”) of approximately 2.66. All of the Project’s GFA is devoted to residential uses. The Project also includes approximately 103 below

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<sup>1</sup> See Office of the Mayor, HOUSING INITIATIVE, Mayor’s Order 2019-036 (May 10, 2019) (the “**Mayor’s Housing Order**”).

grade vehicle parking spaces, bicycle parking, and loading, all in accordance with the requirements of the Zoning Regulations. (Ex. 2.)

17. The Project is built to the property line on all four sides except in the middle of the Property where there are two open courts. The Project's two open courts achieve the dual goals of (i) breaking down the apparent scale of the block-long building and (ii) responding to the surrounding context. The courts exist because the Project is divided into two wings across an east-west axis that bisects the Property. Connecting the two wings is a two story "bar" containing the Project's residential support and amenity spaces. The bar is recessed from the lot line along both 5<sup>th</sup> and 6<sup>th</sup> Streets, NW in order to break down the apparent scale of the building. The Project's massing is compatible with the adjacent blocks. (Ex. 2.)
18. The Project's bifurcated massing and two open courts also respond to the surrounding block pattern. The eastern open court is aligned with the terminus of the one block-long Ridge Street, NW. The eastern court is nearly three times larger than its counterpart and landscaped in order to receive the termination of Ridge Street, NW. The greater amount of landscaping on the eastern side also corresponds to the greater density of street trees and greenery and the overall lower density character to the east of the Property. The shallower court on the western side of the bar creates a hierarchy between the two sides of the building and signifies the western side as the primary pedestrian entrance into the building. The shallower court on the western side also creates a slightly more urban-feeling condition consistent with the increasingly urban fabric of the neighborhood moving from 6<sup>th</sup> Street, NW west toward 7<sup>th</sup> Street, NW and eventually to 9<sup>th</sup> Street, NW as the central commercial spine of the neighborhood. (Ex. 2.)
19. In response to nuanced differences in the conditions surrounding the Property, the Project varies in height. The northern wing of the Project is only three stories. This height harmonizes more closely with the two-to-three-story residences and the two-story church immediately north of the Property and the two-story rowhouses to the east. The southern wing of the Project is four stories, a condition accommodated by the greater height of the row houses to the south of the Property and the taller condition of the United House of Prayer at the southern end of block to the west. There are no residents opposite the Property's southern wing to the east (the facing buildings are a church, which is effectively the height of a three-story building and a corner store/wine shop, beyond which are three story rowhouses). (Ex. 2.)
20. The proposed site circulation also responds to the surrounding context in an attempt to respect surrounding residential uses. The Project's primary vehicular access point for the below-grade garage is from N Street, NW, opposite a church (rather than opposite residences), and is generally in the same location as the existing curb cut. That vehicular access point also serves the loading for the northern wing of the Project. Loading for the southern wing of the Project is from 5<sup>th</sup> Street, NW opposite the existing corner store/wine shop, rather than opposite any existing residences. Numerous pedestrian entrances line the Project's 5<sup>th</sup>, 6<sup>th</sup>, and M Streets, NW façades in order to generate pedestrian activity, to promote walking over vehicle mobility, and to create a strong relationship between the

building and public space. Pedestrian entrances are avoided along N Street, NW in order to minimize potential conflicts with vehicles. (Ex. 2.)

21. Building Layout. The Project's site plan, massing, and circulation inform the Project's interior organization and layout. The Project is organized into two residential wings, each around a closed court, with the service and amenity bar connecting the two wings. The two residential wings of the Project include double-loaded corridors, with units lining the street-facing exterior perimeter and the court-facing interior. This layout allows for highly-efficient overall floorplates and efficient, daylit individual unit floorplans. The layout also accommodates a mix of unit sizes, ranging from studios to three-bedrooms. Each of the two residential wings of the Project include independent stair and elevator cores. The duplication of such cores slightly reduces the overall floorplate efficiency but optimizes the distance for each unit to internal vertical circulation. (Ex. 2.)
22. The bar connecting the two building contains nearly all of the Project's residential support and amenity areas, including a lobby, leasing offices, a fitness center, pool, lounge, and a club room. (Ex. 2.)
23. Both residential wings of the Project include a lower level that is below-grade relative to the exterior of the building, but at-grade relative to the interior closed courts. Many of the units at the perimeter of the building at this level will have direct stair access to the street. Some of the interior lower level units will have direct access to terraces along the interior courts. This direct access will make these units more attractive to residents notwithstanding the somewhat diminished amount of light relative to units on the upper floors. The Project's first floor sits partially above grade, continuing the condition common to many of the surrounding rowhouses. Many of the first-floor apartments along the perimeter of the Project also have direct access to the street, again in an attempt to generate pedestrian activity on three sides of the Property and to reflect the surrounding historical context. (Ex. 2.)
24. Parking and Loading. The Project contains one partial level of below-grade parking. Recognizing the Property's proximity to the Mt. Vernon Sq./7<sup>th</sup> St./Convention Center Metrorail station, the neighborhood's pedestrian- and bicycle-friendliness and the diverse mobility options available, the Project provides approximately 103 vehicle parking spaces. The proposed amount of parking seeks to balance DDOT's goal of providing reduced parking near transit with the surrounding community's goal of ensuring that the Project contains adequate parking for residents. As a result, the Project's parking is at a ratio of 0.3 spaces per unit, in line with DDOT's generally accepted standards, but is approximately 40 spaces above the minimum parking requirements in order to address the concerns of nearby residents. The Project's garage also features ample secure bicycle storage, located conveniently for residents to store and access their bikes. Short-term bicycle spaces will be added to public space around the perimeter of the Property in coordination with DDOT. (Ex. 2.)

25. The Project includes two sets of loading facilities, one for each wing of the Project. Providing each wing a dedicated loading area will facilitate move-in and move-out operations and discourage loading from the street. (Ex. 2.)
26. The Property today contains two curb cuts, one each on M and N Streets, NW. The Project also requires two curb cuts, although the existing M Street, NW curb cut will be relocated as part of the Project to 5<sup>th</sup> Street, NW opposite the existing corner store/wine shop rather than opposite the historic row houses where it is located today. The Project's loading facilities do not necessitate any truck backing up into or out of public right of ways, as all turns can be accommodated within the building. (Ex. 2.)
27. Residential Unit Mix and Affordable Housing. The Project's residential program contains a relatively even distribution of studio, junior 1-bedroom, 1-bedroom, junior 2-bedroom, 2-bedroom, and 3-bedroom units. Notably, no unit size comprises more than one third of the units. The Project has dedicated amenity space for resident events as well as numerous private outdoor balconies and terraces. The Project reserves for affordable units an area equal to 12 percent of the total GFA devoted to residential use, plus enclosed projections in public space, the residential portions of the cellars, and the habitable penthouse space, which translates to approximately 41,153 gross square feet for affordable units, of which, approximately 4,280 square feet will be provided for households earning no more than 50 percent of the Median Family Income ("MFI") with the remainder set aside for households earning no more than 60 percent MFI for the life of the Project. (Ex. 2.)
28. Façade, Details, and Materials. Continuing the theme addressed by the Project's site plan, massing, and circulation, the detailing and articulation on each of the Project's four elevations differ slightly in response to neighborhood conditions. For example, the south elevation has seven bay elements that correspond to an approximately equal number on the historic rowhouses on the south side of M Street, NW. The articulation along this elevation harmonizes in dimension and rhythm with the existing bays along M Street, NW. By contrast, the north elevation has only four total bays, three of which are clustered on the western side opposite the existing rowhouses on the north side of N Street, NW. The north elevation is comparatively less articulated and more modern opposite the modern-style church on the north side of N Street, NW. The Project's materials and detailing continue and re-interpret the richness of design detail and predominant use of masonry on residential buildings in the Shaw neighborhood. (Ex. 2.)
29. Landscaping. The Project features landscaping improvements at street level, in the courts, and on the rooftop areas of the building. The predominant intent of the street-level landscape improvements is to enhance the pedestrian experience and preserve existing street trees. The two open courts—that is, those on either side of the connective bar—introduce ornamental landscaping. The eastern court, in particular includes a water feature, tall shade trees, and a small lawn elevated above street level. (Ex. 2.)
30. The interior courts, which will be open to building residents for passive recreation and gathering, include trees and a mix of hardscape and landscape. The northern courtyard is expected to be the more active and playful courtyard with outdoor games, grills, and various

seating areas. The southern courtyard is intended to be much more quiet and tranquil, with abundant planting and a small area appropriate for outdoor yoga. (Ex. 2.)

31. Sustainability. The Project will achieve LEED Silver v4 (which is the functional equivalent of LEED Gold 2009) certification from the United States Green Building Council (“USGBC”). Specific sustainable design features include: energy modeling for the residential portion of the Project in order to optimize energy use and implement a number of efficiency strategies; selection of materials—both interior and exterior—that are environmentally preferred; and inclusion of green roof and rooftop bio-retention. The Project’s roofs are landscaped in order to help satisfy the Green Area Ratio (“GAR”) and stormwater regulatory requirements and in order to improve energy efficiency within the building. The Project includes approximately 1,382 square feet of solar panels on the roof, three electric vehicle charging stations and power outlets for e-bicycles in the Project’s garage. (Ex. 2.)

### Revisions to Project in Response to Setdown Comments

32. In its September 13, 2019 report (the “**OP Setdown Report**”) OP recommended that the application be set down for a public hearing, as the Project would not be inconsistent with the Comprehensive Plan and the Convention Center Area Strategic Development Plan (the “**Small Area Plan**”). In addition, the OP Setdown Report requested that:
- The Applicant detail the parameters of the affordable housing component, including the anticipated MFI level for apartment type and the bedroom count of apartments in the existing building compared to the proposed building.
  - The Applicant provide additional information regarding the benefits and amenities including environmental and sustainable benefits and superior landscaping or creation of preservation of open spaces. (Ex. 11.)
33. At the September 23, 2019 public meeting, during which the Commission considered whether to set the Applicant down for a hearing, the Commission concurred with the OP Setdown Report and requested the Applicant address the following issues:
- The Zoning Commission expressed concerns about the Project’s color and material palette, its ability to age well, and the color of the Project’s Penthouse;
  - Further refinement of the courtyard design;
  - Additional Discussion of the Project’s consistency with the “Design Guidelines” of the Convention Center Area Strategic Development Plan’s “Transit Oriented Housing” sub-area, and specifically requested explanation of the Project’s consistency with those Guidelines recommending a “tripartite arrangement” and “provi[sion] [of] a sense of privacy for ground level residential units.”; and



- Additional explanation on the balancing of the Project’s consistency with the Comprehensive Plan and other adopted public policies and additional information regarding the potential impacts of the Project. (Tr. 1 at 37-48.)
34. In its October 9, 2019 and December 20, 2019 pre-hearing filings, the Applicant responded to the requests from OP and the Zoning Commission for additional information. These filings included the following information:
- The anticipated number of affordable units, the affordable units by bedroom count, and the affordability levels. The Applicant also noted that the vacant building on the Property included: 7 one-bedroom units; 48 two-bedroom units; and 8 three-bedroom units. The Project currently includes: 138 studio units, 123 one-bedroom units, 84 two-bedroom units; and 18 three-bedroom units. (Exs. 13 and 13A.)
  - In the December 20, 2019 filing, the Applicant noted the Unit Summary for the building and the following range of unit types:
    - Studio – 5% to 10%
    - Jr. 1 Bedroom – 25% to 30%
    - 1 bedroom - 25% to 30%
    - Jr. 2 bedroom – 5% to 10%
    - 2 bedroom – 20% to 25%
    - 3 bedroom – minimum of 5%<sup>2</sup>. (Ex. 23A1)
  - Additional information regarding the Project’s sustainability commitments, including achievement of LEED Silver v.4, the provision of approximately 1,382 square feet of solar panels on the roof of the Project and three electric vehicle charging stations and power outlets for e-bicycles in the Project’s garage. (Ex. 13B and 23.)
  - Revisions to the Project’s design depicting a darker color scheme for the Project’s upper story and penthouse screening, replacement of the lighter color panels on the upper levels with a darker grey color, and adjustments to the window and door color in order to address concerns about weathering of the Project. (Ex. 13C and 23A4-23A6.)
  - Updated renderings and sections showing the proposed courtyard design. (Ex. 13C.)
  - A thorough and exhaustive analysis of the Project’s consistency with the Design Guidelines of the Small Area Plan, including the privacy and security provided to the units at the street level. (Ex. 13D and 23.)

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<sup>2</sup> The Applicant later agreed to provide at least 18 3-bedroom units in the Project.

- A thorough and exhaustive analysis of the Project’s consistency with the Comprehensive Plan and of the potential impacts of the Project. (Ex. 13E.)
- A robust community benefits package, created with significant input from ANC 6E Commissioners and community stakeholders, which consists of the following financial contributions:

\$75,000.00 to the Greater Washington Community Foundation - to be used by The Partnership to End Homelessness Grantmaking Fund (“Partnership Fund”), which is a partnership between the Greater Washington Community Foundation and the District of Columbia Interagency Council on Homelessness to provide support for nonprofit providers in DC to help obtain and maintain permanent housing and reduce the amount of time spent in the homeless services system. The Partnership Fund invests in nonprofits working with individuals, youth and families experiencing homelessness. The grantmaking fund awards grants to nonprofits working with individuals, youth, and families experiencing homelessness. Specific grants are made to nonprofits for the following purposes: (1) to fill funding gaps to assist people exiting homelessness to obtain and maintain stable housing; (2) to support the development of innovative homelessness services solutions that can be evaluated and potentially scaled, (3) to help providers address emerging needs in homelessness services and to support targeted services to address those needs; (4) to support service providers and developers in helping people to access permanent housing and increase the supply of affordable housing; and (5) to support advocacy efforts focused on strengthening policies that impact housing and homelessness and/or increase public funding.

\$20,000.00 to New Endeavors for Women – for the purchase of computer equipment and funding of supportive programs for women and families in the transitional housing program located at 611 N Street, NW. The supportive programs include; transportation subsidies, tuition assistance, and transitional housing supplies for clients.

\$30,000.00 to Shaw Main Streets – in support of the Shaw Main Street Clean & Safe Team, which has been hiring, training, and employing returning citizens to maintain the public space along the 7<sup>th</sup> and 9<sup>th</sup> commercial corridors since 2006. Crew members sweep curbs and sidewalks; collect litter and recyclables and bag and transport them to Department of Public Works transfer stations, along with bulk trash; remove and abate graffiti tags; shovel snow to clear sidewalks, ADA ramps and Metro Station entrances; maintain pocket parks; provide directions and assistance to visitors; report service requests related to the public space they maintain; and serve as public safety “eyes and ears” to enhance public safety. Funds will be used to pay for salaries, benefits, uniforms, equipment and supplies for crew members.

\$15,000.00 to the Kennedy Recreation Center – for the purchase of new computers, furniture, equipment, and supplies for the technology lab for the Kennedy Recreation Center.

\$15,000.00 to Boolean Girl - which will provide one year of funding of the nonprofit organization Boolean Girl’s operations at the Kennedy Recreation Center. Boolean Girl provides a curriculum, equipment, materials and instructors to teach coding to disadvantaged children. The program can serve 75 children over the course of one year, and participants will be recruited from the Shaw neighborhood.

\$20,000.00 to DC Public Library Foundation (for the benefit of Shaw Watha T. Daniel Neighborhood Library) - to support improvements to the children’s section and children’s programming at the Shaw Watha T. Daniel Library, including furniture, supplies, and children’s educational programming.

\$30,000.00 to the Mount Vernon Triangle Community Improvement District - to support the Mount Vernon Triangle Clean Team’s hiring of one additional Clean Team Ambassador. (Exs. 23B and 76.)

- A Construction Management Plan that seeks to mitigate any adverse impact on the surrounding neighborhood resulting from the Applicant’s construction of the Project. (Ex.66 and 72E.)

### **Relief Requested**

35. The Property is located in the RA-2 zone, and the Project is consistent with the Zoning Regulations with respect to all development standards applicable to that zone except with respect to lot occupancy. The Applicant seeks (1) modest flexibility with respect to lot occupancy; (2) to use a portion (2.5 percent) of the 5 percent density increase that the Commission may grant as “essential to the successful functioning” of the Project; and (3) design flexibility in line with what it understands is the Commission’s now “standard” flexibility and pending text amendment. (Ex. 2.)
36. Lot Occupancy Flexibility. The Applicant requests only one area of zoning flexibility. The Applicant seeks to increase the Project’s lot occupancy (to 81.7%) over the percentage occupancy permitted as a matter-of-right. The primary design rationale for this flexibility request is to attain the amount of residential density contemplated in the RA-2 zone pursuant to the PUD and Inclusionary Zoning (“IZ”) bonuses while remaining within the matter-of-right height limit. In designing the Project to capture the additional density within the matter-of-right height limit, the Applicant seeks to balance two objectives. On the one hand, the Applicant seeks to make a meaningful contribution to the Mayor’s housing production goals: the Project contributes exactly 1% of the 36,000 total new units that the Mayor seeks to add. On the other hand, the Applicant seeks to respect the prevailing building heights on surrounding blocks. The Applicant has heard from the ANC and neighbors that three to four stories (i.e., up to 50 feet) is acceptable, but 60 feet would be

too tall. To reconcile these objectives, the Project is shorter than otherwise allowed under a PUD in order to accommodate the community but spread out over a greater portion of the lot in order to advance the Mayor's goals. (Ex. 2.)

37. Density Increase. The Applicant seeks to exceed the maximum FAR permitted pursuant to the PUD and IZ bonuses by approximately 6,700 square feet. The additional requested GFA is essential to the successful function and design of the Project. Essentially, the Project seeks to present a design that strongly addresses the sidewalk and street on all four facades with a double-loaded corridor around an interior closed court. If the Project shaved the additional area from the building it would have to either be set back from one side or expand the dimensions of a court. Doing either would likely result in losing an entire "stack" of units, given the need to maintain units of a minimum size and with usable dimensions. The additional requested density is essential to the successful function of the Project because it allows the Project to be constructed to a logical floorplate and to maintain efficiency levels on each floor that are necessary for the Project to function successfully. In testimony at the Public Hearing, the Applicant provided additional information on this issue (see Finding of Fact 68). (Ex. 2.)
38. The Applicant also noted that ZR16 reduced the amount of density available in the RA-2 Zone through the PUD process. As a point of comparison, the RA-2 zone's predecessor, the R-5-B zone district, had a maximum FAR of 3.0 pursuant to a PUD. As noted, the maximum FAR under a PUD in the RA-2 zone is now only 2.59. With the requested additional density, the Project remains well below 3.0. (Ex. 2.)
39. Design Flexibility. The Applicant also seeks design flexibility as a part of the PUD process. The Applicant understands that pending before the Commission is a text amendment that would specify the type of design flexibility that the Commission may grant. The Applicant seeks flexibility in accordance with the flexibility that the Commission has granted in recent cases and with the flexibility in the pending amendment. (Exs. 2 and 76)

## **EVIDENCE IN FURTHERANCE OF THE PUD EVALUATION STANDARDS**

### **The Project Provides Public Benefits and Amenities and Satisfies the PUD Criteria**

40. The purpose of the PUD process is to provide for higher quality development through flexibility in building controls, provided that the project that is the subject of the PUD (i) results in a project superior to what would result from the matter-of-right standards; (ii) offers a commendable number or quality of meaningful public benefits; and (iii) protects and advances the public health, safety, welfare, and convenience, does not circumvent the intent and purposes of the Zoning Regulations, is not inconsistent with the Comprehensive Plan, and does not result in action inconsistent therewith. 11-X DCMR §§ 300.1, 300.2, and 300.5 and 307.1. The Applicant provided evidence that the Project satisfies each of the above PUD requirements.

The Project Is Superior to the Development of the Property under the Matter-of-Right Standards.

The Project's contribution of housing and affordable housing, other Public Benefits, and the community engagement process that accompany this PUD process all exceed what would be provided under matter-of-right standards. Specific aspects of the Project superior to a matter-of-right development include:

- Housing/Affordable Housing – The Project provides more housing than what could be constructed on the Property without a PUD by virtue of the 20 percent PUD density bonus and the modest increase above that bonus. In addition, the amount of affordable housing (12% of the residential GFA, penthouses, cellar, and projections) included in the Project exceeds the amount that would be required in a matter-of-right development pursuant to the IZ requirements. Moreover, there are currently zero permanently affordable units provided on the Property, so the delivery of this Project adds needed housing to the City's permanently affordable housing stock.
- Public Benefits – The Project's contribution of Public Benefits exceeds what would be provided in a matter-of-right development.
- Community Engagement – The Applicant conducted a comprehensive public outreach and engagement process with multiple opportunities for neighbor, community group, and public agency participation. Those opportunities, and future ones, would not exist for a matter-of-right development of the Property.

The Public Benefits Are Commendable in Number and Quality.

The Project delivers Public Benefits and other project amenities. These Public Benefits fulfill goals set forth in the Comprehensive Plan and the Small Area Plan, the priorities of District agencies and stakeholders, and the preferences, needs, and concerns of the ANC and community residents identified during the Applicant's community engagement process. Accordingly, the Public Benefits package is a meaningful series of commitments that satisfy the intent and purposes of the PUD process.

The Project Protects and Advances Public Health, Safety, Welfare, and Convenience and Does Not Circumvent the Purposes of the Zoning Regulations.

The Project advances and protects the intent and purposes of the Zoning Regulations, which are set forth in Subtitle A, Section 101 of the Zoning Regulations:

- Through the development of an underutilized parcel proximate to a Metrorail station, the Project affirmatively improves major public interests and priorities such as housing and affordable housing, additional ground level activating design and high-quality, environmentally-sustainable design. The Project does not adversely affect public safety and public infrastructure or otherwise impose adverse impacts

on the surrounding community. The Project satisfies the goals and objectives for the District as set forth in the Comprehensive Plan and the Small Area Plan.

- The development of the vacant and underutilized Property with new housing and affordable housing advances the public health, safety, welfare, and convenience goals of the District by converting underutilized lots to productive use, avoiding the health and safety problems often associated with vacant spaces, and providing uses that promote public welfare and convenience. Accordingly, the Project advances these purposes of the Zoning Regulations.
- The Project does not seek to circumvent the Zoning Regulations. It does not seek to amend the Zoning Map and seeks only modest zoning flexibility with respect to lot occupancy, which is the trade-off for foregoing additional height available as part of the PUD process. The RA-2 zone is intended for moderate-density residential uses in a walkable living environment, goals that the Project advances. See 11-F DCMR §§ 100.3, 300.3. The Project conforms to the requirements for the RA-2 zone, is compatible with the existing neighborhood, is oriented to support active use of transit and public spaces, and promotes stability of the surrounding residential area.

41. The Project includes five categories of substantive Public Benefits as defined according to the public benefits categories set forth in Subtitle X, Section 305 of the Zoning Regulations.

- Superior urban design, architecture, and landscaping (11-X DCMR § 305.5(a) and (b)). The Project's urban design, architecture, landscaping, and provision of open space are superior public benefits. Urban design, architecture and landscaping are categories of public benefits and project amenities for a project proceeding under a PUD.

*Urban Design:* The Project incorporates numerous design precepts that guide superior urban design in the District and that represent significant improvements over the existing aesthetic and functional conditions of the Property. For instance, the Project's urban design prominently addresses the surrounding streets to create strong street walls and to "enclose" the pedestrian space. The open court on 5<sup>th</sup> Street, NW is an attractive and appropriate terminus for Ridge Street, NW. The bifurcation of the massing into two wings breaks down the apparent scale of the building, and the articulation carries forward the existing rhythms and overall "feel" of the existing rowhouses.

*Architecture:* The Project similarly includes elements of superior architectural design. For example, the Project presents a thoughtful ground floor design that integrates into the surrounding context. The Project's exterior design elements knit the indoor and outdoor spaces together. The Project also utilizes high quality façade materials and finishes. The Project's

differentiated massing, articulation and design responds to its context on all sides, while its materials palette creates a cohesive design.

*Landscaping:* The Project's landscape and site improvements create a range of vegetation and outdoor spaces that "green" the Property while also providing functional services to building residents.

- Site planning, and efficient and economical land utilization (id. § 305.5(c)). The proposed site plan is another superior benefit of the Project. Site planning and efficient and economical land utilization are public benefits. The benefits of the Project's site plan and efficient land utilization are reflected in the Project's overall density, introduction of residential uses on a now-vacant lot located near transit, the absolute number of new residential units provided, and introduction of permanently affordable housing. The Project's modestly greater heights and density near a transit node exemplifies economical land utilization. The Project also improves land that has been underdeveloped relative to the surrounding transportation and other infrastructure. At a FAR of 2.66, the proposed moderate density development is appropriate for the Property and the Shaw neighborhood as a whole given the proximity to transit options and scarcity of nearby low-density residential uses and prevailing densities nearby. Further, the Applicant proposes an efficient, economical land utilization strategy with respect to parking by locating parking below-grade. The Project achieves the principles of transit-oriented development, as it strikes a careful balance between increasing density and sensitive placement of massing and use.
  
- Housing and affordable housing (id. § 305.5(f), (g)). The Project includes a greater number of housing units than could be developed on the site as a matter-of-right plus permanently affordable housing and three-bedroom units. Pursuant to ZR16, Subtitle X, Subsections 305.5(f) and (g), the production of housing that exceeds the amount that would have been required through matter-of-right development under existing zoning and affordable housing above what is required under the IZ provisions is a public benefit. The District faces a shortage of virtually every kind of housing product, but the District has prioritized construction of new units near transit, affordable units, and three-bedroom units. The Project produces a significant amount of new residential units on a site that is transit-accessible and part of an exciting mixed-income development. The Project includes three specific types of housing-related public benefits:
  - The housing proposed as part of the Project exceeds the amount possible through a matter-of-right redevelopment pursuant to the applicable limits in the underlying zone (inclusive of the IZ bonus) by approximately 52,000 square feet of GFA. *Id.* § 305.5(f)(1).
  
  - The Project also proposes to reserve 12 percent of its gross residential square footage (i.e., GFA, residential cellars, enclosed projections in public space, and the habitable penthouse) for permanently affordable housing

units, of which 2 percent represents affordable housing above what could be constructed through a matter-of-right development on the Property. Accordingly, the additional permanently affordable housing of the Project is a public benefit as well. *Id.* § 305.5(g).

- Finally, 5 percent of the Project’s units (i.e., 18 total) are anticipated to be three-bedroom units. All such three-bedroom units constitute public benefits. *Id.* § 305.5(f)(3).
  - Environmental and sustainable benefits (*id.* § 305.5(k)). The Project includes innovative sustainable design elements and achieves appropriate levels of environmental certification. The Project has been designed to exceed environmental design standards at the LEED Silver v4 level (i.e., equivalent of LEED Gold 2009). Specific sustainable benefits in the Project include energy modeling use of environmentally-preferred materials; inclusion of green roof and rooftop bio-retention; and photovoltaic solar panels.
  - Other Public Benefits Which Substantially Advance the Comprehensive Plan (*id.* § 305.5(r)). The proposed Project is consistent with many of the District’s policy goals and objectives. The Zoning Regulations provide that elements of a project that advance the Comprehensive Plan and related policies are public benefits. Exhibit 2F of the Record, and Finding of Fact 48 identify the many policy goals and objectives advances by the Project.
42. The Applicant also provided evidence that the Public Benefits proposed in the application satisfy the public benefits criteria of Subtitle X, Sections 304.4(c), 305.2 and 305.4. These provisions require that the public benefits proposed as part of a PUD application (a) be not inconsistent with the Comprehensive Plan and other adopted public policies, (b) benefit the surrounding neighborhood or the public in general to a significantly greater extent than would likely result from a matter-of-right development of the Property, (c) be tangible, quantifiable, measurable, and able to be completed prior to issuance of a certificate of occupancy, and (d) relate to the geographic area of the ANC(s) in which the Project is located. The community benefits package noted in Finding of Fact 34, satisfies all of these requirements.
43. Based on the extensive evidence provided in the Record, the Commission agrees that the Project’s Public Benefits satisfy the PUD Evaluation standards.

**The Project Has No Unacceptable Impacts on the Surrounding Area or on the Operation of District Services or Facilities**

44. The Applicant prepared and submitted a Comprehensive Transportation Review (“CTR”). The CTR concluded that the Project will not have a detrimental impact on the surrounding transportation network assuming the proposed site design elements and Transportation Demand Management measures are implemented. The CTR noted that the Project has several positive design elements that minimize potential transportation impacts, including:



- The Site’s proximity to transit and existing bicycle infrastructure;
  - The inclusion of secure long-term bicycle parking;
  - The installation of short-term bicycle parking spaces along the frontage of the Property that meet or exceed zoning requirements;
  - The creation of new pedestrian sidewalks that meet or exceed DDOT and ADA requirements, improving the pedestrian environment, this includes a curb extension and crosswalk connecting the site with Ridge Street NW;
  - A parking ratio that is within DDOT’s CTR guidelines, meaning that the parking supply will meet the practical needs of the site while not promoting the use of driving as a mode of transportation; and
  - A TDM plan that reduces the demand of single-occupancy, private vehicles during peak period travel times or shifts single-occupancy vehicular demand to off-peak periods. (Ex. 21A.)
45. In addition, the CTR included a Transportation Demand Management Plan (“TDM”) which included the following elements:
- Unbundling of residential parking costs;
  - Appointment of a TDM Coordinator (who will receive TDM training from goDCgo) as a point of contact with DDOT, goDCgo, and the Zoning Administrator;
  - The TDM Coordinator will provide information to goDCgo annually and will conduct an annual commuter survey of employees on site;
  - Provide 121 long-term bicycle parking spaces and bicycle storage rooms that will accommodate non-traditional sized bikes;
  - The Applicant will post all TDM commitments on the Project’s website and will publicize the commitments;
  - The Applicant will provide welcome packets to all new residents with information on transportation options, including the Metrorail pocket guide, brochures of local bus lines, carpool and vanpool information, Guaranteed Ride Home brochure and the most recent DC Bike Map. (Ex. 21A.)
46. The Applicant carefully studied the Project’s potential impacts and provided evidence into the record that the Project has no unacceptable adverse impacts on the surrounding area or on the operation of District services or facilities that cannot be mitigated or that are not acceptable in light of the Public Benefits.
- Zoning and Land Use Impacts. The Project has no unacceptable zoning or land use impacts on the surrounding area and any impacts are instead either favorable, capable of being mitigated, or acceptable given the quality of Public Benefits in the Project. This Application proposes no change to the existing RA-2 zone, which is consistent with the designation for the Property in the Comprehensive Plan and compatible with the zoning and actual land uses for surrounding blocks and the Shaw neighborhood. From a land use perspective, the Project creates no unacceptable impacts on the surrounding area. Any impacts from the Project’s

proposed land use are either favorable, capable of being mitigated, or acceptable given the quality of the significant Public Benefits included as part of the Project. The Project's multifamily residential uses are entirely appropriate given the Property's proximity to transit and other surrounding multifamily residential uses. Moreover, the Project's creation of a thoughtfully-designed relationship to public pedestrian space and the surrounding public streets also has favorable land use impacts. To the extent there are any ancillary unfavorable impacts arising out of the Project's land uses, such impacts are either mitigated by the Project's design or offset by the quality of the Public Benefits, and in particular the quantity of new mixed-income housing proposed.

- Historic District Impacts. Although the Property is not within a historic district, the blocks immediately east and south of the Property are within the Mount Vernon Historic District. Accordingly, this Application analyzed the Project's potential impacts on those resources. The Project has no unacceptable impacts on the nearby Historic District. The Project is designed to harmonize with the contributing structures on M Street, NW and 5<sup>th</sup> Street, NW. The Project's overall height and density are sympathetic to the existing historic structures. Where there is a cluster of contributing structures along 5<sup>th</sup> Street, NW (i.e., near the intersection of 5<sup>th</sup> and N Streets, NW), the Project is only one story taller: three stories for that portion of the Project and two stories for the historic rowhouses. Likewise, the Project is only one story taller than the row of historic structures along M Street, NW: four stories for that portion of the Project and three stories (often with embellishments above that story) for the historic rowhouses. From a site plan perspective, the Project avoids placing any vehicular entrances across from historic structures. Finally, the Project's materials and detailing are compatible with the Historic District. The Project features primarily a brick façade, which is the predominant cladding in the Historic District. Similarly, the Project employs bay-like articulation patterns along both its M and 5<sup>th</sup> Streets, NW façades that match the scale and rhythm of the existing historic bays.
- Housing Market Impacts. The Project's addition of new housing and affordable housing is a favorable impact. The Project creates new, high-quality, transit-accessible housing units on an underutilized parcel. Such units are in high demand across the District. The addition of new housing also has favorable impacts by adding residents to support the nearby commercial uses and recreational areas. The Project's inclusion of permanently affordable units has favorable impacts because it helps address the District's ongoing affordable housing shortage in an inclusive, mixed-income community and not one that overly concentrates affordable housing in one location. The Project's addition of new housing units helps buffer increasing housing costs, insofar as increasing the supply of housing is widely understood to dampen rent

increases. In addition, the Court of Appeals has concluded that the presence of the IZ program itself mitigates potential negative housing market impacts.<sup>3</sup>

- Construction-Period Impacts. During the development period for the Project, impacts on the surrounding area are capable of being mitigated. The Applicant has experience successfully completing construction projects in infill locations while ensuring minimal disturbance to any neighbors. There are no existing occupied residential units on the Property and there are no direct abutters, and indeed no other lots on the block that is the subject of this Application. The Applicant submitted a Construction Management Plan into the record and compliance with the Construction Management Plan is a condition of approval of this application.
- Open Space, Urban Design and Massing Impacts. The Project favorably improves upon the existing conditions with respect to the relationship between the proposed wings of the building, proposed open spaces, and the urban design of the Project. The Project has favorable impacts on the public realm through the removal of surface parking and the formalization and aggregation of vegetated areas from today's condition—*islands of vegetation amongst parking spaces*—into usable open space. In addition, the Project creates a strong presence along M, N, 5<sup>th</sup> and 6<sup>th</sup> Streets, NW, largely avoiding blank walls, relocating all parking below grade, providing high quality landscaping and streetscaping, and creating a pedestrian-first condition. Finally, the Project has favorable impacts on the surrounding area as a keystone linking the emerging projects elsewhere in the neighborhood and establishing the context for the future, higher-density phases and design.
- Design and Aesthetic Impacts. The Applicant anticipates the Project's design and architecture having a significantly favorable outcome and no unacceptable impacts. The Project incorporates the highest-quality architecture and exemplary design. The contemporary building replaces tired and dated garden apartments and is emblematic of new investment without appearing out-of-place among the mix of historical, mid-century, and faith-oriented buildings surrounding the site. The Project continues the contemporary, yet historically compatible, architectural vocabulary that is emerging along 9<sup>th</sup> Street, NW and New York Avenue, NW. The emerging vernacular establishes a high baseline of quality of design and finishes expected for projects in the vicinity. The Project's landscaping and public realm detailing are exemplary and have a strongly favorable impact on surrounding areas, further contributing to the sense of place in the neighborhood. The Project's overall design and its details strongly reinforce and strengthen the character of the surrounding residential areas and are favorable for the neighborhood.

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<sup>3</sup> *Cole v. District of Columbia Zoning Comm'n.*, No. 17-AA-360 (D.C. Jun. 27, 2019) (“In short, mitigation of the potential displacement of low-income residents through gentrification and market pressures is taken into account in the Zoning Commission’s IZ regulations” and “the proposed PUD’s compatibility with the [Area Element] development policy and with the [Small Area Plan] enable us to discern the agency’s path: a recognition that the pressures of gentrification are inevitable, but can be mitigated through inclusionary zoning and through the types of programs discussed in [the Small Area Plan], rather than avoided by having underutilized property remain as it is.”).

- Transportation and Mobility Impacts. As noted in the CTR, the proposed Project does not create any unacceptable impacts on the public transportation facilities or roadways that it relies on for service. Instead the Project’s transportation impacts are either capable of being mitigated or acceptable given the quality of Public Benefits arising from the Project. The Project’s vehicular traffic impacts are strongly mitigated by its transit options. The Project is well-served by pedestrian, bicycle, transit and vehicular infrastructure, and the Project does not introduce adverse impacts on any system. As noted, the Mt. Vernon Sq./7<sup>th</sup> St./Convention Center Metrorail station, a Metrobus stop, and a Capital Bikeshare station are each approximately a one block away, and it is expected that many of the Project’s residents will use public transit. The Property has a WalkScore of 95, a TransitScore of 97 (which indicates that “daily errands do not require a car”), and a BikeScore of 92 (which indicates “excellent bike lanes”). The Project also contains approximately 103 below-grade vehicle parking spaces to accommodate the parking demand of residents. Bicycle usage is also thoughtfully integrated into the design of the Project, with long-term spaces in a dedicated storage room and short-term spaces provided in public space. The Project’s physical form mitigates traffic impacts by promoting and encouraging active mobility over driving.
- Economic Impacts. The Project likely has favorable economic impacts on the neighborhood and the District more generally. The Project will have a stabilizing and positive effect on the economy of Ward 6 and the District as a whole. The introduction of new residential uses contributes patrons for the existing businesses. The Project’s intensification of land use on the Property has positive tax revenue effects for the District. To the extent there are any adverse effects from the Project, such effects are more than offset by the Project’s Public Benefits.
- Cultural and Public Safety Impacts. The Project has favorable impacts on the culture of the surrounding area and on public safety. The Project adds many new residents who will contribute to the immediate neighborhood and the District in diverse and meaningful ways. The infilling of the Property helps complete the neighborhood and signifies investment and stewardship of the neighborhood. The design of the Project adds street activity, promotes “eyes on the street”, adds quality lighting, and makes other improvements all of which have positive effects on crime deterrence.
- Water Demand. The average daily water demand for the Project will be able to be met by the existing District water system or through upgrades undertaken in conjunction with this Project. The proposed connection for the fire and residential water supply is from within the existing distribution system and will be coordinated with DC Water.
- Sanitary Sewer Demand. The proposed sanitary sewer discharge for the Project will be made from the existing distribution system and will be coordinated with DC Water during the permitting process.

- Stormwater Management. The Project has been designed to achieve high levels of on-site stormwater retention. The proposed bio-retention basin planters, green roofs, and permeable pavement are designed to meet or exceed District Department of Energy and Environment (“**DOEE**”) stormwater management retention and detention requirements. The requisite inlets and closed pipe system are designed and constructed to be in compliance with the standards set by DOEE, DC Water, and DDOT. The Project is designed to retain all storm water from a 1.2 inch rainfall event, and the estimated storm sewer discharge is 32,246 gallons per for a 1.7 inch rainfall event.
- Solid Waste Services. Solid waste and recycling materials generated by the Project will be collected regularly by a private trash collection contractor.
- Electrical Services. Electricity for the new Buildings will be provided by the Potomac Electric Power Company (“**Pepco**”) in accordance with its usual terms and conditions of service. All electrical systems are designed to comply with the D.C. Energy Code.
- Energy Conservation. The Project is designed in compliance with the Energy Conservation requirements of the District of Columbia Building Code. Conformance to code standards minimizes the amounts of energy needed for the heat, ventilation, hot water, electrical distribution, and lighting systems contained in the building.
- Erosion Control. During excavation and construction, erosion on the Property will be controlled in accordance with District of Columbia law and will be managed so as to not adversely affect neighboring properties, the environment or District services and facilities.
- Environmental Impacts. The Project does not have any unacceptable impacts on the environment, and instead has favorable impacts. The Project is designed to achieve high levels of environmental performance as evidenced by its satisfaction of the LEED Silver v4 design standards. The Project’s delivery of high-quality environmental design as well as usable outdoor spaces is a net improvement and superior to what would be achievable via a matter of right development.
- Public Schools. The Project is highly unlikely to have an unacceptable impact on schools in the District given the size of the Project, its mix and type of units, and the capacity for the District’s nearby schools to take on additional students. The Project is within the boundaries of Walker-Jones Education Campus at 1125 New Jersey Avenue, NW and Dunbar Senior High School at 101 N Street, NW. DCPS data show that all of the nearby neighborhood public schools are below capacity: Walker-Jones Dunbar has a capacity for 700 students (as of the 2017 school year) and a 2017-18 enrollment of 435 students; Dunbar has a capacity for 1,100 students (as of the 2017 school year) and a 2017-18 enrollment of 617 students. In addition, several private and charter schools are near the Project, offering educational options

to residents who may seek alternatives to the neighborhood public schools. The Applicant expects that the school network will be able to accommodate, without any unfavorable impacts, the school-age children that may reside at the Project.

- Parks/Recreation Centers/Library Services/Emergency and Health Services. The Project has no adverse impacts on District services, such as parks, recreation centers, public libraries, and emergency and health services. To the extent the Project's future residents are new to the District, they will be contributing new tax dollars, both in the form of income taxes and through the indirect payment of property taxes associated with the Project, that facilitate the provision of District-run services. To the extent the Project's future residents are existing District residents, they have no net new impact. With its four court spaces, pool, and numerous terraces and balconies, the Project has sufficient outdoor and recreation spaces to mitigate any potential adverse effects on nearby public outdoor spaces. More broadly, the National Mall and Rock Creek Park are an easy bike ride or jog from the Project. On balance, the Project is unlikely to have any adverse impacts on the District's park services, and is instead likely to be a net positive contributor of park services. Ward 6 has a balanced mix of state of the art and new recreation facilities and libraries. Kennedy Recreation Center and Bundy Field are within walking distance of the Project, and have been updated, renovated, or added as new centers within the past few years. The Project will include resident amenity areas, so it is unlikely that the Project's residents will have any adverse impacts on District-run recreation centers. Likewise, nearby library branches include Northwest One and Watha T. Daniel, both of which have been renovated or constructed in recent years. There are approximately thirty public library branches or other public facilities in the District. That works out to approximately one library branch per 23,500 residents. An additional 360 residential units (i.e., potentially up to 700 additional residents, some of whom might already be District residents) will not result in any adverse over-use or other adverse impacts on the District's library resources. The calculus for recreation centers is similar. There are approximately sixty-five public recreation centers in the District, for a ratio of approximately one center per 11,000 residents. It is not likely that the Project's addition of 360 residential units will result in any adverse over-use or other adverse impacts on the District's recreation centers, especially when the Project includes private recreation amenities. (Ex. 2)

47. Based on the extensive evidence provided in the Record, the Commission agrees that the Project does not create any unacceptable impacts on the surrounding area.

### **The Project Is Not Inconsistent with the Comprehensive Plan**

48. The Applicant provided a detailed analysis of the Project's consistency with applicable objectives of the Comprehensive Plan, Small Area Plan, and Mayor's Housing Order (see Ex. 2F). Specifically, the Applicant noted the following:

- Future Land Use Map: The Comprehensive Plan’s “Future Land Use Map” designates the Property as “Moderate Density Residential” which allows for “low-rise apartment buildings”. The three-to-four story Project is not inconsistent with this designation, especially given its proximity to the Mt. Vernon Sq./7<sup>th</sup> St./Convention Center Metrorail Station and its proceeding as a PUD. 10-A DCMR § 225.4.
  - Generalized Policy Map: The Comprehensive Plan’s “Generalized Policy Map” designates the Property as a “Neighborhood Enhancement Area” which “present opportunities for compatible small-scale infill development”. Id. § 223.6. The Project is not inconsistent with the objectives for a Neighborhood Enhancement Area given the existing conditions on the Property.
  - District Wide and Area Elements: The Project advances numerous individual objectives of the District Wide and Area Elements, all as summarized in Exhibit 2F of the record. The Project is not inconsistent with the Comprehensive Plan as a whole. Numerous objectives of the District Wide and Area Elements encourage the development of additional housing, especially near transit.
  - Small Area Plan: For the Property, which is within the “Transit Oriented Housing” sub-area of the Small Area Plan, the Small Area Plan encourages: (1) “mixed-income residential development with underground parking on surface parking lots adjacent to Metro stations”; (2) “renewal of Project-based Section 8 contracts; alternatively, redevelop with equivalent/increased number of affordable residential units”; and (3) infill developments built to property line on street frontage with open space oriented to the interior of the block”. The Project is a mixed-income residential development with approximately 41,153 square feet of affordable residential units. There is no Section 8 contract in effect for the Property, and there has not been since 2002.
  - Mayor’s Housing Order: The Mayor’s Housing Order sets a goal of creating 36,000 new residential units by 2025. The Project alone represents exactly 1% of that goal, a significant contribution from a single site. The Project is more than just consistent with the Mayor’s Housing Order; The Project is precisely the type of transit-oriented, contextually-designed, mixed-income new development with permanent affordable housing units that will be essential to achieving the Mayor’s housing objectives. (Exs.2 and 2F.)
49. The Applicant concluded that the Project is not inconsistent with the Comprehensive Plan when reviewed as a whole and is not inconsistent with any other adopted public policies or active programs related to the subject site, including the Small Area Plan and Mayor’s Housing Order. (Ex. 2)
50. Based on the extensive evidence provided in the Record, the Commission agrees that the Project is not inconsistent with the Comprehensive Plan or other adopted and applicable public policies.

## RESPONSES TO THE APPLICANT'S FILINGS

### **OP Reports**

51. As noted in Finding of Fact 32, the OP Setdown Report recommended that the application be set down for a public hearing, as the Project would not be inconsistent with the Comprehensive Plan and the Small Area Plan. The OP Setdown Report noted that the proposed development would not be inconsistent with the Comprehensive Plan's Future Land Use Map designation of Moderate Density Residential and the Generalized Policy Map's designation of the Property in a Neighborhood Enhancement Area. The OP Setdown Report noted that the proposed development is not inconsistent with various policies of the following Citywide Elements of the Comprehensive Plan, including the: Land Use Element; Transportation Element; Housing Element; Environmental Protection; Parks, Recreation and Open Space Element; and Urban Design Element. The OP Setdown Report also concluded that the Project would further numerous policies of the Near Northwest Element. The OP Setdown Report concluded "On balance, the proposed PUD would not be inconsistent with the Comprehensive Plan. The policies cited in this report complement and support redevelopment of an underutilized site with a new apartment building without displacing existing residents. The proposed project would be an improvement over the existing building, including architectural design, sustainability, and open green space. The proposed building would increase density at the site to provide more housing within the scale, density and design context of the existing neighborhood. (Ex. 12.)
52. In its report to the Commission in advance of the public hearing dated January 6, 2020 ("**OP Hearing Report**"), OP recommended approval of the application subject to the Applicant providing information, prior to final action, as follows:
- Additional information about how the requested additional density is essential to the successful functioning of the Project; and
  - Additional information on the timing of the payments of the proffers and how those contributions are consistent with Section X- 305.3(d).

In the OP Hearing Report, OP also recommended that the Applicant's requested design flexibility regarding the number of residential units be limited to the studios and one bedrooms only and that the Applicant's requested design flexibility regarding the number of parking spaces be limited to providing less parking only. The OP Hearing Report noted that the Department of Housing and Community Development (DHCD) recommended that the Applicant increase the affordable housing commitment from 12% dedicated IZ units to 15% dedicated IZ units. OP noted its support for DHCD's recommendation. The OP Hearing Report concluded that with "the above conditions and additional information, the proposal would not be inconsistent with the Comprehensive Plan and the Convention Center Area Strategic Development Plan. On balance, the benefits of the PUD would be commensurate with the flexibility requested." (Ex. 25.)



53. The Commission finds that the Applicant provided responses to all of the requests for additional information from OP in subsequent filings and testimony at the January 16, 2020 Public Hearing. (Exs. 13, 23, 72, and Tr. 2 at 11-12, 30-31, and 50-51.)

### **DDOT Report**

54. On January 6, 2020, DDOT filed a report regarding the Project. DDOT's report analyzed the Project's site design, the travel assumptions made in the Applicant's CTR, the sufficiency of the parking and loading provided in the Project and the mitigations proposed by the Applicant. In regard to the sufficiency of parking provided in the Project, the DDOT report noted:

- The proposed 103 vehicle parking spaces provided in the Project meets the ZR16 requirement for 61 spaces;
- The proposed parking supply also falls within DDOT's preferred maximum parking ratio (less than 0.30 space per residential unit) for sites within a ¼ mile of a Metrorail station; and
- The CTR does not identify any traffic impacts at study area intersections, therefore no additional mitigation beyond a Transportation Demand Management (TDM) Plan is necessary;
- The Applicant's TDM Plan, in conjunction with a low parking ratio and close proximity to a Metrorail station, is mostly sufficient to encourage usage of non-auto modes. However, DDOT requested the following additional elements be added to the Applicant's TDM Plan:
  - Provide a free SmarTrip card to every new resident and a complimentary Capital Bikeshare coupon good for one ride;
  - Long-Term bicycle parking spaces will be provided free of charge to residents
  - Following the issuance of a Certificate of Occupancy for the Project, the Transportation Coordinator shall submit documentation used to summarize compliance with the transportation and TDM conditions of the Order (including, if made available, any written confirmation from the Office of the Zoning Administrator) to the Office of Zoning for inclusion in the IZIS record of the case; and
  - Following the issuance of a certificate of occupancy for the Project, the Transportation Coordinator will submit a letter to the Zoning Administrator, DDOT, and goDCgo for every five (5) years (as measured from the final certificate of occupancy for the Project) summarizing compliance with the transportation and TDM conditions in the Order. (Ex. 26.)

55. In response to the items in DDOT's report, the Applicant committed to a TDM Plan that included DDOT's proposed modifications, except that the Applicant's TDM would provide a free SmarTrip card and a complimentary Capital Bikeshare coupon good for one free ride to the first resident of each dwelling unit at initial lease-up. (Ex. 65A2)
56. On December 17, 2019, the Urban Forestry Division of DDOT ("DDOT-UFD") submitted a report into the record. The DDOT-UFD report noted that on June 11, 2019, the DDOT Ward arborist met on-site with representatives of the Applicant to assess the existing street trees on 5<sup>th</sup>, 6<sup>th</sup>, M and N Streets. The DDOT-UFD report recommended that the Applicant conduct a second walk-through with DDOT arborists to confirm which street trees are to be removed and which street trees are to be preserved. The DDOT-UFD report also requested that the Applicant prepare a Tree Preservation Plan for the street trees. Finally, the DDOT-UFD report noted that the removal of special trees on private property and street trees will require tree removal permits. (Ex. 22.)
57. The Applicant addressed the DDOT-UFD report in a post-hearing submission, described in detail in Finding of Fact 80(i).

#### **ANC 6E Report**

58. On January 10, 2020, ANC 6E filed a resolution in support of the Project into the Record of the case. The ANC resolution stated that at a duly noticed public meeting on December 19, 2019 with a quorum present, ANC 6E voted 3-1-1 to support the PUD application. The ANC resolution noted that the Applicant had presented the development to the ANC on two other occasions and that the application included the following community benefit package:
  - \$75,000 to the Greater Washington Community Foundation;
  - \$20,000 to New Endeavors by Women;
  - \$30,000 to Shaw Main Street;
  - \$15,000 to the Kennedy Recreation Center;
  - \$15,000 to Boolean Girl;
  - \$20,000 to the DC Public Library Foundation (fbo W.T. Daniel Library); and
  - \$30,000 to the Mt. Vernon Triangle Community Improvement District.

The ANC thanked the Zoning Commission for giving great weight to its recommendations. (Ex. 47.)

### **No Other Agencies/Persons/Groups**

59. Apart from OP (which noted the recommendation of DHCD), DDOT, and ANC 6E, no other agency, person or organization filed written comments in the record of this proceeding.<sup>4</sup>

### **Persons in Support**

60. Approximately 34 letters in support were submitted into the Record of the case. In general, these letters noted support for the Project due to the building's appearance, the appropriateness of the size and scale of the building and how it will be seamlessly incorporated into the surrounding neighborhood, the 12% affordable housing component, and the Applicant's actions seeking and responding to community input. (Exs. 28-46, 49-61, 63-64).
61. Ward 6 Councilmember Charles Allen submitted a letter of support into the Record. His letter noted that his support is based on the Project's creation of housing and affordable housing at a transit-oriented site. He also noted that the Project will result in high-quality architecture – including a green roof and solar panels – on a site that currently includes outdated buildings and a surface parking lot. (Ex. 27.)
62. Nine individuals, including the Chairman and a representative of the ANC 6E Development and Zoning Committee, testified in support of the Project at the Public Hearing. Their testimony noted the need to improve the current appearance of the Property and the overall improvement that will result in the area with the development of the Project. Their testimony acknowledged the actions that the architect took to integrate the building into the neighborhood by limiting the building height to 50 feet, rather than 60 feet and the successful architectural treatment of the building. Testimony was also presented that the ANC 6E Development and Zoning Committee reached consensus on the sufficiency of the 103 parking spaces provided in the Project due to the site's proximity to the Mount Vernon Metro Station, one block away. (Tr. 2 at 65-74.)

### **Persons in Opposition**

63. Six individuals, including the Pastors of the First Rising Mt. Zion Baptist Church (Pastor Oran Young) and Miles Memorial Christian Methodist Episcopal Church (Pastor Juliano A. Andujo), testified in opposition to the Project at the public hearing. (Tr. 2 at 76- 77.)
64. Pastor Young testified that he does not find the Project to be conducive to the neighborhood and therefore opposes the Project. Pastor Young raised the following concerns: the Project does not include enough parking; the location of construction staging and parking; that

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<sup>4</sup> Although no other agencies filed comments in this proceeding, OP held an interagency meeting regarding the Project on December 10, 2019, during which meeting, the Applicant heard comments from DHCD, DC Water, DOEE, the Department of Housing and Community Development. The Applicant's responses to those other agency comments are included in the record at Ex. 23C.

10% or 15% affordable housing set asides are not enough, and the Project will result in infrastructure problems - such as backflow - for other properties. (Tr. 2 at 76- 77.)

65. Pastor Andujo noted his concerns about the relocation of former tenants of the building on the Property, the overall racial integration of the neighborhood, and the levels of affordability provided in the Project. Pastor Andujo also raised concerns about parking and construction impacts. (Tr. 2 at 77- 79.)
66. ANC 6E04 Commissioner Richelle Nigro testified in opposition to the application. Commissioner Nigro noted that she was the one ANC 6E Commissioner that voted against the resolution in support of the Application. Commissioner Nigro testified that the main concern raised by her constituents was the sheer size of the development and the feeling that it is too large for the area. She also noted general concerns about traffic and parking impacts that will occur as a result of this Project. Commissioner Nigro noted that she looks forward to working with the Applicant on issues related to the Construction Management Plan and the TDM Plan as the Project progresses. (Ex. 67 and Tr. 2 at 83-85.)

#### **PUBLIC HEARING OF JANUARY 16, 2020**

67. On January 16, 2020, the Commission held a duly-noticed public meeting in accordance with its rules and regulations. (Transcript of Zoning Commission Public Meeting (Jan. 16, 2020) [“Tr. 2”].) The Applicant presented one witness on behalf of the Applicant (Mr. Jamie Weinbaum, Executive Vice President of Mid-City Financial Corporation) and two experts: Ms. Sarah Alexander as an expert in architecture and Mr. Robert Schiesel as an expert in transportation analysis and engineering. The Commission had previously accepted Ms. Alexander and Mr. Schiesel as experts in their respective fields and did so again in this case. (*Id.* at 8-9.) Thereafter, the Applicant’s representatives and the experts presented testimony about the Project.
68. In response to the questions raised in the OP Hearing Report, the Applicant’s Counsel and Ms. Alexander noted that the majority of the additional density requested for the Project (approximately 6,700 square feet of gross floor area above the IZ bonus density and PUD incentive allowed) is the result of including ample exterior balconies throughout the Project (approximately 5,400 square feet of the 6,700 square feet of additional density). The inclusion of balconies in the Project not only provides an amenity for the future residents, but it also adds vitality and visual interest to the building itself. The Applicant noted that it is only through recent interpretations of the Zoning Administrator that such exterior covered balconies are required to be included in a building’s gross floor area. The Applicant also testified that in order to provide a high level of building design reflective of the neighborhood context, the building includes separate loading facilities (each with front in and front out truck turning maneuvers) for each residential bar of the Project. These separate loading facilities are somewhat inefficient for a building of this size, but the additional gross floor area associated with these separate loading facilities is essential to making the loading work at grade. Ms. Alexander noted that the two loading docks accounted for approximately 4,500 square feet of gross floor area. (Tr. 2 at 11-12 and 30-31.)

69. In response to OP's support of the DHCD recommendation for more affordable housing in the Project, the Applicant's counsel stated that the Applicant finds the 12% IZ set aside is commensurate with the Zoning Commission's approval of other similar PUD applications. The Applicant noted that the application does not seek a Zoning Map amendment and that the affordable housing provided correlates to the additional density sought in this application. The Applicant's Counsel also noted that the total package of benefits provided by the Project – 12% IZ set aside, 18 three-bedroom units, enhanced environmental aspects (including solar panels on the roof), and a robust community benefits package – allow the Project to fully satisfy the PUD balancing test that is undertaken in every PUD case. (Tr. 2 at 13-14.)
70. Mr. Weinbaum testified that the Project represents a thoughtful effort to provide housing in concert with Mayor Bowser's ambitious housing production goals and that this 360-unit building will provide a full 1% of the Mayor's goal of producing 36,000 units of new housing. Mr. Weinbaum noted that 12% of the new residences will be affordable at a mix of 50% and 60% AMI levels and the Project will include 18 three-bedroom units. Mr. Weinbaum stated that the design of the Project balanced the dire need for additional new housing in the District with the relatively moderate and medium density character of the surrounding area by maintaining the matter-of-right height, but seeking the additional residential density allowed through the PUD process in order to provide more housing and affordable housing than can be constructed by right given the site's proximity to Metro. Mr. Weinbaum also noted that the Applicant spent months meeting with and listening to members of the community and the public benefits package, including the Project's affordable housing and unit make-up, represent the culmination of that outreach. Mr. Weinbaum noted the support the Project has received from ANC 6E, Ward 6 Councilmember Allen, numerous community members, and ultimately from the Metropolitan Community Church of DC. Specifically, Mr. Weinbaum testified that the Applicant was glad to work with another long-term member of the community [Metropolitan Community Church of DC] to help Shaw continue to be a progressive and forward thinking in terms of creating an inclusive community. (Ex. 68 and Tr. 2 at 15-18.)
71. Ms. Alexander testified that the goals of the Project's design included having the proposed building better define the public realm by creating a building with northern and southern wings that meet the property lines on each side. This allows the building to re-knit this block into the urban fabric of the city, consistent with the townhouses to the south. Ms. Alexander also discussed the approach of increasing the lot occupancy of the Project, while maintaining the 50 foot matter-of-right height limit and not increase the building height to 60 feet, as allowed per the PUD guidelines. Ms. Alexander testified that the building heights of the surrounding neighborhood context influenced the design scheme of minimizing the Project's building height. Ms. Alexander noted the additive and subtractive forms of the building bays, pavilions, and balconies break down the scale of the building and animate the street. Ms. Alexander also identified the Applicant's responses to the Zoning Commission's comments at the Set Down Meeting. Those responses included: changes to the color palette of the building, darkening the upper panels from white to dark gray and the windows from white to dark gray; and providing elevations of the internal courtyards. (Tr. 2 at 19-23.)

72. Mr. Schiesel testified to the Applicant's coordination with DDOT through the PUD process. Mr. Schiesel noted that the Applicant agreed to DDOT's proposed modifications to the TDM Plan initially proposed by the Applicant, except that the Applicant's TDM would provide a free SmarTrip card and a complimentary Capital Bikeshare coupon good for one free ride to the first resident of each dwelling unit at initial lease-up. (Tr. 2 at 24-25.)
73. At the public hearing, the Commission asked the Applicant about the relocation of the tenants that formerly occupied the 63 units on the Property. In response Mr. Weinbaum noted that approximately three years prior to the public hearing the Applicant stopped leasing the 63 market rate units that were located on the Property. Mr. Weinbaum noted that those people moved to other parts of the City or other parts of Washington Apartments, which includes two other parcels near the Property. Mr. Weinbaum also noted that the Applicant covered the costs of the moves for tenants relocating to the other, renovated units in the other Washington Apartments buildings. (Tr. 2 at 34- 35.)
74. At the public hearing, the Commission asked about the Applicant's 12% IZ set aside proffer and DHCD's recommendation that the Applicant provide a 15% IZ set aside. The Commission encouraged the Applicant to examine whether it could provide more affordable units or whether it had a response to the DHCD recommendation. In response, Mr. Weinbaum noted that the Applicant had studied the ability to provide more than 12% affordable units in the Project and determined that a 12% IZ set aside is the maximum amount that the economics of the Project could sustain. Mr. Weinbaum noted that the PUD yields approximately 52,000 square feet of additional density and based on the 12% affordability commitment, 23 percent of every additional square foot of bonus density is affordable housing. Viewing this another way, the proposed Project provides nearly 12,000 square feet of affordable housing above the amount that would be required in a matter-of-right building that utilizes the IZ bonus density. (Tr 2 at 50-51.)
75. In response to a question from the Commission regarding the ability to maintain the appropriate appearance of the lighter colored portions of the building over time, Mr. Weinbaum noted that the Applicant is a long-term holder of buildings and that they have the most incentive to maintain the building in a clean and fresh manner in order to keep the building fully occupied. (Tr 2 at 55-57.)
76. At the public hearing, OP noted its support for the Project and rested on the record. OP requested the ability to provide comment on the Applicant's request for flexibility regarding the number of residential units provided in the Project. (Tr. 2 at 61.)
77. At the public hearing, DDOT testified that it conducted a thorough review of the site plans and the comprehensive transportation review study and that it concurs with the analysis that there would not be any impacts to roadway operations that necessitate mitigations at intersections in the vicinity of the site due to traffic generated by the Project. DDOT testified that it was very supportive of the Project as the Applicant has proposed a number of positive changes to the building from a transportation perspective, including a low parking ratio that falls within DDOT's off-street parking guidelines and a robust TDM

Plan. DDOT concluded that it had no objection to the approval of the application and the TDM plan that was proposed by the Applicant at the Public Hearing. (Tr. 2 at 61-62.)

78. At the conclusion of the public hearing, the Zoning Commission requested that the Applicant provide additional information on the following issues: further analysis of the need to include vents on the front bay projections of the building; further analysis of the location of the IZ units provided in the Project; views of the Project in the winter months; further analysis of the appearance and treatment of interior courts; an updated construction management plan which provides for a more definitive time period to commence all necessary repairs, updated information on the proposed flexibility related to the residential unit count, a report from representatives of the Applicant and the Pastors of the First Rising Mt. Zion Baptist Church and Miles Memorial Christian Methodist Episcopal Church regarding a to be scheduled meeting to address parking concerns raised by the churches, and additional information regarding the amount of parking provided in the Project and the Residential Permit Parking restrictions in the area surrounding the Property. (Tr. 2 at 104-106.)

### **Post Hearing Submissions**

79. On January 23, 2020 the Applicant submitted its draft proffers and conditions into the Record. These draft proffers and conditions provided further details regarding the organizations and programs that will receive funding from the Applicant's community benefits package. The proffers and conditions also included the Applicant's final proposal regarding the flexibility requested regarding the number of parking spaces to be provided in the Project. That flexibility language read as follows: "To make refinements to the approved parking configuration, including layout and number of parking spaces of plus or minus ten percent (10%), provided the number of parking spaces maintains a ratio of no more than 0.3 spaces per residential unit.". The Applicant submitted its final proffers and conditions on February 6, 2020, which responded to comments received from the Office of the Attorney General. (Exs. 71 and 76.)
80. Following the public hearing, the Applicant filed a post-hearing submission which addressed the Commission's requests for additional information. The Applicant's post-hearing statement addressed the following issues:
- (a) Vents on Bay Projections – The Applicant's design team determined that it is possible to remove the vents that were formerly located on the front bay projections. The required venting will be achieved internally through the residential units. In addition, the Applicant has agreed that no vents will be provided through any white metal panels proposed for the project's façade. (Exs. 72 and 72A.)
  - (b) Location of the IZ Units - The Applicant revised the locations of the IZ units. Previously there were four IZ units located adjacent to the loading docks, now there is only one. That one unit is a three-bedroom unit located at the northeast corner of 5<sup>th</sup> and N Streets. This unit mainly fronts on 5<sup>th</sup> Street and is a prominent corner unit. (Exs. 72 and 72B.)

- (c) Views of the Project in the Winter Months – the Applicant provided views of the Project in the winter months when the street trees do not have any leaves. The Applicant stated that the views continue to show that the Project is entirely in scale and character with the adjacent properties. (Exs. 72 and 72C,)
- (d) Appearance and Treatment of the Interior Courts – The Applicant’s Design Team determined that maintaining the landscaping as the focus of the interior courts is most important to their success. The Applicant noted that it purposefully designed the parking garage so that it did not extend underneath the south courtyard to allow for mature trees and overall landscape growth to flourish. The design team made the following enhancements to the facades of the interior courts:
- Addition of trim and banding to the facades;
  - Incorporation of different accent shades of the façade color; and
  - Variation of the material types provided on the facades of the interior courts. (Exs. 72 and 72D.)
- (e) Updated Construction Management Plan – The Applicant submitted an updated Construction Management Plan which requires the Applicant to commence all repairs within 60 days of the Applicant and the Adjacent Owner agreeing upon any necessary and appropriate repairs. (Exs. 72 and 72E.)
- (f) Proposed Unit Count Flexibility – The Applicant proposed the following residential unit types and percentages of units in the final plans submitted into the record on December 20, 2019 (Exhibit 23A1, page G05):

UNIT SUMMARY			
Proposed Units	360 Units		
Unit Type	Percentage		
Studio	5%	To	10%
Jr 1 Bedroom	25%	To	30%
1 Bedroom	25%	To	30%
Jr. 2 Bedroom	5%	To	10%
2 Bedroom	20%	To	25%
3 Bedroom	5% MIN		



In the draft proffers and conditions submitted into the record on January 23, 2020 (Exhibit 71), the Applicant proposed the following flexibility language regarding the unit count:

To provide a range in the number of residential units in the Project of plus or minus five percent (5%) relative to the number depicted in the Final Plans, with no reduction in the number of three-bedroom units (18) and maintaining the percentage range of units noted on page G05 of the Final Plans. (Ex. 72.)

- (g) Report on January 22, 2020 meeting between the Applicant and Pastors of the First Rising Mt. Zion Baptist Church and Miles Memorial Christian Methodist Episcopal Church - The Applicant stated that it engaged in significant community dialogue throughout this public hearing process. The Applicant provided a list of community meetings and outreach focused on the Applicant's attempts to engage in dialogue with representatives of First Rising Mt. Zion Baptist Church and Miles Memorial CME Church.

The Applicant noted that a meeting between the parties occurred on January 22, 2020 and lasted approximately 90 minutes. During that meeting, the Applicant listened to the churches' concerns regarding street parking and building density. Additional dialogue occurred between the parties after that initial meeting, including the Applicant proposing temporary multi-year use of nearby sites to the Churches to accommodate parking for some of their parishioners. However, those additional discussions did not result in the resolution of the issues raised by the Churches. (Exs. 72 and 72F)

- (h) Sufficiency of parking provided in the Project and RPP restrictions in the area surrounding the Property – Gorove Slade Associates prepared an additional Technical Memorandum regarding the sufficiency of the parking provided in the Project and information regarding RPP restrictions immediately adjacent to the property and in the immediate vicinity. The Technical Memorandum noted that

- the proposed parking garage will contain 103 parking spaces, exceeding the 61 parking spaces required by the Zoning Regulations; and
- The Park Right DC Tool (created by the DC Department of Transportation to help determine residential parking demand using extensive data from residential buildings in the District) estimates the number of utilized parking spaces for the Project to be in a range of 72-115, the 103 on-site parking spaces falls within this range.

The Gorove Slade Associates Technical Memorandum also included a map that shows the RPP restrictions which exist on all of the streets surrounding the Property and in the immediate vicinity. All of these RPP restrictions are for the period of Monday – Saturday from 7:00 AM – 8:30 PM.

Based on the conclusions in the attached Technical Memorandum, the CTR prepared by Gorove Slade Associates (Exhibit 21A of the record), and the conclusions of the Department of Transportation, the Applicant stated that the amount of parking provided in the Project is appropriate and will not result in adverse impacts on the surrounding properties (including nearby churches). Moreover, requiring the Applicant to prevent residents of the Project from seeking RPP privileges would not address parking concerns raised by members of adjacent churches, as the existing RPP restrictions do not apply on Sundays. (Exs. 72 and 72G.)

- (i) Response to Urban Forestry Report (Ex. 22 of the Record) – In the post-hearing submission, the Applicant addressed the issues raised in the DDOT-UFD report. Representatives of the Applicant met with UFD representatives for a second site visit on January 9, 2020 to review the potential street trees that can be protected and those that may need to be removed. Based on that meeting, the Applicant agreed to prepare and submit a tree preservation plan as part of the public space permitting process for the Project. The Applicant also noted that it will be required to obtain permits for the removal of any Special Trees on public and private property. (Ex. 72.)
81. On February 5, 2020, OP submitted a report regarding the Applicant’s request for flexibility on the unit count in the Project. The Office of Planning noted that it continues to recommend that the flexibility be limited to studios and one-bedrooms and it does not support including two and three-bedrooms units within the requested flexibility. (Ex. 75.)
82. First Rising Mt. Zion Baptist Church submitted a letter on February 3, 2020, signed by Pastor Young, which addressed the church’s views of the meeting that was held with the Applicant’s representatives on January 22, 2020. Pastor Young noted that the meeting included a robust and broad conversation about the issues of disruption caused by construction, the affordable housing proposed in the Project, infrastructure issues, and parking. While a follow-up meeting was scheduled for January 29, 2020, Pastor Young noted that he and Pastor Andujo decided there was no point in meeting since none of the Applicant’s suggestions solved the problems over the long term. (Ex. 73.)
83. Miles Memorial Christian Methodist Episcopal Church submitted a letter on February 4, 2020, signed by Pastor Andjuo, which addressed the church’s views of the meeting that was held with the Applicant’s representatives on January 22, 2020. Pastor Andujo noted that he considered the meeting to be a waste of time and that the Applicant rejected the church’s request to provide 50 more parking spaces on the site, to provide underground parking under the church, and to reduce the size of the Project. (Ex. 74.)
84. The Application was not, and was not required to be, referred to the National Capital Planning Commission. (11-Z DCMR §§ 603.1(b), 603.4(a).)

## CONCLUSIONS OF LAW

### Procedural and Jurisdictional Conclusions

1. A PUD application must adhere to certain procedural requirements. 11-X DCMR § 307.1; 11-Z DCMR §§ 205, 300, 400-08, 600-06, 700-707. The Commission must hear any PUD in accordance with the contested case procedures its Rules of Practice and Procedure. 11-X DCMR § 300.3. The Commission has found and hereby concludes: (i) the Application satisfies the PUD application requirements, and (ii) the Applicant, OZ, OP, and this Commission have satisfied the applicable procedural requirements, including the applicable notice requirements of the Zoning Regulations. (Finding of Fact [“FF”] ¶¶ 3-4.
2. The minimum area included within a proposed PUD must be no less than 15,000 square feet and all such area must be contiguous. 11-X DCMR § 301. The Application satisfies these minimum area and contiguity requirements. FF ¶ 7.
3. The Application is subject to compliance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq. (the “Act”). The Conditions of this Order require that the Project and the Applicant comply with the Act.

### Evidentiary Standards

4. The Applicant has the burden of proof to justify the granting of the Application according to the PUD evaluation standards. 11-X DCMR §§ 304.2, 500.2. The Commission’s findings in relation to a PUD must be supported by substantial evidence. *See Howell v. District of Columbia Zoning Comm’n.*, 97 A.3d 579 (D.C. 2014). Substantial evidence is defined as “such relevant evidence as a reasonable mind might accept as adequate to support” the conclusions contained herein. *D.C. Library Renaissance Project v. District of Columbia Zoning Comm’n.*, 73 A.3d 107, 125 (D.C. 2013). The Applicant’s filings, testimony, and expert witness presentations are credible and thorough and reasonably adequate to support the Commission’s analysis and conclusions contained herein. FF ¶¶ 40-43, 69-70. Accordingly, the Applicant has provided substantial evidence to demonstrate that the Project satisfies the relevant PUD evaluation standards and has carried its burden of proof sufficiently to allow the Commission to approve the Application.
5. The Commission is required to give “great weight” to the issues and concerns of the affected ANC. D.C. Code § 1-309.10(d)(3)(A). The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” *Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted). The Commission has considered the written testimony from ANC 6E. FF ¶ 58. The Commission concludes that the Applicant appropriately engaged in dialogue with the ANC 6E, and ANC 6E supports the Project. The Commission affords the requisite great weight to the ANC’s written submission.
6. The Commission is also required to give great weight to the written reports of OP. D.C. Code § 6-623.04; 11-Z DCMR § 405.8. The Commission has reviewed the OP Setdown

Report and OP Hearing Report and heard testimony from OP and finds that OP supported the Application with conditions related to the flexibility requested regarding the number of residential units and the number of parking spaces provided in the Project. In addition, OP supported DHCD's recommendation of increasing the IZ unit set aside from 12% to 15%. FF ¶ 52. The Commission gives great weight to OP's support of the Application and concurs with OP's conclusions and findings with respect to the Project's consistency with the Comprehensive Plan and Small Area Plan. The Commission notes OP's support of the recommendation to increase the affordable housing proffer to 15%, but has determined that the application meets the requirements of 11-X DCMR § 304.3 with the 12% IZ set aside proffer and the other Public Benefits which are provided in this Project. Similarly, the Commission finds that the Applicant's requested flexibility for the number of residential units and the number of parking spaces are appropriate. These issues are addressed in greater detail below.

#### Consistency with the PUD Process, Zoning Regulations, and Plan

7. Pursuant to ZR16, the purpose of the PUD process is "to provide for higher quality development through flexibility in building controls, including building height and density, provided that a PUD: (a) Results in a project superior to what would result from the matter-of-right standards; (b) Offers a commendable number or quality of meaningful public benefits; and (c) Protects and advances the public health, safety, welfare, and convenience, and is not inconsistent with the Comprehensive Plan." 11-X DCMR § 300.1. The Commission concludes that the approval of the Application is an appropriate result of the PUD process. The Commission concludes that the Project is a high-quality development that is superior to what could be constructed on the Property as a matter-of-right via the underlying zoning. *See* FF ¶ 40. The Commission finds that Project Public Benefits are meaningful and are commendable both in number and quality. *Id.* ¶ 40. Finally, the Commission has found that the Project does not injure but instead advances the public health, safety, welfare or convenience, *id.* ¶ 40, and is not inconsistent with the Comprehensive Plan. *Id.* ¶¶ 48-50.
8. As part of a PUD application, the Commission may, in its discretion, grant relief from any building development standard or other standard (except use regulations). 11-X DCMR §§ 303.1, 303.11. The PUD process is intended to "provid[e] for greater flexibility in planning and design than may be possible under conventional zoning procedures, [but] the PUD process shall not be used to circumvent the intent and purposes of the Zoning Regulations, or to result in action that is inconsistent with the Comprehensive Plan." 11-X DCMR § 300.2. The Commission has found that the Project generally conforms to the requirements of the Zoning Regulations except for lot occupancy. The Commission finds that the Applicant's requested 81.7% lot occupancy is appropriate given the reduced overall height of the building and the overall architectural treatment of the building which minimizes the appearance, scale and massing of the building so that it is consistent with the surrounding built environment. The Commission concludes that granting this relief is consistent with the intent and purposes of the Zoning Regulations. FF ¶¶ 36-37. The Commission also finds that the Applicant has provided sufficient evidence that the approximately 6,700 square feet of additional density, above the density permitted by the IZ bonus and the PUD

incentive, is essential for the functioning of the building. FF ¶¶ 37, 68. The Commission concludes that the Project is not inconsistent with the Comprehensive Plan or other adopted public policies applicable to the Property, and the Small Area Plan. FF ¶¶ 48-50. Therefore, this Commission concludes that the Project does not circumvent the Zoning Regulations and is not inconsistent with the Comprehensive Plan or such other adopted public policies.

### Evaluation Standards

9. ZR16 defines public benefits as “superior features of a proposed PUD that benefit the surrounding neighborhood or the public in general to a significantly greater extent than would likely result from development of the site under the matter-of-right provisions of this title.” 11-X DCMR § 305.2. Such public benefits must satisfy the public benefit criteria: (a) benefits must be tangible and quantifiable items; (b) benefits must be measurable and able to be completed or arranged prior to issuance of a certificate of occupancy; (c) benefits must primarily benefit the geographic boundaries of the ANC; and (d) monetary contributions shall be permitted only if made to a District of Columbia government program or if the applicant agrees that no certificate of occupancy for the PUD may be issued unless the applicant provides proof to the Zoning Administrator that the items or services funded have been or are being provided. *Id.* §§ 305.3, 305.4. Based on this Commission’s findings regarding the public benefits as well as the Conditions of this Order, the Commission concludes that the Project Public Benefits benefit the surrounding neighborhood or the District as a whole to a significantly greater extent than would a matter-of-right development and otherwise satisfy the public benefit criteria.
10. The PUD provisions require the Commission to evaluate whether the Application: “(a) is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site; (b) does not result in unacceptable project impacts on the surrounding area or on the operation of city services and facilities but instead shall be found to be either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the project; and (c) includes specific public benefits and project amenities of the proposed development that are not inconsistent with the Comprehensive Plan or with other adopted public policies and active programs related to the subject site.” 11-X DCMR § 304.4. The Commission has reviewed the entire record and issued findings to support its conclusion that the Application satisfies the PUD evaluation standards. In particular, the Commission concludes the Project is not inconsistent with the Plan as a whole, accepting the Applicant’s analysis on this point and giving great weight to OP’s analysis on this point. The Commission accepts the entirety of the Applicant’s and the District’s impact analysis contained in the record regarding potential impacts of the Project and concludes that the Project does not have any unacceptable impacts (see FF ¶¶ 44-47). The Commission further concludes that the Project includes the Project Public Benefits all of which satisfy the public benefits criteria and none of which are inconsistent with the Plan.
11. This Commission must undertake a “comprehensive public review” of the PUD application “in order to evaluate the flexibility or incentives requested in proportion to the proposed public benefits.” 11-X DCMR § 300.5. In deciding on the Application, this Commission

must “judge, balance, and reconcile the relative value of the public benefits and project amenities offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case.” *Id.* § 304.3. The Zoning Commission finds the following with regard to the issues that were raised by opponents of the Project and OP/DHCD:

- In regard to the sufficiency of the parking provided by the Project, the Commission finds that the information included in the CTR and Technical Memorandum submitted by the Applicant’s engineering consultant and the conclusions reached in the DDOT Report are sufficient evidence to determine that the amount of parking provided in the Project will not create adverse parking impacts on the surrounding community. The Commission also notes that the RPP restrictions in the area surrounding the Property do not apply on Sundays. Therefore, imposing restrictions on the ability of residents of the Project to obtain RPP parking stickers would not address any of the concerns raised by Pastors Young and Andujo regarding parking impacts. (FF ¶¶ 44, 45, 54, 77, 80(h))
- In regard to construction related impacts, the Commission finds that the Construction Management Plan (as amended in response to Commission comments) proposed by the Applicant and included as a condition of approval of this application will mitigate any potential construction related impacts on surrounding property owners. (FF ¶¶ 34, 80(e))
- In regard to the appropriateness of the 12% affordable housing proffer, the Commission finds that proffer to be appropriate and consistent with the Commission’s approval in similar applications. The Commission finds that the 12% IZ component of the Project, which is more than the matter-of-right IZ requirement, and the other benefits of the Project (including 18 three-bedroom units, solar panels on the roof, and a robust community benefits package) are appropriate given the additional density and flexibility which is requested in this application. The Commission concludes that the PUD balancing test has been met. (FF ¶¶ 69, 70, 74)
- In regard to the flexibility requested regarding the residential unit count, the Commission finds that the Applicant’s request is appropriate and that the flexibility requested will not diminish the Project’s public benefits if some change in the unit mix occurs, provided that a minimum of 18 three-bedroom units will be provided in the Project. (FF ¶ 80(f))
- In regard to the flexibility requested regarding the number of parking spaces provided in the Project, the Commission finds that the Applicant’s proposed language which ties the ultimate number of parking spaces to a ratio of no more than 0.3 spaces per residential unit is appropriate. (FF ¶ 79)
- In regard to the issues raised about the possible displacement of the former residents of the Property, the Commission notes the actions taken by the Applicant to stop

leasing the 63 market rate units that previously existed on the Property, well in advance of the filing of this application, and the Applicant's payment of moving costs for former tenants that relocated to the other Washington Apartments buildings in close proximity to the Property. The Commission finds the process utilized by the Applicant to be a welcome strategy to addressing issues that are often associated with the relocation of existing residents on a PUD site. (FF ¶ 73)

- In regard to the appropriateness of the size and scale of the Project, the Commission finds the written submissions and testimony of the Applicant, OP, ANC 6E, and numerous supporters of the Project to be persuasive. The Commission agrees that the architectural treatment of the building, along with maintaining the 50 foot matter-of-right height, allows the Project to be consistent with the scale, density, and design context of the surrounding neighborhood. (FF ¶¶ 19, 28, 46, 51, 74)

12. The Commission's review of the Application has been comprehensive. The Commission has reviewed the entire record and has identified and examined the concerns and statements about the Project raised by the persons in opposition and District agencies in the above Conclusions of Law. The Commission has appropriately considered the substantial evidence presented by the Applicant. The Commission grants appropriate weight to the reports and testimony of the various reviewing District agencies and the ANC. There are no items in the record that the Commission has excluded from its consideration notwithstanding in some instances this Order does not contain precise citation to such items. The Project warrants the requested flexibility and development incentives in light of the Project's extensive and comprehensive public benefits. The Commission concludes that the Project's development incentives are warranted in light of the Project's Public Benefits and the Project's overall consistency with the Comprehensive Plan. Accordingly, the Application satisfies the PUD requirements.

### **DECISION**

In consideration of the record and the Findings of Fact and Conclusions of Law herein, the Zoning Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application for a consolidated PUD, subject to the following guidelines, conditions, and standards:

#### **A. PROJECT DEVELOPMENT**

1. The Project and the Plaza shall be constructed in accordance with the plans prepared by Torti Gallas and Studio39, dated December 20, 2019, as modified in the post-hearing submission dated February 3, 2020 and included in the record as Exhibits 23A1-23A9, as modified by the revised IZ Unit Location Plan and Courtyard Design Plans at Exhibits 72B and 72D (the "**Final Plans**"). The Applicant shall have flexibility from the Final Plans 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,

stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the Project as shown on the Final Plans;

- b. To vary the final selection of the exterior materials within the color ranges of the material types as proposed, based on availability at the time of construction, without reducing the quality of the materials, provided such colors are within the color ranges shown on the Final Plans; and to make minor refinements to exterior details, dimensions and locations, including curtainwall mullions and spandrels, window frames and mullions, glass types, belt courses, sills, bases, cornices, balconies, railings and trim, or any other changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit or to address the structural, mechanical, design, or operational needs of the building uses or systems;
- c. To make minor refinements to the locations and dimensions of exterior details that do not substantially alter the exterior configuration of the Project as shown on the Final Plans; examples of exterior details include, without limitation, doorways, canopies, railings, and skylights;
- d. To provide a range in the number of residential units in the Project of plus or minus five percent (5%) relative to the number depicted on the Final Plans, subject to the housing requirements of Condition No. 3 and maintaining the percentage range of unit sizes noted on page G05 of the Final Plans;
- e. To make refinements to the approved parking configuration, including layout and number of parking spaces of plus or minus ten percent (10%), provided the number of parking spaces maintains a ratio of no more than 0.3 spaces per residential unit;
- f. To make minor refinements to the floor-to-floor heights, so long as the maximum height and total number of stories as shown on the Plans do not change;
- g. To vary the design of the public space surrounding the Property and/or the selection of plantings in the landscape plan depending on seasonal availability within the range and quality as proposed in the Final Plans or otherwise in order to satisfy any permitting requirements of DC Water, DDOT, DOEE, DCRA, or other applicable regulatory bodies and/or service to the Property from utilities;
- h. To vary the amount, location and type of green roof, solar panels, and paver areas to meet stormwater requirements and sustainability goals or otherwise satisfy permitting requirements, so long as the Project achieves a minimum GAR required by the Zoning Regulations and provides a minimum of



approximately 1,380 square feet of roof area containing solar panels and related equipment;

- i. To vary the approved sustainable features of the Project, provided the total number of LEED points achievable for the Project does not decrease below the minimum required for the LEED standard specified by the order;
  - j. To vary the final design and layout of the mechanical penthouse to accommodate changes to comply with Construction Codes or address the structural, mechanical, or operational needs of the building uses or systems, so long as such changes do not substantially alter the exterior dimensions shown on the Final Plans and remain compliant with all applicable penthouse dimensional requirements of the Zoning Regulations; and
  - k. To vary the final design and layout of the indoor and outdoor amenity and plaza spaces to reflect their final design and programming and to accommodate special events and programming needs of those areas from time to time.
2. The Property shall be subject to the requirements of the RA-2 zone except as set forth or modified herein and as shown on the Final Plans:
- a. The Project shall be constructed to a maximum height of 50 feet;
  - b. The Project shall have flexibility from the lot occupancy requirements to occupy 81.7% of the lot; and
  - c. The Project shall also have flexibility to increase the FAR for the Project to a maximum of 2.66.

## **B. PUBLIC BENEFITS**

1. **For the life of the Project**, the Project shall provide housing in excess of a matter-of-right development of the Property, including affordable housing as set forth in the following chart and in accordance with the location and proportional mix of units (by bedroom count) as shown on Sheet G10 of the Final Plans, subject to design flexibility granted by the Commission in Condition No. 1, provided that:
  - a. the affordable housing shall be no less than 12% of the total of the residential GFA, cellar floor area dedicated to dwelling units, enclosed building projections that extend into public space, and habitable penthouse space as determined by the Zoning Administrator at permit issuance; and
  - b. The Project shall provide no fewer than eighteen (18) three-bedroom units.

The covenant required by D.C. Official Code §§ 6-1041.05(a)(2)(2012 Repl.) shall include a provision or provisions requiring compliance with this Condition.

Residential Unit Type	Total Residential Gross Floor Area (“GFA”)	Units	Reserved for households earning equal to or less than:	Affordability Control Period	Tenure (rental or sale)
<b>Total</b>	246,222 sf of GFA	360	N/A	N/A	N/A
<b>Penthouse</b>	35,644 sf	N/A	N/A	N/A	N/A
<b>Market Rate</b>	261,652 sf of GFA	319	N/A	N/A	N/A
<b>Affordable Housing</b>	4,280 sf of GFA (12% of non-communal penthouse habitable space)	3	50% MFI	Life of Project	Rental
	36,873 sf of GFA (12% of Residential GFA +12% of cellar dwelling unit floor area + 12% of residential projection area)	38	60% MFI	Life of Project	Rental

2. **Prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall demonstrate that it has registered the Project with the USGBC to commence the LEED certification process by furnishing a copy of its LEED certification application to the Zoning Administrator. The building permit application shall indicate that the Project has been designed to achieve at least the minimum number of points necessary to achieve Silver certification under the USGBC’s LEED v.4 standards.
3. **Prior to the issuance of the first certificate of occupancy for the Project**, the Applicant shall provide the Zoning Administrator with the updated status of its LEED Certification, including all credits obtained, and demonstrating that it is reasonable likely to achieve certification within two years.
4. **Prior to the issuance of the first certificate of occupancy for the Project**, the Applicant shall provide the Zoning Administrator with information showing that:
  - a. The solar panel systems and associated equipment installed on the Project by the Applicant occupy approximately 1,380 square feet of roof area;
  - b. The Applicant has installed three (3) electric vehicle charging stations within the garage that can accommodate a minimum of six (6) vehicles at any given time; and
  - c. The Applicant has installed at least five (5) electrical outlets in the long-term bicycle storage to supply power to electric bicycles.

5. **For the life of the Project**, the Applicant shall maintain the solar panels and electric vehicle accommodations described in Condition No. 6.
6. **Prior to the issuance of a Certificate of Occupancy for the Project**, the Applicant shall provide written evidence to the Zoning Administrator that it has made the following contributions.
  - a. **\$75,000.00 to the Greater Washington Community Foundation** - to be used by The Partnership to End Homelessness Grantmaking Fund (“Partnership Fund”). The Partnership Fund awards grants to nonprofits working with individuals, youth, and families experiencing homelessness. Specific grants are made to nonprofits for the following purposes: (1) to fill funding gaps to assist people exiting homelessness to obtain and maintain stable housing; (2) to support the development of innovative homelessness services solutions that can be evaluated and potentially scaled, (3) to help providers address emerging needs in homelessness services and to support targeted services to address those needs; (4) to support service providers and developers in helping people to access permanent housing and increase the supply of affordable housing; and (5) to support advocacy efforts focused on strengthening policies that impact housing and homelessness and/or increase public funding. The Partnership Fund shall be in operation at the time of the issuance of the Certificate of Occupancy for the Project.
  - b. **\$20,000.00 to New Endeavors for Women** – for the purchase of computer equipment and funding of supportive programs for women and families in the transitional housing program located at 611 N Street, NW. The supportive programs include; transportation subsidies, tuition assistance, and transitional housing supplies for clients. Programs funded shall be in operation at the time of the issuance of the Certificate of Occupancy for the Project.
  - c. **\$30,000.00 to Shaw Main Streets** – in support of the Shaw Main Street Clean & Safe Team, which hires, trains, and employs returning citizens to maintain the public space along the 7<sup>th</sup> and 9<sup>th</sup> commercial corridors. Funds will be used to pay for salaries, benefits, uniforms, equipment and supplies for crew members. Programs funded shall be in operation at the time of the issuance of the Certificate of Occupancy for the Project.
  - d. **\$15,000.00 to the Kennedy Recreation Center** – for the purchase of new computers, furniture, equipment, and supplies for the technology lab for the Kennedy Recreation Center. Programs funded shall be in operation at the time of the issuance of the Certificate of Occupancy for the Project.
  - e. **\$15,000.00 to Boolean Girl** - which will provide one year of funding of the nonprofit organization Boolean Girl’s operations at the Kennedy Recreation

Center. Boolean Girl provides a curriculum, equipment, materials and instructors to teach coding to disadvantaged children. Participants will be recruited from the Shaw neighborhood. Programs funded shall be in operation at the time of the issuance of the Certificate of Occupancy for the Project.

- f. \$20,000.00 to DC Public Library Foundation (for the benefit of Shaw Watha T. Daniel Neighborhood Library) - to support improvements to the children's section and children's programming at the Shaw Watha T. Daniel Library, including furniture, supplies, and children's educational programming. Programs funded shall be in operation at the time of Certificate of Occupancy for the Project.
- g. \$30,000.00 to the Mount Vernon Triangle Community Improvement District - to support the Mount Vernon Triangle Clean Team's hiring of one additional Clean Team Ambassador. Programs funded shall be in operation at the time of Certificate of Occupancy for the Project.

## C. MITIGATION

1. For the life of the Project, the Applicant shall implement the following Transportation Demand Management program
  - a. The Applicant will unbundle the cost of residential parking from the cost of lease of each unit and charge a minimum rate based on the average market rate within a quarter mile of the Property.
  - b. The Applicant will identify Transportation Coordinator(s) for the planning, construction, and operations phases of development. The Transportation Coordinators will act as points of contact with DDOT, goDCgo, and Zoning Enforcement. The Transportation Coordinator(s) will subscribe to goDCgo's residential newsletter. The Transportation Coordinator(s) will receive TDM training from goDCgo to learn about the TDM conditions for this project and available options for implementing the TDM plan.
  - c. The Transportation Coordinator(s) will provide their contact information to goDCgo, conduct an annual commuter survey of employees on site, and report TDM activities and data collection efforts to goDCgo once per year.
  - d. The Transportation Coordinator(s) will develop, distribute, and market various transportation alternatives and options to the residents, including promoting transportation events (i.e. Bike to Work Day, National Walking Day, Car Free Day) on the Project's website and in any internal building newsletters or communications.

- e. The Applicant will provide welcome packets to all new residents that will, at a minimum, include the Metrorail pocket guide, brochures of local bus lines (Circulator and Metrobus), carpool and vanpool information, Guaranteed Ride Home (GRH) brochure, and the most recent DC Bike Map. The Applicant will provide one free SmarTrip Card and one complimentary Capital Bikeshare coupon with the initial lease up of each unit.
  - f. Brochures can be ordered from DDOT's goDCgo program by emailing.
  - g. The Applicant will provide residents who wish to carpool with detailed carpooling information and will be referred to other carpool matching services sponsored by the Metropolitan Council of Governments (MWCOC) or other comparable service if MWCOC does not offer this in the future.
  - h. The Applicant will post all TDM commitments on the project's website, publicize availability, and allow the public to see what commitments have been promised.
  - i. The Applicant will satisfy the Zoning Regulations by providing 121 long-term bicycle parking spaces in the Project garage.
  - j. Long-term bicycle storage rooms will accommodate non-traditional sized bikes including cargo, tandem, and kid's bikes. The long-term bicycle space will be provided free of charge to residents.
2. **Following the issuance of a Certificate of Occupancy for the Project**, The Applicant shall submit to the Office of Zoning for inclusion in the record for this proceeding, documentation summarizing compliance with the TDM commitments of this Order, as applicable and shall, every five (5) years thereafter, submit to the Zoning Administrator, DDOT, and goDCgo, a letter summarizing compliance with the transportation and TDM Conditions of this Order, as applicable.
  3. **Prior to the issuance of the Certificate of Occupancy for the Project**, the Applicant shall construct the Project in accordance with the provisions of the Construction Management Plan included as Exhibit 72E.

#### **D. MISCELLANEOUS**

1. No building permit shall be issued for the Project 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, DCRA (the "**PUD Covenant**"). The PUD Covenant shall bind the Applicant and all successors in title to construct and use the Site 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 OZ.

2. The PUD shall be valid for a period of two (2) years from the effective date of this Order. Within such time an application shall be filed for a building permit, with construction to commence within three (3) years of the effective date of this Order.
  
3. In accordance with the 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.

**VOTE FINAL ACTION:**                    \_ \_ \_ ([Peter A. Shapiro, Vice Chairman Robert E. Miller, Chairman Anthony J. Hood, Michael G. Turnbull and Peter G. May] to **APPROVE**).

In accordance with the provisions of 11-Z DCMR § 604.9 of the Zoning Regulations, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on \_\_\_\_\_.

**BY THE ORDER OF THE D.C. ZONING COMMISSION**

A majority of the Commission members approved the issuance of this Order.

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**ANTHONY HOOD**  
Chairman, Zoning Commission

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**SARA B. BARDIN**  
Director, Office of Zoning

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 PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.