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July 30, 2020

VIA IZIS

Anthony J. Hood, Chairman
Zoning Commission for the District of Columbia
441 Fourth Street, NW, Suite 200S
Washington, DC 20001

Re: Z.C. Case No. 19-19: Application of Terrace Manor Redevelopment LP (the “Applicant”) to the District of Columbia Zoning Commission for a Consolidated Planned Unit Development (“PUD”) at 3301 23rd Street SE (Square 5894, Lot 63, the “Property”) — Applicant’s Proposed Findings of Fact and Conclusions of Law

Dear Chairman Hood and Commissioners:

Enclosed please find the Applicant’s proposed Findings of Fact and Conclusions of Law. Please feel free to contact the undersigned with any questions.

Respectfully submitted,

/s/ Paul A. Tummonds

/s/ Lawrence Ferris

Enclosures

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Certificate of Service

I certify that on or before July 30, 2020, I delivered a copy of the foregoing document and attachments via e-mail to the addresses listed below.

/s/ Lawrence Ferris

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 19-19
Z.C. Case No. 19-19
Terrace Manor Redevelopment LP
(Consolidated Planned Unit Development @ Square 5894)

September __, 2020

Pursuant to notice, the Zoning Commission for the District of Columbia (the “**Commission**”) held a public hearing on July 9, 2020 to consider an application (the “**Application**”) from Terrace Manor Redevelopment LP (the “**Applicant**”), for review and approval of a consolidated planned unit development (“**PUD**”) for Lot 63 in Square 5894, with an address of 3301 23rd Street, S.E. (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**,” 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 September 26, 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.) On December 17, 2019, the Applicant filed a supplemental submission addressing initial feedback received from the Office of Planning (“**OP**”), including updated plans showing revisions to the building façade design, updates reflecting a LEED Gold target, a reduction of parking spaces from 60 to 52 spaces in response to feedback from the District Department of Transportation (“**DDOT**”), and enhanced landscape plans. The Applicant also provided additional background regarding the Project and area amenities provided by the Applicant and further information regarding the Project’s consistency with the recently revised Framework Element of the Comprehensive Plan.
2. At a public meeting of the Commission on February 10, 2020, the Commission unanimously voted to set down the Application for a public hearing. (Transcript of Zoning Commission Public Meeting [“**Tr. 1**”] at 23–24 (Feb. 10, 2020).)

Notice

3. On May 21, 2020, the Office of Zoning (“OZ”) sent notice of the public hearing to the affected Advisory Neighborhood Commissions, (“ANC”) 8E, in which the Property is located, and ANC 8B, which is located across Savannah Street SE to the south of the Property; the affected ANC Single Member District 8E03; OP; 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 White and the At-Large DC Councilmembers; and property owners owning property within 200 feet of the Property. (Ex. 16 and 17.)
4. OZ also published notice of the July 9, 2020 public hearing in the *D.C. Register* on May 29, 2019, (67 DCR 005557) as well as through the calendar on OZ’s website. The Applicant posted notice of the Property pursuant to the Zoning Regulations. (Ex. 19.)

Parties

5. The parties to the case were the Applicant, ANC 8E, the ANC in which the Property is located, and ANC 8B, which is located across Savannah Street from the Property to the south. No other individuals or groups requested party status for the Application.

DESCRIPTION OF THE PROPERTY AND PROJECT

The Property and Surrounding Area

6. The Property is located in the Southeast quadrant of the District within Ward 8 and ANC 8E03, in the Randle Heights neighborhood. Forested green space abuts the Property to the east and west and an on-ramp for Suitland Parkway is located across 23rd Street SE to the north of the Property. To the south across Savannah Street SE is a shopping center that includes a supermarket, liquor store, restaurant, and daycare. (Ex. 2.)
7. The Property consists of approximately 100,265 square feet of land area, all of which is contiguous and located on a single lot of record. The Property is currently improved with the dilapidated Terrace Manor apartment complex consisting of 12 buildings with a total of 61 units, all of which are currently vacant. (Ex. 2.)
8. Surrounding Land Uses. The surrounding neighborhood primarily consists of three- and four-story garden apartment buildings to the west and attached and semi-detached single-family dwellings to the southeast. (Ex. 2.)
9. Nearby Recreation and Amenities. Recreational opportunities near the Property include: the Capital View YMCA located just east of the Property; the recently constructed playground just north of the Property on 23rd Street; the Villages of Parkland splashpark, which is open to the public and approximately six (6) minute walking distance from the Property; cultural, arts, recreation, and education opportunities at THEARC, located approximately 11-minute walking distance from the Property; free shuttle services running

during morning and evening commute times and offering service from WC Smith properties to Metrorail. (Ex. 11 and 11A.)

10. Nearby Zoning, Economic, and Demographic Characteristics. The Property is located in the RA-1 zone. Property immediately to the east and west of the Property is located in the RA-1 zone. The shopping center across Savannah Street to the south of the Property is zoned MU-3A, surrounded by areas zoned R-2 and RA-1 further south and east. (Ex. 2.)

The Project

11. The Applicant proposes to demolish the existing 12 dilapidated apartment buildings on the Property and replace them with a single apartment building with approximately 130 units, all of which will be affordable housing units with a maximum median family income (“**MFI**”) of 60% (the “**Project**”). The existing buildings, which were constructed in the 1940s and provide 61 units, were severely dilapidated at the time of sale, with only 13 tenants in occupancy. The Applicant, an affiliate of WC Smith, acquired the Property in 2017 and relocated the remaining tenants to nearby WC Smith-owned properties. WC Smith representatives met with the former tenants and Bread for the City, the residents’ legal counsel, in January 2018 to discuss their intent to move forward with a plan to demolish the existing buildings and construct the Project. The tenant association unanimously supported the project.
12. The Applicant received approval from the Board of Zoning Adjustment (“**BZA**”) in 2018 in Case No. 19733 for new residential development in the RA-1 zone for a similar residential building, but with 128 (± 5) units and a building height of 40 feet. However, as plans for the Project developed further, the Applicant determined that additional height and density was necessary in order for the Project to be financially feasible and best serve the former tenants and area residents. Specifically, the Project will provide close to the same number of units as originally approved by the BZA — 130 units vs. 128 (± 5) units — but with a greater number of two-bedroom units than previously proposed. Specifically, the previous proposal provided 39 two-bedrooms and the Project now proposes 55 two-bedroom units. (Ex. 2 and 31A.)
13. The Project will consist of 100% affordable housing units, with a maximum MFI level of 60%. Amenities will include an approximately 2,145 square-foot community garden, 24-hour front desk, fitness center, club room/business center, bicycle storage, package room, and an on-site rental office. In addition to the onsite amenities, residents will have access to THEARC and the splashpark at Villages of Parklands, as well as the ability to access the Parklands Shuttle Bus. The Project will add much needed, high-quality, energy-efficient housing to the area. The Applicant intends to request funding from the District Department of Housing and Community Development (“**DHCD**”), as well as Low-Income Housing Tax Credit/bond financing through the D.C. Housing Finance Agency (“**DCHF**A”), to develop the Project, and thus will be claiming an exemption from Inclusionary Zoning requirements pursuant to Subtitle C § 1001.6(a). However, pursuant to Subtitle C § 1002.6, the Project will utilize the bonus density authorized under the Inclusionary Zoning regulations and the PUD regulations. (Ex. 2.)

14. Program. The Project includes up to approximately 129,936 square feet of gross floor area (“GFA”) for an overall floor area ratio (“FAR”) of approximately 1.296. All of the Project’s GFA is devoted to residential uses. The Project will also include 52 structured vehicle parking spaces. (Ex. 2 and 11.)
15. Building Design. The Project will be a single L-shaped building. The Property has a change in elevation of approximately 31 feet from the south end to the north end of the proposed building. The building has a measured height of 47 feet, seven (7) inches. The building will include 44 long term bicycle parking spaces, as well as seven (7) short term spaces. The Project will achieve LEED Gold certification. (Ex. 2.)
16. Residential Unit Mix and Affordable Housing. The Project’s residential program contains one-, two-, and three-bedroom units. The Project reserves one hundred percent (100%) of its residential GFA for affordable housing units set aside at 60% of MFI for a 30-year term. If the Project receives funding from the District’s Housing Production Trust Fund, this initial affordability period will be increased to 40 years. After expiration of the initial period of affordability, the Project will revert to Inclusionary Zoning (“IZ”) requirements, reserving approximately 10% of the total GFA as affordable housing for the life of the Project. This translates into approximately 14,163 gross square feet of affordable units, or 16 units, all of which will be reserved for households earning no more than 60% of MFI. (Ex. 30.)
17. Sustainability. The Project will achieve LEED Gold certification from the United States Green Building Council (“USGBC”). The Project will include approximately 13,850 square feet (±2%) of rooftop solar panels and 18,412 square feet (±2%) of green roof features. The Applicant will include two electric vehicle charging stations within the Project’s garage. (Ex. 30 and 31.)
18. Employment Opportunities. The Applicant will enter a First Source Employment Agreement with the Department of Employment Services (“DOES”) and a Certified Business Enterprise Agreement the Department of Small and Local Business Development (“DSLBD”) for development of the Project.

Revisions to Project in Response to Setdown Comments

19. In its January 31, 2020 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. In addition, the OP Setdown Report requested that the Applicant continue to work with OP on:
 - Building and site design details;
 - Investigating the provision of usable balconies;
 - Adding an on-site outdoor gathering place or tot lot for residents;

- Details on funding sources for the Project and the duration of the initial affordability period;
 - Employment opportunities that would be provided for District residents; and
 - Any additional issues raised by the Commission at setdown. (Ex. 12.)
20. At the February 10, 2020 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:
- Confirm whether the Project would meet LEED Gold certification;
 - Evaluate the possibility of adding usable balconies for individual units or a common outdoor area somewhere on site;
 - Confirm details regarding the provision of IZ units after expiration of the initial affordability period;
 - Provide an analysis of how the Project benefits weigh against the PUD flexibility being requested and potential impacts;
 - Explain the Applicant’s plan regarding previous the BZA approval for the Property in light of the PUD application;
 - Review and revise the façade design for the Project in order to better break up the building massing and provide additional information regarding the proposed building materials;
 - Address how the proposed green roof features will be achieved given the extent of solar panels also being proposed for the roof;
 - Provide additional information in the architectural plans regarding the loading facilities, garage fenestration, garage and loading materials, and public space plantings and paving materials;
 - Provide additional information regarding the Project’s First Source Employment Agreement or other employment opportunities;
 - Provide additional information regarding the Project’s affordable housing funding sources, duration of affordability, and affordability levels. (Tr. 1 at 16–23.)
21. In its March 10, 2020 and June 19, 2020 pre-hearing filings, the Applicant responded to the requests from OP and the Zoning Commission for additional information. These filings included the following information:

- Updated architectural plans;
- The addition of an approximately 2,145-square foot community garden proposed to be located to the rear (west) of the north wing of the proposed building;
- Updated plans reflecting additional façade treatment, color, and materials palette;
- Confirmation that the Project will achieve LEED Gold certification;
- Additional information regarding the proposed green roof features and solar panels being proposed;
- Additional information regarding the Project loading facilities and public space improvements;
- Information regarding the Applicant’s proposal to enter First Source Employment Agreement and Certified Business Enterprise Agreement;
- Information regarding the Project’s affordable housing funding, the duration of the affordability, and affordability levels;
- An analysis of the Project’s consistency with the Comprehensive Plan and weighing of proposed public benefits and amenities against the requested PUD flexibility and potential impacts;
- Traffic Demand Management (“**TDM**”) and Loading Management Plans as developed in coordination with DDOT;
- Information regarding the Applicant’s outreach with ANC 8E. (Ex. 14–14F and 20–20C.)

PUD Flexibility

22. The Property is located in the RA-1 zone, and the Project is consistent with the Zoning Regulations with respect to all development standards applicable to that zone for a PUD project. The Applicant does not seek any zoning relief or flexibility aside from design flexibility in line the Commission’s now “standard” flexibility and pending text amendment. (Ex. 2 and 30.) The Applicant submitted an analysis of the Project under Subtitle U § 421, which provides special exception review for new residential development in the RA-1 Zone. (Ex. 28.) The Applicant’s analysis demonstrates that the Project meets all of the relevant standards for approval under Subtitle U § 421, which are largely subsumed by the much more extensive review standards for a PUD.

EVIDENCE IN FURTHERANCE OF THE PUD EVALUATION STANDARDS

The Project Provides Public Benefits and Amenities and Satisfies the PUD Criteria.

23. 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. In addition, the amount of affordable housing included in the Project (100% of the proposed GFA for the initial 30–40-year affordability period, with IZ applicable thereafter) exceeds the amount that would be required in a matter-of-right development pursuant to IZ requirements. The Project provides such housing and will create approximately 130 new affordable residential units, replacing the 61 units of the existing buildings, which are in a severe state of disrepair.
- **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, 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 and severely dilapidated parcel, the Project affirmatively improves major public interests and priorities such as housing and affordable housing, high-quality, environmentally-sustainable design including a community garden for residents, and employment opportunities. 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.
- 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. The Applicant does not seek to amend the Zoning Map and does not seek any zoning flexibility, and instead will only utilize the additional density and height available through the PUD process. The RA-1 zone is intended for moderate-density residential uses, which the Project advances. *See* 11-F DCMR § 300.1. The Project conforms to the requirements for the RA-1 zone for a PUD, is compatible with the existing neighborhood, and promotes stability of the surrounding residential area.

24. 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.

- Housing and affordable housing (*id.* § 305.5(f), (g)). The Project will create approximately 130 new residential units, replacing the 61 units of the existing buildings, which are in a sever state of disrepair. The Project will be entirely devoted to affordable housing, well above the minimum that would be required under Inclusionary Zoning, and units will be set aside at 60% MFI, creating approximately 130 units of affordable housing. This affordable housing commitment is also entirely consistent with the goals of the Mayor’s Housing Order which notes that “within the existing planned unit development process, affordable housing shall be treated as a top priority public benefit.”

- Superior urban design and architecture, and landscaping (11-X DCMR § 305.5(a)). The Project's urban design and architecture are superior public benefits. Subtle shifts in the massing and materials help to break up the façade and refer back to the existing building fabric of the Randle Heights neighborhood, and the Project will include balconies for individual units.
- 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 dilapidated lot, the absolute number of new residential units provided, and introduction of permanently affordable housing. The site in its current state is an eyesore detracting from the surrounding residential development. The proposed Project has been carefully developed to provide residents with an attractively designed apartment building that benefits the neighborhood aesthetically and is well-sited on the lot, with appropriate setbacks and open green space preserved on the site. In addition, the Project will also include an approximately 2,145-square foot community garden for residents, in addition to the numerous amenities created by the Applicant in the surrounding area.
- Environmental and sustainable benefits (id. § 305.5(k)). The Project includes innovative sustainable design elements and achieves appropriate levels of environmental certification. The Project will provide a number of environmental benefits that improve sustainability of the site and contribute to the sustainability of the neighborhood. These sustainability features include a commitment to achieve LEED Gold certification. The Project will include approximately 13,850 square feet ($\pm 2\%$) of rooftop solar panels and approximately 18,412 square feet ($\pm 2\%$) of green roof features. In addition, advanced stormwater management infrastructure and landscaping with 100% native plantings together add another layer of environmental stewardship and superior urban design. Further, the Project will include two electric vehicle charging stations within the garage.
- Employment Opportunities (id. § 305.5(h)). The Project will provide employment opportunities for District residents, which constitutes a public benefit. The Applicant will enter into a First Source Employment Agreement with the DOES and will enter a Certified Business Enterprise Agreement with the DSLBD.

25. 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 public benefits package noted in Finding of Fact 24, satisfies all of these requirements.

26. 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.

27. The Applicant coordinated with DDOT to develop TDM and Loading Management Plans 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;
- 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.
- The Applicant will provide reports documenting compliance with transportation and TDM conditions following issuance of a Certificate of Occupancy for the Project and every five years thereafter;
- Appointment of a loading manager who will coordinate with vendors and tenants to schedule deliveries and will monitor all inbound and outbound truck maneuvers and ensure that trucks accessing the loading dock do not block vehicular, bike, or pedestrian traffic along Savannah Street SE except during those times when a truck is actively entering or exiting a loading berth;
- Inclusion of a lease provision requiring all tenants to use only the loading docks for deliveries and move-in/move-out activities;
- Requiring all tenants to schedule deliveries that utilize the loading dock (any loading operation conducted using a truck 20-feet in length or larger) and all loading activities are required to occur at the loading dock; and

- Require that trucks using the loading dock not be allowed to idle and must follow all District guidelines for heavy vehicle operation. (Ex. 27.)

28. 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 adverse zoning impacts because this application does not propose to change the existing zoning designation for the Property, and the Project is entirely consistent with the existing matter-of-right zoning except with respect to height and FAR. The Project exceeds the height and FAR ordinarily permitted in the underlying zone but is within the height and FAR limit allowed pursuant to a PUD. The Project’s proposed height and FAR has no adverse impact because the Property is largely buffered from surrounding development by adjacent open space, except for the small shopping center across Savannah Street SE to the south of the Property. Likewise, the Project has no adverse land use impacts. The Project’s only use is multi-family residential, which is a use allowed as a matter of right in the zone in which the Property is located and which is among the prevailing uses in the neighborhoods surrounding the Project.
- Historic District Impacts. The Property has no adverse Historic District impacts since it is not within a Historic District nor located near any Historic District.
- Housing Market Impacts. The Project’s addition of new affordable housing is a favorable impact of the Project. In addition, the Project provides a significantly greater amount of affordable housing than required, which will mitigate any potential adverse impacts of the Project on the surrounding housing market.
- Construction-Period Impacts. Any construction-period impacts of the Project are capable of being mitigated are vastly outweighed by the public benefit of adding 130 new affordable residential units to the area.
- Open Space, Urban Design and Massing Impacts. The Project’s open space, urban design, and massing impacts are all positive relative to the existing underutilized, vacant, and dilapidated condition of the Property. There are no adverse open space, design, or massing impacts to be mitigated.
- Design and Aesthetic Impacts. Similarly, the Project’s exemplary design and landscaping and proposed high-quality materials will have only positive impacts. The Applicant has undertaken a rigorous analysis of its material choices to ensure that the façade materials weather and age well.
- Transportation and Mobility Impacts. The Applicant does not anticipate that the Project will have any adverse impacts with respect to transportation or mobility.

However, any adverse impacts with respect to transportation are capable of being mitigated through a TDM and loading management plans, discussed above.

- Economic Impacts. The Project will likely have 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 8 and the District as a whole. The introduction of additional residential units will provide patrons for the existing businesses. The Project's intensification of land use on the Property has positive tax revenue effects for the District.
- Cultural and Public Safety Impacts. The Project has favorable impacts on the culture of the surrounding area and on public safety. The Project will add new residents who will contribute to the immediate neighborhood and the District in diverse and meaningful ways, as well providing a new home for prior residents of the existing dilapidated apartment complex. The design of the Project adds street activity, promotes "eyes on the street," and makes other improvements to the existing conditions on the site, all of which have positive effects on the strength of the neighborhood, as well as 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 average daily sanitary sewer discharge for the Project will be made through the existing distribution system or through upgrades undertaken in conjunction with this Project per permit-period discussions with DC Water.
- Stormwater Management. The Project has been designed to achieve high levels of on-site stormwater retention. The proposed bio-retention basin planters and green roofs are designed to meet or exceed all applicable stormwater management retention and detention requirements.
- Solid Waste Services. The Project has no adverse impacts on District services because solid waste and recycling materials generated by the Project will be collected regularly by a private trash collection contractor.
- Electrical Services. The Project's construction to comply with the Energy Conservation requirements of the District of Columbia Building Code minimizes the amounts of energy needed for the heat, ventilation, hot water, electrical distribution, and lighting systems contained in the building and avoids any adverse impacts.

- Erosion Control. During excavation and construction, erosion on the Property will be controlled in accordance with District law and will be managed so as to not adversely affect neighboring properties, the environment or District services and facilities.
- Environmental Impacts. The Project is designed to achieve high levels of environmental performance as evidenced by its satisfaction of the LEED Gold design standards. Further, the Project will include rooftop solar arrays on the building, green roof, and bioretention facilities, all of which will help to mitigate any environmental impacts the Project may have.
- Public Schools. The Project is highly unlikely to have an unacceptable impact on public schools in the District given the size of the Project, its mix and type of units, and the capacity for nearby public schools to accommodate additional students. The Property is in-boundary for Garfield Elementary School, Johnson Middle School, and Ballou High School. Current data provided by the Office of the Deputy Mayor for Education indicates that Garfield Elementary School has a current utilization rate of 76%; Johnson Middle School has a current utilization rate of 37%; and Ballou High School has a current utilization rate of 77%. Accordingly, the nearby public schools have the additional capacity to accommodate additional students who will live 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. (Ex. 14D.)

29. 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.

30. The Applicant provided a detailed analysis of the Project's consistency with applicable objectives of the Comprehensive Plan and Mayor's Housing Order (see Ex. 2 and 11). 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 Project and requested PUD density of 1.27 FAR and height of 47 feet, seven (7) inches are not inconsistent with this designation. 10-A DCMR § 225.4.

- Generalized Policy Map. The Comprehensive Plan’s “Generalized Policy Map” designates the Property as a “Neighborhood Conservation Area” which are “primarily residential in character. Maintenance of existing land use and community character is anticipated over the next 20 years. Where change occurs, it will be modest in scale and will consist primarily of scattered site infill housing, public facilities, and institutional uses.” *Id.* § 223.4. The Project will maintain the general level of residential development currently permitted on the site and in the immediate vicinity, while also providing additional units of affordable housing above what was previously provided on the Property. The Project is not inconsistent with the objectives for a Neighborhood Conservation 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 2 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.
 - Mayor’s Housing Order. The Mayor’s Housing Order sets a goal of creating 36,000 new residential units by 2025, including 12,000 new affordable housing units. The Project alone represents 1% of that Mayor’s goal for new affordable housing, a significant contribution from a single site. (Ex. 2.)
31. 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 and Mayor’s Housing Order. (Ex. 2.)
32. 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

33. As noted in Finding of Fact 19, 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. 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 Conservation 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 Far Southeast/Southwest Area Element. The OP Setdown Report concluded, “[o]n balance, the proposed project would not be inconsistent with the Comprehensive Plan and would help further development priorities in the District. The policies cited in . . . this report work together to support the redevelopment of an underutilized site with an all affordable apartment building without displacing existing residents. The proposed project would be a significant improvement over the existing buildings in terms of quality, sustainability, on-site services and security. The proposed building would increase residential density at the site to provide more housing without any change in zoning. Remaining issues relate primarily to design and on-site tenant outdoor space, and OP will continue to work with the applicant to resolve them prior to a public hearing.” (Ex. 12.)

34. In its report to the Commission in advance of the public hearing dated June 26, 2020 (“**OP Hearing Report**”), OP recommended approval of the application subject to the Applicant providing information, prior to final action, as follows:

- OP continued to encourage the Applicant to reconsider the decision not to provide full balconies instead of juliet balconies;
- Illustrations of views to the outside from the below-grade units;
- Information about the types of social services to be offered on-site;
- Drawings showing the relationship of the community garden to the rear of the building;
- Refinement of the security screening of the window-like openings for the garage.

The OP Hearing Report also noted that the Applicant may need to address Subtitle U § 421, which allows a multi-family building in the RA-1 zone by special exception subject to the review of specified criteria. If so, OP further noted that the PUD review encompasses these special exception review criteria and OP would have no objection to the Commission’s granting such flexibility. The OP Hearing Report noted that the DOEE recommended that the Applicant provide electric vehicle charging equipment or the capability for this in the future, and has encouraged the applicant to explore Net Zero Energy construction and certification under the 2017 DC Energy Conservation and Green Construction Codes. The OP Hearing Report concluded that “the proposal would not be inconsistent with the Comprehensive Plan and generally meets the requirements of 11DCMR Subtitle X, Chapter 3” and that “[i]n general, OP finds that the benefits proffered are commensurate with the relatively small additional density and height being sought in conjunction with the PUD.” (Ex. 22.)

35. 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

36. On June 30, 2020, DDOT filed a report regarding the Project. DDOT's report analyzed the Project's site design, the sufficiency of the parking and loading provided in the Project and the mitigations proposed by the Applicant. DDOT stated that it has no objection to approval of the PUD subject to the Applicant implementing the TDM plan, including DDOT's requested compliance reporting requirements, and implementing the Loading Management Plan proposed by the Applicant, as developed in coordination with DDOT. (Ex. 23.)

ANC 8E Report

37. ANC 8E did not submit an official report for the application. On July 8, 2020, the Chair of ANC 8E filed a letter outlining the Applicant's outreach with the ANC throughout the PUD application process. The letter stated that, "[w]hile the ANC has faced challenges in conducting full public meetings and taking formal votes on pending projects during the period of social distancing related to the COVID-19 outbreak, [the Chair wrote to express his] strong support for this project and ask that the Zoning Commission approve the PUD application." (Ex. 29.) The Applicant also provided the report that ANC 8E submitted in support of the previously-approved BZA application for a substantially similar project in 2018. (Ex. 20C.)

Other Agencies/Persons/Groups

38. The Terrace Manor Organized for Change Tenant Association, Inc. ("**Tenant Association**"), which represents the remaining tenants of the existing apartment complex on the Property (all of whom have since been relocated to other WC Smith-owned properties during redevelopment of the Property), filed a letter in support of the Project and PUD application. The Tenant Association's letter outlined the Property's history and fall into disrepair under previous ownership and the Tenant Association's work with the Applicant to develop the current Project proposed by the PUD application. The Tenant Association noted that it supported the increase in two-bedroom units under the current proposal and other amenities proposed as part of the PUD, and it requested that the Commission approve the application. (Ex. 21.)

Persons in Support/Opposition

39. No other persons submitted comments in support or opposition to the application.

PUBLIC HEARING OF JULY 9, 2020

40. On July 9, 2020, the Commission held a duly-noticed virtual public meeting in accordance with its rules and regulations. (Transcript of Zoning Commission Public Meeting (July 9, 2020) ["**Tr. 2**"].) The Applicant presented two witnesses on behalf of the Applicant (Ms. Sarra Mohamed, Senior Project Manager, and Mr. Brad Fennell, President of WC Smith) and one expert: Mr. Nicholas J. Mroczkowski as an expert in architecture. The Commission

accepted Mr. Mroczkowski as an expert in architecture. (*Id.* at 5-6.) Thereafter, the Applicant's representatives and the experts presented testimony about the Project.

41. In response to the questions raised in the OP Hearing Report, the Applicant's Counsel and Mr. Mroczkowski noted: the addition of 18-inch balconies to the Project's street-facing units; updates to the proposed garage fenestration; and the analysis submitted regarding the Project's satisfaction of the standards for new residential development in the RA-1 Zone under Subtitle U § 421 (*see* Ex. 28); and the updated TDM and Loading Management Plans submitted including the reporting requirements requested by DDOT (*see* Ex. 27). Representatives of the Applicant outlined the extensive outreach with the community, ANC 8E, and ANC 8B regarding the Project and discussed adjustments to the Project layout and unit mix and configuration that were necessary in response to the Applicant recently receiving notice that the Project had not been awarded funding from the District's Housing Production Trust Fund for the 2020 funding round. The Applicant discussed the challenges of maintaining the commitment to the previously proposed employment opportunities due to this change in circumstances and the need to adjust the proposed unit mix in response to this change in circumstances. Mr. Mroczkowski also walked through the Project plans and answered questions regarding the Project design. (Tr. 2 at 6–20.)
42. At the public hearing, the Commission asked the Applicant about: the plan for the Applicant's prior BZA approval for the Project; details regarding the source of funding for the Project; how the Applicant evaluated the First Source Employment Agreement and Certified Business Entity Agreement in terms of Project costs; how the set-aside of IZ units would be addressed as relates to the initial affordability period; and details regarding the Applicant's outreach with ANC 8E and 8B. The Commission also requested that the Applicant reevaluate the proposed façade color selections for the windows and to work on the design for the rear (west) side of the building. Further, the Commission requested that the Applicant change the proposed three-bedroom IZ unit to be an exterior corner unit. (Tr. 2 at 20–46.)
43. At the public hearing, OP noted its support for the Project and rested on the record. OP requested the ability to file a supplemental report after additional review of the Applicant's revised architectural plans. (Tr. 2 at 46–47.)
44. At the public hearing, DDOT testified that it is supportive of the redevelopment proposal and that the project provides the necessary transportation amenities while accommodating the significant grade changes on the site and enhancing the site's adjacent public space. DDOT reiterates its statement from its report that it has no objection to the Project and PUD application. (Tr. 2 at 48.)
45. At the conclusion of the public hearing, the Zoning Commission requested that the Applicant provide additional information on the following issues: updated architectural plans reflecting revised color selections for the façade and rear of the building; additional information regarding the ability to provide electrical vehicle charging stations as noted by DOEE; and additional information regarding treatment of the Project's IZ units during the initial affordability period. (Tr. 2 at 49–52.)

Post Hearing Submissions

46. On July 16, 2020, the Applicant submitted its draft proffers and conditions into the Record. These draft proffers and conditions provided further details regarding the operation of the Project's initial affordability period and subsequent reversion to IZ and the Applicant's commitment to provide two electrical vehicle charging stations in response to feedback from the Zoning Commission. (Ex. 30.)
47. On July 23, 2020, the Applicant filed a post-hearing submission which addressed the Commission's requests for additional information and provided updated architectural plans for the Project. The Applicant's post-hearing statement addressed the following issues:
 - (a) Employment Opportunities. The Applicant reviewed the issue further following the hearing and agreed to enter a First Source Employment Agreement and Certified Business Enterprise Agreement for the Project.
 - (b) Electrical Vehicle Accommodations. As noted above, the Applicant stated that it proposes to install two electric vehicle charging stations in the Project's parking garage.
 - (c) Inclusionary Zoning. The Applicant provided supplemental information regarding the operation of the Project's initial affordability period and subsequent reversion to IZ. Specifically, the Applicant stated that the Project, pursuant to Subtitle C § 1001.6(a), will be exempt from IZ during the initial affordability period. This initial period will be for 30 years as provided under the DCHFA LIHTC program, and the period will be increased to 40 years if the Project receives funding from the Housing Production Trust Fund. During the initial affordability period, all incoming tenants will be required to undergo review in order to be qualified under the LIHTC program requirements. The Applicant discussed the difficulty for both the Applicant and new incoming tenants of undergoing qualification for both the LIHTC program and simultaneously qualifying as part of the limited pool of applicants vetted by DHCD under the IZ program. Accordingly, the Applicant proposed not to have both affordability programs operate concurrently but instead to have the LIHTC regime govern the initial affordability and for the Project to then transition to IZ thereafter. (Ex. 31 and 31A.)
48. On July __, 2020, OP submitted a supplemental report ("**OP Supplemental Report**") addressing the Applicant's updated architectural plans and the additional information provided in the Applicant's post-hearing submission. [insert additional information regarding OP Supplemental Report] (Ex. __.)
49. The Application was not, and was not required to be, referred to the National Capital Planning Commission. (11-Z DCMR § 603.1(b).)

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 ¶¶ 23–26, 40–45. 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). Here, neither ANC 8E nor ANC8B submitted a report to which the Commission is required to give “great weight.” The Commission notes, however, that it has considered the letter from the Chair of ANC 8E, the ANC in which the Property is located, which expressed the Chair’s strong support for the Project and application. FF ¶ 37. In addition, the Applicant provided credible testimony regarding its outreach efforts with ANC 8B. FF ¶ 41. The Commission concludes that the Applicant appropriately engaged in dialogue with ANC 8E and 8B. While the Commission does not owe great

weight to the letter from the ANC 8E Chair, the Commission does agree with the Chair's overall conclusion that the Project will benefit the surrounding area and the existing tenants.

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, OP Hearing Report, and OP Supplemental Report and heard testimony from OP and finds that OP supported the Application as proposed revised through the PUD review process. 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.

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 ¶ 23–25. The Commission finds that Project's public benefits are meaningful and are commendable both in number and quality. *Id.* Finally, the Commission has found that the Project does not injure but instead advances the public health, safety, welfare or convenience, *id.* 27–28, and is not inconsistent with the Comprehensive Plan. *Id.* ¶¶ 30–32.
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. Here, the Project will comply with all of the matter-of-right development standards for a PUD project in the RA-1 Zone, and the Applicant did not request any zoning relief. The Commission notes that the Applicant provided a comprehensive analysis of the Project as evaluated under the standards for new residential development in the RA-1 Zone under Subtitle U § 421. The Applicant's analysis demonstrates that the Project meets all of the criteria for approval under Subtitle U § 421, which are largely subsumed by the much more extensive review standards for a PUD. *See* FF ¶ 22. The Commission concludes that the Project is not inconsistent with the Comprehensive Plan or other adopted public policies applicable to the Property. FF ¶¶ 30–32. 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 will benefit the surrounding neighborhood and 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 ¶¶ 27–29). 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 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 also notes the letter submitted by the ANC 8E Chair which, though not entitled to great weight, did provide substantial support for the Project and PUD application. 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 design flexibility and development incentives in light of the Project's extensive and comprehensive 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 shall be constructed in accordance with the plans prepared by Stoiber and Associates, submitted July 9, 2020 as Exhibit 26, as modified in the post-hearing submission dated July 23, 2020 and included in the record as Exhibit 31A (the "**Final Plans**").
2. For the life of the Project, the Applicant shall provide a community garden space at the rear (west) of the building consisting of a minimum of 2,145 square feet of area that will be made available for all residents of the Project.
3. The Property shall be subject to the requirements of the RA-1 zone except as set forth herein or modified hereby as shown on the Final Plans. The Project shall be constructed to a maximum height of approximately 47 feet, seven (7) inches. The Project shall be entitled to flexibility to increase the FAR for the Project to a maximum of 1.296, all as shown in the Final Plans. The Applicant shall have flexibility 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 relative to the number depicted on the Final Plans, with no reduction in the number of three-bedroom units (four (4));
- 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, DDOE, 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 18,412 square feet ($\pm 2\%$) of roof area containing green roof and a minimum of approximately 13,850 square feet ($\pm 2\%$) 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.

B. PUBLIC BENEFITS

- 1. The Project shall provide affordable housing as set forth in this condition.
 - a. The Applicant shall provide the affordable housing as set forth in the following chart. The chart assumes that the Project is exempt from the Inclusionary Zoning regulations (“**IZ Regulations**”) set forth in Subtitle C, Chapter 10 of the Zoning Regulations, pursuant to 11-C DCMR § 1001.6 (“**IZ Exemption**”);

Residential Unit Type	Floor Area/% of Total*	# of Units	Income Type	Affordable Control Period	Affordable Unit Type
Total	129,936/100%	130	Mixed		
Affordable Non-IZ	115,773/89.1%	114	Up to 60% of MFI	30 years if the Project does not receive funding from the D.C. Housing Production Trust Fund or 40 years if the Project does receive such funding	N/A

Affordable Non-IZ**	14,163/10.9%	16	Up to 60% of MFI	Life of the Project	Rental
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* Refers to the residential GFA, but the floor area may be adjusted to subtract the building core factor.

** If at permitting it is determined that the Project does not qualify for the IZ Exemption, these units shall be IZ units instead of Affordable Non-IZ units.

- b. Each control period shall commence upon the issuance of the first certificate of occupancy; and
 - c. The affordable housing requirements of this condition shall be stated in the covenant required by 11-C DCMR § 1001.6(a)(4); however, in the case that Project does not qualify for the IZ Exemption under 11-C DCMR § 1001.6(a), the Applicant shall nevertheless provide affordable housing in accordance with this condition, unless the IZ Regulations as of the date of this order impose more restrictive standards. The Applicant shall record the covenant required by the Inclusionary Zoning Act as to approximately 10.9% of the residential gross floor of the building, and shall execute the monitoring and enforcement documents required by 11-X DCMR § 311.6 as to the remaining residential gross floor area.
2. **For the life of the Project**, at least four (4) of the residential units will be three-bedroom units.
 3. **Prior to the issuance of a building permit for the Project**, the Applicant shall provide the Zoning Administrator with evidence that the Applicant has (a) executed a First Source Employment Agreement with the DOES and (b) executed a Certified Business Enterprise Agreement with the DSLBD.
 4. **Prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall provide the Zoning Administrator with evidence that the Project has or will achieve the requisite number of prerequisites and points necessary to secure LEED Gold v4 certification from the USGBC.
 5. **Prior to the issuance of the first certificate of occupancy for the Project**, the Applicant shall provide the Zoning Administrator with information showing that solar panel systems and associated equipment installed on the Project occupy approximately 13,850 square feet ($\pm 2\%$) of roof area.
 6. **Prior to the issuance of the first certificate of occupancy for the Project**, the Applicant shall provide the Zoning Administrator with information showing that green roof features installed on the Project occupy approximately 18,412 square feet ($\pm 2\%$) of roof area.

7. **For the life of the Project**, the Applicant shall install and maintain two (2) electric vehicle charging stations within the garage.

B. MITIGATION

1. **For the life of the Project**, the Applicant shall implement the following with respect to the Project's transportation demand:
 - a. Unbundle the cost of vehicle parking from the lease or purchase agreement for each residential unit and charge a minimum rate based on the average market rate within a quarter mile.
 - b. Identify Transportation Coordinators for the planning, construction, and operations phases of development. The Transportation Coordinators will act as points of contact with DDOT, goDCgo, and Zoning Enforcement.
 - c. Provide Transportation Coordinators' 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. Transportation Coordinators shall 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 property website and in any internal building newsletters or communications.
 - e. Transportation Coordinators shall receive TDM training from goDCgo to learn about the TDM conditions for this project and available options for implementing the TDM Plan.
 - f. Provide welcome packets to all new residents that should, at a minimum, include the Metrorail pocket guide, brochures of local bus lines (Circulator and Metrobus), carpool and vanpool information, CaBi coupon or rack card, Guaranteed Ride Home (GRH) brochure, and the most recent DC Bike Map. Brochures can be ordered from DDOT's goDCgo program by emailing info@godcgo.com.
 - g. Provide residents who wish to carpool with detailed carpooling information and will be referred to other carpool matching services sponsored by the Metropolitan Washington Council of Governments (MWCOG) or other comparable service if MWCOG does not offer this in the future.
 - h. Transportation Coordinator shall subscribe to goDCgo's residential newsletter.
 - i. Post all TDM commitments on website, publicize availability, and allow the public to see what has been promised.

- j. Provide a SmarTrip card and one (1) complimentary Capital Bikeshare coupon good for a free ride to every new resident.
 - k. Meet ZR16 short- and long-term bicycle parking requirements. There shall be no fee to the residents for usage of the bicycle storage room.
 - l. Long-term bicycle storage rooms shall accommodate non-traditional sized bikes including cargo, tandem, and kids bikes.
2. **Following the issuance of a certificate of occupancy for the Project**, the Transportation Coordinator shall submit documentation summarizing compliance with the transportation and TDM conditions of the Order to the Office of Zoning for inclusion in the IZIS case record of the case.
 3. **Following the issuance of a certificate of occupancy for the Project**, the Transportation Coordinator shall submit a letter to the Zoning Administrator, DDOT, and goDCgo every five (5) years (as measured from the final certificate of occupancy for the Project) summarizing continued compliance with the transportation and TDM conditions in the Order.
 4. **For the life of the Project**, the Applicant shall implement the following with respect to the Project's loading operations:
 - a. The building's on-duty maintenance technician shall serve as the loading manager during the weekdays, and the front desk/concierge will serve as loading manager on weekends. The loading manager shall be on duty from 8 am to 5 pm and will coordinate with vendors and tenants to schedule deliveries and with the community and neighbors to resolve any conflicts should they arise.
 - b. A lease provision shall require all tenants to use only the loading docks for deliveries and move-in/move-out activities.
 - c. All tenants shall be required to schedule deliveries that utilize the loading dock (any loading operation conducted using a truck 20' in length or larger) and all loading activities shall be required to occur at the loading dock.
 - d. The loading manager shall schedule deliveries such that the dock's capacity is not exceeded. In the event that an unscheduled delivery vehicle arrives while the dock is full, that driver shall be directed to return at a later time when a berth will be available so as to compromise safety or impede street or intersection function.
 - e. The loading manager shall schedule residential loading activities so as not to conflict with commercial deliveries, such as FedEx and UPS. All residential loading shall need to be scheduled with the loading manager.
 - f. The loading manager shall monitor inbound and outbound truck maneuvers and shall ensure that trucks accessing the loading dock do not block

vehicular, bike, or pedestrian traffic along Savannah Street SE except during those times when a truck is actively entering or exiting a loading berth.

- g. Service vehicle/truck traffic interfacing with Savannah Street SE traffic shall be monitored during peak periods and management measures shall be taken if necessary to reduce conflicts between truck and vehicular movements.
 - h. Trucks using the loading dock shall not be allowed to idle and must follow all District guidelines for heavy vehicle operation including but not limited to DCMR 20 – Chapter 9, Section 900 (Engine Idling), the regulations set forth in DDOT’s Freight Management and Commercial Vehicle Operations document, and the primary access routes listed in the DDOT Truck and Bus Route Map (godcgo.com/truckandbusmap).
5. The loading manager shall monitor the timing of the residential deliveries to see if any adjustments need to be made to ensure any conflicts are minimized.

C. 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.

ANTHONY HOOD
Chairman, Zoning Commission

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.