

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**

**ZONING COMMISSION ORDER NO. 20-09**

**Z.C. Case No. 20-09**

**Wagner, LLC**

**(Consolidated PUD and Zoning Map Amendment @ Square 5740, Lot 337 [2419 25th Street, SE])**

**DATE**

Pursuant to notice, at its public hearing on September 24, 2020, the Zoning Commission for the District of Columbia (the “Commission”) considered a request from Wagner, LLC (the “Applicant”) for a consolidated planned unit development (“PUD”) and Zoning Map amendment to construct a new residential building containing approximately 67 senior affordable residential units (the “Project”) at 2419 25th Street, SE (Square 5740, Lot 337) (the “PUD Site”). The Commission reviewed the Application pursuant to the Commission’s Rules of Practice and Procedures, which are codified in Subtitle Z of Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016, the “Zoning Regulations,” to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

**FINDINGS OF FACT**

**I. BACKGROUND**

**NOTICE**

1. On April 27, 2020, pursuant to Subtitle Z §§ 400.3 and 400.7, the Office of Zoning (“OZ”) sent a Notice of Filing of the Application to:
  - Advisory Neighborhood Commission (“ANC”) 8B, the “affected ANC” pursuant to Subtitle Z § 101.8;
  - The ANC Single Member District (“SMD”) 8B01;
  - The Office of Planning (“OP”);
  - The District Department of Transportation (“DDOT”);
  - The Department of Energy and the Environment (“DOEE”); and
  - Ward 8 Councilmember Trayon White, the at-large Councilmembers, and the Council Chair. (Exhibits [“Ex.”] 5-7, 9.)

OZ also published the Notice of Filing in the *D.C. Register*. (Ex. 8.)

2. On \_\_\_\_\_, OZ sent notice of the public hearing to: [*ATTESTATION FROM OZ NOT IN CASE RECORD.*] OZ also published notice of the public hearing in the *D.C. Register* on June 18, 2020 (67 DCR 7856, published on June 26, 2020). (Ex. 16.)
3. On July 13, 2020, the Applicant filed an affidavit of posting the PUD Site with notice of the public hearing, and on September 23, 2020, the Applicant filed an affidavit of maintenance of the posted notice. (Ex. 18, 23.)

## **PARTIES**

4. In addition to the Applicant, ANC 8B was automatically a party to the case pursuant to Subtitle Z § 403.5. There were no other parties to the case.

## **THE PUD SITE**

5. The PUD Site is located at the southwest corner of the intersection of 25<sup>th</sup> and Wagner Streets, SE. The PUD Site is rectangular in shape with approximately 193.5 feet of linear frontage on Wagner Street, SE to the north and approximately 100.25 feet of linear frontage on 25th Street, SE to the east. The PUD Site is otherwise bounded by private property to the south and west.
6. The PUD Site has approximately 19,601 square feet of land area and is presently vacant. The PUD Site is subject to a building restriction line at its northeast corner for approximately one-third of the Wagner Street frontage and approximately 24 feet of the 25th Street frontage.
7. The Comprehensive Plan (Title 10A of the DCMR) designates the PUD Site as Mixed-Use Institutional and Local Public Facilities on the Future Land Use Map (“FLUM”), which are described as follows:

*Institutional: This designation includes land and facilities occupied and used by colleges and universities, large private schools, hospitals, religious organizations, and similar institutions. While included in this category, smaller institutional uses such as churches are generally not mapped, unless they are located on sites that are several acres in size. Zoning designations vary depending on surrounding uses. Institutional uses are also permitted in other land use categories. (Framework Element § 227.18.)*

*Local Public Facilities: This designation includes land and facilities occupied and used by the District of Columbia government or other local government agencies (such as WMATA), excluding parks and open space. Uses include public schools including charter schools, public hospitals, government office complexes, and similar local government activities. Other non-governmental facilities may be co-located on site. While included in this category, local public facilities smaller than one acre - including some of the District's libraries, police and fire stations, and similar uses - may not appear on the map due to scale. Zoning designations vary depending on surrounding uses. (Framework Element § 227.17.)*

8. The Comprehensive Plan designates the PUD Site in a Neighborhood Conservation Area on the Generalized Policy Map (“GPM”), which is described as follows:

*Neighborhood Conservation areas have little vacant or underutilized land. They are generally residential in character. Maintenance of existing land uses and community character is anticipated over the next 20 years. Where change occurs, it will typically be modest in scale and will consist primarily of infill housing, public*

*facilities, and institutional uses. Major changes in density over current (2017) conditions are not expected but some new development and reuse opportunities are anticipated, and these can support conservation of neighborhood character where guided by Comprehensive Plan policies and the Future Land Use Map. Neighborhood Conservation Areas that are designated "PDR" on the Future Land Use Map are expected to be retained with the mix of industrial, office, and retail uses they have historically provided. (Framework Element § 225.4.)*

*The guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods, but not preclude development, particularly to address city-wide housing needs. Limited development and redevelopment opportunities do exist within these areas. The diversity of land uses and building types in these areas should be maintained and new development, redevelopment, and alterations should be compatible with the existing scale, natural features, and character of each area. Densities in Neighborhood Conservation Areas are guided by the Future Land Use Map and Comprehensive Plan policies. Approaches to managing context-sensitive growth in Neighborhood Conservation Areas may vary based on neighborhood socio-economic and development characteristics. In areas with access to opportunities, services, and amenities, more levels of housing affordability should be accommodated. Areas facing housing insecurity and displacement should emphasize preserving affordable housing and enhancing neighborhood services, amenities, and access to opportunities. (Framework Element § 225.5.)*

## **II. THE APPLICATION**

9. On April 17, 2020, the Applicant filed the Application for a consolidated PUD and Zoning Map amendment from the R-3 zone to the RA-2 zone to construct a five-story apartment house having a maximum building height of 55 feet and a total density of 2.59 FAR (the "Project").
10. As shown on the final set of Architectural Plans and Elevations dated October 15, 2020 (Ex. \_\_\_ ) (the "Plans"), the Project will include approximately 50,733 square feet of gross floor area ("GFA") and will be comprised of approximately 67 residential units (plus or minus 10%), all of which will be affordable to seniors earning up to 60% of the MFI for the first 40 years of the life of the Project. After the first 40 years of the Project, a minimum of 12% of the residential GFA will be dedicated to households earning up to 60% of the MFI.
11. The Project includes five surface parking spaces consisting of four standard spaces and one car-share space, and one service/delivery loading space located at the rear of the PUD Site and accessed from Wagner Street.
12. Design Approach. The design of the Project emphasizes the residential character of the surrounding neighborhood while creating a more defined street edge to both 25th and Wagner Streets, SE that helps to complete the urban fabric. The massing of the building is

well articulated and responds to its context by a series of step downs that relate to the scale of adjacent buildings. The building is five stories tall at the corner of 25th and Wagner Streets, and then steps to four stories plus an exposed basement as it moves west towards the residential neighborhood. The final section of massing to the west steps down again to four stories to respond to the significant grade change across the PUD Site and to provide appropriate scale and height along Wagner Street.

13. The architectural style is a traditional design that emphasizes the strong reading of a base, middle, and top and relates to the existing mix of both residential and institutional context. At the main corner, the building consists of four stories of brick masonry with a top floor in fiber cement panel. Bay windows, corner articulation in masonry with entry doors facing 25<sup>th</sup> Street, and a projecting canopy with lighting create an inviting and rich entrance. An adjacent outdoor patio provides opportunities for resident outdoor space and activation of the entrance as well. Bay windows, corner articulation, a recessed entrance, and a projecting canopy create an inviting and rich entrance. As the building steps down, the façade articulation also steps and includes a mix of fiber cement panel and siding. The design includes several detail elements that add appeal and a sense of scale, such brick banding at the base, an overhanging cornice, and Juliet balconies.
14. Circulation, Parking and Loading. The primary pedestrian access to the Project is located on 25th Street, with direct access to the building lobby. Secondary entrances are located on the north and west facades for pedestrians and bicycles. One curb cut is proposed on Wagner Street, which will provide access to the five surface parking spaces, including the car-share space, and the service/delivery loading space. Long-term interior bicycle parking is located at the cellar level with additional short-term bicycle parking located adjacent to the building's main entrance. Convenient access to the exterior at-grade is provided from the interior bicycle room through the entrance on Wagner Street.
15. Streetscape and Landscape The public space streetscape and landscape design for the Project fosters an active and pedestrian-friendly environment along the PUD Site's two street frontages. A new sidewalk along Wagner Street will be constructed to connect to the existing sidewalk on 25th Street and provide a walkable environment surrounding the PUD Site. Appropriately-sized street trees and ornamental plantings, including shrubs, perennials, and lawn areas, will be planted along the street frontages to enhance views of the building, soften and frame the building facades, and improve the pedestrian experience. A welcoming entry area to the Project will be provided at the northeast corner of the PUD Site, and shade trees will be located toward the northwest corner of the PUD Site to screen views of the building from Wagner Street and adjacent properties. Additional screening of the parking lot will be provided by a mixture of tall, dense evergreen species. Plantings around the shade trees and evergreens will include perennials and groundcovers that further enhance the PUD Site's aesthetics.
16. Sustainable Design Elements. The Project is designed to integrate a host of sustainable features and will be designed to achieve the minimum number of points necessary to meet the 2015 Enterprise Green Communities Criteria for New Construction, or the equivalent thereto under any future Enterprise Green Community standards. The PUD Site is located

in a mixed-use neighborhood with convenient access to public transportation options and existing infrastructure and services. The PUD Site will achieve a Green Area Ratio score of 0.4.

17. The landscape design includes a variety of sustainable design elements. Street trees planted along Wagner Street will be selected with elements of sustainability in mind. The species will be the appropriate size for their location and will be chosen for their hardiness to the local climate. Landscape plantings will be a mix of native and adaptive species, chosen for their low maintenance and low water consumption. These landscape plantings will also help to slow stormwater runoff from the Site.
18. Other sustainable landscape elements include an extensive green roof and bio-retention area. The extensive green roof will cover a majority of the building roof and will be planted with a sedum mix selected for the local climate. The green roof will reduce stormwater runoff and will also act as an insulator, reducing energy usage for heating and cooling. The bio-retention area will be located along the south side of the building, will be planted with native and adaptive plant species, and will capture any additional runoff from the roof.
19. Solar panels will be installed on the roof to provide an alternative energy source for the building. Energy-efficient light fixtures and Energy Star appliances will be utilized to reduce the building's energy demand, and low-flow fixtures will be installed to reduce water usage. The overall building design will also create a healthy indoor environment in terms of ventilation and materials. Sustainable transportation methods will be encouraged by providing short- and long-term bicycle parking and a dedicated on-site car-share space for use by residents of the Project and the surrounding neighborhood.

#### **DEVELOPMENT FLEXIBILITY REQUESTED**

20. The Property is presently zoned R-3. The Application requests to rezone the Property from the R-3 zone to the RA-2 zone to allow for the proposed development. Subtitle X § 303.12 provides that a PUD-related Zoning Map amendment shall be considered flexibility against which the Commission shall weigh the benefits of a PUD.
21. The R-3 zone is intended to allow for row dwellings, while including areas within which row dwellings are mingled with detached dwellings, semi-detached dwellings, and groups of three or more row dwellings. Subtitle D § 300.6. The R-3 zone permits detached, semi-detached, and row dwellings as a matter of right. Subtitle D § 201.1(a)(3).
22. The R-3 zone requires a minimum lot width of 16 to 40 feet and a minimum lot area of 1,600 to 4,000 square feet, depending on the type of residential dwelling and whether it is subject to Inclusionary Zoning ("IZ"). Subtitle D § 302.1. The maximum building height permitted in the R-3 zone is 40 feet and three stories. Subtitle D § 303.1. The maximum lot occupancy in the R-3 zone is 60% for row dwellings and places of worship and 40% for all other structures. Subtitle D § 304.1.
23. The proposed RA-2 zone provides for areas developed as predominantly moderate density residential. Subtitle F § 300.3. As a matter-of-right, the RA-2 zone permits a maximum

density of 1.8 FAR and 2.16 FAR as an IZ development. Subtitle F §§ 302.1 and 302.3. A PUD in the RA-2 zone is permitted a maximum density of 2.59 FAR. Subtitle X §§ 303.3 and 303.4. The maximum permitted building height in the RA-2 zone is 50 feet and 60 feet as PUD. Subtitle F § 303.1 and Subtitle X § 303.7. The maximum permitted lot occupancy in the RA-2 zone is 60%. Subtitle F § 304.1.

24. A tabulation of the PUD's development data is included on Sheet G11 titled "Zoning Analysis" of the Plans.
25. The Application also included a request for flexibility from the following sections of the Zoning Regulations (Ex. 3):
  - Flexibility from the Minimum PUD Land Area Requirement (Subtitle X § 301.1), or in the alternative, an area variance;
  - Flexibility from the Loading Berth Requirement (Subtitle C § 901.1); and
  - Flexibility from the Driveway Width Requirements. (Subtitle C § 711.6.)

### **DESIGN FLEXIBILITY REQUESTED**

26. The Applicant requested the design flexibility from the Plans for the Project in the following areas:
  - Number of Units. To provide a range in the number of residential units to plus or minus 10% (i.e. 60-74 units);
  - Interior Components. To vary the location and design of all interior components, including amenities, partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration of the building;
  - Parking and Loading. To make refinements to the surface parking and loading configuration, including the layout, number of parking spaces, and/or other elements, so long as the number of parking spaces does not decrease below the minimum level required by the Zoning Regulations and the number and size of loading facilities provided does not decrease below that approved by this Order;
  - Exterior Materials. To vary the final selection of the colors of the exterior materials based on availability at the time of construction, provided such colors are within the color ranges proposed in the approved Plans;
  - Exterior Details. To make minor refinements to the locations and dimensions of exterior details that do not substantially alter the exterior design shown on the approved Plans. Examples of exterior details would include, but are not limited to, doorways, canopies, railings, windows, and skylights;
  - Signage. To vary the color, font, and message of the proposed signage, provided that the maximum overall dimensions and signage materials do not change from those shown on the approved Plans;
  - Streetscape Design. To vary the location, attributes, and general design of the approved streetscape to comply with the requirements of, and the approval by, the DDOT Public Space Division; and
  - Sustainable Features. To vary the approved sustainable features of the Project, provided the total number of Enterprise Green Communities points achievable for the Project

does not decrease below the minimum required for the Enterprise Green Communities standards specified by the Order.

## **PUD JUSTIFICATION**

### **Not Inconsistent with Comprehensive Plan and Other Adopted Public Policies (Subtitle X § 304.4(a))**

27. The Application asserted it was not inconsistent with the Comprehensive Plan, including its maps and policies, and that it furthers many of its elements as set forth below.
28. No person or individual made any assertions as to potential Comprehensive Plan inconsistencies in the case record or at the public hearing.

## **FLUM**

29. The Application asserted that the Project and proposed RA-2 zone are not inconsistent with the Mixed-Use Institutional and Local Public Facilities designations on the FLUM. (Ex. 3D.) The FLUM “does not show density or intensity on institutional and local public sites. If a change in use occurs on these sites in the future (for example, a school becomes surplus or is redeveloped), the new designations should be generally comparable in density or intensity to those in the vicinity, unless otherwise stated in the Comprehensive Plan Area Elements or an approved Campus Plan.” Framework Element § 228.1(h).
30. The Institutional and Local Public Facilities designations state that zoning designations vary depending on surrounding uses (Framework Element §§ 227.17 and 225.4). Accordingly, the Application stated that the Project and RA-2 zone would be consistent with the uses, densities, neighborhood context, and Moderate Density Residential FLUM designations in the immediate vicinity. The surrounding area is largely residential with a variety of housing types and densities including townhomes and apartment homes consistent with the Moderate Density Residential designation. Small scale retail and institutional uses are also interspersed in the surrounding neighborhood, including the three- and four-story rehabilitation facility known as the Transitional Care Center Capitol City, which abuts the PUD Site to the south.
31. Consistent with these surrounding uses and densities, the Application proposed to develop the Site with a new affordable housing project dedicated exclusively to seniors. The Application noted that the Project would be fully consistent with the development standards for a PUD in the RA-2 zone, which is a zone specifically identified in the Framework Element as being consistent with the surrounding Moderate Density Residential FLUM designation. (Framework Element § 227.6.) The Zoning Regulations state that the RA zones are “designed to be mapped in areas identified as moderate- or high-density residential areas suitable for multiple dwelling unit development and supporting uses.” Subtitle F § 100.2. In addition, the RA-2 zone is intended to provide for “areas developed with predominantly moderate-density residential.” Subtitle F § 300.3.
32. The Commission has previously approved Zoning Map amendments to the RA-2 zone for properties designated Moderate Density Residential on the FLUM. *See, e.g.* Z.C. Order No. 14-18A for property located at Square 3953, Lots 1-3 (property was rezoned to the R-

5-B zone under the 1958 Zoning Regulations, which converted to the RA-2 zone under the 2016 Zoning Regulations).

### **GPM**

33. The Application asserted that the Project and proposed RA-2 zone are not inconsistent with the GPM's designation of the PUD Site in a Neighborhood Conservation Area. (Ex. 3D.)
34. The Application asserted that the PUD Site was vacant and therefore underutilized considering its development potential and location in a mixed-use area with ample public transportation options. The Application stated that the affordable senior housing project would fit in with the residential character of the neighborhood and would not create any stark changes in density compared to existing densities of surrounding properties. The Application identified a diversity of land uses and building types and heights in the immediate area, and stated that the Project would be developed in a manner that is compatible with these existing development patterns and would respect the surrounding scale, natural features, and character of the neighborhood.
35. The Application also asserted that the Project would help to address citywide housing needs, particularly the need for senior affordable housing, given that the Project will provide approximately 67 units of new senior affordable housing. (Ex. 24, p. 42.)

### **GUIDING PRINCIPLES**

36. The Application asserted that the Project is consistent with many of the guiding principles of the Comprehensive Plan for Managing Growth and Change, Creating Successful Neighborhoods, Connecting the City, and Building Green and Healthy Communities. (Ex. 3D.)
37. The Application stated that the Project is consistent with the guiding principle for Managing Growth and Change because it would replace a vacant and underutilized site with a new residential building that will provide approximately 67 new affordable senior housing units in close proximity to public transportation that will greatly assist in addressing the continuing demand for additional housing in the District, including the demand for senior affordable, in the District. (Ex. 3D, p. 5.)
38. The Application stated that the Project is consistent with the guiding principle for Creating Successful Neighborhoods because the Applicant would be working closely with the ANC and other affected neighborhood stakeholders to ensure that the Project responds to the neighborhood's current demands and is designed in a style and with public space elements that are prioritized by the community. The Project would replace an underutilized vacant site with a new residential development designed in a context-sensitive manner and which is compatible with the height, scale, massing, materials, and architectural styles of other properties in the surrounding area. In doing so, the Project will respect and maintain the residential character of the neighborhood while providing new affordable housing for seniors to age in place. (Ex. 3D, p. 6.)



39. The Application stated that the Project is consistent with the guiding principle for Connecting the City because the PUD Site is located in a walkable and transit-oriented location, which will allow residents of the Project to take advantage of multiple transportation modes, which is particularly important for seniors who may not own a private vehicle. The Project includes streetscape improvements that will enhance mobility and circulation around the Site and throughout the neighborhood. These improvements will include new sidewalks, street trees, and other landscape elements that will help to create a safe and inviting public realm. Moreover, access points for the on-site parking and loading areas have been designed to appropriately balance the safety of pedestrians and bicyclists while maintaining ease and convenience for residents and loading deliveries. (Ex. 3D, p. 6.)
40. The Application stated that the Project is consistent with the guiding principle for Building Green and Healthy Communities because it will incorporate sustainable features and will be designed to meet the Enterprise Green Community standards at a level that is the equivalent of Silver certification under the current LEED standards. The PUD Site is located in a mixed-use, walkable neighborhood with convenient access to public transportation and existing infrastructure and services. The Project includes a variety of strategies to satisfy the GAR and stormwater management requirements, such as green roof areas, bioretention, and new landscaping. The Project also includes sustainable design features such as solar panels, energy efficient lighting, high efficiency mechanical systems, and Energy Star appliances. Low flow fixtures, native landscaping, healthy materials, and indoor air quality measures will also be provided. (Ex. 3D, pp. 6-7.)

#### **LAND USE ELEMENT**

41. The Application asserted that the Project furthers the Comprehensive Plan's Land Use Element for the reasons stated in Ex. 3D, pp. 7-9. Specifically, the Application noted that it would advance the following element policies: Policy LU-1.3 Transit-Oriented and Corridor Development, Policy LU-1.3.4: Design to Encourage Transit Use, Policy LU-1.4.2: Long-Term Vacant Sites, Policy LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods, Policy 2.1.8: Zoning of Low and Moderate Density Neighborhoods, Policy LU-2.1.11: Residential Parking Requirements, Policy LU-2.2.4: Neighborhood Beautification, and Policy LU 2.1.3: Buffering Requirements. (Ex. 3D.)

#### **TRANSPORTATION ELEMENT**

42. The Application asserted that the Project furthers the Comprehensive Plan's Transportation Element for the reasons stated in Ex. 3D, pp. 9-10. Specifically, the Application noted that it would advance the following element policies: Policy T-1.1.4: Transit-Oriented Development, Policy T-2.3.1: Better Integration of Bicycle and Pedestrian Planning, Policy T-2.3.3: Bicycle Safety, Policy T-2.4.1: Pedestrian Network, Policy T-2.4.2: Pedestrian Safety, Policy T-2.6.1: Special Needs, Policy T-2.6.2: Transit Needs, and Policy T-3.1.1: Transportation Demand Management (TDM) Programs. (Ex. 3D.)

#### **HOUSING ELEMENT**

43. The Application asserted that the Project furthers the Comprehensive Plan's Housing Element for the reasons stated in Ex. 3D, pp. 11-12. Specifically, the Application noted

that it would advance the following element policies: Policy H-1.1: Expanding Housing Supply, Policy H-1.1.1: Private Sector Support, Policy H-1.1.3: Balanced Growth, Policy H-1.1.5: Housing Quality, Policy H-1.2.1: Affordable Housing Production as a Civic Priority, Policy H-1.2.2: Production Targets, Policy H-1.2.7: Density Bonuses for Affordable Housing, Policy H-1.3.3: Assisted Living and Skilled Nursing, Policy H-1.4.3: Focusing Housing Investments, Policy H-1.5.1: Land and Building Regulations, Policy H-4.2.2: Housing Choice for Seniors, and Policy H-4.2.3: Neighborhood-Based Senior Housing. (Ex. 3D.)

#### **ENVIRONMENTAL PROTECTION ELEMENT**

44. The Application asserted that the Project furthers the Comprehensive Plan's Environmental Protection Element for the reasons stated in Ex. 3D, pp. 13-14. Specifically, the Application noted that it would advance the following element policies: Policy E-1.1.1: Street Tree Planting and Maintenance, Policy E-1.1.3: Landscaping, Policy E-3.1.2: Using Landscaping and Green Roofs to Reduce Runoff, Policy E-3.2.1: Support for Green Building, Policy E-4.1.3: Evaluating Development Impacts On Air Quality, and Policy E-4.3.5: Noise and Land Use Compatibility. (Ex. 3D.)

#### **URBAN DESIGN ELEMENT**

45. The Application asserted that the Project furthers the Comprehensive Plan's Urban Design Element for the reasons stated in Ex. 3D, pp. 14-15. Specifically, the Application noted that it would advance the following element policies: Policy UD-2.2.4: Transitions in Building Intensity, Policy UD-2.2.5: Creating Attractive Facades, Policy UD-2.2.8: Large Site Development, Policy UD-2.2.10: Surface Parking, Policy UD-3.1.1: Improving Streetscape Design, Policy UD-3.1.5: Streetscape and Mobility, Policy UD-3.1.11: Private Sector Streetscape Improvements, and Policy UD-3.2.3: Site Planning and Design Measures to Increase Security. (Ex. 3D.)

#### **INFRASTRUCTURE ELEMENT**

46. The Application asserted that the Project furthers the Comprehensive Plan's Infrastructure Element for the reasons stated in Ex. 3D, pp. 15-16. Specifically, the Application noted that it would advance the following element policies: Policy IN-1.2: Modernizing Water Infrastructure, Policy IN-2.1.1: Improving Wastewater Collection, Policy IN-2.2.1: Improving Stormwater Management, and Policy IN-6.1.3: Developer Contributions.

#### **FAR SOUTHEAST/SOUTHWEST AREA ELEMENT**

47. The Application asserted that the Project furthers the Comprehensive Plan's Far Southeast/Southwest Area Element for the reasons stated in Ex. 3D, pp. 16-17. Specifically, the Application noted that it would advance the following element policies: Policy FSS-1.1.14: District Government Incentives for Economic Development, and Policy FSS-1.2.1: Health Care Facilities. (Ex. 3D.)

#### **No Unacceptable Potential Project Impacts (Subtitle X § 304.4(b))**

48. The Application asserted that the Project will not result in any unacceptable impacts on the surrounding area or on the operation of city services and facilities, and will instead have a favorable impact on the surrounding area. The Project will benefit the neighborhood with

the addition of new housing, which will be provided as new affordable senior housing at an amount and subsidy level that is significantly greater than the minimums required by the IZ regulations. Moreover, the Project has been designed to relate to the surrounding architectural context and consider the variety of nearby uses. The Project includes sustainable landscape design and streetscape improvements that will enhance the pedestrian experience and beautify the public realm.

49. The Applicant evaluated the potential impacts of the Project as it relates to land use, transportation, housing, environmental protection, economic development, parks, recreation and open space, urban design, historic preservation, educational facilities, infrastructure, and community services, and found that for each topic area the potential impacts would be favorable or capable of being mitigated. (Ex. 24, pp. 39-41.)
50. The potential transportation impacts of the Project were specifically analyzed in the Applicant's Transportation Statement (Ex. 19), which was prepared in coordination with and reviewed by DDOT. The Transportation Statement found that the Project is anticipated to generate seven vehicular trips during the morning peak hours and nine vehicular trips during the PM peak hours, and will therefore not have any adverse impacts on the roadway network. (Ex. 19, p. 30.) The DDOT Report also stated that the trips generated by the Project are expected to have a minimal impact on the transportation network. (Ex. 22, p. 2.) Moreover, the DDOT Report stated that since the PUD Site "has an excellent (low) parking ratio, is located within a ¼ mile of a Priority Network Corridor Metrobus Route, the projected vehicle trip generation was low, and the Applicant has committed to a robust ... TDM plan... DDOT did not require a Comprehensive Transportation Review (CTR) study or Traffic Impact Analysis (TIA)." (Ex. 22, p. 7.)
51. In order to minimize any potential impacts to the transportation network created by the Project, the Applicant agreed to implement the following TDM plan for the life of the Project unless otherwise specified:
  - Identify Transportation Coordinator for the planning, construction, and operations phases of development. The Transportation Coordinator will act as points of contact with DDOT, goDCgo, and Zoning Enforcement;
  - Will 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;
  - Transportation Coordinator 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 property website and in any internal building communications;
  - Transportation Coordinator will receive TDM training from goDCgo to learn about the TDM conditions for this project and available options for implementing the TDM Plan;
  - 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;

- 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;
- Transportation Coordinator will subscribe to goDCgo’s residential newsletter.
- Post all TDM commitments on website, publicize availability, and allow the public to see what commitments have been promised;
- Provide a free SmarTrip card to every new resident and a complimentary Capital Bikeshare coupon good for one ride;
- Will meet ZR16 short- and long-term bicycle parking requirements. Long-term bicycle space will be provided free of charge to residents. (22 long-term spaces provided);
- Following the issuance of a certificate of occupancy for the Project, the Transportation Coordinator shall submit documentation from DCRA summarizing 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 case 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 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.

(Ex. 19, pp. 28-29.) DDOT did not request any additions or modifications to the Applicant’s proposed TDM plan.

52. In order to minimize any potential impacts generated by the proposed loading facilities, the Applicant agreed to implement the following Loading Management Plan for the life of the Project:

- The property manager will be responsible for coordinating with tenants to schedule deliveries and move-ins/move-outs, and will work with the community and neighbors to resolve any conflicts should they arise;
- A lease provision will require all tenants to use only the service delivery space for all deliveries and move-in and move-out activities;
- The maximum size for on-site delivery vehicles is 20 feet in length;
- Residents utilizing moving trucks greater than 20 feet in length shall be required to obtain “Emergency, No Parking” signs for Wagner Street, SE during the duration of the move. The fees for this service will be paid by the resident. The property manager will schedule move-ins/move-outs using the service delivery space such that the loading capacity is not exceeded;
- In the event that an unscheduled delivery vehicle arrives while the dock is full, that driver will be directed to return at a later time when the service space will be available so as to not compromise safety or impede operations on Wagner Street, SE or 25<sup>th</sup> Street, SE; and
- Trash/recycle will be stored in the building, and then rolled out from the trash room to be collected on Wagner Street.

(Ex. 19, p. 26.) DDOT did not request any additions or modifications to the Applicant's proposed Loading Management Plan.

53. The Applicant also proposed to install a new curb extension at the corner of 25<sup>th</sup> and Wagner Streets, which will have a favorable impact on pedestrian safety and convenience and which the Applicant proffered as a public benefit because it was not required as mitigation by DDOT.

**Public Benefits and Amenities (Subtitle X § 304.4(c))**

54. The Application asserted that the Project provides the following public benefits as prescribed by Subtitle X § 305.5:

55. Superior Urban Design, Architecture, and Landscaping (11-X DCMR § 305.5(a) and (b)).

The proposed height and massing of the Project have been carefully designed to relate to the surrounding context. The massing steps down from five stories to four stories from 25th Street to the west, and further steps down in relationship to the changing grade to maintain the lower scale in relation to the adjacent context. The design also includes significant façade articulation, projections and balconies where appropriate, and high-quality materials that will create dynamic views. At the ground level, the Project has been designed to address and activate the street with inviting landscaping and a significantly improved streetscape. The landscape elements on the PUD Site include varied and attractive landscape in public space along both 25th and Wagner Streets, screening from adjacent properties, enhanced landscaping at the main entrance, an extension of a new public sidewalk adjacent to the Site along Wagner Street, and a curb extension. The Project also includes a mix of sustainable stormwater techniques such as ground level bioretention, green roof, and permeable pavement at the parking spaces.

56. At the request of Office of Planning the Applicant also incorporated dedicated outdoor space for building residents in the form of a patio at the ground floor level and a roof deck at the 4th level. The ground floor patio is adjacent to the main entrance and will have a canopy to provide shelter from the elements and outdoor seating options. The roof deck will provide an additional outdoor gathering space for residents and will also include seating options, shade umbrellas, and views of the surrounding area.

57. Site Planning and Efficient and Economical Land Utilization; Streetscape Plans and Implementation (11-X DCMR §§ 305.5(c) and (l)).

The Project includes a number of best planning practices within a site that has been vacant and highly underutilized for many years. These practices include establishing a new residential community with a variety of unit types and at 60% of the MFI; developing housing that is reserved exclusively for seniors to successfully age in place in a walkable and mixed-use neighborhood; and creating density directly adjacent to a variety of Metrobus lines and without a significant number of on-site parking spaces to encourage the use of public transportation. The Project also provides a pedestrian-friendly streetscape with public space improvements that include an extension of a new sidewalk adjacent to the Site along Wagner Street, new street trees, and a curb extension. Varied and interesting landscape treatment in public space is provided that enhances both the building and the pedestrian experience. Bicycle parking

and benches are also provided near the building's main entrance. All public space improvements will be subject to final review and approval by the DDOT Public Space Committee.

58. Housing that Exceeds the Amount Required through Matter-of-Right Development under Existing Zoning and Senior Housing (11-X DCMR § 305.5(f)(1) and (2)). The Project results in the creation of new housing consistent with the goals of the Zoning Regulations, the Comprehensive Plan, the FLUM, and the Mayor's housing initiative. Overall, the Project will replace a vacant and highly underutilized site with approximately 67 new residential units and approximately 50,733 square feet of residential GFA. In contrast, under the current R-3 zoning, only approximately up to 35,282 square feet of residential GFA could potentially be developed on the Property as a matter of right not taking into account existing site considerations, based upon the R-3 zone's maximum building height of three stories and maximum lot occupancy of 60% for row dwellings and places of worship.
59. Affordable Housing that Exceeds the Amount Required through Matter-of Right Development Under Existing Zoning (11-X DCMR § 305.5(g)). The Project is consistent with the affordable housing goals of the Comprehensive Plan and even more specifically with the goals set forth in the Mayor's Housing Report and Mayor's Order. Accordingly, the Project will significantly exceed the amount of affordable housing that would be required at the Site through matter-of-right development under the existing R-3 zoning. As a matter of right, the IZ set-aside for development at the PUD Site would be approximately 3,528 square feet (approximately 10% of the maximum permitted residential GFA of 35,282 in the R-3 zone). In contrast, the Project will dedicate approximately 50,733 square feet of GFA to affordable housing (100% of the residential GFA), or an increase of approximately 46,205 square feet of GFA. The affordable units will be provided at 60% of the MFI and will be reserved exclusively for seniors. One-hundred percent of the units will be dedicated as affordable housing as described above for a minimum of 40 years. After that, the Applicant will dedicate a minimum of 12% of the residential GFA to IZ units to be reserved at 60% of the MFI for the life of the Project.
60. Employment and Training Opportunities (11-X DCMR § 305.5(h)). If LIHTC financing is provided for the Project, then the Applicant will comply with any applicable CBE subcontracting requirements.
61. Transportation infrastructure beyond that needed to mitigate any potential adverse impacts of the application (11-X DCMR § 305.5(o)). The Applicant will install a curb extension (bulb-out) at the corner of 25th and Wagner Streets to facilitate easier pedestrian movements.
62. Uses of Special value to the Neighborhood (Subtitle X § 305.5(q)). The Applicant will make contributions to the organizations and purposes described below as follows:
  - a. The Applicant will purchase a minimum of \$20,000 of laptops and deliver them to ANC 8B for distribution to students within ANC 8B boundaries for the 2020-2021

academic year. The laptops will be in new condition, have cameras, and come with or be able to install Microsoft Office, such that students will be able to successfully complete distance learning;

- b. The Applicant will donate \$7,000 to Families on the Rise to fund programming to provide mental health services for youth in ANC 8B; and
- c. The Applicant will donate \$5,000 to The Gerald Project to fund programming to assist with services for youth in ANC 8B impacted by gun violence

### **Applicant's Submissions**

63. The Applicant submitted a total of five submissions to the case record as follows:

- On April 17, 2020, the Applicant filed its initial application submission (“the “Initial Submission””); (Ex. 1-3I.)
- On June 6, 2020, the Applicant filed a prehearing submission responding to the one comment received from the Commission at the setdown meeting (the “Prehearing Submission”); (Ex. 13-14F.)
- On August 25, 2020, the Applicant filed a copy of its Transportation Statement, a copy of which was also sent to DDOT; (Ex. 19.)
- On September 4, 2020, the Applicant filed its 20-day Supplemental Prehearing Submission (the “Supplemental Prehearing Submission”); (Ex. 20.) and
- On October 15, 2020, the Applicant filed a post hearing submission (the “Post Hearing Submission”). (Ex. \_\_\_\_.)

### **The Initial Submission**

64. The Initial Submission included:

- A statement in support of the Application; (Ex. 3.)
- The initial set of architectural plans and elevations for the Project; (Ex. 3C1-3C4.)
- An analysis of the Project’s consistency with the Comprehensive Plan; (Ex. 3D.)
- Authorization letter; (Ex. 3H.) and
- A certificate of notice. (Ex. 3I.)

### **The Prehearing Submission**

65. The Prehearing Submission noted that OP did not raise any objections or request additional information in its setdown report, and included the following:

- Updated landscape and civil plans showing that the Applicant incorporated additional canopy trees into the design of the Project; (Ex. 14A.)
- A revised zoning analysis (Sheet G11) showing the approximate sizes of the residential units by type; (Ex. 14A.)
- A response to the one question asked by the Commission at its public meeting to consider setdown of the Project; (Ex. 14.) and
- A list of the Applicant’s proposed witnesses, resumes, and outlines of their testimony. (Ex. 14B, 14C.)

### **The Transportation Statement**

66. The Transportation Statement assessed the transportation mode split, trip generation, transit services and facilities, pedestrian and bicycle facilities, identification of carshare availability, safety analysis, loading management plan, TDM, and curbside management information. The Transportation Statement found that the Project would generate seven AM and nine PM peak hour vehicular trips and would have no adverse impacts on the surrounding roadway network. (Ex. 19, p. 6.)
67. The Transportation Statement also provided an analysis on proposed site access, including a conclusion that the requested flexibility to provide a 12 foot wide curb cut, instead of the required 20 foot wide curb cut, would not create any adverse impacts given the small number of vehicle parking spaces, the provision of a single service/delivery space to accommodate loading, and the limited number of cars expected to be accessing the PUD Site on a daily basis. (Ex. 19, p. 21.)
68. The Transportation Statement also analyzed the requested flexibility to not provide the required 30 foot loading berth. In doing so the Transportation Statement found that the maneuvering diagrams for a 30 foot truck would result in negative impacts to site design, and that a 20 foot truck would be sufficient for the proposed demand anticipated for the Project. (Ex. 19, p. 22, stating that the service/delivery space could adequately accommodate all of the loading needs for building residents, including move-ins and move-outs, daily deliveries, and building maintenance needs, and therefore concluding that “flexibility to not provide one required 30 foot loading berth will not result in any detriment to the public good or create any negative impacts.”)
69. The Transportation Statement also proposed a TDM plan and a Loading Management Plan, as set forth in FF Nos. \_\_\_ of this Order. (Ex. 19. pp. 26, 28-29.)

#### **The Supplemental Prehearing Submission**

70. The Supplemental Prehearing Submission included:
  - Updated Architectural Plans and Elevations showing the proposed curb extension, the additional outdoor patio and roof deck spaces, windows in the lower level residential amenity space, and additional shade trees in the parking area; (Ex. 20A1-20A4.)
  - An update to the Applicant’s public benefits and amenities package;
  - Response to comments raised by OP, DDOT, DOEE, the Department of Housing and Community Development (“DHCD”), and the Department on Aging and Community Living (“DACL”) at an interagency meeting held on July 10, 2020; and
  - A signed copy of the ANC 8B resolution in support of the Project and a signed copy of the Applicant’s Community Benefits Agreement (“CBA”) with ANC 8B. (Ex. 20C.)

#### **The Post Hearing Submission**

71. The Post Hearing Submission included the following information that was requested by the Commission at the public hearing:
  - Updated Architectural Plans and Elevations showing a revised building entrance design, additional details on the fiber cement panel material, and confirmation that power would be provided in the bicycle storage room for electric bicycles; (Ex. \_\_\_.)
  - A response to the Commission’s request to expand the rooftop solar array; (Ex. \_\_\_.)



- A parking study demonstrating the current utilization of on-street parking surrounding the PUD Site; (Ex. \_\_.)
- Responses to testimony provided at the public hearing and in written comments in opposition to the Project; and (Ex. \_\_)
- The Applicant’s draft findings of fact and conclusions of law. (Ex. \_\_.)

**Applicant’s Public Hearing Testimony**

72. At the hearing the Applicant proffered the following expert witnesses: Stephanie Farrell of Torti Gallas Urban, expert in architecture; Nicole White of Symmetra Design, expert in transportation planning; and Shane Dettman of Holland & Knight LLP, expert in zoning and land use planning. The Commission accepted these witnesses as experts in their respective fields.
73. As part of the Applicant’s direct presentation, Robert Miller testified on behalf of the Applicant. In addition, Ms. Farrell presented the building design, Ms. White presented the findings from the Transportation Statement, and Mr. Dettman testified as to the Project’s consistency with the PUD standards and the Comprehensive Plan.
74. Craig Atkins of WilesMensch also testified on behalf of the Applicant by responding to questions from the Commission regarding the Project’s proposed bioretention facilities and strategy for addressing stormwater runoff.
75. At the public hearing the Applicant agreed to each of the conditions raised in the DDOT Report.

**III. RESPONSES TO THE APPLICATION**

**OP REPORTS AND TESTIMONY**

**OP Reports**

76. OP submitted a total of two reports to the case record as follows:
- A setdown report, dated May 21, 2020, recommending that the Commission set down the application for a public hearing (the “OP Setdown Report”); and (Ex. 10.)
  - A hearing report, dated September 10, 2020, recommending approval of the Application with no conditions (the “OP Report”). (Ex. 21.)
77. The OP Setdown Report did not raise any objections or request additional information on the Project.
78. The OP Report found that “the proposal is not inconsistent with the Comprehensive Plan as a whole, including the maps and the policy statements. In particular, the proposal would further policy statements contained in the Land use, Transportation, Housing, Environmental Protection, and Urban Design Citywide Elements, and the Far Southeast/Southwest Area Element. The project also furthers the Mayor’s Housing Initiative.” (Ex. 21, p. 3.) The OP Report further stated that Project is “not inconsistent with the Comprehensive Plan, which supports the creation of more affordable housing for seniors.” (Ex. 21, p. 8.)

79. The OP Report found that the “benefits, amenities and proffers would appear to be commensurate with the related map amendment and other requested flexibility through the PUD. The proposal would be improving a vacant site with much needed affordable senior housing and making significant landscaping and streetscaping improvements to the area.” (Ex. 21, p. 12.) With respect to the housing and affordable housing component specifically, the OP Report stated that the Project would provide “affordable senior housing, which is in demand in the District and would be developed on a vacant site.” (Ex. 21, p. 8.)
80. The OP Report reviewed and supported the zoning flexibility requested from the minimum PUD land area, driveway width, and loading berth requirements and also supported the requested design flexibility. (Ex. 21, pp. 7-9.) The OP Report stated that the proposed RA-2 zone would be not inconsistent with the Comprehensive Plan designations and the proposed residential building would be in character with the neighboring developments. (Ex. 21, p. 5.)
81. The OP Report noted that OP referred the Application to DOEE, DHCD, DDOT, FEMS, MPD, DC Water, and DACL, and also held an interagency meeting between District agencies and the Applicant. The OP Report included a list of the agencies’ comments at pages 12-13 of the OP Report. The Applicant responded to the agencies’ comments in its Supplemental Prehearing Submission. (Ex. 20.)

### **OP Public Hearing Testimony**

82. At the September 24, 2020 public hearing, OP testified in support of the Application and rested on the record of its report.

### **DDOT REPORT AND TESTIMONY**

#### **DDOT Report**

83. DDOT filed a hearing report (the “DDOT Report”) (Ex. 22) stating no objection to approval of the Project with the following three conditions:
- Fund and construct a sidewalk on the south side of Wagner Street, SE, from 25th Street, SE to the nearest single-family residential driveway directly west of the PUD Site, and construct curb extensions on Wagner Street, SE, at the intersection with 25th Street, to reduce the pedestrian crossings;
  - Implement the TDM plan as proposed in the Applicant’s Transportation Statement for the life of the Project, unless otherwise noted; and
  - Implement the Loading Management Plan as proposed in the Applicant’s Transportation Statement for the life of the Project, unless otherwise noted. (Ex. 22, p. 3.)
84. The DDOT Report stated its support for the Applicant’s request for flexibility to not provide the required 30 foot loading berth due to site constraints and intensity of the proposed use. (Ex. 22, pp. 2, 6.) The DDOT Report also stated that due to alley access, DDOT supports the proposed curb cut given the low projected traffic volumes so long as the width does not exceed 12 feet. Specifically, DDOT stated that the driveway would accommodate two-way traffic and is consistent with standards established in DDOT’s

Design and Engineering Manual for residential curb cuts. (Ex. 22, pp. 4, 8.) The DDOT Report also stated that the Applicant’s proposal meets the minimum parking requirements and DDOT’s preferred maximum parking rates. (Ex. 22, p. 2, 7.)

85. With respect to trip generation, the DDOT Report stated that “trips generated by the project are expected to have a minimal impact on the transportation network” and that the Applicant “proposed a sufficiently robust TDM plan in the August 10, 2020 Transportation Statement for the site to minimize auto travel and support non-auto travel needs.” (Ex. 22, pp. 2, 11.)

#### **DDOT Public hearing Testimony**

86. At the September 24, 2020 public hearing, DDOT testified in support of the Application and stated its support for the flexibility requested as part of the Application. DDOT also stated that the DDOT Report incorrectly stated that there were six parking spaces on the PUD Site, whereas the proposal only includes five parking spaces, which is still compliant with the minimum parking requirements set forth in the Zoning Regulations.

#### **ANC RESOLUTION**

87. On July 21, 2020, at a duly noticed and regularly scheduled virtual public meeting of ANC 8B, with a quorum of commissioners present, ANC 8B voted unanimously to support the Application. (Ex. 20C.)
88. The ANC Resolution stated that the Applicant worked closely with the ANC Chairperson to develop a CBA and that the ANC “strongly supports the proposal to develop the subject property with an affordable senior housing development. The ANC believes that the project will be a significant improvement to the vacant site and a much-needed amenity for the neighborhood without creating any adverse effects. ANC 8B believes that the building’s height and density are appropriate for the site’s corner location, and that the proposed building includes a sufficient separation and landscaped buffer from adjacent properties.” (Ex. 20C, p. 1.)
89. The ANC Resolution also stated that the ANC was “particularly pleased that the Applicant agreed to implement all of the public benefits and amenities suggested by the ANC.” (Ex. 20C, p. 1.) A copy of the CBA is included at Ex. 20C, p. 2.

#### **OPPOSITION PUBLIC HEARING TESTIMONY**

90. At the public hearing and via a letter submitted to the case record on the day of the hearing (Ex. 25) Mr. Leonard Watson, Sr. expressed opposition to the Application as follows:
- Senior housing should not be constructed on a vacant lot in front of a nursing home during the COVID-19 pandemic;
  - Mr. Watson’s property is located 30 yards behind the PUD Site where the five-story senior building will be located;
  - The increase in parking area needed to accommodate the Project will be a problem for the community;
  - There has not been one community meeting scheduled to date on the Project;
  - There has not been a traffic or environmental impact study done for the Project; and

- There are other senior buildings in the community, which already has its fair share of senior housing.

91. The Applicant responded to Mr. Watson’s concerns as follows: (Ex. \_\_\_\_.)

- Senior Housing: There is a critical need for affordable senior housing in the District of Columbia. The proposed PUD includes 67 new residential units, 100% of which would be affordable to seniors earning up to or less than 60% of the MFI. Developing new affordable senior housing is fully consistent with many goals and objectives of the Comprehensive Plan, including the acknowledgement that there “will be need for a broad range of senior living environments, serving residents across the income spectrum.” 10-A DCMR § 516.2. *See also Policy H-4.2.2: Housing Choice for Seniors; Policy H-4.2.3: Neighborhood-Based Senior Housing; and Action H-4.2.B: Incentives for Senior Housing.*
- The District’s 2019-2022 State Plan on Aging,<sup>1</sup> published by the D.C. Office of Aging, emphasizes the “importance of affordable housing in the senior community” with housing being one of the highest priorities for the aging community. *See State Plan on Aging*, p. 28. The State Plan on Aging also states that the “Bowser Administration is committed to ensuring DC continues to be the best city in the world to age” identifying the goal of “producing and preserving more affordable housing units, including senior apartments” as a top priority. *State Plan on Aging*, p. 9.
- The Applicant met with DACL as part of its interagency meeting on July 10, 2020, during which it received feedback from DACL directly. DACL expressed its support for the affordable senior project, requesting only that the Applicant provide information on the percentage of handicapped-accessible units and providing units at less than 60% of the MFI. The Applicant responded to both of these items in its Supplemental Prehearing Submission. (Ex. 20, p. 8.)
- The Applicant would have two years to file a building permit application and three years to begin construction following the effective date of the final order, and therefore approval of the Project should not be denied or postponed due to the current pandemic, particularly given that there is a significant and ongoing demand for affordable senior housing in the District.
- Building Height: Although Mr. Watson’s house is approximately 30 yards from the closest portion of the proposed building, the Project is oriented towards the corner of Wagner and 25<sup>th</sup> Streets, and therefore pushed as far as possible away from Mr. Watson’s property. Moreover, the building steps down significantly as it moves west towards Mr. Watson’s property. As shown on the Plans, the building is five stories along 25<sup>th</sup> Street and steps down to three stories (measured from the building

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<sup>1</sup>[https://dacl.dc.gov/sites/default/files/dc/sites/dacl/page\\_content/attachments/DACL%20State%20Plan%20on%20Aging.pdf](https://dacl.dc.gov/sites/default/files/dc/sites/dacl/page_content/attachments/DACL%20State%20Plan%20on%20Aging.pdf)

height measuring point) or 43 feet (measured from the adjacent grade) for the portion of the building that is closest to Mr. Watson's home.

- f. Parking and Transportation: The Project is required to provide six parking spaces, and is providing four spaces plus a carshare space, which pursuant to Subtitle C § 708.2 is the equivalent of seven zoning-complaint parking spaces. Thus, the Applicant is not seeking any parking relief as part of the Application. The Applicant's Transportation Statement (Ex. 19) was scoped in accordance with the DDOT Comprehensive Transportation Review (CTR) guidelines and includes an assessment of the transportation mode split, trip generation, transit services and facilities, pedestrian and bicycle facilities, identification of car share availability, safety analysis, loading management plan, TDM plan, and curbside management. The Applicant's transportation expert found that the "[p]rojected traffic levels are minimal and would not have any adverse impacts on the roadway network" (Ex. 19, p. 30) and also proposed an extensive TDM plan to minimize impacts to traffic and parking.
- g. In reviewing the Project and associated Transportation Statement, the DDOT Report found that the proposed number of off-street parking spaces meets both the parking requirement and DDOT's "preferred maximum parking rates which encourages a maximum of 0.40 spaces/unit parking ratio." (Ex. 22, p. 7.) The DDOT Report states that because the "site has an excellent (low) parking ratio, is located within a ¼-mile of a Priority Network Corridor Metrobus Route, the projected vehicle trip generation was low, and the Applicant has committed to a robust Transportation Demand Management (TDM) plan." (Ex. 22, p. 7.) The OP Report also stated that the "Applicant's traffic study shows that the project should not have a negative impact on the traffic and parking conditions in the area." (Ex. 21, p. 8.) Thus, there is no evidence in the record to support Mr. Watson's assertion that the Project will generate parking issues for the community.
- h. Community Engagement: The Applicant formally presented the Application to the affected ANC 8B twice – on June 16, 2020, and on July 21, 2020 – and received a unanimous ANC vote in support for the project. (Ex. 20C.)
- i. The ANC Resolution specifically states that the Applicant worked closely with Chairperson Johnson to develop the CBA and that the ANC "is particularly pleased that the Applicant agreed to implement all of the public benefits and amenities suggested by the ANC." (Ex. 20C, p. 1.) The ANC Resolution asserts that the ANC "strongly supports the proposal to develop the subject property with an affordable senior housing development. The ANC believes that the project will be a significant improvement to the vacant site and a much-needed amenity for the neighborhood without creating any adverse effects." (Ex. 20C, p. 1.) The ANC Resolution further states that the ANC is "extremely supportive of this project, including the benefits included in the CBA, and urges the Zoning Commission to approve it as expeditiously as possible." (Ex. 20C, p. 1.)

- j. Prior to filing the Application the Applicant made substantial efforts to contact the residents of 2437 Wagner Street, SE (Mr. Watson, Sr.'s address) particularly since Mr. Watson, Jr. is identified on the ANC 8B website as residing at that address and as the Single Member District ("SMD") ANC representative for the PUD Site. The Applicant made many efforts to contact Mr. Watson, Jr. via phone calls, emails, and by leaving a hand written letter at the Watson's property. (Ex. \_\_\_\_.) After many unsuccessful attempts of reaching Mr. Watson, Jr., the Applicant began communicating directly with other members of ANC 8B, including Commissioner Wilson and the current chair Commissioner Johnson, and as described above ANC 8B voted unanimously to support the Project.
- k. In addition, the Applicant sent a Notice of Intent to file the Application on February 12, 2020, to all of the property owners located within 200 feet of the perimeter of the PUD Site, which included the Watson property. (Ex. 3I.) The Applicant served a copy of every filing in the case record on Mr. Watson, Jr. in his capacity as SMD Commissioner for the PUD Site. The Office of Zoning also sent notice of the public hearing to the Watson property. (Ex.16-17.) Thus, although the Applicant made diligent efforts to contact Mr. Watson, Jr. and the residents of the Watson property, the first and only communication in opposition to the Project received from anyone was the letter submitted by Mr. Watson, Sr. into the record on the day prior to the public hearing.
- l. Traffic and Environmental Impact Studies. As described herein, the Applicant's transportation expert prepared a detailed Transportation Statement that was reviewed and approved by DDOT. DDOT indicated its support for the Project with three conditions, all of which the Applicant has agreed to. DDOT also found that the Project would generate a minimal number of new vehicular trips and that the trips generated by the Project are expected to have a minimal impact on the transportation network. (Ex. 22, p. 2.)
- m. With respect to environmental impacts, the Applicant met with DOEE as part of its interagency meeting on July 10, 2020, during which it received feedback from DOEE directly. DOEE expressed its support for the Project, requesting only for additional information on the Enterprise Green Community standards and recommending installation of solar, the provision of a shelter-in-place flex space, and incorporating native plantings. The Applicant clarified and agreed to all of DOEE's requests in its Supplemental Prehearing Submission (Ex. 20, p. 8.) Consistent with standard procedures, the Applicant will continue to work with DOEE as it moves forward with permitting the Project.
- n. Moreover, the Commission has previously found that the assessment of a project's environmental impacts "does not conclude with the Commission. Rather there is an entirely separate set of regulatory requirements under the D.C. Environmental Protection Act (the "Environmental Act") and implementing regulations that require the evaluation of the potential environmental impacts before the issuance of a building permit. The D.C. Court of Appeals has held that "implementation" of

a zoning approval occurs when construction actually begins. *See Foggy Bottom Ass'n v. D.C. Bd. Of Zoning Adjustment*, 791 A.2d 64, 73 (D.C. 2002)). Thus, the Applicant will be required to complete an Environmental Impact Screening Form ("EISF") when submitting its building permit application. Various District agencies will analyze the different topics covered by the EISF including; water quality, sedimentation, and storm water management, watershed protection, air quality (which will take into account the results of the Applicant's CTR), underground storage tanks, toxic substances, hazardous waste, and environmental justice. To the extent that a reviewing agency identifies impacts that exceed established thresholds, the Applicant will be required to work with that agency to avoid, minimize, and/or mitigate such impacts to the extent necessary before the Project is implemented. Further, to the extent that any mitigation measures identified by a reviewing agency require modifications to the Project that are not covered by flexibility granted in this Order, the Applicant would be required to seek a PUD modification from the Commission. *See Z.C. Order No. 19-10, Findings of Fact Nos. 61-62.* The same conditions and approval process apply to the subject Project.

- o. No Need for More Affordable Senior Housing. Developing new senior affordable housing is a high priority in the District, is supported by the Mayor, is promoted by the Office of Aging and DACL, and is encouraged in the Comprehensive Plan. The Project has support from OP and the affected ANC, which represent the community. Based on the clear support for the Project in the record, the Applicant asserted that the proposed senior housing is appropriate for the PUD Site and will be a significant benefit to the surrounding community and the District's aging residents.
92. By letter dated September 23, 2020 (Ex. 25), Mr. Watson submitted a second letter to the case record stating his continued opposition to the Application and attaching signature pages which he alleged were in opposition to the Application. Mr. Watson's letter claimed that the ANC failed to comply with the District's ANC rules and procedures, including providing proper notice of the Project, identifying voting information by the participating commissioners, and selecting improper recipient organizations for the Applicant's public benefit contributions, and should therefore not be given great weight by the Commission.
93. The Applicant provided the following responses to Mr. Watson's second letter in opposition as part of its post-hearing submission (Ex. \_\_\_):
- a. The Applicant stated that it had no reason to believe that the ANC acted improperly and that Mr. Watson's assertions about the ANC's non-compliance with ANC procedures were not substantiated by any evidence in the case record. The ANC's website clearly identifies the time and date for each public ANC meeting and provides contact information for the ANC commissioners. The Applicant formally presented the Project at two duly noticed ANC meetings on June 16, 2020, and on July 21, 2020, and received a unanimous ANC vote in support for the Project. *See ANC Resolution at Exhibit 20C.*

- b. The ANC Resolution states that the meeting at which they voted on the Project was a “duly noticed and regularly scheduled virtual public meeting... with a quorum of commissioners present” and that “ANC 8B voted unanimously to support the application.” The ANC Chairwoman Johnson also submitted a subsequent email dated September 18, 2020 (Ex. 20C1) confirming that four commissioners are needed to be present for a quorum and that five commissioners were present at the public meeting during which the ANC voted to support the project. Commissioner Johnson’s email further stated that the “vote in support of this resolution was unanimous.”
- c. Substantial notice of the Application and public hearing details were also provided by the Applicant and the Office of Zoning to the public and Mr. Watson specifically in full compliance with the Zoning Regulations. The written notice provided detailed information regarding how to access the case record, how to participate as a witness, and who to contact with questions. The notice was provided as follows:
- On February 12, 2020, the Applicant mailed a Notice of Intent (“NOI”) to file the application to all property owners located within 200 feet of the perimeter of the site, which included Mr. Watson’s property (Ex. 3I). The NOI included contact information for the Applicant’s representative and a summary of the project;
  - On April 27, 2020, the Office of Zoning sent a notice of filing the application to ANC 8B and Commissioner Leonard Watson, Jr. (who is the son of and has the same address as Mr. Watson) specifically (Ex. 7, 9);
  - On May 5, 2020, the notice of the filing of the application was published in the DC Register (Ex. 8, 9);
  - On June 26, 2020, notice of the scheduled public hearing was published in the DC Register (Ex. 16, 17);
  - On July 13, 2020, the Applicant posted the property with notice of the public hearing (Ex. 18); and
  - On July 17, 21 and 27, August 3, 7, 13, 19 and 25, and September 1, 4, 8, 14 and 18, the Applicant maintained the posted notice signs, replacing signs on six of those dates (Ex. 23).
- d. The Applicant made many attempts to contact the residents of Mr. Watson’s address, which is the closest home to the project site and the listed address for Mr. Watson, Jr., the SMD representative for the site. The Applicant made phone calls, sent emails, and left a hand written letter at the Watson’s property. (Ex. \_\_.) After many unsuccessful attempts of reaching Mr. Watson, Jr., the Applicant began communicating directly with other members of ANC 8B, including Commissioner Johnson, and ANC 8B voted unanimously to support the Project.
- e. With respect to Mr. Watson’s allegations that the CBA was flawed, the Applicant stated that the CBA was fully vetted and supported unanimously by the ANC. *See* ANC Resolution (Ex. 20C) stating that the “CBA includes a variety of commitments by the Applicant. ANC 8B is extremely supportive of this project, including the benefits included in the CBA.” The ANC identified the recipient



organizations receiving funding from the CBA, which would support mental health services for youth in ANC 8B and assist with services for youth impacted by gun violence in ANC 8B. The Applicant stated that it had no reason to believe that the proposed services or organizations were unacceptable.

- f. Despite the importance and relevance of the proffered community organization contributions and distribution of laptops, the Applicant also stated that it would be willing to remove these as proffered “public benefits” under the PUD pursuant to Subtitle X § 305, since the Application would still provide substantial public benefits and project amenities that far outweigh the degree of development incentives being requested, consistent with the standards of Subtitle X §§ 304.3 and 304.4.
- g. The Applicant also stated that in evaluating the project, OP found that “the benefits, amenities and proffers would appear to be commensurate with the related map amendment and other requested flexibility through the PUD.” (Ex. 21, p. 12.) The Applicant’s expert in land use and zoning, Mr. Dettman, also testified at the public hearing that “looking at the development incentives that are being requested and balancing that with the public benefits and project amenities in this case, the project provides superior public benefits in the form of urban design, architecture, landscape, as well as site planning and efficient use of the site... probably the most significant public benefit in this project would be the proffer in housing as well as affordable housing... There’s also public benefits in the form of transportation infrastructure, the sidewalk extension, and the curb extension that the Applicant has agreed to do as well as a robust transportation management plan.” (Oct. 24, 2020 public hearing transcript (“Tr.”), pp. 23-24 and Ex. 24, pp. 35-41.)
- h. Mr. Dettman also “conducted an extensive evaluation for potential impacts that could result from the project in the categories of the, organized according to the District elements in the comprehensive plan and overall I find that the potential impacts of the project are either favorable, capable of being mitigated, or in certain areas there would be no impact at all.” (Tr., pp. 24-25 and Ex. 24, pp. 35-41.) Mr. Dettman therefore concluded that the “project will not cause any unacceptable impacts. The public benefits balance the degree of development incentives being requested.” (Tr., pp. 26-27.)
- i. Based on the foregoing evidence, including unanimous support from the ANC, support from OP, and testimony at the public hearing regarding the project’s compliance with the PUD evaluation standards, the Applicant stated that the Project’s public benefits and amenities (even if excluding the proffers in the CBA), far outweigh the degree of development incentives requested and any potential adverse effects even without the community contributions with which Mr. Watson takes issue. Moreover, the Applicant stated that it acted in good faith in dealing with the ANC, was pleased to have the ANC’s unanimous support for the Project, and had no reason to believe that the ANC did not follow all required rules and procedures in dealing with this Project.

- j. Finally, the Applicant stated that the community opposition petition should not be given any weight by the Commission since it had no probative value for the following reasons:
- The signature pages did not identify the purpose for the signature and there was no identification on the signature pages that indicated the signatories knew the purpose of what they were signing;
  - There was no indication that the signatories were provided any or accurate information about the Project when they signed a blank sheet;
  - The signature pages did not identify any specific reasons why those individuals allegedly opposed the project; and
  - The signature pages did not provide information regarding why these individuals failed to attend the public hearing or submit testimony to the case record prior to the closing of the record to voice their alleged opposition and for the Applicant and the Commission to evaluate their alleged concerns.

### **CONCLUSIONS OF LAW**

1. The Commission is authorized under the Zoning Act to approve a consolidated PUD consistent with the requirements set forth in Subtitle X, Chapter 3 and Subtitle Z, Chapter 3.
2. Pursuant to Subtitle X § 300.1, 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.*
3. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider the Application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, parking, loading, yards, and courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.

### **COMPLIANCE WITH PUD STANDARDS**

4. The Commission concludes that the Application complies with the standards for a PUD set forth in Subtitle X, Chapter 3.
5. Pursuant to Subtitle X § 301.1, the minimum land area for a PUD in the RA-2 zone is one acre.

6. Pursuant to Subtitle X §§ 304.3 and 304.4, in reviewing a PUD application, the 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.*

and must find that the proposed development:

- 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.*

#### **Minimum PUD Land Area Requirements (Subtitle X § 303.1)**

7. The Applicant requested flexibility from the PUD minimum land area requirement of Subtitle X § 301.1, which establishes minimum land area requirements for PUDs that are based upon the zone within which the PUD is located. Pursuant to Table X § 301.1, the minimum land area requirement for a PUD in the RA-2 zone is one acre, or 43,560 square feet. Pursuant to 11-X DCMR § 301.2, the Commission may waive up to 50% of the minimum land area requirement provided that the Commission finds after the public hearing that the development is of exceptional merit and is in the best interest of the District of Columbia or the country and one of the following:
  - a. The development is identified in an approved Small Area Plan and will be generally not inconsistent with the Small Area Plan;
  - b. The development will be constructed or operated by the district of Columbia or federal government and serves a compelling government interest; or
  - c. If the development is to be located outside of the Central Employment Area, at least eighty percent (80%) of the gross floor area of the development shall be used exclusively for dwelling units and uses accessory thereto.
8. In this case the PUD Site has 19,601 square feet of land area, which is greater than a 50% reduction of the minimum requirement for the RA-2 zone.
9. The Initial Submission provided a detailed analysis regarding why the Application should be granted flexibility from the minimum PUD land area requirements, and in the alternative, how the request also meets the standards for approval as an area variance. (Ex. 3, pp. 12-15.) In reviewing that analysis, the Commission finds that the Applicant has satisfied the criteria needed to justify a waiver from the minimum PUD land area requirement and that flexibility is appropriate in this case for the following reasons:

- a. The Project is located outside of the Central Employment Area and is of exceptional merit because 100% of the gross floor area (“GFA”) will be devoted to senior affordable housing;
  - b. The Project achieves the purposes of the PUD process to provide for higher quality development through flexibility in building controls. The Project will be superior to what could be developed under matter of right standards, offers commendable public benefits and amenities, advances the public health, safety, welfare, and convenience, and is not inconsistent with the Comprehensive Plan;
  - c. Without the requested flexibility the Applicant would be unable to proceed with the Project and the PUD Site would therefore be developed with significantly less housing, and less senior affordable housing, which is inconsistent with the Mayor’s housing and affordable housing goals for the District.
  - d. The Comprehensive Plan specifically encourages modifications to the minimum lot size and other filing and procedural requirements for PUDs in neighborhood commercial areas to allow small property owners to participate in projects that encourage high quality developments and provide public benefits. *See* 10A DCMR § 309.18(a).
10. The Commission also finds that the request satisfies the standards for approval as an area variance in that the PUD Site is affected by an exceptional situation that results in a practical difficulty in complying with the minimum PUD land area requirements, and that granting the relief would not result in a substantial detriment to the public good or impair the intent, purpose, or integrity of the zone plan. As detailed in the Initial Submission (Ex. 3, pp. 14-15), the Commission concludes as follows:
- a. The PUD Site is affected by specific exceptional conditions that give rise to a practical difficulty in meeting the minimum PUD land area requirement. The PUD Site was subdivided in 2004 from the much larger property currently occupied by the adjacent rehabilitation facility. Those lot lines now abut the PUD Site to the south and west, and public streets abut the PUD Site to the east and south. Thus, there is no ability to increase the size of the PUD Site to comply with the minimum land area requirement. As a result of these conditions, the Applicant and any future land owner would have to abandon the PUD process entirely because it could never meet the minimum land area requirement, thus creating a practical difficulty for development of the PUD Site;
  - b. A variance from the minimum land area requirement would not result in substantial detriment to the public good or impair the Zoning Regulations or Zoning Map. The PUD will provide a substantial benefit to the public good in the form of significant and high quality new affordable senior housing, the removal of a long-vacant and underutilized site, and significant public benefits that were negotiated and supported by the ANC and which directly improve the lives of residents in the neighborhood. The PUD also will not result in any negative impacts related to traffic, parking, or pedestrian/vehicular conflicts as set forth in the Applicant’s Transportation Study which found that the amount of parking was appropriate and

that the streetscape surrounding the Site would be significantly upgraded to enhance the pedestrian experience and increase safety.

11. In making this conclusion the Commission also credits OP's finding that the Project "is of exceptional merit to the District outside the Central Employment Area and 100% of the proposed gross floor area would be exclusively for dwelling units for seniors" and that the proposal meets the three prongs of the variance test (Ex. 21, pp. 7-8.)

**Not Inconsistent with the Comprehensive Plan (Subtitle X § 304.4(a))**

12. Pursuant to Subtitle X § 304.4(a), the Commission shall find that the proposed development is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site. The purposes of the Comprehensive Plan are six-fold:

- a. *To define the requirements and aspirations of District residents, and accordingly influence social, economic and physical development;*
- b. *To guide executive and legislative decisions on matters affecting the District and its citizens;*
- c. *To promote economic growth and jobs for District residents;*
- d. *To guide private and public development in order to achieve District and community goals;*
- e. *To maintain and enhance the natural and architectural assets of the District; and*
- f. *To assist in conservation, stabilization, and improvement of each neighborhood and community in the District. (D.C. Code §1-245(b).)*

13. Based on the filings in the case record and testimony at the public hearing, the Commission concludes that the Project is not inconsistent with the Comprehensive Plan when read as a whole and in fact furthers numerous Comprehensive Plan elements and policies. In particular, the Commission concludes that the Project is not inconsistent with the designations for the PUD Site on the FLUM and GPM, advances the goals of the Comprehensive Plan's guiding principles, and advances many of the specific objectives and policies in the Land Use, Transportation, Housing, Environmental Protection, Urban Design, Infrastructure, and Far Southeast/Southwest Area Elements of the Comprehensive Plan. (Ex. 3, 3D, 10, 14, 20, 21 and 24.)

**FLUM**

14. The FLUM shows the general character and distribution of recommended and planned uses across the city. 10A DCMR § 200.5 of the Framework Element. The FLUM's "anticipated future land uses... may be the same, or different than, the current land uses. Framework Element § 224.4. The FLUM "carries the same legal weight as the text of the Comprehensive Plan" and is "intended to be used in conjunction with the Comprehensive Plan's policies and actions." Framework Element §§ 200.5 and 227.1. The Commission relied on the Applicant's description and analysis of the FLUM provided in the Comprehensive Plan Analysis (Ex. 3D.)

15. The Commission concludes that the Project is not inconsistent with its designation on the FLUM as Mixed Use Institutional and Local Public Facilities. The FLUM does not show

density or intensity on sites designated Institutional or Local Public Facilities. However, the Comprehensive Plan states that if a change in use occurs on these sites in the future (for example, a school becomes surplus or is redeveloped), the new designations should be generally comparable in density or intensity to those in the vicinity, unless otherwise stated in the Comprehensive Plan Area Elements or an approved Campus Plan. Framework Element § 228.1(h). Accordingly, as set forth in Ex. 3D, the Project and proposed zoning are appropriate given the uses, densities, neighborhood context, and FLUM designations in the immediate vicinity.

16. The PUD Site is largely surrounded by the Moderate Density Residential designation on the FLUM, and the surrounding area is primarily residential with a variety of housing types and densities including townhomes and apartment homes consistent with the Moderate Density Residential designation. Small scale retail and institutional uses are also interspersed in the surrounding neighborhood, including the three- and four-story rehabilitation facility known as the Transitional Care Center Capitol City, which abuts the Site to the south. As stated in the OP Setdown Report, the proposed RA-2 zone would be consistent with the Moderate Density Residential designation and the proposed residential building would be in character with the neighboring developments. (Ex. 10, p. 5.)
17. The Commission finds that the Project is consistent with the above-referenced surrounding uses and densities. The Project will provide new affordable housing dedicated exclusively to seniors and will be fully consistent with the development standards for a PUD in the RA-2 zone, which is a zone specifically identified in the Framework Element as being consistent with the surrounding Moderate Density Residential FLUM designation. (Framework Element § 227.6.) The Zoning Regulations state that the RA zones are “designed to be mapped in areas identified as moderate- or high-density residential areas suitable for multiple dwelling unit development and supporting uses” and that the RA-2 zone is intended to provide for “areas developed with predominantly moderate-density residential” Subtitle F §§ 100.2 and 300.3. Consistent with these standards, this Commission has previously approved Zoning Map amendments to the RA-2 zone for properties designated Moderate Density Residential on the FLUM. *See, e.g.* Z.C. Order No. 14-18A. Therefore, based on the Applicant’s filings in the case record, the reports of OP, and testimony at the public hearing, the Commission concludes that the Project and the proposed RA-2 rezoning are fully consistent with the surrounding context and land uses and therefore not inconsistent with the PUD Site’s Institutional and Local Public Facilities designations on the FLUM. (Ex. 3, 3D, 10, 21, 24, Transcript pp. 21-27).)

### **GPM**

18. The purpose of the GPM is to categorize how different parts of the District may change between 2005 and 2025. It highlights areas where more detailed policies are necessary, both within the Comprehensive Plan and in follow-up plans, to manage this change. (Framework Element § 225.1.) The map should be used to guide land-use decision-making in conjunction with the Comprehensive Plan text, the FLUM, and other Comprehensive Plan maps. Boundaries on the map are to be interpreted in concert with these other sources, as well as the context of each location. (Framework Element § 225.2.)

19. The Commission concludes that the Project is not inconsistent with its designation on the GPM as a Neighborhood Conservation Area because the PUD Site is presently vacant and therefore underutilized considering its development potential and location in a mixed-use area with ample public transportation options. The Project will help address citywide housing needs, and in particular the need for senior affordable housing, while at the same time fitting in with the residential character of the neighborhood in a manner that will not create any stark changes in density compared to existing densities of surrounding properties. There is a diversity of land uses and building types and heights within the immediate area, and the Project is designed in a manner that is compatible with these existing development patterns and will respect the surrounding scale, natural features, and character of the neighborhood.
  
20. Moreover, the Commission credits OP's analysis that the Project would not be inconsistent with the PUD Site's Neighborhood Conservation Area designation on the GPM. As a vacant site, the PUD Site is an ideal location for a neighborhood development in a Neighborhood Conservation Area. Development the PUD Site with the proposed residential building would strengthen the neighborhood and its design would be compatible with the character of the surrounding mixed-use neighborhood. (Ex. 10, p. 6.) Therefore, based on the Applicant's filings in the case record, the reports of OP, and testimony at the public hearing, the Commission concludes that the Project is not inconsistent with the GPM. (Ex. 3, 3D, 10, 21, 24, Transcript pp. 21-27).)

#### **Comprehensive Plan Guiding Principles**

94. As set forth in the Applicant's Comprehensive Plan Analysis, the reports of OP, and testimony provided at the public hearing, the Commission concludes that the Project is not inconsistent with many of the guiding principles of the Comprehensive Plan for managing growth and change, creating successful neighborhoods, connecting the city, and building green and healthy communities. (Ex. 3, 3D (pp. 5-7, 10 and 21), 10, 21, Transcript pp. 21-27).)

#### **Comprehensive Plan District Elements**

95. As set forth in the Applicant's Comprehensive Plan Analysis, the reports of OP, and testimony provided at the public hearing (Ex. 3, 3D, 10, 21, 24, Transcript pp. 21-27)), the Commission concludes the following:

- a. The Project is not inconsistent with the objectives and policies of the Land Use Element. Specifically, the Project will advance the following element policies: Policy LU-1.3 Transit-Oriented and Corridor Development, Policy LU-1.3.4: Design to Encourage Transit Use, Policy LU-1.4.2: Long-Term Vacant Sites, Policy LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods, Policy 2.1.8: Zoning of Low and Moderate Density Neighborhoods, Policy LU-2.1.11: Residential Parking Requirements, Policy LU-2.2.4: Neighborhood Beautification, and Policy LU 2.1.3: Buffering Requirements.
  
- b. The Project is not inconsistent with the objectives and policies of the Transportation Element. Specifically, the Project will advance the following element policies:

Policy T-1.1.4: Transit-Oriented Development, Policy T-2.3.1: Better Integration of Bicycle and Pedestrian Planning, Policy T-2.3.3: Bicycle Safety, Policy T-2.4.1: Pedestrian Network, Policy T-2.4.2: Pedestrian Safety, Policy T-2.6.1: Special Needs, Policy T-2.6.2: Transit Needs, and Policy T-3.1.1: Transportation Demand Management (TDM) Programs;

- c. The Project is not inconsistent with the objectives and policies of the Housing Element. Specifically, the Project will advance the following element policies: Policy H-1.1: Expanding Housing Supply, Policy H-1.1.1: Private Sector Support, Policy H-1.1.3: Balanced Growth, Policy H-1.1.5: Housing Quality, Policy H-1.2.1: Affordable Housing Production as a Civic Priority, Policy H-1.2.2: Production Targets, Policy H-1.2.7: Density Bonuses for Affordable Housing, Policy H-1.3.3: Assisted Living and Skilled Nursing, Policy H-1.4.3: Focusing Housing Investments, Policy H-1.5.1: Land and Building Regulations, Policy H-4.2.2: Housing Choice for Seniors, and Policy H-4.2.3: Neighborhood-Based Senior Housing;
- d. The Project is not inconsistent with the objectives and policies of the Environmental Protection Element. Specifically, the Project will advance the following element policies: Policy E-1.1.1: Street Tree Planting and Maintenance, Policy E-1.1.3: Landscaping, Policy E-3.1.2: Using Landscaping and Green Roofs to Reduce Runoff, Policy E-3.2.1: Support for Green Building, Policy E-4.1.3: Evaluating Development Impacts On Air Quality, and Policy E-4.3.5: Noise and Land Use Compatibility;
- e. The Project is not inconsistent with the objectives and policies of the Urban Design Element. Specifically, the Project will advance the following element policies: Policy UD-2.2.4: Transitions in Building Intensity, Policy UD-2.2.5: Creating Attractive Facades, Policy UD-2.2.8: Large Site Development, Policy UD-2.2.10: Surface Parking, Policy UD-3.1.1: Improving Streetscape Design, Policy UD-3.1.5: Streetscape and Mobility, Policy UD-3.1.11: Private Sector Streetscape Improvements, and Policy UD-3.2.3: Site Planning and Design Measures to Increase Security;
- f. The Project is not inconsistent with the objectives and policies of the Infrastructure Element. Specifically, the Project will advance the following element policies: Policy IN-1.2: Modernizing Water Infrastructure, Policy IN-2.1.1: Improving Wastewater Collection, Policy IN-2.2.1: Improving Stormwater Management, and Policy IN-6.1.3: Developer Contributions; and
- g. The Project is not inconsistent with the objectives and policies of the Far Southeast/Southwest Area Element. Specifically, the Project will advance the following element policies: Policy FSS-1.1.14: District Government Incentives for Economic Development, and Policy FSS-1.2.1: Health Care Facilities.



96. Therefore, as set forth in set forth in the Applicant's Comprehensive Plan Analysis, the reports of OP, and testimony provided at the public hearing (Ex. 3, 3D, 10, 21, 24, Transcript pp. 21-27)), and particularly when viewed together with OP's conclusions demonstrating that the Project is not inconsistent with the FLUM and GMP, guiding principles, and other policies within the Citywide and Area Elements of the Comprehensive Plan, the Commission concludes that the Project is not inconsistent with the Comprehensive Plan when read as a whole. To the extent the Project may be inconsistent with one or more individual policies, the Commission finds that any such inconsistencies are far outweighed by the Project's consistency with other competing policies and considerations, and in particular those policies relating to housing and affordable housing.

**Potential Unacceptable Impacts - How Mitigated or Outweighed (Subtitle X § 304.4(b))**

97. The Commission finds that the Project will not result in any unacceptable project impacts, and that any potential impacts will be favorable, capable of being mitigated, or acceptable of given the quality of public benefits provided by the Application.

98. Specifically, the Commission finds that the Project will benefit the neighborhood by providing new affordable senior housing at an amount and subsidy level that is significantly greater than the minimum required by the IZ regulations. The Commission finds that the Project design relates to the surrounding architectural context and considers the variety of nearby uses. The Project includes sustainable landscape design and streetscape improvements that will enhance the pedestrian experience and improve the public realm.

99. As stated in the OP Report, the Application was referred to DOEE, DHCD, DDOT, FEMS, MPD, DC Water, and DACL. The Applicant also participated in an interagency meeting that included representatives from OP, DDOT, DOEE, DHCD, and DACL, and submitted written responses to comments from those agencies in its Supplemental Prehearing Submission. Other than DDOT, no other agency submitted comments regarding potential impacts of the Project. Therefore, the Commission finds that the Applicant has fully addressed all comments and concerns raised by the reviewing agencies of this Application.

100. With respect to transportation impacts specifically, the Commission finds that any potential impacts were thoroughly analyzed in the Applicant's Transportation Statement (Ex. 19), which was prepared in coordination with and reviewed by DDOT. The Transportation Statement found that the Project is anticipated to generate seven vehicular trips during the morning peak hours and nine vehicular trips during the PM peak hours, and will therefore not have any adverse impacts on the roadway network. (Ex. 19, p. 30.) The DDOT Report also stated that the trips generated by the Project are expected to have a minimal impact on the transportation network. (Ex. 22, p. 2.) The DDOT Report found that the PUD Site "has an excellent (low) parking ratio, is located within a ¼ mile of a Priority Network Corridor Metrobus Route, the projected vehicle trip generation was low, and the Applicant has committed to a robust ... TDM plan." (Ex. 22, p. 7.) The Applicant's TDM plan and Loading Management Plan are set forth in FF Nos. \_\_\_\_ of this Order. Moreover, the Project includes significant public space improvements, including new sidewalks and a new curb extension at the intersection of 25<sup>th</sup> and Wagner Streets. Taken

together, the Commission concludes that the Project will not have any unacceptable impacts related to transportation that are not capable of being mitigated.

101. With regard to the contested issues raised in written testimony and during the public hearing, the Commission concludes as follows:
102. Senior Housing at the PUD Site: With respect to developing the PUD Site with a senior housing project, the Commission finds that there is a critical need for both senior housing and affordable senior housing in the District of Columbia. Developing senior housing is consistent with many goals and objectives of the Comprehensive Plan, which states that “will be need for a broad range of senior living environments, serving residents across the income spectrum.” 10-A DCMR § 516.2. *See also Policy H-4.2.2: Housing Choice for Seniors; Policy H-4.2.3: Neighborhood-Based Senior Housing; and Action H-4.2.B: Incentives for Senior Housing.*
103. The Commission also recognizes the findings of the District’s 2019-2022 State Plan on Aging, published by the D.C. Office of Aging, which emphasizes the “importance of affordable housing in the senior community” with housing being one of the highest priorities for the aging community. *See State Plan on Aging*, p. 28. The Commission credits the Mayor’s priority of “producing and preserving more affordable housing units, including senior apartments” (*State Plan on Aging*, p. 9) and finds that the Project helps to accomplish those goals. Importantly, the Commission notes that the Applicant met with DACL to review the PUD as part of its interagency meeting and fully addressed all of DACL’s comments in its Supplemental Prehearing Submission. (Ex. 20, p. 8.) Therefore, the Commission finds that the senior housing proposed for the Project is fully consistent with the District’s housing goals and will not result in any negative impacts.
104. Building Height: With respect to the height of the building and its proximity to the closest residential dwelling, the Commission finds that the proposed height of the Project is consistent with the PUD height limitations for the RA-2 zone and appropriate for the PUD Site. The building is oriented at the corner of 25<sup>th</sup> and Wagner Streets and is therefore pushed as far away as possible from the closest residential homes. The building also steps down significantly as it moves away from the intersection and towards the neighboring homes. Therefore, the Commission concludes that the proposed building height is appropriate for the Project and will not result in unacceptable impacts to neighboring properties.
105. Parking and Traffic: With respect to transportation issues, the Commission finds that the Project is not seeking any parking relief as part of the Application. The Commission credits the findings of the Applicant’s Transportation Statement, which was scoped in accordance with DDOT guidelines and includes a detailed assessment of the transportation mode split, trip generation, transit services and facilities, pedestrian and bicycle facilities, identification of car share availability, safety analysis, loading management plan, TDM plan, and curbside management. (Ex. 19.) As set forth in the Transportation Statement, the “[p]rojected traffic levels are minimal and would not have any adverse impacts on the

roadway network.” (Ex.19, p. 30.) The Applicant also committed to an extensive TDM plan to minimize traffic and parking impacts.

106. The Commission also credits DDOT’s findings that the proposed number of off-street parking spaces meets both the parking requirement and DDOT’s preferred maximum parking rates. (Ex. 22, p. 7.) The DDOT Report finds that the PUD Site has an excellent parking ratio, is located in close proximity to public transportation, and has a low projected vehicle trip generation. (Ex. 22, p. 7.) The Commission also notes that the OP Report found that the “Applicant’s traffic study shows that the project should not have a negative impact on the traffic and parking conditions in the area.” (Ex. 21, p. 8.) Thus, the Commission concludes that the Project will not result in any unacceptable impacts as it relates to parking or traffic in the immediate area.
107. Community Engagement: With respect to community engagement, the Commission finds that the Applicant formally presented the Project to the affected ANC 8B twice and received a unanimous ANC vote in support of the Project. (Ex. 20C.) The Commission appreciates the ANC’s Resolution, which identifies the ANC’s strong support for the Project, stating that the affordable senior housing development would be a “significant improvement to the vacant site and a much-needed amenity for the neighborhood without creating any adverse effects.” (Ex. 20C, p. 1.) The Commission also acknowledges that the Applicant agreed to implement all of the public benefits and amenities suggested by the ANC and that the ANC is “extremely supportive of this project, including the benefits included in the CBA.” (Ex. 20C, p. 1.)
108. With respect to engaging with Mr. Watson specifically, the Commission credits the Applicant’s testimony that it made substantial efforts to contact the residents of 2437 Wagner Street, SE prior to and following submission of the Application but was ultimately unsuccessful and therefore began extensive outreach with the ANC and ANC Chair (Ex. \_\_\_.) The Commission finds that the Applicant complied with all notice requirements for the PUD, including mailing a Notice of Intent to owners of property within 200 feet of the PUD Site, which included the Watson property, copying Mr. Watson, Jr. on all filings to the case record in his capacity as SMD for the PUD Site, and posting and maintaining the PUD Site with notice of the public hearing. (Ex. 3I, 18, 23.) Notice of the Application filing and hearing were also published in the *DC Register*, in accordance with the deadlines set forth in the Zoning Regulations. (Ex. 8, 16.)
109. Traffic and Environmental Impact Studies. With respect to fully analyzing the Project’s impact on transportation and environmental systems, the Commission finds that the Applicant provided all required analyses. As previously described in this Order the Applicant prepared a Transportation Statement that was reviewed and approved by DDOT. DDOT indicated its support for the Project with three conditions, all of which the Applicant agreed to at the public hearing. DDOT also stated that because the Project’s trip generation is “far below DDOT’s trip threshold” it did not require a further traffic analysis. (Ex. 22, p. 2.)

110. With respect to environmental impacts, the Applicant met with DOEE and responded to DOEE's comments in its Supplemental Prehearing Submission (Ex. 20, p. 8.) Consistent with standard procedures, the Applicant will continue to work with DOEE as it moves forward with permitting the Project. Moreover, the assessment of a project's environmental impacts does not conclude with the Commission. Rather there is an entirely separate set of regulatory requirements under the Environmental Act and implementing regulations that require the evaluation of potential environmental impacts before the issuance of a building permit. Further, the D.C. Court of Appeals has held that "implementation" of a zoning approval occurs when construction actually begins. *See Foggy Bottom Ass'n v. D.C. Bd. Of Zoning Adjustment*, 791 A.2d 64, 73 (D.C. 2002)). Thus, the Applicant will be required to complete an EISF when submitting its building permit application, which will be reviewed by various District agencies. To the extent that a reviewing agency identifies impacts that exceed established thresholds, the Applicant will be required to work with that agency to avoid, minimize, and/or mitigate such impacts to the extent necessary before the Project is implemented.
111. Based on the foregoing, the Commission finds that the Applicant fully analyzed the Project's impact on the transportation network and concludes that the Project will not result in any impacts that cannot be mitigated. With respect to environmental impacts, the Commission concludes that the Applicant addressed all of DOEE's stated comments as part of this zoning approval and will continue to work with DOEE and other reviewing agencies as part of the building permit approval process to ensure that any potential impacts are minimized.

**Requested Flexibility Balanced by Public Benefits (Subtitle X § 304.4(c))**

112. In deciding a PUD application, the Commission shall 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. A project may qualify for approval by being particularly strong in only one or a few categories of public benefits but must be acceptable in all proffered categories and superior in many. (Subtitle X § 305.12.)
113. The Commission finds that the Project offers a high level of public benefits and project amenities, that the Applicant requested minimal flexibility, and that the Project will not result in any unacceptable project impacts. The Commission finds that the benefits and amenities of the Project are acceptable in all proffered categories and notes that the monetary contributions proffered by the Applicant comply with the requirements of Subtitle X § 305.3(d) since the items or services funded can be provided prior to the issuance of certificate of occupancy for the Project.
114. The Commission finds that the flexibility requested from the minimum PUD land area requirements of Subtitle X § 303.1 and the loading berth and driveway width requirements of Subtitle C §§ 901.1 and 711.6, respectively, are not inconsistent with the Comprehensive Plan and that the PUD benefits and amenities are reasonable tradeoffs for this level of development flexibility requested.

115. Accordingly, given the substantial public benefits and lack of unmitigated impacts resulting from the Project, the Commission concludes that the Application satisfies the balancing test required in Subtitle X § 304.3(c).

**“GREAT WEIGHT” TO THE RECOMMENDATION OF OP**

116. The Commission is required to give “great weight” to the recommendation of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.) and Subtitle Z § 405.8. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)

117. The Commission carefully considered the OP Reports and testimony in this case and concludes that OP’s analysis of the Project’s consistency with the Comprehensive Plan, potential impacts, and proffered benefits is persuasive. Accordingly, the Commission concurs with OP’s recommendation to grant the Application.

**“GREAT WEIGHT” TO THE WRITTEN REPORT OF THE ANC**

118. The Commission must give “great weight” to the issues and concerns raised in the written report of the affected ANC pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) 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).)

119. As the ANC Report expressed no issues or concerns with the Application, there are no issues or concerns to which the Commission can give great weight. (*See Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The Commission agrees with the ANC’s recommendation to approve the Application.

**DECISION**

In consideration of the case record, and the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission **ORDERS APPROVAL** of the application for a consolidated PUD and Zoning Map amendment for property located at 2419 25th Street, SE (Square 5740, Lot 337). This approval is subject to the following guidelines, conditions, and standards. Whenever compliance is required prior to, on or during a certain time, the timing of the obligation is noted in bold and underlined text.

## A. PROJECT DEVELOPMENT

1. The PUD Site shall be developed substantially in accordance with the Architectural Plans and Elevations prepared by Torti Gallas Urban, dated October 15, 2020, and included in the record at Exhibit \_\_\_ (the “Plans”), including the landscaping and streetscape improvements shown on Sheets A02, C03, L01, L03 and L04 of the Plans, as modified by the guidelines, conditions, and standards herein.
2. The Applicant shall have design flexibility from the Plans as follows:
  - a. Number of Units. To provide a range in the number of residential units to plus or minus 10% (i.e. 60-74 units);
  - b. Interior Components. To vary the location and design of all interior components, including amenities, partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration of the building;
  - c. Parking and Loading. To make refinements to the surface parking and loading configuration, including the layout, number of parking spaces, and/or other elements, so long as the number of parking spaces does not decrease below the minimum level required by the Zoning Regulations and the number and size of loading facilities provided does not decrease below that approved by this Order;
  - d. Exterior Materials. To vary the final selection of the colors of the exterior materials based on availability at the time of construction, provided such colors are within the color ranges proposed in the approved Plans;
  - e. Exterior Details. To make minor refinements to the locations and dimensions of exterior details that do not substantially alter the exterior design shown on the approved Plans. Examples of exterior details would include, but are not limited to, doorways, canopies, railings, windows, and skylights;
  - f. Signage. To vary the color, font, and message of the proposed signage, provided that the maximum overall dimensions and signage materials do not change from those shown on the approved Plans;
  - g. Streetscape Design. To vary the location, attributes, and general design of the approved streetscape to comply with the requirements of, and the approval by, the DDOT Public Space Division; and
  - h. Sustainable Features. To vary the approved sustainable features of the Project, provided the total number of Enterprise Green Communities points achievable for the Project does not decrease below the minimum required for the Enterprise Green Communities standards specified by the Order.
3. In accordance with the Approved Plans,
  - a. The Project shall have a maximum building height of 55 feet;
  - b. The Project shall have a maximum density of 2.59 FAR;
  - c. The Project shall have approximately 50,733 square feet of GFA devoted to residential use;
  - d. The Project shall have approximately 67 residential units, plus or minus 10%; and
  - e. The Project shall have five on-site parking spaces.

4. The Applicant shall be granted flexibility from the minimum PUD land area requirement (Subtitle X § 301.1); the loading berth requirement (Subtitle C § 901.1); and the driveway width requirement (Subtitle C § 711.6).

**B. PUBLIC BENEFITS AND PROJECT AMENITIES**

1. **For the life of the Project**, the Applicant shall dedicate a minimum of approximately 50,733 square feet of GFA to residential use.
2. **For the first 40 years of the Project**, the Applicant shall dedicate a minimum of approximately 50,733 square feet of GFA as senior housing.
3. The Applicant shall provide affordable housing as set forth in this condition:
  - a. The Applicant shall provide affordable housing as set forth in the following chart, subject to the subsequent paragraphs of this condition:

<b>Residential Unit Type</b>	<b>Income Type</b>	<b>Gross Floor Area / 100% of total</b>	<b># of Units</b>	<b>Affordable Control Period</b>	<b>Affordable Unit Type</b>
<b>Total Affordable Non-IZ</b>	Up to 60% MFI	50,733 sf (100%)	67	40 years	Rental
<b>IZ</b>	Up to 60% MFI	6,088 sf (12%)	8	41+ years	Rental

- b. Each control period shall commence **upon the issuance of the first certificate of occupancy for the Project**;
  - c. The chart assumes that the Applicant will be granted an exemption from the requirements of the IZ program of Subtitle C, Chapter 10 during the 40-year period of Low Income Housing Tax Credit (“LIHTC”) financing for the Project, pursuant to Subtitle C § 1001.6 (“IZ Exemption”), although the Commission takes no position as to whether the IZ Exemption should be granted;
  - d. Should the IZ Exemption be granted, the affordable housing requirements of this condition shall be stated in the covenant required by Subtitle C § 1001.6(a)(4); and
  - e. Should the IZ Exemption be denied, the Applicant shall provide 6,088 square feet of affordable housing (12%) affordable to households earning up to 60% of MFI. The Applicant shall record the covenant required by the Inclusionary Zoning Act as to 12% of the residential GFA of the Project and shall execute the monitoring and enforcement documents required by Subtitle X § 311.6.
4. **Prior to the issuance of the first Certificate of Occupancy for the Project**, the Applicant shall demonstrate to the Zoning Administrator that it has submitted an executed CBE

agreement to DSLBD that requires the Applicant to comply with all applicable CBE subcontracting requirements related to the Project. This condition applies only if LIHTC financing is provided for the Project.

5. **Prior to the issuance of the first Certificate of Occupancy for the Project**, the Applicant shall demonstrate to the Zoning Administrator that it has installed a curb extension (bulb-out) at the corner of 25<sup>th</sup> and Wagner Streets, consistent with the curb extension shown on Sheets C03 and L01 of the Plans, subject to any modifications required to obtain DDOT's approval during public space permitting.
6. **Prior to the issuance of the first certificate of occupancy for the Project**, the Applicant shall demonstrate to the Zoning Administrator that it has done the following, and that the identified items and services have been or are being provided:
  - a. Purchased a minimum of \$20,000 of new laptops that have cameras and come with or are able to install Microsoft Office, and provided evidence that such laptops were delivered to ANC 8B for distribution to students for the 2020-2021 academic year;
  - b. Donated \$7,000 to Families on the Rise to fund programming to provide mental health services for youth in ANC 8B; and
  - c. Donated \$5,000 to The Gerald Project to fund programming to assist with services for youth in ANC 8B impacted by gun violence.

**C. ADDITIONAL CONDITIONS TO APPROVAL**

1. **Prior to the issuance of the first certificate of occupancy for the Project**, the Applicant shall demonstrate to the Zoning Administrator that it has designed the Project to achieve the equivalent of a minimum of 60 points under the 2015 Enterprise Green Communities standards.
2. **For the life of the Project unless otherwise specified, the Applicant shall implement the following TDM plan:**
  - a. Identify Transportation Coordinator for the planning, construction, and operations phases of development. The Transportation Coordinator will act as points of contact with DDOT, goDCgo, and Zoning Enforcement;
  - b. 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;
  - c. Transportation Coordinator 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 property website and in any internal building communications;



- d. Transportation Coordinator will receive TDM training from goDCgo to learn about the TDM conditions for this project and available options for implementing the TDM Plan;
  - e. 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;
  - f. 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;
  - g. Transportation Coordinator will subscribe to goDCgo's residential newsletter;
  - h. Post all TDM commitments on website, publicize availability, and allow the public to see what commitments have been promised;
  - i. Provide a free SmarTrip card to every new resident and a complimentary Capital Bikeshare coupon good for one ride;
  - j. Meet ZR16 short- and long-term bicycle parking requirements. Long-term bicycle space will be provided free of charge to residents. (22 long-term spaces provided);
  - k. **Following the issuance of a certificate of occupancy for the Project**, the Transportation Coordinator shall submit documentation from DCRA summarizing 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 case record of the case; and
  - l. **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 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.
- 3. For the life of the Project, the Applicant shall implement the following Loading Management Plan:**
- a. The property manager will be responsible for coordinating with tenants to schedule deliveries and move-ins/move-outs, and will work with the community and neighbors to resolve any conflicts should they arise;
  - b. A lease provision will require all tenants to use only the service delivery space for all deliveries and move-in and moveout activities;
  - c. The maximum size for on-site delivery vehicles is 20 feet in length;

- d. Residents utilizing moving trucks greater than 20 feet in length shall be required to obtain “Emergency, No Parking” signs for Wagner Street, SE during the duration of the move. The fees for this service will be paid by the resident. The property manager will schedule move-ins/move-outs using the service delivery space such that the loading capacity is not exceeded;
- e. In the event that an unscheduled delivery vehicle arrives while the dock is full, that driver will be directed to return at a later time when the service space will be available so as to not compromise safety or impede operations on Wagner Street, SE or 25<sup>th</sup> Street, SE; and
- f. Trash/recycle will be stored in the building, and then rolled out from the trash room to be collected on Wagner Street.

**D. MISCELLANEOUS**

- 1. No building permit shall be issued for the PUD 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, Department of Consumer and Regulatory Affairs. Such covenant shall bind the Applicant and all successors in title to construct and use the Property in accordance with this Order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
- 2. The PUD shall be valid for a period of two 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 years of the effective date of this Order.
- 3. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., (“Act”) the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that 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.