

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

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 24-15**  
**Z.C. Case No. 24-15**  
**901 Monroe Street, LLC**  
**(Consolidated Planned Unit Development and Related Zoning Map Amendment**  
**@ Lot 23 in Square 3829**

[\_\_\_\_\_], 2025

Pursuant to notice, the Zoning Commission for the District of Columbia (the “**Commission**”) held public hearings on June 23, 2025 and July 7, 2025 to consider an application (the “**Application**”) from 901 Monroe Street, LLC (the “**Applicant**”), for review and approval of a consolidated planned unit development (“**PUD**”) for Lot 23 in Square 3829 (the “**Property**”) and related amendment to the Zoning Map from the MU-3A and R-2 zones to the MU-5B zone. The Commission considered the Application pursuant to Subtitles X and Z of Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016, the “**Zoning Regulations**,” or “**ZR16**,” and to which all citations to regulations herein are made unless otherwise specified). For the reasons stated below, the Commission hereby **APPROVES** the Application.

**FINDINGS OF FACT**

**Procedural Background**

1. On November 11, 2024, the Applicant filed the Application for review and approval of a consolidated PUD and related zoning map amendment and requested that the Commission set down the Application for a public hearing. (Exhibit [“**Ex.**”] 2.)
2. At a public meeting of the Commission on February 13, 2025, the Commission unanimously voted to set down the Application for a public hearing. (Transcript of Zoning Commission Public Meeting [“**Tr.**”] at 12-26., February 13, 2025.)

**Notice**

3. On April 14, 2025, the Office of Zoning (“**OZ**”) sent notice of the public hearing to the affected Advisory Neighborhood Commission (“**ANC**”) 5B; the affected ANC Single Member District 5B04; the Office of the ANC; the Office of Planning (“**OP**”); the District Department of Transportation (“**DDOT**”); the Department of Buildings (“**DOB**”); the Lead Attorney for the Zoning Commission; the District Department of the Environment (“**DOEE**”); DC Councilmember Parker and the At-Large DC Councilmembers; and property owners owning property within 200 feet of the Property. (Ex. 34-35.)

4. OZ also published notice of the June 23, 2025, public hearing in the *D.C. Register* on April 25, 2025, as well as through the calendar on OZ’s website. The Applicant posted notice of the Property pursuant to the Zoning Regulations. (Ex., 33, 51.)

### **Parties**

5. The parties to the case were the Applicant, ANC 5B (the ANC in which the Property is located), ANC 5F (a Party in support), the 200 Footers (a Party in opposition), and the Brookland Neighborhood Civic Association (a Party in opposition). (Ex. 69, 83, 91, 70, 71.)

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

6. The Property is an L-Shaped lot that includes 60,000 square feet of land area located in the Brookland neighborhood of Ward 5. The Property is bound by Monroe Street to the north, 10<sup>th</sup> Street to the east, six privately owned townhomes to the southeast, Lawrence Street to the south and 9<sup>th</sup> Street to the west. The immediate neighborhood around the Property is comprised of a mix of uses. To the north of the Property, across Monroe Street is the Brooks Mansion (which currently houses DC Cable Television’s offices and studios) and the CUA/Brookland Metro Station. 9<sup>th</sup> Street includes a mix of townhouses that are used for residential and commercial purposes as well as multi-family buildings. Lawrence Street, located to the south of the Property, includes fully detached single-family homes. Immediately adjacent to the Property along 10<sup>th</sup> Street are townhomes and the Luke C. Moore Opportunity Academy (a DC public charter school) is located across 10<sup>th</sup> Street from the Property at the intersection of 10<sup>th</sup> and Monroe Streets. (Ex. 3.)
7. The Property currently is currently located in the MU-3A and R-2 Zones. The Future Land Use Map (“FLUM”) Designation for the Property is Mixed-Use: Medium-Density Residential/Moderate Density Commercial. The Generalized Policy Map (“GPM”) includes the Property in a Neighborhood Conservation Area. (Ex. 3.)

### **The Project**

8. The Application seeks to redevelop the Property with a building (the “**Project**”) that will include approximately 233 residential units with a mix of studio, junior one-bedroom, one-bedroom, one-bedroom + den, two-bedroom, and three-bedroom units. Twelve of the residential units (5% of the total number of units) will be three-bedroom units. The Project will have an FAR of 4.2 and a measured building height of 75 feet. The Project reserves 15% of the residential gross floor area as Inclusionary Zoning (“IZ”) units. In addition, along Monroe Street, five live-work units are provided. In response to feedback from the community, the Applicant agreed to market two of the live-work units, located at the corner of 10<sup>th</sup> Street and Monroe Street – approximately 1,800 square feet, for retail use for 18 months (12 months prior to the delivery of the space and for 6 months after the space is made available). (Ex. 3, 24, and 56.)

9. The Project will underground the utilities along Monroe Street, which will allow for the removal of the existing utility poles along Monroe Street and the removal of the inactive poles along 9<sup>th</sup> Street. The Applicant noted that the removal of the utility poles will allow for an enhanced pedestrian experience along Monroe Street with larger street trees and a 7-13 foot increased sidewalk width along Monroe Street.
10. The Project will include 55 parking spaces (42% will be compact spaces – which was requested by community stakeholders), located at grade, and accessed from Lawrence Street via a widened public alley<sup>1</sup>. The Applicant agreed to restrict the ability of residents of the Project to obtain a Residential Parking Permit. The Applicant also agreed to include this restriction as a condition of the Zoning Commission’s approval of the Application. Loading facilities will also be accessed from this alley and all turning movements for loading and trash pick-up will be accomplished on the Property. Bicycle parking spaces (80 long-term and 12 short-term spaces) will be provided in the building and will be accessed from the ground floor of the building with direct access to the public alley. (Ex. 3 and 24)
11. The Applicant stated that the Project will benefit the District of Columbia by facilitating the long-planned redevelopment of an underutilized lot near a Metrorail Station with a transit-oriented development with the following public benefits: housing and affordable housing; superior urban design/architecture; environmental and sustainability benefits; and uses of special value. The Applicant stated that the Project creates a strong, appropriately scaled and fully articulated architectural treatment of all sides of the building with appropriate buffers and set-backs to the surrounding residential uses. In sum, the Project exhibits the appropriateness, character, scale, height, uses, and design for approval as a consolidated PUD. (Ex. 3.)
12. The Applicant also noted that the proposed design is responsive to the visual and spatial qualities of the surrounding context, which varies around all four sides of the PUD site, and to the lower-scale rowhomes immediately adjacent to the PUD site along 10<sup>th</sup> Street. The proposed design employs various design strategies such as ground-level and upper-level setbacks, projections, courtyards, façade articulation, and a context-sensitive material palette that work together to achieve a successful degree of compatibility with the surrounding context and the adjacent rowhomes. (Ex. 3.)
13. Along Monroe Street, the context of the PUD site is primarily characterized by the large open space set back of the historic Brooks Mansion, the Brookland/CUA Metrorail station and bus facility, and the mixed-use Monroe Street Market development to the west of the tracks. In response to this context, the proposed building provides substantial ground level and upper-level setbacks along Monroe Street to reduce the scale of the building and accommodate pedestrian traffic, while strengthening the streetwall along Monroe Street, a gateway into the Brookland neighborhood. (Ex. 3.)

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<sup>1</sup> The existing north/south alley in Square 3829 is only 10 feet wide. This Project proposes to widen the alley system to 20 feet wide by granting a public use easement for 10 feet of the Property adjacent to the existing alley.

14. Along 9<sup>th</sup> Street, which contains rowhomes (some of which are devoted to commercial uses) and a 4-story office building along the west side of the street, the Project contains two large open courts above the ground floor that significantly reduce the building's massing, and the primary façade of the building is set back approximately 13 feet from the property line with the exception of projections above the ground level that provide further scale reduction<sup>2</sup>. The courtyards will include a pool and landscaped amenity spaces for the residents of the Project. (Ex. 3.)
15. On 10<sup>th</sup> Street, which contains six (6) rowhomes immediately south of the PUD site, and a public charter school on the east side of the street, the entire building is setback approximately 15 feet from the property line that is shared with the closest rowhome to the south, as well as from the public alley that separates the PUD site from the rear lot lines of the rowhomes. Additionally, the top floor of the building is set back approximately 7 feet along the east facing façade. At the south facing facades closest to the adjacent rowhomes, the top floor is setback an additional 6 feet from the shared property line for a total setback of 21 feet, 6 inches. In response to the request of the Commission, the Applicant provided further sculpting of the building by modifying the fifth and sixth floors along the 10<sup>th</sup> Street frontage of the building. These modifications resulted in the loss of 268 square feet of gross floor area. The Applicant notes that the proposed relationship between the proposed Project and the adjacent rowhomes along 10<sup>th</sup> Street is similar to the relationship found at the Monroe Street Market PUD (Z.C. 08-24) located on the west side of the Metrorail tracks, where the Block E multi-story residential apartment building is immediately adjacent to lower-scale single family homes. (Ex. 3, 135.)
16. Along Lawrence Street (with the top floor set back approximately 11 feet, 6 inches), the primary façade of the building is set back approximately 5 feet from the property line, which is also punctuated by four-story bay projections that reduce the building's scale and establish a clear residential expression that relates to nearby rowhomes. Individual residential unit stoops were added to two ground floor apartments along Lawrence Street, in response to comments from community stakeholders, to enliven the street level experience. (Ex. 3, 24.)
17. The roof level of the building will include amenity and recreation space for residents of the Project. The roof structure on the building will only be used for access to the outdoor amenity spaces and for related bathrooms for residents using the rooftop space. (Ex. 3 and 24)
18. The 233 units proposed in the Project includes a mix of live-work, studios, one-bedroom, two-bedroom and three-bedroom units. The market rate units include: 5 live-work units; 5 studios; 39 junior one-bedroom units; 96 one-bedroom units; 38 one-bedroom with den units; 38 two-bedroom units; and 12 three-bedroom units. The proposed Inclusionary Zoning ("IZ") Units

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<sup>2</sup> Specifically, the setback at the ground floor of each of the three façade projections is 10 feet from the property line. Above the 2<sup>nd</sup> floor, the setbacks at the three facade projections vary as follows: north projection, set back between 10 feet to 13 feet; middle and south projection: setback between 4 feet, 6 inches to 7 feet, 6 inches. At the two elevated courtyards, the ground floor set back increases to approximately 14 feet.

include: 7 studios and junior one-bedroom units; 20 one-bedroom units; 7 two-bedroom units; and 2 three-bedroom units. (Ex. 24, 24A1.)

### **Revisions to Project in Response to Setdown Comments**

19. In its February 3, 2025, report (the “**OP Setdown Report**”) OP recommended that the application be set down for a public hearing, as the Project would not be inconsistent with the Comprehensive Plan. The OP Setdown Report stated that OP would work with the Applicant to adequately address the following issues prior to a public hearing:
  - The Applicant committing to provide solar power generation on-site;
  - Provide more information on the requested design flexibility; and
  - The Applicant considering a higher percentage of IZ units. (Ex. 19.)
20. At the February 13, 2025, public meeting, during which the Commission voted to set the Application down for a hearing, the Commission concurred with the OP Setdown Report and requested the Applicant address the following additional issues:
  - Provide more information on community outreach;
  - Provide additional information regarding the Applicant, the Applicant’s history with the Property and the Applicant’s Goals for the Project;
  - Provide a description of the design decisions/fundamentals that guided the development of the Project;
  - Provide a discussion of the compatibility of the Project with Neighboring Properties, changes to the Future Land Use Map designation of the site (in 2021), and the Generalized Policy Map designation of the Property
  - Address whether other, non-retail options, for street activation are possible; and
  - Provide information regarding vehicular access to the Property and guidance received from DDOT.
21. In its April 7, 2025, and May 23, 2025, pre-hearing filings, the Applicant responded to the requests from OP and the Zoning Commission for additional information. (Ex.s 24, 24A1, 24A2, 24A3, 24B, 24C, and 56.)
22. In the April 7, 2025, Pre-Hearing Submission, the Applicant provided information that the Applicant consists of two entities, Horning and the Menkiti Group, that have had long relationships with the immediate neighborhood, Ward 5, and this Property in particular. Horning was founded in and has always been based in the District of Columbia. Horning has a long history of investing and developing in the District when others have withdrawn. Horning was DC's most prolific apartment developer during the turbulent 1980s. Unfortunately, the District’s multi-family housing market is seeing many similarities to those trying times. However, like it did in the 1980s, Horning remains committed to developing in the District and helping the city reach its housing goals. Horning has a long-standing commitment to Ward 5 and is one of its largest rental housing owners in the ward. Horning

has owned and developed over 800 units in the area, including Cloisters (352 units), Brookland Ridge (324 units), Franklin Commons (100 units), and The Arbor (30 units). Horning also owns two shopping centers; Trinity Square (24,000 square feet) and The Heights (18,000 square feet) in Ward 5.

The Menkiti Group was founded in 2004 with the mission of transforming lives, careers, and communities through real estate. A 100% minority-owned Certified and Small Business Enterprise (CBE/SBE) headquartered in Brookland, The Menkiti Group invests in underutilized properties and transforms them into exciting and affordable homes and workspaces. Over the past 20 years, The Menkiti Group has invested over \$390MM in the District of Columbia's emerging neighborhoods, worked on the development of over 3.8MM SF of real estate, amassed \$1.7B in a development project pipeline, and assisted over 2,000 families in purchasing their first homes. (Ex. 24.)

23. In regard to the Applicant's history with the Property, the Applicant noted that in 2010, Horning and Menkiti filed a PUD and Zoning Amendment application for the Property (ZC Case No. 10-28) that proposed the construction of 205-220 residential units, with 8% of those units (15,151 sf) reserved as affordable housing units at 80% AMI. Despite the Zoning Commission's approval of ZC Case No. 10-28 on three separate occasions, the DC Court of Appeals deemed that project was not consistent with the Comprehensive Plan's guidance for the Property that existed at that time. Even though the Zoning Commission's approval of that project was vacated, the Applicant still made the following financial contributions to entities that were identified in ZC Order No. 10-28:

- \$25,000 to the Washington Area Community Investment Fund;
- \$25,000 to Byte Back;
- \$50,000 to the Community Foundation;
- \$25,000 to Dance Place; and
- \$35,460 for improvements at Turkey Thicket Recreation Center (only \$25,000 was committed in ZC Order No. 10-28).

**TOTAL - \$160,460**

Combining these contributions with the costs associated with the previous PUD approvals and carrying the land since 2013, the Applicant noted that it has already spent millions of dollars towards the goal of making the Property a true economic and social contributor to the surrounding neighborhood. (Ex. 24.)

24. In regard to additional activation of the ground floor of the Project, the Applicant's Design Team made a number of changes to the Project to further activate the ground floor experience. These changes include:

- Live/Work Units along Monroe Street, NE – Five flexible Live/Work units are located along the eastern end of the Monroe Street frontage to the corner of 10th and Monroe Streets, NE. The Live/Work units will have storefront doors along

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Monroe Street, NE with direct access from the street to an open common area in the Live/Work unit that could be used by artists, service professionals, and business start-ups.

- Direct Residential Entrances on Lawrence Street - Additionally, individual residential unit stoops have been added to two ground floor apartments along Lawrence Street, NE to enliven the street level experience.
- Undergrounding of Utilities Along Monroe Street, NE – The Applicant has agreed to underground the utilities along Monroe Street, NE. This will allow for the removal of the existing utility poles along Monroe Street, NE and the removal of the inactive poles along 9<sup>th</sup> Street, NE. The removal of the utility poles will allow for an enhanced pedestrian experience along Monroe Street, NE with larger street trees and a 7-13 foot increased sidewalk width along Monroe Street, NE. The Applicant anticipates that the undergrounding of these utilities will cost approximately \$1,000,000.00. (Ex. 24.)

25. In regard to community outreach, the Applicant responded that since the filing of the PUD and Zoning Map Amendment application, the Applicant has participated in a number of meetings/presentations/open houses and has created a website for the Project (901Monroe.com) that provides updates about the Project and upcoming meetings. The Applicant has received significant feedback from ANC 5B, the 200 Footers, the Brookland Neighborhood Civic Association (“BNCA”), and other members of the community. In response to those comments, the Applicant is proposing the following modifications to the Project:

- Reallocation of Parking Spaces to Provide More Compact Spaces - In response to comments that were raised after community presentations, the Applicant undertook an analysis of the ability to increase the number of compact parking spaces in the project in order to limit the number of larger vehicles that will park in the garage and travel to the Project. As a result of this analysis, the Applicant has revised the layout of the parking spaces in the Project. The Project will now include a total of 55 parking spaces, with 42% of the spaces being compact spaces.
- Restriction of Residential Parking Permits for Residents of the Project - The Applicant has agreed to restrict the ability of residents of the Project to obtain a Residential Parking Permit. The Applicant will agree to include this restriction as a condition of the Zoning Commission’s approval of this application.
- Development and Construction Management Plan - The Applicant has created and posted on the Project’s website a proposed Development and Construction Management Plan. The Applicant will agree to include the terms of the Development and Construction Management Plan as a condition of the Zoning Commission’s approval of this application. (Ex. 24.)

26. In regard to design flexibility, the Applicant requested the design flexibility that is enumerated in Subtitle Z, Section 702.8 with the following modifications (Proposed new language is in *italics*:

- (c) Exterior Details – Location and Dimension: To make minor refinements to the locations and dimensions of exterior details that do not substantially alter the exterior configuration of the building or design shown on the plans approved by the order. Examples of exterior details would include, but are not limited to, doorways, canopies, railings, ~~and~~ skylights; *windows, bays, and other architectural elements*;

27. In addressing the question regarding the goals for the Project, the Applicant stated that it believes the Project will benefit the area by facilitating the long-planned redevelopment of an underutilized lot near a Metrorail Station with a transit-oriented development that will tie the communities west of the Metrorail/CSX train tracks to the 12<sup>th</sup> Street, NE retail core of the Brookland neighborhood. The Project will result in the creation of approximately 36 units of affordable housing reserved for individuals making up to 60% MFI. Compared to the prior PUD, the Project will provide approximately 67% more affordable housing at a much deeper level of affordability. (Ex. 24.)

28. In response to the Zoning Commission’s request for a description of the design decisions/fundamentals that guided the development of the Project, the Applicant noted that the building massing and façade along Monroe Street, NE is articulated in a series of four “pavilions” with inset balconies as reveals. The ground floor façade is comprised of storefront fenestration and entries along Monroe Street, NE. The design is configured with the building entry and lobby at the corner of 9<sup>th</sup> and Monroe Streets, NE, directly across from the Brookland/CUA Metro Station. The building’s fitness area is located at ground level along Monroe Street, NE to activate the streetscape, and the upper floors are comprised of richly detailed brick facades with cast stone detailing with larger two-story window arrangements to appropriately scale the facades. The facades are composed in a classical arrangement of “base, middle, and top.”

The building occupies the entirety of the 9<sup>th</sup> Street, NE frontage and is articulated with two open west facing courtyards at the second-floor level. These courtyards break down the visual scale of the building on 9<sup>th</sup> Street, NE and the building is set back from the property line to provide increased landscaping and open space. The massing of the building along Lawrence Street, NE steps down at the 6<sup>th</sup> floor and is further broken down by a series of four residential bays that are inspired by traditional DC residential architecture. Individual residential entry stoops are provided to the ground floor units at each of these bays to activate Lawrence Street, NE and reinforce the townhome nature of this façade. The existing public alley on Lawrence Street, NE is utilized for access to parking and building services and the alley width is doubled to 20 feet to facilitate safe and efficient circulation. The east facing building massing at the alley is setback 15 feet from the property line and is further setback at the 6<sup>th</sup> floor to soften the massing. The alley façade is articulated into a series of bays with balcony reveals similar to those found along Monroe Street, NE. The 10<sup>th</sup> Street, NE frontage is limited to the northern portion of the block, and again this façade is composed in a traditional “base, middle,



top” arrangement with rich masonry detailing and the massing is set back at the 6<sup>th</sup> floor as it moves south toward the existing adjacent rowhouses. (Ex. 24.)

29. In response to OP’s request that the Applicant consider a higher percentage of IZ units, the Applicant stated that it believes that the 15% IZ proposed in this Project is entirely appropriate for the additional height and density gained through this PUD and Zoning Map amendment application<sup>3</sup> and satisfies the balancing test enumerated in the PUD evaluation standards. The Applicant notes the significant and persistent economic headwinds that multi-family developers are currently facing in moving projects forward in the District of Columbia. A February 19, 2025, article in the Washington Business Journal noted:

D.C. is falling behind the region in production of new multifamily units, a trend that leaders fear will raise the cost of housing for all segments of the market. The District’s declining share of multifamily housing production in the larger statistical area reverses a trend of D.C. leading the region, according to U.S. Census Bureau data of multifamily housing permits compiled by the office of the Deputy Mayor for Planning and Economic Development. D.C. last year issued just 1,506 of the MSA’s 9,680 multifamily permits for buildings with five or more units, its lowest share in more than a decade, the data show. Permits are a leading indicator of how much new housing is expected to come online in the near future, according to DMPED. ‘We are noticing that we have fewer housing permits being started with the Department of Buildings,’ DMPED Nina Albert said at a news conference last week. ‘So that means that there is an inherent change in the marketplace where even market-rate units are not being invested in’’. (*Why D.C.’s Multifamily Production is Falling Behind the Region, and What the District is Doing About It*. Washington Business Journal, Ben Peters, February 19, 2025.)

The Applicant concluded that given the economic uncertainty that continues to impact this region, and the District of Columbia in particular, as well as the potential for the ongoing and persistent threat of tariffs to significantly impact the already inflated cost of construction, any increase to the proposed 15% IZ proffer made in this application threatens the economic viability of the PUD Project. While some economic factors are outside the control of the Zoning Commission, like those noted above, the Zoning Commission can control other factors, like the amount of an IZ proffer, in order to create the environment in which needed economic development in the District of Columbia can occur. (Ex. 24)

30. The Applicant agreed to include solar power generation on the roof of the Project. (Ex. 24)

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<sup>3</sup> In 2024, the Zoning Commission received 25 new applications (ZC Case Nos. 24-01 – 24-25). Only four of those applications were for PUD and Zoning Map amendments (including this application). Two of these PUD applications were for non-residential uses, including one application (ZC Case No. 24-11) which seeks to rezone the property to the PDR-1 Zone which prohibits most residential use. The only other PUD and Zoning Map Amendment filed in 2024 which proposes residential use will utilize the HANTA program to increase the amount of affordable units provided in that project.

31. The Applicant stated that the proposed vehicular access to the Project is the result of dialogue with members of the surrounding community and with representatives of DDOT. Initially, the Project included a vehicular access from 10<sup>th</sup> Street, NE. This access was ultimately removed due to concerns raised by residents of 10<sup>th</sup> Street, NE as well as DDOT. Representatives of the Applicant reached out to DDOT representatives to ask for a written confirmation that DDOT does not support an additional vehicular access point to the Project and will require all vehicular access to be from the widened alley from Lawrence Street, NE. The DDOT representative noted:

Per DDOT's Design and Engineering Manual (31.5.1), a new curb cut or driveway is not permitted from any property with existing alley access. Providing more curb cuts than necessary is detrimental to the pedestrian experience as curb cuts create a conflict point between moving vehicles and pedestrians and result in a loss of green space, curbside space, and street trees. Comprehensive Plan Policy UD-2.1.6 also recommends minimizing mid-block vehicular curb cuts, favoring existing public alleys for parking and loading, as referenced in OP's 2/3/2025 Setdown Report.

***The 901 Monroe development has direct access to an existing public alley which currently only serves six homes, and the applicant will double the width of this alley to accommodate site traffic. DDOT finds that this existing access meets our requirements and an additional curb cut is not necessary. (Emphasis added.)***

(Ex. 24, 24C.)

32. The Applicant provided an exhaustive analysis of the Project's consistency with the Comprehensive Plan's Generalized Policy Map and Future Land Use Map. The Applicant noted that Project is not inconsistent with the Neighborhood Conservation Area ("NCA") designation on the Comprehensive Plan's Generalized Policy Map as the Project is:

- Consistent with the uses and density contemplated by the Future Land Use Map ("FLUM");
- Compatible with the diversity of land uses and building types that are found in the surrounding area; and
- The Project successfully balances competing Comprehensive Plan policy guidance related to increasing residential density near Metrorail while also addressing neighborhood compatibility and building transition.

The Applicant provided images of the special care that has been paid to the lower-scale residential uses along 10<sup>th</sup> Street and Lawrence Street and how the entire building is set back approximately 15 feet from the property line that is shared with the closest rowhome to the south, as well as from the public alley that separates the PUD site from the rear lot lines of the rowhomes. Additionally, the top floor of the building is set back approximately seven feet along the east and south facing facades closest to the rowhomes. The Applicant also noted how the relationship between the Project and the adjacent lower scale uses, including the rowhomes along 10<sup>th</sup> Street, NE, is similar to the relationship found at the Monroe Street

Market PUD to the west of the Metrorail tracks. It is also similar to the relationships found at similarly situated PUDs near transit that are within NCAs and adjacent to lower-scale residential neighborhoods. (Ex. 24, 24B.)

### **No Zoning Relief Requested**

33. The Project is consistent with the Zoning Regulations with respect to all development standards applicable to the MU-5B zone. The Application did not request relief from any standards of the Zoning Regulations. (Ex. 3, 19, 80.)

### **Satisfaction of PUD Evaluation Standards**

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

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

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

- Affordable Housing and Three Bedroom Units – The amount of affordable housing and levels of affordability (15% of the residential gross floor area) and the number of three-bedroom units (12) included in the Project exceeds the amount that would be required in a matter-of-right development pursuant to the IZ requirements. Moreover, there are currently zero affordable units provided on the Property, so the delivery of this Project adds needed housing to the City's affordable housing stock.
- Community Engagement – The Applicant conducted a comprehensive public outreach and engagement process with multiple opportunities for neighbor, community group, and public agency participation. Those opportunities, and future ones, would not exist for a matter-of-right development of the Property. (Ex. 3.)

#### **The Public Benefits Are Commendable in Number and Quality.**

The Project delivers Public Benefits and other project amenities. These Public Benefits fulfill goals set forth in the Comprehensive Plan and the Brookland/CUA Metro Station

Small Area Plan, the priorities of District agencies and stakeholders, and the preferences, needs, and concerns of the ANC and community residents identified during the Applicant's community engagement process. Accordingly, the Public Benefits package is a meaningful series of commitments that satisfy the intent and purposes of the PUD process. (Ex. 3.)

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

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

- Through the development of an underutilized property in close proximity to the Brookland/CUA Metro station, the Project furthers important District priorities and satisfies numerous goals and objectives for the District as set forth in the Comprehensive Plan.
- The development of the underutilized Property with housing and affordable housing advances the public health, safety, welfare, and convenience goals of the District by converting underutilized lots to more productive use.
- The Project does not seek to circumvent the Zoning Regulations. The Zoning Map Amendment seeks to amend the Zoning Map to rezone the Property from the MU-3A and R-2 zones to the MU-5B zone, which is consistent with the Property's FLUM designation and the Comprehensive Plan. The MU-5B zone is intended to permit medium density, compact mixed-use development with an emphasis on residential use and is to be located at rapid transit stops. The Project conforms to all of the requirements for the MU-5B zone, is compatible with the existing neighborhood, and will support active use of transit and newly established public spaces. (Ex. 3.)

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

- Superior urban design and architecture (11-X DCMR § 305.5(a)). The Project's urban design and architecture are superior and can be considered to be project amenities for a project proceeding under a PUD. The Project includes significant setbacks along all sides of the building, the introduction of live/work units along Monroe Street, and individual residential unit stoops for two ground floor apartments on Lawrence Street. (Ex. 3, 24.)
- Site planning, and efficient and economical land utilization (*id.* § 305.5(c)). Subtitle X § 305.5(c) states that site planning and efficient and economical land use are considered a public benefit of a PUD. Here, the Project takes a significantly underutilized site and creates a thoughtfully planned, transit-oriented development. (Ex. 3.)

- Housing and affordable housing (*id.* § 305.5(f)(3), (g)). Pursuant to Subtitle X, Subsection 305.5(f)(3), the production of units with three or more bedrooms is considered a public benefit of a PUD Project. The Project includes twelve three-bedroom units. All such three-bedroom units constitute public benefits. Pursuant to Subtitle X, Subsection 305.5(g), the production of housing that exceeds the amount that would have been required under the IZ provisions is a public benefit of a PUD. The Project includes 15% of the residential gross floor area of the building as affordable units. The IZ Regulations only require 10% of the residential gross floor area be reserved as affordable units. (Ex. 3.)
- Environmental and sustainable benefits (*id.* § 305.5(k)). The Project will provide a number of environmental benefits, including solar power generation on the roof of the building using a ballasted photovoltaic and green roof system. The Project will be designed to achieve LEED Gold certification. (Ex. 3, 24.)
- Streetscape Plans (*id.* § 305.5(l)). Subtitle X § 305.5(l) states that streetscape plans are considered to be public benefits and project amenities of a PUD. The Project will include improvements to the streetscape along Monroe Street and 9<sup>th</sup> Streets. These improvements include the significant widening of the sidewalk along Monroe Street (meeting DDOT standards) and the undergrounding of utilities along Monroe Street, which will allow for the installation of larger street trees and the removal of inactive utility poles on 9<sup>th</sup> Street. The Applicant noted that the anticipated cost of the undergrounding of the utilities will be approximately \$1,000,000. (Ex. 3, 24.)
- Uses of Special Value (*id.* § 305.5(l)). Subtitle X §305.5(q) lists uses of special value to the neighborhood or the District of Columbia as a whole as public benefits and project amenities of a PUD. The Applicant created a public benefits package in consultation with ANC 5A04 Commissioner Ra Amin which included financial contributions to Greater Brookland Intergeneratoinal Village (GBIV), Washington Area Bicyclist Association (WABA), Casey Trees, and Deaf-Reach, Inc. The public benefits package also included a financial contribution for a study to activate the land surrounding the Brooks Mansion. (Ex. 3, 56.)
- Other Public Benefits Which Substantially Advance the Comprehensive Plan (*id.* § 305.5(r)). The proposed Project is consistent with many of the District's policy goals and objectives. The Zoning Regulations provide that elements of a project that advance the Comprehensive Plan and related policies are public benefits. (Ex. 3.)

36. Based on the extensive evidence provided in the record, the Commission agrees that the Project satisfies the PUD Evaluation standards.

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

37. The Applicant prepared and submitted a Comprehensive Transportation Review (“CTR”). The CTR concluded that the Project will not have a detrimental impact on the surrounding transportation network assuming the proposed site design elements and Transportation Demand Management measures are implemented.

The CTR noted the following two conclusions regarding the vehicular access to the PUD project:

- The single point of vehicular access to the site via the expanded alley from Lawrence Street NE is appropriate and is consistent with DDOT’s Design and Engineering Manual (31.5.1) and the Comprehensive Plan Policy UD-2.1.6; providing curb cuts on 9<sup>th</sup> or 10<sup>th</sup> Street NE would be inconsistent with those same policies; and
- The 20-foot-wide alley can accommodate the 23 total vehicular trips in the AM and PM peak hours with no adverse impacts on the alley usage by the six (6) 10<sup>th</sup> Street NE homeowners.

The CTR also noted the following positive design elements that minimize potential transportation impacts:

- Close proximity to transit, including the Brookland-CUA and Rhode Island Ave-Brentwood Metrorail stations and several Metrobus routes;
- Access to existing bicycle infrastructure, including protected bicycle lanes, the Metropolitan Branch Trail, and Capital Bikeshare stations, all within a 1/4-mile radius;
- An adequate parking ratio for projects of its size;
- A location within a well-connected pedestrian network;
- Secure long-term bicycle parking that meets the zoning requirements; and
- Short-term bicycle parking spaces along the perimeter of the site that meet zoning requirements. (Ex. 55, 55A.)

38. In addition, the CTR included a TDM, which included the following elements:

- Unbundle the cost of vehicle parking from the lease or purchase agreement for each residential unit or commercial lease and charge a minimum rate based on the average market rate within a quarter mile. Only hourly, daily, weekly or monthly rates will be charged. Free parking, validation, or discounted rates will not be offered for retail customers.
- Identify Transportation Coordinators for the planning, construction, and operations phases of development. The Transportation Coordinators will act as points of contact with DDOT, goDCgo, and Zoning Enforcement and will provide their contact information to goDCgo.

- The Transportation Coordinator will conduct an annual commuter survey of building employees and residents on-site, and report TDM activities and data collection efforts to goDCgo once per year.
- The Transportation Coordinator will develop, distribute, and market various transportation alternatives and options to residents, including promoting transportation events (i.e., Bike to Work Day, National Walking Day, Car Free Day) on property website and in any internal building newsletters or communications.
- The Transportation Coordinator will subscribe to goDCgo's residential newsletter and receive TDM training from goDCgo to learn about the transportation conditions for this project and available options for implementing the TDM Plan.
- Provide residents and employees 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 (MWCOC) or other comparable service if MWCOC does not offer this in the future.
- Offer a SmarTrip card and one (1) complimentary Capital Bikeshare coupon good for a free ride to every new resident within the first two years of occupancy or until the building achieves 90% residential occupancy, whichever occurs sooner.
- Provide, at no charge to and use by any tenant of the building or employee thereof, 12 short- and 80 long-term bicycle parking spaces.
- Long-term bicycle storage rooms will accommodate non-traditional sized bikes including cargo, tandem, and kids bikes, with a minimum 5% of spaces (minimum 2) being designed for longer cargo/tandem bikes (10' by 3'), a minimum of 10% of spaces will be designed with electrical outlets for the charging of electric bikes and scooters. There will be no fee to the employees for the use of the bicycle storage room. There will be no fee to the residents for usage of the bicycle storage room and strollers will be permitted to be stored in the bicycle storage room.
- Install a minimum of two (2) electric vehicle (EV) charging stations.
- Following the issuance of a Certificate of Occupancy for the Project, the Transportation Coordinator will submit documentation 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.
- 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.

- Post all transportation and TDM commitments on building website, publicize availability, and allow the public to see what has been promised.
  - Residents of the Project will not be permitted to obtain a Residential Parking Permit. (Ex. 55A)
39. The Applicant carefully studied the Project's potential impacts and provided evidence into the record that the Project has no unacceptable adverse impacts on the surrounding area or on the operation of District services or facilities that cannot be mitigated or that are not acceptable in light of the Public Benefits.

- Zoning Impacts. The Project has no unacceptable Zoning impacts on the surrounding area and any impacts are instead either favorable, capable of being mitigated or acceptable given the quality of public benefits of the Project. The Applicant requests a Zoning Map Amendment for the Property to the MU-5B Zone District. This proposed zone is consistent with the Comprehensive Plan. The FLUM designates the Property for Mixed-Use: Medium Density Residential/Moderate Density Commercial. The Zoning Regulations (Subtitle G, Section 400.4) notes the following with regard to the MU-5 Zones:

400.4 The MU-5 zones are intended to:

- (a) Permit medium density, compact mixed-use development with an emphasis on residential use;
- (b) Provide facilities for shopping and business needs, housing and mixed-uses for large segments of the District of Columbia outside of the central core; and
- (c) Be located on arterial streets, in uptown and regional centers, and at rapid transit stops.

The proposed MU-5B Zone is consistent with the Comprehensive Plan and the Zoning Regulations. Further, the proposed use is consistent with the uses otherwise allowed surrounding zones. (Ex. 3.)

- Land Use Impacts. The Project has no unacceptable land use impacts on the surrounding area and any impacts are instead either favorable, capable of being mitigated or acceptable given the quality of public benefits of the Project. The Project is fully consistent with the goals and policies of the Comprehensive Plan. Specifically, the Project will create a transit-oriented development that prioritizes housing, including affordable housing, on the Property. The proposed uses, height, and density of development is entirely consistent with the Comprehensive Plan – including the FLUM, GPM, Land Use Element, other city-wide elements, the Upper Northeast Area Element and the Brookland/CUA Metro Station Small Area Plan. (Ex. 3.)



- Housing Market Impacts. The Project's addition of new housing and affordable housing is a favorable impact. The Project creates new, high-quality, transit-accessible housing units on an underutilized parcel. The addition of new housing also has favorable impacts by adding residents to support the nearby commercial uses. The Project's inclusion of affordable units has favorable impacts because it helps address the District's ongoing affordable housing shortage in an inclusive, mixed-income community. The Project's addition of new housing units helps buffer increasing housing costs, insofar as increasing the supply of housing is widely understood to dampen rent increases. In addition, the Court of Appeals has concluded that the presence of the IZ program itself mitigates potential negative housing market impacts. (Ex. 3.)
- Construction-Period Impacts. During the construction period for the Project, impacts on the surrounding area are capable of being mitigated. Representatives of the Applicant, the 200 Footers, and the Brookland Neighborhood Civic Association held an in-person meeting on July 21, 2025, to discuss the proposed Construction Management Plan. An agreement was reached between the Applicant and the 200 Footers Group regarding the Construction Management Plan. The Applicant's final Construction Management Agreement, signed and approved by the Applicant and the 200 Footers Group was submitted into the record and its terms are included as Conditions of the approval of the Application. (Ex. 3, 135.)
- Economic Impacts. The Project likely has favorable economic impacts on the neighborhood and the District more generally. The Project will have a stabilizing and positive effect on the economy of Ward 5 and the District as a whole. The introduction of new residential uses contributes patrons for the existing retail uses along the existing retail corridors of 12<sup>th</sup> Street, NE and along the 700 and 800 blocks of Monroe Street, NE in the Monroe Street Market project. The Project will have positive tax revenue effects for the District, estimated to include increased real estate taxes of approximately \$760,000 per year. To the extent there are any adverse effects from the Project, such effects are more than offset by the Project's Public Benefits. (Ex. 3.)
- Cultural and Public Safety Impacts. The Project has favorable impacts on the culture of the surrounding area and on public safety. The Project will replace an existing vacant lot with a building that will add many new residents who will contribute to the immediate neighborhood and the District in diverse and meaningful ways. The design of the Project adds street activity, promotes "eyes on the street", adds quality lighting, and makes other improvements all of which have positive effects on crime deterrence. (Ex. 3.)
- Environmental Impacts. The Project does not have any unacceptable impacts and in fact has favorable environmental impacts on the Property. The general environmental infrastructure systems around the Property have capacity for the Project. The Project will meet the Green Area Ratio and current stormwater

management requirements, which currently does not occur on the Property. In addition, the Project will include solar power generation on the roof of the building using a ballasted photovoltaic and green roof system. (Ex. 3, 24.)

- Facilities Impacts. The Project will not have an adverse impact on the facilities that it will rely on for service. The utility and infrastructure facilities the Project will rely on, including electricity, water, sewer, and natural gas, have the capacity for the Project's anticipated impact. The Project is also not expected to have an adverse impact on the schools in the area. Noyes Elementary School is the in-boundary elementary school and its in-boundary population is 64%. Brookland Middle School is the in-boundary middle school and its in-boundary population is 52%. Dunbar High School is the in-boundary high school and its in-boundary population is 39%. In addition to these neighborhood schools, the District also has a robust community of public charter schools and private schools that serve the neighborhood. given the unit mix at the Project, the population of school-age children are not expected to be significant enough to negatively impact the school populations. Additionally, the transportation facilities serving the Project will not be adversely impacted. The widening of the public alley in Square 3829 will improve the functioning of the alley system in the Square. Given its location across Monroe Street from the Brookland/CUA Metro Station, the Project is providing parking spaces at a ratio of 0.24 spaces for every residential unit. (Ex. 3)

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

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

41. The Applicant provided a thorough evaluation of the Project's overall consistency with applicable objectives of the Comprehensive Plan and other adopted public policies or active programs related to the subject site (including the Brookland CUA/Metro Station Small Area Plan). In conducting its Comprehensive Plan evaluation, the Applicant considered the goals and policies of the Comprehensive Plan elements that are applicable to the proposal. In addition, the Applicant's evaluation includes a specific assessment of potential Comprehensive Plan inconsistencies. Overall, the Applicant finds the Application to be not inconsistent with the Comprehensive Plan when read as a whole through a racial equity lens. In particular, the Applicant finds that the proposed PUD will advance several policies within the Upper Northeast, Land Use, and Housing Elements related to the production of housing, including affordable housing, to achieve District housing goals, and the preservation of affordable housing in accordance with anti-displacement strategies. The Applicant has identified one Urban Design Element policy and one Brookland SAP recommendation with which the proposed PUD could be considered inconsistent. The Urban Design Element policy seeks to maintain established frontage lines of streets by aligning the front walls of new construction with the prevailing facades of adjacent buildings (UD--4.2.3: Continuity and Consistency of Building Frontages). The Brookland SAP recommendation imposes a limitation on building height to 50 feet for buildings located to the east of the WMATA/CSX tracks. The potential inconsistency with

UD-4.2.3 is outweighed by the Project's consistency with numerous other Upper Northeast, Land Use, and Housing Element policies. Regarding the Brookland SAP recommendation, this recommendation conflicts with the PUD Site's current FLUM designation and other Comprehensive Plan policy guidance. Thus, based on Framework Element and Implementation Element guidance and the Commission's recent conclusion in Z.C. Case No. 22-36, this recommendation no longer supplements the Comprehensive Plan because it has been superseded by the D.C. Council's 2021 amendments to the FLUM and policies that are applicable to the PUD Site. (Ex. 3H.)

42. The Applicant's Comprehensive Plan Evaluation noted the following with regard to the Racial Equity Analysis:

Equity, and particularly racial equity, is a primary focus of the Comprehensive Plan, especially in the context of zoning where certain priorities stand out, including affordable housing, avoiding displacement of existing residents, and creating / increasing access to opportunity. The Framework Element states that equity is both an outcome and a process, and exists where all people share equal rights, access, choice, opportunities, and outcomes, regardless of characteristics such as race, class, or gender. 10A DCMR § 213.6. The Comprehensive Plan emphasizes that considerations of equity, and particularly racial equity must be part of a District agency's evaluation and implementation of Comprehensive Plan policies and actions. To do this, the Implementation Element calls for agencies to prepare and implement tools that will assist in evaluating and implementing the Comprehensive Plan through a "racial equity lens." The Commission considers racial equity as an integral part of its analysis as to whether a proposed zoning action is "not inconsistent" with the Comprehensive Plan. 10A DCMR § 2501.8. (Ex. 3H.)

The Applicant submitted a thorough Comprehensive Plan Racial Equity Impact Evaluation, which was guided by the Commission's Racial Equity Tool and was also informed by the D.C. Office of Planning's ("OP") Equity Crosswalk (effective August 21, 2021) (the "Equity Crosswalk"), which highlights Comprehensive Plan policies and actions that explicitly address racial equity. The planning guidance and data pertaining to the Upper Northeast ("UNE") Planning Area was also considered in the preparation of the Applicant's Comprehensive Plan racial equity evaluation. (Ex. 3H.)

The Applicant's Comprehensive Plan Racial Equity Impact Evaluation addressed all elements of the Commission's Racial Equity Tool. The Comprehensive Plan Racial Equity Impact Evaluation provided further analysis of Comprehensive Plan consistency (including policies that explicitly focus on advancing racial equity) and it addressed the process that the Applicant undertook with regard to community outreach and engagement. (Ex. 3H.)

The Comprehensive Plan Racial Equity Impact Evaluation also addressed the "outcome" of the Project when viewed through a lens of racial equity and concluded: the outcomes of the Project have the potential to positively impact racial equity by facilitating the Applicant's planned redevelopment of the Property which will bring new housing, both market rate and affordable, to a site that is currently vacant and underutilized, immediately

adjacent to Metrorail, and within walking distance to schools, parks, recreation centers, and numerous neighborhood-serving amenities. (Ex. 3H.)

43. The Applicant's Comprehensive Plan Evaluation noted the following with regard to the Future Land Use Map:

The PUD site is located within an area that is designated for Mixed Use (Moderate Density Commercial/Medium Density Residential) development on the FLUM, which was adopted by the D.C. Council as part of the 2021 Comp Plan amendment cycle.<sup>4</sup> The site's FLUM designation is part of a larger area designated for Mixed Use development generally surrounding the Brookland / CUA Metrorail station that assigns varying densities and intensities that respond to the surrounding context. A "Mixed Use" designation is a specific FLUM land use category in and of itself and is not intended to be strictly interpreted according to the individual land use stripes / descriptions (commercial, residential, PDR, etc.) that make up a particular Mixed Use area. The Mixed Use FLUM designation is assigned to areas where the mixing of two or more land uses is encouraged, but not mandatory, and is intended primarily for larger areas where no single use predominates today, or areas where multiple uses are encouraged in the future. 10-A DCMR § 227.22. The combination of uses and the general density and intensity of development in any given Mixed Use area are informed by the stripe patterns on the FLUM. If the desired outcome is to emphasize one use over another, the FLUM may note the dominant use by assigning it a higher density. 10-A DCMR § 227.21. The Area Elements and applicable small area plans, if any, may also provide detail on the mix of uses envisioned for an area. In this case, the Mixed Use area within which the Property is located expresses a preference for residential use since the striping indicates medium-density for residential use and moderate-density for commercial use). As discussed below, applicable Comp Plan policy guidance also favors residential uses, as does the supplemental planning guidance in the Brookland SAP that remains applicable to the site. (Ex. 3H.)

The proposed PUD (including the related Zoning Map amendment to MU-5B) is not inconsistent with the FLUM, and in fact will resolve the inconsistency between the site's current low-density zoning and the site's current Mixed Use FLUM designation that was adopted by the Council in 2021. The proposed MU-5B zone and density of the Project are not inconsistent with the site's Mixed Use (Moderate Density Commercial / Medium Density Residential) designation. Unlike individual Commercial and Residential FLUM designations (example: a site located within an area that is solely designated for Moderate Density Commercial development), the Framework Element does not reference specific zones that are considered consistent with a given Mixed Use FLUM designation, nor does it provide guidance on typical [matter-of-right] densities for any Mixed Use area. Rather, the Framework Element states that "a variety of zoning designations are used in Mixed Use areas, depending on the combination of uses, densities, and intensities." All zone districts

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<sup>4</sup> Under the 2006 Comp Plan, the PUD Site's previous FLUM designation was a combination of Mixed Use (Moderate Density Commercial/Moderate Density Residential), Mixed Use (Low Density Commercial/Low Density Residential), and Low Density Residential).

formerly identified as commercial, SP, CR and Waterfront were renamed as MU zone districts in 2016, and are considered to be mixed use.” Emphasis added. 10-A DCMR § 227.23. In this case, the striping of the site’s Mixed Use designation refers to the Moderate Density Commercial and Medium Density Residential FLUM categories. Along with the GPM and applicable Comp Plan policy guidance, the Applicant looked to the Framework Element descriptions for these two individual land use categories for guidance on the general use, density, and intensity of development that is contemplated for the PUD site. (Ex. 3H.)

The proposed MU-5B zone is the most appropriate zone to achieve the type of medium-density mixed use development that is contemplated under the current FLUM and applicable Comp Plan policy guidance. The Applicant submitted a comparison of permitted heights and densities for the above-mentioned zone districts that the Framework Element references as being consistent with the Moderate Density Commercial and Medium Density Residential land use categories. The Applicant opted to pursue the MU-5B zone given the site’s Mixed Use FLUM designation and the MU-5B zone’s expressed emphasis on residential use. While the site’s FLUM designation could easily support the more intensive density permitted under the MU-7 zone, the Applicant believed the MU-5B zone is more appropriate when considered together with applicable Comp Plan policy guidance and the context surrounding the PUD site, particularly the lower-scale residential uses to the south and southeast of the site. (Ex. 3H.)

The proposed PUD’s density and use are not inconsistent with the FLUM. As shown in the proposed plans, the Project will have a maximum density of approximately 4.2 FAR. Thus, the Project will remain within the matter-of-right density permitted in the MU-5B zone despite being a PUD. Notably, the Project will have a maximum height of 75 feet (not including penthouse), which is also within the matter-of-right height permitted in the MU-5B zone. With respect to use, though the Applicant is proposing a residential building, with live-work units and potentially retail uses, this does not create an inconsistency with the Mixed Use FLUM designation assigned to the PUD Site. As noted above the FLUM is not a zoning map and does not prescribe specific development standards for a specific property, including use. Specifically, the Framework Element states “[b]y definition, the [FLUM] is to be interpreted broadly and the land use categories identify desired objectives.” Emphasis added. 10-A DCMR § 228.1(a). The Framework Element further states that “...the land-use category definitions describe the general character of development in each area.” Emphasis added. 10-A DCMR § 228.1(c). Thus, the FLUM is intended to be read and applied broadly by area rather than on a property-by-property basis. In addition, the Framework Element is clear that mixed-use development is not required in a Mixed Use area, but rather that “the mixing of two or more land uses is especially encouraged.” (Ex. 3H.)

In this case, the proposed multi-family residential building, with live-work units and potentially retail uses, is within an area designated for Mixed Use development that generally surrounds the Brookland/CUA Metrorail station. Consistent with the FLUM, this Mixed Use area contains a wide variety of existing and planned uses, including multi-family residential; multi-family residential with ground floor retail and service; artist live-work

units; single family detached homes; rowhomes, retail uses; government and transportation uses; and institutional uses. Currently, the majority of retail and other commercial uses are concentrated on the west side of the Metrorail tracks, where the FLUM designation has a higher density commercial stripe and does not express a preference for residential or commercial use (i.e., they are both medium density). The proposed PUD will replace a vacant site next to Metrorail with a new multi-family residential building, with live-work units and potentially retail uses, that will strengthen the mix of uses with the larger Mixed Use area around the Metrorail, and be consistent with the preference for residential use expressed in the PUD Site's specific Mixed Use designation. (Ex. 3H.)

44. The Applicant's Comprehensive Plan Evaluation noted the following with regard to the Generalized Map:

The PUD Site is located within a Neighborhood Conservation Area ("NCA") on the GPM, which encompasses the large majority of the UNE Planning Area and covers areas of varying characteristics that include single-family and multi-family residential, to mixed-use, to industrial.

The GPM depicts "a generalized depiction of anticipated changes through the horizon year of the Comp Plan." As described in Section 225.4 of the Framework Element, NCAs have little vacant or underutilized land and are generally residential in character. Land uses and community character in NCAs are anticipated to be maintained over the next 20 years, and changes that occur will typically be modest in scale and consist primarily of infill housing, public facilities, and institutional uses. While major changes in density over current conditions are not expected, some new development and reuse opportunities are anticipated, and can support conservation of neighborhood character guided by Comp Plan policies and the FLUM. The guiding philosophy in NCAs 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." Emphasis added. 10-A DCMR 225.2. The Framework Element states that 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 [FLUM] and [Comp Plan] policies. (Ex. 3H.)

The proposed PUD is not inconsistent with the GPM as it is: (i) fully consistent with the uses and density contemplated by the FLUM, (ii) consistent with Comp Plan policy guidance related to increasing density, and particularly housing density, near Metrorail, and with policy guidance regarding compatibility with surrounding lower-scale residential areas, and (iii) is compatible with the diversity of land uses and building types found in the surrounding area. As the Framework Element states, the NCA designation is not intended to preclude development. As has been stated by the Commission, the GPM is also not intended to be interpreted as requiring

conservation of existing development on a particular site or only permitting small scale development. Most importantly, the NCA designation is not intended to be interpreted the same way across the District, but rather is intended to maintain “the diversity of land uses and building types” of a particular area.<sup>5</sup> (Ex. 3H.)

The PUD site is part of the node around the Metrorail station that is envisioned for medium-density, mixed-use development on the FLUM. The diversity of land uses and building types in this node and the general area around the PUD site varies widely, and includes larger mixed-use and single-use buildings, single-family detached and attached residential uses with some scattered low-rise buildings; and transportation facilities such as the WMATA Brookland Metrorail station and bus facility. The proposed PUD is consistent with the range of building types and uses found in the surrounding area. Not only is the proposed PUD consistent with the building types and land uses in the surrounding area, but it is also fully consistent with the FLUM and Comp Plan policy guidance, and particularly policies supporting increasing residential density near Metrorail to help address citywide housing needs. Consistent with the guiding philosophy for NCAs, and as more thoroughly discussed in the Applicant’s full evaluation of UNE and Urban Design Element policy guidance in Exhibit H, the design of the proposed PUD employs context-sensitive design strategies that increase housing near Metrorail while achieving neighborhood compatibility, and maintaining a residential character on the site that successfully transitions to lower-scale residential uses to the east and south. (Ex. 3H.)

45. The Applicant’s Comprehensive Plan Evaluation noted the following with regard to the District Wide Elements of the Comprehensive Plan:

- Land Use Element – The proposed PUD is not inconsistent with the Land Use Element. The Project will advance and support the District’s goal of maintaining a variety of neighborhoods in all parts of the District that foster an inclusive city by either providing or supporting several of the physical qualities that are essential to every inclusive neighborhood. These include, among others:
  - Providing convenient access to Metrorail, priority bus routes, and bike routes and Capital Bikeshare stations for those that do not own an automobile,
  - Providing convenient access to the neighborhood shops and amenities at the Monroe Street Market and along the 12<sup>th</sup> Street corridor that can meet day-to-day needs,
  - Providing approximately 230 units of new mixed-income rental housing with a range of unit types,

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<sup>5</sup> See Z.C. Order No. 20-12, Finding of Fact 56.

- Employing proven context-sensitive design strategies that are responsive to and compatible with adjacent lower-scale residential uses and neighborhood character, and
- Making substantial improvements to surrounding public space that improve safety and character, and facilitate pedestrian access to public transit. (LU-1.4.5, LU-2.1.1, LU-2.1.3)

The Project will add approximately 233 units of new rental housing in proximity to the Brookland/ CUA Metrorail station and near the Michigan Avenue corridor, which will ensure a variety of neighborhoods in every part of the District, accommodate population growth, and advance affordability, racial equity, and opportunity. (LU-1.4.2, LU-1.4.6). Together with the very successful Monroe Street Market PUD and other planned and proposed developments nearby,<sup>6</sup> the new housing provided by the Project will strengthen the Metrorail station as a neighborhood center and as an anchor for residential, economic and civic development within the Brookland neighborhood. (LU-1.4.1). The new housing provided by the Project, and particularly the new affordable housing, will further advance the District's efforts to meet its housing goals for the UNE Planning Area, a designated high cost / opportunity area, and the District as a whole. In 2019, the District published its Housing Equity Report, which set specific housing goals for each Comp Plan Planning Area. For the UNE Planning Area, the overall housing production goal is 6,900 units, and the affordable housing goal is 1,350 units. To date, approximately 5,167 new housing units have been produced in the UNE Planning Area, of which approximately 887 units are new or newly covenanted affordable units. These represent approximately 75% and 66% of the overall and affordable housing goals set for the UNE Planning Area, respectively. Of the approximately 230 units within the Project, 15% (or approximately 33 units) will be devoted to households earning no more than 60% MFI. Based on these numbers, the Project will contribute approximately 3.2% and 2.4% toward the District's housing and affordable housing goals for the UNE Planning Area, respectively. (LU-1.4.3, LU-1.4.4). (Ex. 3H.)

In addition to increasing access to housing around the Brookland/CUA Metrorail station, the Project will have numerous other land use benefits. It will increase access to employment opportunities, neighborhood serving retail and other amenities, education and other institutional uses, and recreational uses, all of which are in proximity to the PUD Site and/or easily accessible via nearby transit. The Project's proximity to multiple modes of public transit and the site's walkability

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<sup>6</sup> The Commission has recently approved other rezonings and design review projects in the area. Including Zoning Map amendments to MU-2 for the property at 701 Michigan Avenue, NE (Z.C. 23-07) and at 700 Monroe Street, NE (Bennett Career Institute) (Z.C. 24-05), and a Voluntary Design Review project at the Brookland Shopping Center on 10<sup>th</sup> Street NE (Z.C. 23-15) that contains approximately 337 new residential units and approximately 30,165 square feet of retail space.



have caused the Applicant to minimize the amount of parking, which minimizes the need for building residents to use an automobile, reduces traffic impacts on surrounding uses, and has other environmental benefits. (LU-1.4.2). In addition, as thoroughly discussed in the UNE Element evaluation above, the density, height, and architectural design of the Project have also been carefully considered by the Applicant in order to balance the need for increased housing with the equally important need to respect the character of the surrounding area. The proposed design is of high-quality and complements the character of the surrounding residential area through the effective use of contextual materials, bay projections, ground floor walk out units, and ground-level and upper-level setbacks that collectively work together to avoid creating sharp changes in the physical development pattern of the area. (LU-1.4.1, LU-1.4.2, LU-1.4.6, LU-1.5.1). (Ex. 3H.)

- Transportation Element – The proposed PUD is not inconsistent with the policies of the Transportation Element. The Applicant is in the process of preparing a transportation station in coordination with DDOT. Consistent with Comp Plan policy guidance, the CTR will evaluate the potential transportation impacts of the Project using multimodal standards rather than traditional vehicle standards to more accurately measure and more effectively mitigate potential impacts on the transportation network. (T-1.1.2). The transportation statement will also include a Transportation Demand Management (“**TDM**”) Plan that contains strategies to help minimize the number of vehicle trips generated by the Project (T-3.1.1), and a Loading Management Plan that will help ensure the Project’s loading facilities operate in an efficient manner. (Ex. 3H.)

The Project will support transit-oriented development (“**TOD**”) and equitable access to transit by replacing a vacant site across the street from the Brookland / CUA Metrorail station with approximately 233 units of new housing (including affordable housing for 60% MFI households). Consistent with the TOD focus of the Project, the Applicant is only providing 54 at-grade parking spaces off the public alley, which will also have access to EV charging stations. (T-1.1.8, T-5.2.2). This amount of parking equates to a parking ratio of approximately 0.23 per dwelling unit, which is consistent with DDOT’s preferred parking ratio for a project of this size and location relative to Metrorail. The Project’s parking area will also provide EV charging equipment. The Project will also invest in pedestrian-oriented transportation improvements through reconstruction of the public streetscape that surrounds the PUD Site to DDOT standards. (T-1.1.4). These upgrades will facilitate safe pedestrian circulation between the Project and surrounding neighborhood to the Metrorail, the Monroe Street Market development and 12<sup>th</sup> Street corridor, and nearby institutional campuses. (T-2.4.1). (Ex. 3H.)

- Housing Element – The proposed PUD is not inconsistent with the policies of the Housing Element. Through the PUD process, the Project will provide approximately 230 new housing units (market rate and affordable) which will help

meet the needs of present and future residents at a location and density that are consistent with the GPM, FLUM, and numerous policies contained in the UNE, Land Use, Transportation, Housing, and Urban Design Elements. (H-1.1.1, H-1.1.2, H-1.3.2). The PUD Site is currently vacant, and has been for approximately 11 years due to a lengthy appeal of the previously approved PUD, a prolonged Comp Plan amendment process, and significant economic challenges caused by the COVID pandemic that continue to burden real estate markets. The Applicant will eliminate the PUD site's current severe underutilization and unsightly appearance with a new multi-family building that will activate the site with new higher-density housing that is immediately adjacent to the Brookland / CUA Metrorail site, including setting aside 15% of the Project to housing for low-income households earning no more than 60% MFI. (H-1.1.3, H-1.2.1, H-1.2.2, H-1.2.7, H-1.2.9). Through the increased residential density that is possible by the Council's approval of the 2021 Comp Plan / FLUM amendments, the Project will bring a substantial amount of mixed-income housing (including dedicated affordable housing for the life of the Project) to the UNE Planning Area, which is a recognized high-cost area. (H-1.1.8, H-1.2.11, 1.3.1, H-2.1.6). The Project will also provide family-sized housing (i.e., approximately 12, three-bedroom units) on a site that is proximate to transit, schools, public facilities, recreation, and neighborhood-serving amenities. (H-1.1.9). (Ex. 3H.)

- Environmental Protection Element - The proposed PUD is not inconsistent with the policies of the Environmental Protection Element. The vacant PUD Site is partially impervious and contains no sustainable stormwater management. This condition will be replaced with a sustainably designed Project that will be designed to achieve LEED Gold certification and will include solar power generation on the roof of the building. In addition to the environmental benefits from being a transit-oriented development, the Project will also employ several sustainable strategies that will help reduce urban heat island effect, tree canopy retention, sustainable landscaping, and energy efficiency. These include, but are not limited to, a significant amount of green roof; bioretention; street trees that meet or exceed DDOT tree box standards; stormwater management that meets or exceeds DOEE standards; and efficient heating, cooling, and plumbing systems. (E-1.1.2, E-2.1.2, E-2.1.3, E-3.2.7, E-4.1.2E-4.1.3). The Project will help mitigate elevated ambient heat temperatures and reduce untreated storm water runoff through the use of vegetated roofs and on-site storm water retention or pre-discharge treatment. (E-4.4.1). Additionally, the Project is providing a parking ratio that is consistent with DDOT's preferred parking ratio for a multi-family building near Metrorail which will help improve the District air quality by promoting walkability and use of transit. The Project will also promote the use of electric vehicles by providing EV charging capacity within the Project's parking area. (E-5.1.9). (Ex. 3H.)

- Urban Design Element – The Project will strengthen the visual qualities of the Brookland neighborhood by replacing a vacant, underutilized site that is in proximity to the Brookland / CUA Metrorail station and proximate to the Monroe

Street Market development with an appropriately scaled residential building that balances the District's need for more housing, particularly near Metrorail, with the need for compatibility with the surrounding context. (UD-2.2.1). The PUD Site is located at a transition point between the Metrorail station and larger-scale residential, commercial, institutional, and mixed-use development to the north and west (including the Monroe Street Market development), and lower-scale single family homes to the south and east. The proposed PUD design has been informed by these differing scales and development types. Given its proximity to Metrorail, the Michigan Avenue corridor, and the Monroe Street Market development, the Project entails a mid-rise multi-family building that is consistent with the FLUM that takes advantage of proximity to transit. Consistent with policy guidance promoting a variety of housing types in each neighborhood, the proposed multi-family rental housing will increase housing choices in an area that has a relatively higher percentage of owner-occupied single-family dwellings. (Ex. 3H.)

The proposed PUD will strengthen the visual and architectural qualities of the neighborhood through a thoughtfully-designed multi-family building that utilizes effective design strategies such as setbacks and massing reductions, and high-quality context-sensitive materials that relate to surrounding buildings. The proposed PUD will not compromise the architectural variety or design integrity of the surrounding Brookland neighborhood. As described in the Brookland SAP, the area surrounding the PUD Site does not necessarily possess a strong architectural character that consistently exhibits a particular architectural style. Rather, the architectural style of the Brookland neighborhood has substantial variation due to construction historically taking place as individual construction projects rather than tract development. Notwithstanding, the massing, articulation, and materials of the Project are informed by the scale and aesthetic of the surrounding context without mimicking the existing architecture. (UD-2.2.2). (Ex. 3H.)

The new multi-family building has been designed with ground- and upper-level setbacks, large courtyards, and façade articulation that helps the proposed building establish compatibility with adjacent lower-scale residential uses. In response to the context around the PUD Site, the Project incorporates multiple massing reduction strategies around the perimeter of the building that are specifically encouraged in the Comp Plan (including massing step downs, massing setbacks, ground level setbacks, varied roof heights and facade widths, and bay projections), which together successfully avoid overpowering contrasts in height and scale with surrounding buildings. (UD-2.2.4, UD-2.2.5, UD-4.2.1, UD-4.2.4). *See* Figures 9.16 and 9.17 of the Urban Design Element. Notably, the context to the north and west of the site is primarily characterized by the large open space set back of the historic Brooks Mansion, the Brookland/CUA Metrorail station and bus facility, and the mixed-use Monroe Street Market development to the west of the tracks. (Ex. 3H.)

As discussed in detail in the UNE Planning Area Element section above, the proposed building is set back approximately 9 feet (13 feet at the ground level) from the property line along Monroe Street to reduce the scale of the building and accommodate pedestrian traffic. The Project also includes ground floor walkout units along the Monroe Street frontage, as well as the main lobby entrance and upper-level balconies to increase safety and activation. (UD-3.2.1, UD-3.2.5, UD-4.2.6). Along 9th Street, which contains rowhomes (some of which are devoted to commercial uses) and a 4-story office building, the Project contains two large open courts above the ground floor that break the building's massing down into three distinct volumes. The primary façade of the building is also set back approximately 13 feet from the property line with the exception of projections above the ground level that provide further massing reduction. The courtyards contain resident amenities that will activate the 9th Street frontage, as will the regular pattern of ground level windows and upper-level balconies. (Ex. 3H.)

The Project effectively utilizes a combination of setbacks, bay projections, balconies, and material variations to avoid overwhelming adjacent and nearby lower-scale rowhomes and detached residential uses. Specifically, Along 10th and Lawrence Streets, which contains a small number of rowhomes immediately south of the building, the Project utilizes full-building and upper-level setbacks to successfully transition to the lower-scale residential uses. Specifically, the building is setback from the property line shared with the closest rowhome by approximately 15 feet. The building is also set back 15 feet along the 10-foot public alley that separates the PUD site from the rear lot lines of the rowhomes. Along Lawrence Street, the primary façade has been set back approximately 5 feet and is only punctuated by four-story bay projections that reduce the scale of the building and create verticality that together establish a clear residential character. Finally, given the need for special consideration for the scale of adjacent residential uses, the top (6th) floor has been further set back approximately 5 – 7 feet along the 10th Street, Lawrence Street, and public alley frontages, which will also be clad in a differing material color to allow them to further recess. (Ex. 3H.)

In addition to the building itself, the Project will also dramatically improve the aesthetic quality and safety of the streetscape surrounding the PUD Site. In designing the Project and surrounding streetscapes, the Applicant has taken into consideration the character of the surrounding neighborhood and function of adjacent streets. For example, the proposed streetscape along Monroe Street provides for a widened sidewalk condition to improve pedestrian circulation between the Brookland neighborhood, Metrorail, and the mixed-use Monroe Street Market development. All streetscapes will be reconstructed to DDOT standards, including tree boxes and tree streets that meet or exceed applicable standards. (UD-2.1.2). Additionally, all vehicular and truck access to the Project will be from the existing public alley on Lawrence Street, thus minimizing curb cuts and maximizing pedestrian safety around the site. (UD-2.1.6). (Ex. 3H.)

46. The Applicant's Comprehensive Plan Evaluation noted the following with regard to the Upper Northeast Area Element:

The PUD is not inconsistent with the policies of the Upper Northeast ("UNE") Area Element. Overall, the proposed PUD will facilitate new, higher-density residential development on a vacant / underutilized site in proximity to the Brookland / CUA Metrorail station that will contribute to UNE's and the District's need for new housing, including affordable housing, and will enhance the character of the surrounding area. The Project will help meet the needs of a diverse community by locating new residential density for renters in proximity to Metrorail. Specifically, the Project will provide approximately 233 new rental units, of which 15% will be set aside for low-income households earning no more than 60% MFI for the life of the project. (UNE 1.1.2). Additionally, approximately 5% of the new units will be three-bedroom units. According to racial equity data published to the D.C. Office of Planning Demographic Data Hub, housing tenure in the UNE Planning Area is approximately 45% owner-occupied and approximately 55% renter-occupied, which is on par with the District overall. Approximately 40.9% of UNE Planning Area households are housing cost burdened (spending more than 30% of pre-tax income on housing). As such, the additional affordable rental housing provided by the Project will help relieve housing cost pressures on UNE and District residents. Further, the substantial number of three-bedroom units will help satisfy existing demand for larger, family-sized units in the area. (Ex. 3H.)

The Project adheres to UNE and other Comp Plan policy guidance on neighborhood conservation and compatibility. (UNE-1.1.1, UNE-1.1.2, UNE-1.1.3). The proposed design is responsive to the visual and spatial qualities of the surrounding context, which varies around all four sides of the PUD site, and to the lower-scale rowhomes immediately adjacent to the PUD site along 10<sup>th</sup> Street. The proposed design, which as discussed above is fully consistent with the FLUM, employs various design strategies such as ground-level and upper-level setbacks, projections, courtyards, façade articulation, and a context-sensitive material palette that work together to achieve a successful degree of compatibility with the surrounding context and the adjacent rowhomes (UNE-2.6.1). (Ex. 3H.)

Along Monroe Street, the context of the PUD site is primarily characterized by the large open space set back of the historic Brooks Mansion, the Brookland/CUA Metrorail station and bus facility, and the mixed-use Monroe Street Market development to the west of the tracks. In response to this context, the proposed building provides substantial ground level and upper-level setbacks along Monroe Street to reduce the scale of the building and accommodate pedestrian traffic, while strengthening the streetwall along Monroe Street, a gateway into the Brookland neighborhood. The project also includes ground floor walkout units along the north side to increase safety and activation along Monroe Street. Along 9th Street, which contains rowhomes (some of which are devoted to commercial uses) and a 4-story

office building along the west, the Project contains two large open courts above the ground floor that significantly reduce the building's massing, and the primary façade of the building is set back approximately 13 feet from the property line with the exception of projections above the ground level that provide further scale reduction. (Ex. 3H.)

On 10th Street, which contains six (6) rowhomes immediately south of the PUD site, and a public charter school on the east side of the street, the entire building is setback approximately 15 feet from the property line that is shared with the closest rowhome to the south, as well as from the public alley that separates the PUD site from the rear lot lines of the rowhomes. Additionally, the top floor of the building is set back approximately seven (7) feet along the east and south facing facades closest to the adjacent rowhomes. Finally, along Lawrence Street (with the top floor set back approximately 11'-6"), the primary façade of the building is set back approximately 5 feet from the property line, which is only punctuated by four-story bay projections that reduce the building's scale and establish a clear residential expression that relates to nearby rowhomes. The Applicant notes that the proposed relationship between the proposed Project and the adjacent rowhomes along 10<sup>th</sup> Street is similar to the relationship found at the Monroe Street Market PUD (Z.C. 08-24) located on the west side of the Metrorail tracks, where the Block E multi-story residential apartment building is immediately adjacent to lower-scale single family homes. (Ex. 3H.)

47. The Applicant's Comprehensive Plan Evaluation noted the following with regard to the Brookland/CUA Metro Station Small Area Plan:

The Applicant noted that "Small Area Plans supplement the Comp Plan by providing detailed direction for areas ranging in size from a few city blocks to entire neighborhoods or corridors." 10-A DCMR § 104.8. The Framework Element and Implementation Element provide further guidance on the relationship between the Comp Plan and a Small Area Plan. Notably, both elements state that "[u]nless a Small Area Plan has been made binding on the Zoning Commission through its enactment as part of a [Comp Plan] amendment, a Small Area Plan provides only supplemental guidance to the Zoning Commission and it does so only to the extent it does not conflict with the [Comp Plan]." Emphasis added. 10-A DCMR § 224.5. The PUD Site is located within the boundaries of the Brookland SAP, which was approved by the D.C. Council in March 2009.<sup>7</sup> The stated purpose of the Brookland SAP is to "guide future development in a manner that respects the low density scale of the nearby residential area, mitigates parking and traffic impacts, and improves connections to nearby institutions and shopping areas." (Ex. 3H.)

To accomplish its stated purpose, the Brookland SAP contains a series of guiding principles that are designed with the neighborhood and surrounding area in mind.

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<sup>7</sup> P.R. 18-0046 (Brookland/CUA Metro Station Small Area Plan Approval Resolution of 2009)

The guiding principles are statements about particular issues which guided the development of the Brookland SAP, and are grouped under the following headings:

- Land Use and Neighborhood Character
- Economic Development and Neighborhood Amenities
- Transportation, Walkability and Connectivity, and
- Open Space and Environment

The proposed PUD is consistent with the intent of the Brookland SAP guiding principles, as follows:

Land Use and Neighborhood Character - The Land Use and Neighborhood Character guiding principle addresses the types of land uses envisioned for the underutilized properties within the Brookland SAP area, and important elements of neighborhood character. Elements of this particular guiding principle that are applicable to the proposed PUD include: protecting existing neighborhood character, creating an active pedestrian neighborhood with mixed-use development and a variety of housing types for all income levels, and promoting quality in design of buildings and public spaces. The proposed PUD is consistent with the intent of this guiding principle. As detailed above, the Project has been designed in a manner that effectively balances policy guidance on increasing housing density around Metrorail to address citywide housing goals and protecting neighborhood character. The Project will provide approximately 233 new rental housing units (including affordable housing for low-income households), and has been designed with numerous setbacks, projections, façade articulations, and material differentiation to complement the surrounding neighborhood character and be sensitive to adjacent lower-scale residential uses. (Ex. 3H.)

Economic Development and Neighborhood Amenities – The Economic Development and Neighborhood Amenities guiding principle addresses the types of economic development desired for underutilized parcels, and the community amenities that should accompany development. In alignment with the intent of this guiding principle, the proposed PUD supports the 12<sup>th</sup> Street commercial corridor by adding new housing, and thus new residents, that can support existing businesses along the 12<sup>th</sup> Street corridor. The Project will also enhance the safety and aesthetic quality of the public realm by reconstructing the streetscape surrounding the entire PUD site, including widening the sidewalk along Monroe Street which can improve pedestrian connectivity between the Brookland neighborhood and the Metrorail and amenities at the Monroe Street Market development. (Ex. 3H.)

Transportation, Walkability and Connectivity – The Transportation, Walkability and Connectivity guiding principle addresses community ideas for vehicular and pedestrian circulation and connectivity throughout the area. Consistent with this guiding principle, the Project will improve east-west connectivity across the

neighborhood generally by improving the quality of the public realm around the Project, and specifically by setting the building back along Monroe Street to provide increased space for pedestrian circulation. (Ex. 3H.)

Open Space and Environment – The Open Space and Environment guiding principle focuses on open and green areas, the public realm, and environmental considerations. The proposed PUD is consistent with the intent of this guiding principle through its overall sustainability and improvements to the public realm. As noted, the Project includes reconstruction of surrounding public space to DDOT standards, including street trees and regulation-sized tree boxes. The Project also employs sustainable building and site design strategies, such as solar power generation on the roof of the building, green roofs and bioretention, and is designed to achieve LEED-Gold certification. (Ex. 3H.)

The Brookland SAP sets forth a series of general urban design concepts and specific sub-area recommendations. Overall, the Project is consistent with those concepts and sub-area recommendations that do not conflict with the 2021 Comp Plan. Consistent with the Brookland SAP's land use, neighborhood character, and economic development concepts, the Project will:

- Support mixed-use, transit-oriented infill development near Metrorail and along Monroe Street,
- Provide residential uses south of the Metrorail,
- Strengthen Monroe Street as a primary east-west connector and gateway into the Brookland neighborhood,
- Improve pedestrian circulation,
- Support area businesses, and
- Use green building techniques and site design.

The PUD site is located within the Brookland SAP Monroe Street Sub-Area (the “**Sub-Area**”), which envisions Monroe Street as a revitalized, street-lined urban street, connecting Brookland from west to east with retail, residential and cultural and arts uses. To achieve this vision, the Brookland SAP provides several specific recommendations on height and density of development, reestablishment and realignment of streets, provision of parking, and retail, open spaces, and civic uses. The proposed PUD is consistent with the Sub-Area recommendations that are applicable to the Project, and which do not conflict with the current 2021 Comp Plan. (Ex. 3H.)

The following is an evaluation of the Project's consistency with the Sub-Area recommendations that apply to the PUD site:

Provide adequate parking but at low transit-oriented development parking ratios. Consistent with the TOD focus of the Project, the Applicant is only providing 54



at-grade parking spaces off the public alley. This amount of parking equates to a parking ratio of approximately 0.23 per dwelling unit, which is consistent with the preferred parking ratio established in DDOT's CTR guidelines for a residential project of this size and location relative to Metrorail.

Allow infill and redevelopment along Monroe Street east of the WMATA/CSX tracks. The Project will redevelop the PUD site along Monroe Street.

Development along Monroe Street east of the WMATA/CSX tracks may be allowed up [to] a maximum of 50 feet through a Planned Unit Development, a discretionary review by the District's Zoning Commission. The Project is not consistent with this recommendation. However, this recommendation conflicts with the current 2021 Comp Plan, and specifically the PUD site's FLUM designation of Mixed Use (Moderate Density Commercial / Medium Density Residential). Thus, as set forth in the Framework and Implementation Elements, because this recommendation conflicts with the Comp Plan, as adopted by the D.C. Council in 2021, it no longer supplements the Comp Plan. Additionally, any inconsistency between the Project and this specific recommendation is outweighed by changes that have been made to the Comp Plan since the Brookland SAP was approved in 2009.

Buildings in the subarea should step back in height at a ratio of one half (1/2) to one (1) above 50 feet. As shown in the proposed plans, not only is the proposed building setback for its full height along Monroe Street, but it also adheres to this recommendation to step back at a 1/2 to 1 ratio above 50 feet. (Ex. 3H.)

48. The Applicant's Comprehensive Plan Evaluation noted the following with regard to potential inconsistencies with the Comprehensive Plan:

The potential inconsistencies present in the proposed PUD relate to an Urban Design Element policy that pertains to the design of building facades relative to established street walls / façade lines. In addition, the Project is technically inconsistent with the Brookland SAP recommendation for the Monroe Street Sub-Area that limits buildings east of the WMATA/CSX tracks to 50 feet. However, this recommendation conflicts with and is outweighed by the current 2021 Comprehensive Plan. Overall, upon evaluation of the potential inconsistencies of the Project with Comprehensive Plan policy guidance and the recommendations of the Brookland SAP, the Applicant believes that the two identified potential inconsistencies are far outweighed by the Project's consistency with the FLUM and several competing Comp Plan policies contained within UNE. Land Use, and Housing Elements. (Ex. 3H.)

Inconsistency with UD-4.2.3: Continuity and Consistency of Building Frontages

The specific policy with which the proposed PUD is inconsistent is UD-4.2.3: Continuity and Consistency of Building Frontages, which states:

*“Maintain the established frontage lines of streets by aligning the front walls of new construction with the prevailing facades of adjacent buildings. Avoid placing new construction that extends beyond the existing facade line unless it significantly benefits the public life of the street. Where existing facades are characterized by an established pattern of windows and doors or other elements, new construction should complement the established rhythm.”*

The intent of this Urban Design policy is to maintain well-established streetwalls and façade frontage lines where they exist. Notably, the policy specifically focuses on aligning the front walls of new construction with the prevailing facades of adjacent buildings. The Applicant notes that the frontage lines around all four sides of the Project are not very well defined, in part due to the varying building types and uses that exist around the PUD site. The front of the Project is along Monroe Street, which occupies the full length of the block. As previously stated, the Project is setback from the property line along Monroe Street 13 feet at the ground level and approximately 9 feet on the upper levels. When compared to existing buildings on the adjacent blocks to the east and west, the Project’s Monroe Street facade generally aligns with these buildings. Along Lawrence and 9<sup>th</sup> Streets, the existing frontage lines are either varied or poorly defined. However, generally, buildings along the opposite side of 9<sup>th</sup> Street are set back from the property line in a manner that is similar to the Project, and the Project generally aligns with the school and office buildings along Lawrence Street to the east and west, respectively. (Ex. 3H.)

To the extent it can be said that the Project is inconsistent with this particular policy, the inconsistency is likely to occur along 10<sup>th</sup> Street where the proposed building façade extends beyond the existing row dwellings to the immediate south, and to a lesser extent along Lawrence Street. This inconsistency results from the full-building and upper-level setbacks provided on all sides of the building in response to the general surrounding context. Given the location of the adjacent rowhouses to the south of the Project, the result of this inconsistency is primarily on north-south views along the block. The Applicant believes that the extent of this inconsistency is relatively minor, and the potential impact of the inconsistency on the adjacent rowhomes is minimized through the design of the Project (setback along the common lot line, upper-level setbacks, high-quality materials, and material differentiation). In addition, the Applicant believes any potential inconsistency with this particular urban design policy is outweighed by the Project’s advancement of other Comp Plan policies and considerations that relate to increasing residential density near Metrorail and the production of a variety of housing types in high-cost areas (UNE-1.1.3, UNE-2.6.1, LU-1.4.1, LU-1.4.2, H-1.1.3, H-1.1.8). (Ex. 3H.)

Inconsistency with Brookland SAP Sub-Area Recommendation Regarding Building Height

The Project is not consistent with the Brookland SAP recommendation that limits building heights east of the WMATA/CSX tracks within the Monroe Street Sub-Area to 50 feet. However, as discussed below, and based on guidance provided in the Framework and Implementation Element, since this recommendation conflicts with the current 2021 Comp Plan, and specifically the PUD site's FLUM designation of Mixed Use (Moderate Density Commercial / Medium Density Residential), it no longer is considered supplemental guidance to the Comp Plan.

The Brookland SAP grew out of the 2006 Comp Plan. In fact, the preparation of the Brookland SAP was specifically discussed in the UNE Element of the 2006 Comp Plan, stating “[t]he Office of Planning is scheduled to conduct a comprehensive study of the area surrounding the Metro station during 2006 and 2007, ...the goal of the study is to guide future development in the station vicinity in a manner that respects the low density scale of the nearby residential area (particularly the area along 10<sup>th</sup> St NE and east of the 10<sup>th</sup> St NE), mitigates parking and traffic impacts, and improves connections to nearby institutions and shopping areas.”<sup>8</sup> Additionally, the 2006 Comp Plan UNE Element and Implementation Element contained a specific action to prepare a small area plan for the Brookland Metro station area.<sup>9</sup> The recommendations of the Brookland SAP were incorporated into the Comp Plan during the D.C. Council's 2010 Comp Plan amendment cycle. Since approval of the Brookland SAP and its incorporation into the Comp Plan in 2006, the Comp Plan has been amended. Specifically, in 2021, the D.C. Council adopted amendments to the Comp Plan, including amendments to the PUD Site's FLUM designation to support medium-density mixed use development, and policy changes to support mixed-use development on vacant and underused property in the vicinity of the Metrorail station. These amendments are critical to addressing this apparent inconsistency. (Ex. 3H.)

The Framework Element states, “unless a Small Area Plan has been made binding on the Zoning Commission through its enactment as part of a Comprehensive Plan amendment, a Small Area Plan provides only supplemental guidance to the Zoning Commission on and it does so only to the extent it does not conflict with the Comprehensive Plan.” (*See* 10A DCMR § 224.5.) Additional language from the Implementation Element states that “a Small Area Plan provides supplemental guidance to the Comprehensive Plan, unless incorporated into the Comprehensive Plan by a D.C. Council act.” *See* 10A DCMR § 2503.1. This guidance is important in the context of the Brookland SAP and the Project, where the Brookland SAP recommendation to limit building height to 50 feet conflicts with the PUD Site's current FLUM designation of Mixed Use (Moderate Density Commercial / Medium Density Residential). (Ex. 3H.)

Specifically, prior to the 2021 Comp Plan amendments, the PUD Site's FLUM designation supported moderate density mixed-use and low-density residential development. Under the previous guidance provided in the Framework Element, the moderate density mixed use portion of this designation generally did not exceed five stories. (2006 Comp Plan, Section

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<sup>8</sup> 2006 Comp Plan, UNE Element, Section 2.6

<sup>9</sup> 2006 Comp Plan, UNE Element, UNE-2.6.A (Brookland Metro Small Area Plan)

225.9). However, the zones that are referenced in the individual moderate density commercial and medium density residential components of the PUD Site's FLUM designation all permit matter-of-right building heights that far exceed 50 feet. Thus, limiting development on the PUD Site to 50 feet based upon the Brookland SAP recommendation would prevent the Applicant's ability to implement the D.C. Council's amendment to the site's FLUM designation, as well as other policy amendments that promote increased residential density and redevelopment of underutilized sites in proximity to Metrorail to meet citywide housing goals. As such, based upon guidance in the Framework and Implementation Elements, because the Brookland SAP's recommended 50-foot building height conflicts with the density and height supported by the current FLUM, the Applicant believes this particular Brookland SAP recommendation has been superseded and need not be considered supplemental guidance, and that the apparent inconsistency is outweighed by newer guidance provided in the current Comp Plan. The Applicant notes that the circumstances and outcome of its evaluation of this inconsistency is nearly identical to the Commission's recent evaluation of a similar inconsistency for a PUD at the Takoma Metrorail station. In that case, the Commission concluded the following:

*"...the Commission believes that this guidance has been superseded by changes to the Comprehensive Plan in the 20+ years since the Takoma SAP was adopted, and that this newer guidance outweighs the inconsistency...The Framework Element states, "unless a Small Area Plan has been made binding on the Zoning Commission through its enactment as part of a Comprehensive Plan amendment, a Small Area Plan provides only supplemental guidance to the Zoning Commission and it does so only to the extent it does not conflict with the Comprehensive Plan." (See 10A DCMR § 224.5.) Additional language from the Implementation Element states that "a Small Area Plan provides supplemental guidance to the Comprehensive Plan, unless incorporated into the Comprehensive Plan by a D.C. Council act." (See 10A DCMR § 2503.1.) The Commission concludes that this guidance is important in the context of the Takoma SAP and the Project, where Takoma SAP recommendations to moderate development on the PUD Site conflict with the Site's current FLUM designation and recommendations to increase density around Metrorail stations to accommodate the critical, high priority need for new housing in the District. The Commission believes that the additional density called for in the FLUM, and other more recently adopted policies supersede the guidance of the Takoma SAP that call for lower intensity development of the Site." (Z.C. Order No. 22-36, Conclusion of Law 16.b.4). (Ex. 3H.)*

49. Based on the extensive evidence provided in the record, the Commission agrees that the Project is not inconsistent with the Comprehensive Plan or other adopted and applicable public policies.

## **RESPONSES TO THE APPLICANT'S FILINGS**

## OP Reports

50. As noted in FF 19, the OP Setdown Report recommended that the Application be setdown for a public hearing. The OP Setdown Report, dated February 3, 2025, provided the following analysis:

- Project Description – The project would provide an enhanced public realm, with the building setback from the property line on Monroe and 9<sup>th</sup> Streets to allow for more pedestrian space. Upper floors on those facades would also be set back. On 10<sup>th</sup> and Lawrence Streets the building would be sculpted with various bays and step backs, with the goal of relating to adjacent properties. The top floor along 10<sup>th</sup> Street would be set back on both its east and south sides, and the entire 10<sup>th</sup> Street wing would be setback 15 feet from the adjacent rowhouse property line. Similarly, the alley façade would be composed of bays that breakdown the building mass. The project would have no curb cuts on any street, and all vehicular and loading access would be from the existing public alley off Lawrence Street. The applicant would widen the 10 foot alley to 20 feet through the dedication of a public use easement on their property.

The primary façade material facing the surrounding streets, as well as the south façade facing the adjacent rowhouses, would be brick. The brick color would vary to differentiate various building bays, banding, or inset façade panels, or to separate the building base from upper stories. Portions of the façade facing the alley or courtyards, or on the top story, would be clad in neutral-toned cementitious panel. OP supports the material selection and finds that brick is appropriate, given the predominance in nearby historic buildings such as the adjacent rowhouses and the Luke C. Moore high school immediately to the east, as well as in significant new construction such as Monroe Street Market to the west across the railroad tracks. (Ex. 19.)

- Comprehensive Plan – FLUM - The OP Setdown Report concluded that the proposed PUD-related map amendment to MU-5B and the associated project with an FAR of 4.2 would be consistent with the mixed-use Medium Density Residential and Moderate Density Commercial Future Land Use designations for the site. (Ex. 19.)
- Comprehensive Plan – GPM – The OP Setdown report noted that the site is located within a Neighborhood Conservation Area. The Comprehensive Plan states that the Neighborhood Conservation Areas are generally residential in character, and where infill development occurs, it should “consist primarily of infill housing, public facilities, and institutional uses” (Comprehensive Plan, §225.4). It goes on to say that major changes in density are not expected, but that infill development on vacant or underutilized properties is anticipated, “particularly to address city-wide housing needs” (§§ 224.4 and 225.5). It also states that “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 (§225.5). The

proposed medium density infill development, which utilizes a vacant site in close proximity to metro, would not be inconsistent with the GPM. (Ex. 19.)

- Comprehensive Plan – Land Use Element – The OP Setdown Report identified nine policies of the Land Use Element (Policies LU-1.4.1, 1.4.2, 1.4.3, 1.4.4, 1.4.5, 1.4.6, 1.5.1, 2.1.1, and 2.2.4) that are furthered by the Project. OP stated that the existing property is currently vacant. Redevelopment would further policies calling for the provision of additional opportunities for housing, especially housing in close proximity to metro. The project would also further policies call for neighborhood revitalization and beautification. (Ex. 19.)
- Comprehensive Plan – Transportation Element - The OP Setdown Report identified five policies of the Transportation Element (Policies T-1.1.4, 1.1.8, 1.2.3, 2.4.1, and 5.2.2) that are furthered by the Project. OP stated that the Project would further several policies from the Transportation Element, including those supporting transit-oriented development and improvements to pedestrian infrastructure. The Project would also meet transportation goals of providing only the necessary amount of vehicular parking, with a ratio of approximately 0.23 spaces per unit. (Ex. 19.)
- Comprehensive Plan – Housing Element - The OP Setdown Report identified ten policies of the Housing Element (Policies H-1.1.1, 1.1.2, 1.1.3, 1.1.8, 1.1.9, 1.2.1, 1.2.2, 1.2.7, 1.2.11, and 1.3.1) that are furthered by the Project. OP stated that housing at this location, on a currently vacant site, would not result in the displacement of existing residents. The Project would provide a substantial number of market rate and affordable units, providing additional housing opportunities and options for the neighborhood and for residents of the rest of DC; this can help to ease upward pressure on housing prices in the neighborhood. The Project would also provide housing of varied size for different household sizes. (Ex. 19.)
- Comprehensive Plan – Environmental Protection Element - The OP Setdown Report identified four policies of the Environmental Protection Element (Policies E-1.1.2, 2.1.3, 4.1.2, and 5.1.9) that are furthered by the Project. OP stated that the Project would further policies of the Environmental Protection Element that encourage the use of green roofs and seek to reduce the urban heat island. The Project may further policies related to sustainable energy production, but the application materials are unclear in that regard. In discussions with the Applicant, they stated that their intention is to have solar panels on the roof. (Ex. 19.)
- Comprehensive Plan – Urban Design Element - The OP Setdown Report identified nine policies of the Urban Design Element (Policies UD-2.1.2, 2.1.6, 2.2.1, 2.4, 2.2.5, 3.2.1, 3.2.5, 4.2.4, and 4.2.6) that are furthered by the Project. OP stated that the Project will further policies of the Urban Design Element by improving the streetscape and overall appearance of the site. The Project would also further Urban Design policies focused on creating a more inviting and active pedestrian realm, minimizing curb cuts and creating safe streets. The design of the building itself

would also be consistent with policies that promote active and engaging building façades. (Ex. 19.)

- Comprehensive Plan – Upper Northeast Area Element - The OP Setdown Report identified four policies of the Upper Northeast Area Element (Policies UNE-1.1.1, 1.1.2, 1.1.3, and 2.6.1)) that are furthered by the Project. OP stated that the Project would help further the policies of Upper Northeast Area Element that call for compatible infill development on vacant sites, especially near metro. (Ex. 19.)
- Brookland/CUA Metro Station Small Area Plan (SAP) – The OP Setdown Report concluded that the Project would help to fulfill the goals of the SAP by providing a significant amount of housing for a range of income levels and for a range of household sizes. It would also redevelop an underutilized site in close proximity to the metro station, and do so with high quality architecture that would frame the street and help to connect Monroe Street from east to west.

The OP Setdown Report also noted that the language of the SAP talks specifically about the height envisioned in this area. It states that “Development along Monroe Street east of the WMATA/CSX tracks may be allowed up to a maximum 50 feet through a Planned Unit Development, a discretionary approval by the District’s Zoning Commission” (p.6). It goes on to state that “Buildings in the subarea should step back in height at a ratio of one half (1/2) to one (1) above 50 feet.” (p. 47). This would seem to conflict with the Project, which would have a height of 75 feet, with step backs beginning at approximately 60 feet on the 10<sup>th</sup> Street and Lawrence Street facades.

The OP Setdown Report noted that this guidance for the SAP was previously reflected in the Comprehensive Plan, when the FLUM called for moderate density commercial, moderate density residential, and low density residential uses on the subject site. More recently, however, the Council adopted amendments to the Comprehensive Plan that superseded the 2009 guidance of the SAP, and calls for a mix of moderate density commercial and medium density residential uses on the site. Small area plans provide important guidance for neighborhoods and can fill in any gaps in the information provided by the Comprehensive Plan. However, where there is conflict between the Comprehensive Plan and a Small Area Plan, the Comprehensive Plan governs. The Framework Element of the Plan states:

Small Area Plans are prepared with community input, to provide more detailed planning guidance, and typically are approved by resolution of the Council. Unless a Small Area Plan has been made binding on the Zoning Commission through its enactment as part of a Comprehensive Plan amendment, a Small Area Plan provides only supplemental guidance to the Zoning Commission and it does so only to the extent it does not conflict with the Comprehensive Plan. 224.5

The OP Setdown report concluded, “Therefore, the Comprehensive Plan has been updated in a way that would support the proposed height of [the] project, that guidance would supersede the previous direction of the SAP”. (Ex. 19.)

- Mayor’s Order on Housing – The Mayor set a goal of producing 36,000 total residential units by 2025, 12,000 of which would be affordable. The Mayor’s Order also emphasizes the need to provide units for large and/or multigenerational families. As of January 2025, the Upper Northeast Planning Area had only achieved 66% (891 units) of its 2025 affordable housing production goal of 1,350 units. This Project would help alleviate a small amount of that shortfall and do so by providing family-sized units. Of the approximately 233 units, it is estimated 36 would be affordable through the 15% IZ proffer. Also, 12 of the total number of units would be three-bedroom units. This would help to fulfill the goals of the Mayor’s Order on Housing. (Ex. 19.)
51. In its report to the Commission in advance of the public hearing dated June 13, 2025 (“OP Hearing Report”), OP recommended approval of the Application. The OP Hearing Report detailed the Applicant’s responses to comments from OP as well as the Commission. The OP Hearing Report analyzed the public benefits and amenities provided in the Project and balanced those benefits and amenities with the development incentives that are requested in the Application. The OP Hearing Report stated that the Project would not be inconsistent with the Comprehensive Plan, including when viewed through a Racial Equity lens. The OP Hearing Report concluded: “In summary, the application provides benefits that are both commensurate with the degree of flexibility that is being requested and superior to the benefit that could be derived from a matter of right (MOR) development on the site. The project would match the MOR height and bulk standards of the MU-5B zone, and not utilize the more permissive PUD standards. The project would not require any other zoning flexibility. (Ex. 80.)
52. The OP Hearing Report addressed OP’s Racial Equity Analysis of the Application. OP noted that it evaluated the application using the Commission’s Racial Equity Tool and found that the proposal would further a number of policies related to equity, including policies from the Upper Northeast, Land Use, Transportation, Housing, Environmental Protection, and Urban Design Plan elements. OP stated that when examining demographic and economic data from the Upper Northeast Planning Area, OP found that the proposal could help alleviate some degree of inequity, especially regarding housing availability and the number of families that are housing-cost-burdened. Data on the number of households burdened by housing costs is not disaggregated by race, but given the unemployment and income levels within the City and within this planning area, it can be inferred that additional housing opportunities and affordable housing provided by the proposal could help to further a more equitable outcome. Another benefit of the proposal would be the provision of residential units in close proximity to several transportation modes, which can help provide access to education, retail, and recreation opportunities, as well as employment opportunities for populations of any skill or educational level, reach employment opportunities. The OP Hearing Report also addressed the factors of: Direct Displacement, Indirect Displacement, Housing, Physical, Access to Opportunity and Community and



determined that the Project would not have any negative impacts related to racial equity. (Ex. 80.)

## **DDOT Report**

53. On June 13, 2025, DDOT filed a report regarding the Project. DDOT's report noted that after an extensive review of the case materials submitted by the Applicant, DDOT finds:

- Vehicular access to the site's parking and loading areas is proposed via an existing alley connection to Lawrence Street that will be widened from 10 to 20 feet as part of the project.
- The alley curb cut should be no wider than 20 feet. The existing curb cuts to the site on 9<sup>th</sup> and 10<sup>th</sup> Streets will be closed. These are consistent with DDOT standards.
- The project meets zoning requirements for vehicle parking, and the parking supply, while reasonably low, is slightly higher than DDOT's preferred parking maximums for sites within one-eighth mile of a Metrorail Station.
- DDOT estimates a project of this size, mix of uses, and distance from transit should provide a maximum of 38 vehicle spaces. The availability of excess parking has the potential to induce additional demand for driving.
- The Applicant proposes a robust Transportation Demand Management (TDM) Plan that will support non-automobile ownership lifestyles and encourage the usage of non-auto modes. DDOT requested one minor revision be added to the Applicant's TDM Plan. That revision would have the TDM Plan:
  - Specify the minimum number of long-term bike parking spaces to be located horizontally on the floor (50% would be at least 40), the amount to be designated with electrical outlets for e-bikes/scooters (10% would be at least eight), and the amount to be designed with the larger 10 feet by 3 feet design for cargo and larger bikes (5% would be at least four). (Ex. 81)

54. The DDOT report concluded that it has no objection to the approval of the Application with the following conditions included in the Commission's final Order:

- Implement the Transportation Demand Management (TDM) Plan as proposed in the May 22, 2025, Comprehensive Transportation Review (Exhibit 55A and Attachment 1) with the requested revision, for the life of the project, unless otherwise noted;
- Establish a permanent easement along the site's Monroe Street frontage and at the 9<sup>th</sup> Street/Monroe Street and 10<sup>th</sup> Street/Monroe Street intersections to include the

full width of the DDOT Standard sidewalk and tree box (minimum 12 feet from back of curb) so that DDOT can provide cohesive maintenance;

- Establish a perpetual easement for the area of the widened alley so that DDOT can provide cohesive maintenance for the entire alley; and
- Implement the following infrastructure improvements in public space, subject to DDOT approval:
  - Add intersection “daylighting” at the four (4) intersections surrounding the project to increase visibility of pedestrians and slow down vehicles traveling to and from the site; and
  - Construct a concrete protective barrier along the bicycle lane on the south side of Monroe Street between each intersection and the end of the parking lane. (Ex. 81.)

### **Other DC Agency Responses**

55. The Department of Small and Local Business Development (DSLBD) expressed no concerns about the Project in an email to OP. (Ex. 80.)
56. The Department of Energy and the Environment (DOEE) provided OP with written comments. DOEE supported the environmental design features of the Project, including the solar energy generation and green roofs. (Ex. 80.)

### **ANC 5B Report**

57. On June 11, 2025, ANC 5B filed a resolution in support of the Application. The ANC 5B resolution noted that at a duly noticed public meeting on May 21, 2025, with a quorum present, ANC 5B voted 4-0-0 to support the PUD application. The resolution stated that the development team has engaged with the community through multiple outreach efforts, including community meetings and input from local neighbors and organizations, resulting in significant support for the project’s overall goals of revitalization, housing, and urban improvement. The resolution encourages ongoing community engagement throughout the project’s development and review processes to ensure that the project aligns with community goals and addresses concerns effectively. ANC 5B supported the Application contingent upon the developer implementing the following four conditions to address community concerns.
- *Traffic, Safety, and Security Measures* – During the schematic design and development phases, the developer should seek community input regarding the safety, security, and aesthetic aspects of the alley. This should include, but is not limited to, pole locations, lighting, security barriers at both six townhomes and proposed development (fencing, walls, garage doors, pedestrian doors), cameras, pavement

styles, sidewalk design for pedestrian access to the garage, and relocation of street drop-off from Monroe to 9<sup>th</sup> Street NE.

- *Commercial Space and Economic Vitality* – The developer shall retain all proposed live-work units, except for approximately 2,000 square feet of space on Monroe Street shall be designated for retail use. The developer shall collaborate with the community – including but not limited to Councilmembers’ offices, ANC, BNCA, and the broader community – to ensure the retail space’s success. This includes establishing timelines and terms that exceed industry standards, based on comparable projects in similar DC neighborhoods. If, after extended and intensified efforts, the retail option is deemed non-viable through good faith and collaborative efforts in line with agreed-upon terms and timelines, the developer reserves the right to revert the space back to live-work or residential units.
- *Building Massing and Impact on Adjacent Homes* – The developer shall maintain the alley massing. The developer shall create front doors for all units facing Lawrence Street.
- *Enhanced Community Amenities and Design* – The Developer shall consider and incorporate the following condition:
  - The Construction Management Agreement (CMA) should be developed collaboratively between the developer and the affected neighbors. All parties should reach consensus on the agreement, using the previously agreed-upon version (ca 2012) as a starting point and updating it to reflect any significant changes to the construction.

The developer shall consider and incorporate the following suggestions, where feasible, enhancements to urban design and community benefits:

1. Inclusion of more family-sized units (3 to 4 bedrooms) 10%; and
2. Banner poles on Monroe Street with a “Gateway to Brookland” theme. (Ex. 77 and 77A.)

## ANC 5F Report

58. On June 18, 2025, ANC 5F filed a resolution in support of the Application. The ANC 5F resolution noted that at a duly noticed public meeting on June 17, 2025, with a quorum present, ANC 5F voted 5-0-0 to support the PUD application. ANC 5F’s resolution stated that it supports with condition the relief requested in ZC 24-15 (901 Monroe St NE), said conditions being:

- Secure further community input on final alley design, including pole locations, lighting, security barriers, cameras, pavement style, sidewalk design for pedestrian access, and relocation of street drop-off from Monroe to 9th St NE;

- Retain all proposed live-work units except for approximately 2,000 square feet of ground floor space on Monroe Street which shall be designated for retail use, and collaborate with the community to ensure the retail space's success, and only after extended and intensified efforts are not successful, the developer may revert the space to live-work or residential units; and
- Conduct community engagement on the construction plan to minimize negative impacts to affected neighbors, using the 2012 version as a starting point. (Ex. 94.)

### **Persons and Organizations/Local Businesses in Support**

59. Approximately fifty (50) letters/e-mails of support were submitted into the record. In general, these letters noted their support for the Project's creation of additional housing and much needed affordable housing on an underutilized property across the street from a Metro station. These letters noted the ability of the additional residential density on the site to strengthen the local economy, enhance the livability of the neighborhood and to foster a more vibrant and sustainable commercial corridor in the Brookland community.
60. Included in these letters of support were letters from the Washington Area Bicyclist Association (Ex. 46), Deaf-Reach, Inc. (Ex. 62), and the owners of Annie's Hardware and Excel Pilates, DC (Ex. 37).

### **Opponent Parties**

#### 200 Footers

61. The 200 Footers submitted a detailed written analysis of its objections to the Application and provided testimony at the Public Hearing. The 200 Footers raised the following issues.
  - The requested spot zoning of the site to the MU-5B zone would be precedent setting, as a future MU-5B PUD could be up to 90 feet in this largely low-scale residential area and would be an unwelcome precedent and would clearly be even more inconsistent with the neighborhood scale. (Ex. 109.)
  - The 200 Footers proposed an alternate zone for the Commission's consideration, the MU-5A zone – which would have allowed a maximum building height of 70 feet and a maximum FAR of 4.2. (Ex. 109.)
  - The 200 Footers noted that despite the language in the OP Setdown Report, the Project is not compatible with the existing scale, does not protect existing neighborhood character, the Project does not satisfy the setback requirements of the Brookland/CUA Metro Station Small Area Plan and the Zoning Commission should consider the adverse effects on air and light on the low-scale rowhouses along 10<sup>th</sup> Street. The 200 Footers stated that the 75 foot building height creates a sheer wall effect and that the 6<sup>th</sup> floor setback will not alleviate this effect. This will not only disrupt the

neighborhood's aesthetic, it will also create an overwhelming presence looming over nearby residents and even the pedestrians passing by. The 200 Footers also noted that the Project will significantly reduce sunlight to adjacent homes, which not only affects residents' quality of life but also impacts the environment. The 200 Footers requested a reduction in massing and height of the Project along the side of the building adjacent to the 10<sup>th</sup> Street townhomes. In addition, the 200 Footers requested more thoughtful design attention be given to the Project's alley-facing façade. (Ex. 109, 111, 112 and 115.)

- The 200 Footers noted their unanimous disagreement with the widening of the alley off Lawrence Street and the serious safety and health hazards that would be created. They noted that children play in this dead-end alley and it serves as a community gathering space. The 200 Footers questioned whether the true impact of deliveries to the Project were addressed, especially since the CTR prepared by the Applicant occurred before the Applicant agreed to market approximately 1,800 square feet of retail use in the Project. The 200 Footers requested a more realistic traffic plan for the alley, or preferably, use the existing curb cut on 9<sup>th</sup> Street instead, which the Commission approved in 2012. (Ex. 109, 111, 112, and 115.)
- The 200 Footers stated that the Construction Management Plan proposed by the Applicant was not sufficient and fails to capture many of the protections that were necessary in the 2012 Construction Management Agreement between the Applicant and the 200 Footers. The 200 Footers noted that while the Construction Management Plan submitted in this Application incorporates a modern administrative structure and steers towards efficient communication, it lacks the detailed, enforceable measures found in the 2012 version. By merging the detailed protections of the 2012 version with the updated administrative framework of the version included in the Application, the final Construction Management Agreement can become the best of both worlds. It can safeguard the 200 Footers quality of life, protect the structural integrity of the homes, and compensate the 200 Footers for the losses they may incur. (Ex. 109 and 110.)
- The 200 Footers stated that the amenities package proposed by the Applicant was a miniscule amount in comparison to the financial benefits that the Applicant would receive from the Project and the amenities package included no amenities in response to any of the 200 Footer recommendations and no amenities that would mitigate the many adverse effects which would befall the 200-Footers. The 200 Footers noted that the most essential concerns and priorities for change were:
  - *Top adverse effects and priorities for change:* massive scale of 901 Monroe and resulting loss of sunlight; alley traffic and safety moving the ingress/egress to out of the dead-end alley; and no opportunity for new residents to build equity in the neighborhood since all units are rental units.

- *Priority Amenities:* publicly available greenspace, restaurants and retail, public maker space in the building, coverage of large shade trees, dog park, community garden, playground, gym/recreation space available to the neighbors. (Ex. 109, 115.)

#### Brookland Neighborhood Civic Association

62. The Brookland Neighborhood Civic Association provided testimony from its President, Dawn Amore. Ms. Amore noted that her testimony relates to feedback received from a Brookland Neighborhood Civic Association meeting held on April 15, 2025. Brookland Neighborhood Civic Association. She noted that the concerns related to scale, safety, security, traffic and community benefits are still outstanding. Those concerns are:

- **Scale and Character:** The primary issue is that the height (six stories) is inconsistent with the surrounding residential neighborhood, particularly affecting properties on 10<sup>th</sup> Street NE due to loss of sunlight and compatibility with the surrounding neighborhood. Neighbors request a reduction in scale, with increased setbacks and a design that scales downward closer to adjacent streets to preserve neighborhood character.
- **Health and Safety:** The proposed sole vehicular entry and exit point via the Lawrence Street alley poses significant safety risks, particularly given the existing traffic congestion associated with nearby schools. Neighbors strongly advocate relocating the vehicle access to either 9<sup>th</sup> Street (it was designed – and DDOT approved – in the previous proposed Monroe Street development) or on Monroe Street to alleviate safety concerns and traffic bottlenecks. Additionally, concerns about adequate safety and security, including potential issues related to evacuation and vandalism risks, were underscored.
- **Monroe Street Life:** Community members emphasized the importance of foot traffic to activate Monroe Street, enhance pedestrian safety, and support local economic vitality. Stakeholders urged developers to reserve at least a modest portion (approximately 2,000 square feet) of ground floor space capable of future retail use to meet community needs and enhance street-level vibrancy.
- **Community Amenities:** Community members request enhanced provisions for accessible green space, including more trees at ground level rather than primarily on upper floors. Additionally, there is strong community interest in increasing the availability of larger, family-sized residential units (3-4 bedrooms), as well as providing opportunities for partial tenant ownership, such as condominiums, to support long-term community stability. The community was pleased that the power lines on Monroe Street would be put underground. Additionally, the community request prioritizes actual project-related amenities to benefit the immediate neighbors instead of dollar contributions to unrelated non-profit organizations. (Ex. 44, 114.)

## **Persons in Opposition**

63. The record includes 24 letters/e-mails of opposition to the Project. Many of these letters were submitted from individuals that became part of the 200 Footers Party in opposition.

## **PUBLIC HEARING OF JUNE 23, 2025**

64. On June 23, 2025, the Commission held a duly-noticed public hearing in accordance with its rules and regulations. The Applicant presented one witness on behalf of the Applicant (Mr. Andrew Vincent, Chief Investment Officer of Horning) and three experts: Mr. Maurice Walters as an expert in architecture, Mr. Daniel Solomon as an expert in transportation analysis and engineering, and Mr. Shane Dettman as an expert in land use and zoning. The Commission accepted Mr. Walters, Mr. Solomon, and Mr. Dettman as experts in their respective fields. Thereafter, the Applicant's representatives and the experts presented testimony about the Project.
65. Mr. Vincent described the Applicant's history with the Property and goals for this development. Mr. Vincent noted the importance of locating housing density adjacent to public infrastructure, in this case across the street from a Metro Station, and the benefits that the Project will provide such as 36 affordable residential units. Mr. Vincent also detailed the robust and thorough community engagement process that was undertaken for this Application. (Tr. of June 23, 2025, public hearing p. 18-23.)
66. Mr. Walters testified to the siting, massing, and appearance of the Project. Mr. Walters noted the breaking up of the massing of the building through setbacks and articulation. Mr. Walters also addressed the shadow studies that were presented to the Commission and the impacts that the Project will have on the 10<sup>th</sup> Street rowhouses. (Tr. of June 23, 2025, public hearing p. 23-37.)
67. Mr. Solomon testified that the Project is well served by transit including multiple bus lines as well as the Brookland/CUA Metro Station. Mr. Solomon discussed the vehicular and bicycle access to the building, as well as the traffic calming and safety measures that are being proposed. Mr. Solomon testified that in order to maintain slow vehicle speeds along the alley two speed bump assemblies are proposed. Mr. Solomon also noted that DDOT agreed with this proposal and that the exact locations of the speed bumps will be finalized during public space permitting. Mr. Solomon also testified that the Applicant has agreed to construct a concrete protective barrier along the bicycle lane on the south side of Monroe Street in front of the site, and the Applicant has agreed to add striping and flex posts at 12 locations at the four intersections surrounding the site. In conclusion, Mr. Solomon stated that the Project minimizes impacts by providing short-term and long-term bicycle parking spaces, upgrading sidewalks around the site, providing access from a widened alley, and implementing a robust TDM Plan. (Tr. of June 23, 2025, public hearing p. 37-40.)
68. Mr. Dettman's testimony focused on the Project's consistency with the Comprehensive Plan. Mr. Dettman noted that the amendments that were made to the Comprehensive Plan in 2021

fully addressed the inconsistencies that were noted by the DC Court of Appeals for the prior PUD application approved on this site. Mr. Dettman testified that the proposed height and density of the Project, which are considerably below what can be achieved under a MU-5 PUD, is not inconsistent with the Future Land Use Map designation for the site and is a clear demonstration of how the Project is responsive to the surrounding context. Mr. Dettman also provided testimony addressing the Commission's request that the Applicant provide additional information on the zones that were considered by the Applicant as it was developing the Project. Mr. Dettman provided testimony regarding the Project's consistency with the Generalized Policy Map's designation of Neighborhood Conservation Area for the site. Mr. Dettman also addressed the relationship of Small Area Plans to the Comprehensive Plan, and specifically the 2009 Brookland/CUA Metro Station Small Area Plan. Mr. Dettman testified that pursuant to the Framework Element of the Comprehensive Plan, Small Area Plans provide supplemental guidance to the Commission only to the extent that they don't conflict with the Comprehensive Plan. In this case, Mr. Dettman noted how the FLUM designation for the site was amended after the 2009 adoption of the Brookland/CUA Metro Station Small Area Plan, and that the Small Area Plan's limitation of building height to 50 feet on the site is not consistent with the FLUM's designation of medium density mixed-use development on the site. Mr. Dettman also testified to the few potential inconsistencies that the Application may have with the certain policies of the Comprehensive Plan. However, these potential inconsistencies are far outweighed by the Project's consistency with the FLUM, Generalized Policy Map, and numerous policies related to land use, housing, and development around Metrorail. (Tr. of June 23, 2025, public hearing p. 40-57.)

69. At the June 23, 2025, public hearing, OP noted its support for the Application. Mr. Matthew Jesick stated the project would not be inconsistent with the Comprehensive Plan, including when viewed through a racial equity lens. The proposed height and density are appropriate for a site directly across from a Metro station and the zone height and density are not inconsistent with the medium-density residential/moderate density commercial mixed-use designation of the Comprehensive Plan's Future Land Use Map, which the Council specifically amended to allow this form and intensity of development. Mr. Jesick also noted that the Project would further a number of written policies of the Comprehensive Plan through the utilization of a long-vacant lot, improving the appearance of Monroe Street, providing a connection in the urban fabric of the neighborhood, avoiding displacement, and providing affordable housing near transit and in close proximity to retail and amenities that new residents would support. The largest single benefit of the PUD is the inclusionary zoning, and the Applicant is providing more IZ gross floor area than required, 15% versus 10%. The Project would also provide a number of three-bedroom units, which is also considered a benefit of the PUD. OP finds that the benefits of the Project are commensurate with the degree of flexibility sought through the PUD. In conclusion, Mr. Jesick stated that OP finds that the PUD meets the criteria for approval and recommends that the Commission approve the application. (Tr. of June 23, 2025, public hearing p. 124 - 134.)
70. At the June 23, 2025, public hearing, DDOT testified it had no objection to the approval of the Application, with the four conditions noted in the DDOT report. Mr. Noah Hagen testified that the ANC and a group of neighborhood residents did express concerns to DDOT about the



development providing all vehicle access from the existing alley. Mr. Hagen noted that it is DDOT's standard, that when available, all vehicle access is provided from an existing public alley instead of additional curb cuts and that DDOT reviewers would not recommend that the Applicant alter their proposal with a design that conflicts with DDOT standards. In response to questions from the Commission, Mr. Hagen noted that a 20 foot-wide alley is not an uncommon width for an alley and that such an alley providing access for 55 parking spaces and six rowhomes is not overloading the alley. Mr. Hagen also noted that the Applicant's Comprehensive Transportation Review estimated that at the peak hour in the morning and the afternoon about 23 vehicles would use the alley, on average one car every three minutes. In response to questions from the Commission and cross-examination from the 200 Footers regarding the impact of the potential retail use in the Project, Mr. Hagen noted that the potential of 1,800 square feet of retail use does not trigger a parking or loading requirement and DDOT does not expect additional facilities for such a potential use. In response to a cross-examination question from the 200 Footers regarding deliveries from USPS, Amazon, Fed Ex, Mr. Hagen noted that those types of deliveries typically don't use a loading dock and it is expected those delivery truck drivers will park on side streets. Mr. Hagen also noted that five - six truck trips a day in the alley for deliveries, to residents or retail tenants, would not have an impact on overall alley traffic. (Tr. of June 23, 2025, public hearing p. 105 - 124.)

71. At the June 23, 2025, public hearing, ANC 5B04 Commissioner Amin testified in support of the Application. Commissioner Amin requested that the Commission approve this Application, based on the majority support from the residents of the impacted and surrounding community after an extensive public engagement process. Commissioner Amin stated that the ANC wanted to find the right balance for the project, meeting goals for equity and goals for the city while not being too large so that it would overpower the community. Commissioner Amin noted that the community was relieved that the Applicant pursued the PUD process rather than just a Zoning Map Amendment application, as it allows for a public engagement process that addresses things like construction management plans, waste management plans, pick-up and drop-off plans, parking for residents of the building, and RPP status. In regard to the potential for adding a new curb cut on 9<sup>th</sup> Street, Commissioner Amin noted that there was never a real clear consensus from the community as to whether it wanted a new curb cut on 9<sup>th</sup> Street. (Tr. of June 23, 2025, public hearing p. 134 - 154.)
72. At the June 23, 2025, public hearing, ANC 5F Chairman Bishop-Henchman testified in support of the Application. Chairman Bishop-Henchman noted that this project was heard five times by ANC 5F and on all of these occasions they allowed for public comment from proponents and opponents. Chairman Bishop-Henchman noted the conditions of the ANC's resolution in support which sometimes overlap with ANC 5A's conditions. Chairman Bishop-Henchman also noted the location of the vehicular drop-off zone that is being provided on 9<sup>th</sup> Street rather than Monroe Street. (Tr. of June 23, 2025, public hearing p. 154 - 161.)
73. At the June 23, 2025, public hearing, the following individuals testified in support of the Application: Elizabeth Knox, John Leibovitz, Philip Tizzani, Richard Moller, David Nolan, Rory O' Sullivan, Nick Cheolas, and Simon Frewer. In general, these witnesses noted the importance of developing this property to provide additional housing and patrons for local

businesses. These witnesses also lauded the process that the Applicant engaged in to seek community input and make changes to the Project in response to the community input. Ms. Knox noted this project brings much needed housing, both affordable and market rate, close to Metro. Mr. Leibovitz discussed his healthy dialogue with the Applicant and the compromises that were made that led to changes to the Monroe Street frontage. Mr. Tizzani highlighted ANC 5B's support of the Project and the retention of the alley massing, which he believed addressed some issues raised by the Commission. Mr. Tizzani also noted the support for the current density of the Project and that the loss of any units would represent a material loss to the majority of those in the community that want to see the Project move forward. Mr. Moller noted that he was interested in the economic development aspects of the Project and how the additional density will support a lot of businesses, especially along the 12<sup>th</sup> Street and Monroe Street corridors. (Tr. of June 23, 2025, public hearing p. 161-182.)

### **PUBLIC HEARING OF JULY 7, 2025**

74. At the July 7, 2025, public hearing, the following individuals testified in support of the Application: Martin Weldon, Dale Scott Szpisjak, Benjamin Kasper, ANC 5A04 Commissioner Hermes, Gordon Chaffin (Exec. Director of the Friends of the Metropolitan Branch Trail), Michael Lambright, Steven Farole and Tony Tomeldon. Mr. Szpisjak supported the project as it would add an attractive building on a currently uninviting dead zone that will improve sidewalks and pedestrian realm, while the additional housing will provide a larger customer base for nearby businesses. Mr. Kasper noted that the additional housing density is important and the loss of two keystone restaurants in the neighborhood may not have happened if this project was already developed. Mr. Kasper also testified that he does not believe the Project is too large, just as ANC 5B agreed to retain the massing of the Project. Mr. Lambright noted that the Applicant has put significant effort and energy into community engagement and has frequently integrated community feedback into the Project. Mr. Farole testified that the addition of mixed use, residential and commercial development in this Project is consistent with the vision of the small area plan, the size of the building is consistent with the Future Land Use Map and the Comprehensive Plan, and the Project has the unanimous support of the ANC. (Tr. of July 7, 2025, public hearing p. 7-34.)
75. At the July 7, 2025, public hearing, five witnesses (Barbara Kahlow, Lilian Noya, Julie Kurtz-Keller, Guy Durant, and Jamila Gleason) on behalf of the 200 Footers testified in opposition to the Application. Ms. Kahlow discussed the 200 Footers previous involvement with the potential development of the site. Ms. Kahlow testified that the Project is not compatible with the existing scale of the surrounding structures and is not protecting the existing neighborhood character. Ms. Kahlow requested a thorough discussion of the setbacks proposed in the Project. Ms. Kahlow testified that the Applicant should have proposed the MU-5A zone for this Application, which would have allowed only 70 feet of building height but would allow the same density. Ms. Kahlow noted the negative precedent of approving a MU-5B map amendment in an area south of Monroe Street. Ms. Kahlow also discussed the negative impacts of the widened alley and its proposed use, the need for a more enhanced Construction Management Agreement and the lack of meaningful public benefits in the Application. (Tr. of July 7, 2025, public hearing p. 49-58.)

76. Lilian Noya, admitted as an expert in architecture, testified to her concerns regarding the Project's design and request for changes to the building's massing, sunlight impact and traffic circulation. Ms. Noya noted that the height of the building creates an overwhelming presence looming over nearby residents. Ms. Noya also noted how the building will significantly reduce sunlight to the adjacent homes. Ms. Noya also testified that from an architectural and urban design standpoint the most problematic element of the Project is its exclusive reliance on the dead end alley for all vehicular access. (Tr. of July 7, 2025, public hearing p. 58-63.)
77. Julie Kurtz-Keller testified to health and safety concerns related to the proposed use of the alley. Ms. Kurtz-Keller also discussed the results of a survey that was created by the 200 Footers and the Applicant's failure to respond to many elements of the survey. Ms. Kurtz-Keller also testified to the importance of using the previous construction management agreement as the basis for the new agreement. (Tr. of July 7, 2025, public hearing p. 63-67.)
78. Guy Durant testified to the Construction Management Agreement. Mr. Durant noted that the construction management agreement proposed by the Applicant was notably shorter and less comprehensive than the agreement agreed to in the previous application and fails to capture many of the protections that were necessary in 2012. Mr. Durant requested that the construction management agreement be revised. (Tr. of July 7, 2025, public hearing p. 68-72.)
79. Jamila Gleason testified to the inadequate response from the Applicant to the 200 Footers concerns regarding the Project, including, but limited to, the provision of community green space and mitigation of impacts on the 10<sup>th</sup> Street rowhouses. Ms. Gleason also testified to the 200 Footers requests for more affordable housing than what has been offered, senior housing, retail space, community green space, and spaces to house local charitable organizations. (Tr. of July 7, 2025, public hearing p. 72-79.)
80. At the July 7, 2025, public hearing, Dawn Amore, President of the Brookland Neighborhood Civic Association, testified in opposition to the Application. Ms. Amore stated the Brookland Neighborhood Civic Association was not opposed to development on the site, but was requesting further assurances and improvements to the Project. Ms. Amore noted concerns related to scale and character. She testified that the height is inconsistent with the surrounding neighborhood and the neighbors request a reduction in scale with increased setbacks and a design that scales downward closer to adjacent streets. Ms. Amore also testified that the sole vehicular entry and exit point poses significant safety risks and the neighbors strongly advocate relocating the vehicle access to either 9<sup>th</sup> Street or Monroe Street. Ms. Amore requested that more definition be added to the process for the Applicant to seek and act on community input regarding the safety, security, and aesthetics of the alley. Ms. Amore noted that the Brookland Neighborhood Civic Association was excited about the potential inclusion of retail in the Project and would provide its support to advertise and market the space. In regard to community amenities, Ms. Amore testified that community members request enhanced provisions for accessible green space including more trees at street level, increasing the availability of larger family-sized units, and the potential for partial tenant ownership. Ms.

Amore noted that the overall amount of community amenities was less than a recent PUD located at 8<sup>th</sup> and Jackson Streets. (Tr. of July 7, 2025, public hearing p. 39-45.)

81. At the July 7, 2025, public hearing, individuals and representatives of organizations testified in opposition to the Application. Alta Beals, a member of the 200 Footers, noted her concerns and the concerns of others that she had talked with regarding the height of the building and how it will drastically change the neighborhood skyline. Ms. Beals also noted her concerns with the single point of ingress and egress for traffic flow. (Tr. of July 7, 2025, public hearing p. 98-101.)
82. Joseph Keller testified that this process has lacked representation from critical members of the community, as this development process has undermined the platform of those who will bear the greatest burden, the 200 Footers. (Tr. of July 7, 2025, public hearing p. 101-103.)
83. John Feeley testified that the Applicant has not engaged in meaningful community discussion with the 200 Footers. Mr. Feeley also noted that the height and density proposed by the Project dwarfs the historic Luke C. Moore high school building built in 1891 and ignores the DCTV building built in 1835. (Tr. of July 7, 2025, public hearing p. 105-109.)
84. At the July 7, 2025, public hearing, the Applicant provided rebuttal testimony by Mr. Vincent, Mr. Walters, and Mr. Dettman. Mr. Vincent testified to the engagement process that was undertaken with the 200 Footers, including meeting with them prior to filing the Application, and the changes to the Project that were made in response to community input. Mr. Dettman refuted the allegation that this Application proposes Spot Zoning and testified as to how this Application is consistent with the Comprehensive Plan. In regard to the potential precedent of the MU-5B zone south of Monroe Street, Mr. Dettman noted that Subtitle X, Section 300.4 which specifically states that “PUD related map amendments establish no precedent for the Zoning Commission’s consideration of permanent changes to the zoning of the PUD site or adjacent areas, or for consideration of future PUDs”. Mr. Dettman also compared the PUD benefits and amenities of this project to the PUD mentioned by Ms. Amore (ZC Case No. 18-21) and noted that this Project includes more affordable housing (15% IZ compared to 12% IZ), has comparable open space, similar LEED requirements, similar RPP restrictions, and the financial contributions of this Project are larger than Case No. 18-21 on a per unit basis. Mr. Walters presented a photo simulation of the Project which provided a realistic perspective of how this building will interact with the surrounding buildings. (Ex. 133, Tr. of July 7, 2025, public hearing p. 110-118.)

### **POST HEARING SUBMISSIONS**

85. On August 4, 2025, the Applicant filed a post-hearing submission, which addressed the Commission’s requests for additional information. The Applicant’s post-hearing statement addressed the following issues: potential for further “sculpting” of the building; changes made to the Project in response to community stakeholders; further details on shadow studies; ability to increase size of trees on Monroe Street; and additional details on construction management plan.

- The Applicant reviewed the possibility of additional “sculpting” of the building. The Applicant and its design team modified the fifth and six floors along the 10<sup>th</sup> Street frontage of the building. These modifications result in a loss of 268 square feet of gross floor area. The Applicant noted that it is important for the Commission to recognize that Horning and Menkiti are long-time owners and managers of affordable housing in Washington, DC, and collectively operate a portfolio of 2,081 affordable units. These organizations are proud of their commitment to affordable housing and deeply understand what these units mean to the families that occupy them and the communities they help thrive. The Horning and Menkiti team members are excited about this project’s potential to create thirty-six (36) new Inclusionary Zoning (IZ) units in Brookland. The Applicant is very familiar with the challenges of operating and building new affordable housing in the District of Columbia. As it has been well reported, the District of Columbia is well below its affordable housing production goals as enumerated in the Mayor’s 2019 Housing Equity Report. As of 2024, the upper Northeast Planning Area, where this project is located, had only achieved 66% of the Mayor’s goal. With construction starts down 79% in 2024, these goals seem further from being realized.

The Applicant stated that the reality is that building affordable units can’t come without a subsidy. These subsidies take a variety of forms, including direct subsidies such as tax credits or the Housing Production Trust Fund, or indirect subsidies like tax abatements. Unlike other methods of affordable housing production, the only subsidy available for units in the IZ program is rental income from other sources at the property, namely the rents of the market-rate units, as IZ rents barely break even. It is critical to maintain building square footage, particularly on upper floors, to not only cover the costs of construction but also include a substantial IZ commitment at the property.

The reduction of residential gross floor area, through “sculpting”, sharply impacts the Applicant’s ability to finance the IZ units as it effectively removes a critical subsidy. Without the additional density on the upper floors, IZ units are no longer financeable. If upper floor space is lost, the Applicant must reduce the IZ commitment by a deeper level. Real estate development “math” can sometimes be complicated, but the math in this instance is simple: market rate units in this project will rent for double that of the IZ units. Therefore, to keep the project financeable, every square foot of sculpted area means the loss of two IZ square feet elsewhere in the building. To emphasize the point, 1,000 square feet of sculpting would come at the cost of a loss of nearly three IZ units. Despite these financial constraints, the Applicant is willing to move forward with the revised project with the loss of 268 square feet of residential gross floor area with no reduction in the affordable housing proffer of 15% of the residential gross floor area of the building. (Ex. 135, 135A.)

- The Applicant submitted materials showing the evolution of the Project since its initial conception, noting the changes were made in response to comments from community stakeholders. (Ex. 135, 135B.)
  - The Applicant noted that during the June 23, 2025, public hearing, the Commission requested additional details regarding the shadow studies that were prepared and presented to the Commission. Those additional details were provided. (Ex. 135, 135C1, 135C2.)
  - The Commission asked whether the Applicant could install larger caliper street trees along Monroe Street due to the undergrounding of utilities on that street. The Applicant's design team confirmed that the caliper of street trees that it is proposing along Monroe Street complies with the caliper of trees that DDOT recommends for installation. (Ex. 135.)
  - In response to the Construction Management Plan, representatives of the Applicant, the 200 Footers, and the Brookland Neighborhood Civic Association held an in-person meeting on July 21, 2025, to discuss the proposed Construction Management Plan. An agreement was reached between the Applicant and the 200 Footers Group regarding the Construction Management Plan. The Applicant's final Construction Management Agreement, signed and approved by the Applicant and the 200 Footers Group was submitted into the record. (Ex. 135, 135D)
86. The 200 Footers filed a response to the Applicant's post-hearing submission on August 7, 2025, and stated that the Applicant's post-hearing submission only partially responds to the Commission's multiple requests for additional information. The 200 Footers state that the Applicant failed to: provide a discussion of the potential alternate zones; a reduction in overall building height; and fully sculpted design options to mitigate the blocked light and air for the six low-scale rowhouses which front on 10<sup>th</sup> Street. The 200 Footers also claim that the Applicant failed to address requested clarifications regarding the location for drop-off/pick-ups by Lyft/Uber and the location for package deliveries by Amazon/Fed Ex/UPS and USPS. In conclusion, the 200 Footers recommended that the Commission ask the Applicant for further project changes to mitigate the serious adverse effects of the Application on the 200 Footers. (Ex. 136.)
87. The Application was referred to the National Capital Planning Commission on \_\_\_\_\_. (11-Z DCMR §§ 603.1(b), 603.4(a).)

## **CONCLUSIONS OF LAW**

### **Procedural and Jurisdictional Conclusions**

1. A PUD application must adhere to certain procedural requirements. 11-X DCMR § 307.1; 11-Z DCMR §§ 205, 300, 400-08, 600-06, 700-707. The Commission must hear any PUD in accordance with the contested case procedures its Rules of Practice and Procedure. 11-

X DCMR § 300.3. The Commission has found and hereby concludes: (i) the Application satisfies the PUD application requirements, and (ii) the Applicant, OZ, OP, and this Commission have satisfied the applicable procedural requirements, including the applicable notice requirements of the Zoning Regulations. FF ¶¶ 3-4.

2. The minimum area included within a proposed PUD must be no less than 15,000 square feet and all such area must be contiguous. 11-X DCMR § 301. The Application satisfies these minimum area and contiguity requirements. FF ¶ 6.
3. The Application is subject to compliance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq. (the “Act”). The Conditions of this Order require that the Project and the Applicant comply with the Act.

#### Evidentiary Standards

4. The Applicant has the burden of proof to justify the granting of the Application according to the PUD evaluation standards. 11-X DCMR §§ 304.2, 500.2. The Commission’s findings in relation to a PUD must be supported by substantial evidence. *See Howell v. District of Columbia Zoning Comm’n.*, 97 A.3d 579 (D.C. 2014). Substantial evidence is defined as “such relevant evidence as a reasonable mind might accept as adequate to support” the conclusions contained herein. *D.C. Library Renaissance Project v. District of Columbia Zoning Comm’n.*, 73 A.3d 107, 125 (D.C. 2013). The Applicant’s filings, testimony, and expert witness presentations are credible and thorough and reasonably adequate to support the Commission’s analysis and conclusions contained herein. Accordingly, the Applicant has provided substantial evidence to demonstrate that the Project satisfies the relevant PUD evaluation standards and has carried its burden of proof sufficiently to allow the Commission to approve the Application.
5. The Commission is required to give “great weight” to the issues and concerns of the affected ANC. D.C. Code § 1-309.10(d)(3)(A). The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” *Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted). The Commission has considered the written testimony from ANC 5B, FF ¶ 57, and the testimony provided during the public hearings. The Commission concludes that the Applicant appropriately engaged in dialogue with the ANC 5B, and ANC 5B supports the Project. The Commission affords the requisite great weight to the ANC’s written submission. The Commission also acknowledges the support of the Application from ANC 5F, which was granted party status in support of the Application,
6. The Commission is also required to give great weight to the written reports of OP. D.C. Code § 6-623.04; 11-Z DCMR § 405.8. The Commission has reviewed the OP Setdown Report, the OP Hearing Report and heard testimony from OP and finds that OP supported the Application. FF ¶¶ 19, 50-52. The Commission gives great weight to OP’s support of the Application and concurs with OP’s conclusions and findings with respect to the Project’s consistency with the Comprehensive Plan (and the Brookland/CUA Metro

Station Small Plan, to the extent the policies and guidance have not been superseded by subsequent changes to the Comprehensive Plan), satisfaction of the PUD Balancing Test, and racial equity analysis.

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

7. Pursuant to ZR16, the purpose of the PUD process is “to provide for higher quality development through flexibility in building controls, including building height and density, provided that a PUD: (a) Results in a project superior to what would result from the matter-of-right standards; (b) Offers a commendable number or quality of meaningful public benefits; and (c) Protects and advances the public health, safety, welfare, and convenience, and is not inconsistent with the Comprehensive Plan.” 11-X DCMR § 300.1. The Commission concludes that the approval of the Application is an appropriate result of the PUD process. The Commission concludes that the Project is a high-quality development that is superior to what could be constructed on the Property as a matter-of-right via the underlying zoning. The Commission finds that Project Public Benefits are meaningful and are commendable both in number and quality. *Id.* ¶24. Finally, the Commission has found that the Project does not injure but instead advances the public health, safety, welfare or convenience, *id.* ¶34, 35, and is not inconsistent with the Comprehensive Plan. *Id.* ¶¶ 32, 41-48, 50-52.
8. The PUD process is intended to “provid[e] for greater flexibility in planning and design than may be possible under conventional zoning procedures, [but] the PUD process shall not be used to circumvent the intent and purposes of the Zoning Regulations, or to result in action that is inconsistent with the Comprehensive Plan.” 11-X DCMR § 300.2. The Commission concludes that the Project is not inconsistent with the Comprehensive Plan or other adopted public policies applicable to the Property, including the Brookland/CUA Metro Station Small Plan. FF ¶¶ 32, 41-48, 50-52. Therefore, this Commission concludes that the Project does not circumvent the Zoning Regulations and is not inconsistent with the Comprehensive Plan or such other adopted public policies.

#### Evaluation Standards

9. ZR16 defines public benefits as “superior features of a proposed PUD that benefit the surrounding neighborhood or the public in general to a significantly greater extent than would likely result from development of the site under the matter-of-right provisions of this title.” 11-X DCMR § 305.2. Such public benefits must satisfy the public benefit criteria: (a) benefits must be tangible and quantifiable items; (b) benefits must be measurable and able to be completed or arranged prior to issuance of a certificate of occupancy; (c) benefits must primarily benefit the geographic boundaries of the ANC; and (d) monetary contributions shall be permitted only if made to a District of Columbia government program or if the applicant agrees that no certificate of occupancy for the PUD may be issued unless the applicant provides proof to the Zoning Administrator that the items or services funded have been or are being provided. *Id.* §§ 305.3, 305.4. Based on this Commission’s findings regarding the public benefits as well as the Conditions of this

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Order, the Commission concludes that the Project Public Benefits benefit the surrounding neighborhood or the District as a whole to a significantly greater extent than would a matter-of-right development and otherwise satisfy the public benefit criteria.

10. The PUD provisions require the Commission to evaluate whether the Application: “(a) is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site; (b) does not result in unacceptable project impacts on the surrounding area or on the operation of city services and facilities but instead shall be found to be either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the project; and (c) includes specific public benefits and project amenities of the proposed development that are not inconsistent with the Comprehensive Plan or with other adopted public policies and active programs related to the subject site.” 11-X DCMR § 304.4. The Commission has reviewed the entire record and issued findings to support its conclusion that the Application satisfies the PUD evaluation standards. In particular, the Commission concludes the Project is not inconsistent with the Comprehensive Plan when viewed in its entirety, acknowledging the areas of potential inconsistency noted by the Applicant and OP. The Commission accepts the entirety of the Applicant’s and the District’s impact analysis contained in the record regarding potential impacts of the Project and concludes that the Project does not have any unacceptable impacts FF ¶¶ 32, 34-35, 37-39, 41-48, 50-52.
11. This Commission must undertake a “comprehensive public review” of the PUD application “in order to evaluate the flexibility or incentives requested in proportion to the proposed public benefits.” 11-X DCMR § 300.5. In deciding on the Application, this Commission must “judge, balance, and reconcile the relative value of the public benefits and project amenities offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case.” *Id.* § 304.3. The Zoning Commission finds the following with regard to the issues that were raised by the 200 Footers, the Brookland Neighborhood Civic Association, and other opponents of the Project:
  - The Commission agrees with the information submitted by the Applicant, and OP that the Project’s height and scale is appropriate for the Property. The Commission does not find persuasive the arguments of the 200 Footers and the Brookland Neighborhood Civic Association that the Project is too massive, tall, or out of scale with the surrounding neighborhood. The Commission finds that the proposed scale and height of the Project is appropriate and that the Project’s use of set-backs, sculpting, and superior architecture makes the building’s height and scale appropriate. The Commission finds that the Applicant did in fact respond to and respect the neighborhood context and character in designing the Project. The Commission notes the shadow studies that were submitted by the Applicant, discussed at the public hearing and enhanced in a post-hearing submission. The Commission finds this information persuasive that the Project’s impacts on the 10<sup>th</sup> Street rowhouses have been appropriately mitigated.

- The Commission has thoroughly analyzed the issues of vehicular access and safety concerns raised by the 200 Footers and the Brookland Neighborhood Civic Association. The Commission agrees with the Applicant, OP, and DDOT that the proposed vehicular access to the widened alley from Lawrence Street is appropriate and will not create any adverse impacts or safety issues. The Zoning Commission notes that the Applicant has agreed to install speed humps in the alley to help assure that vehicles using the alley will not use excessive speeds when travelling in the alley.
- The Commission finds the Applicant's proposal for the activation of Monroe Street, with the introduction of live-work units and potential for approximately 1,800 square feet of retail use at the corner of 10<sup>th</sup> and Monroe Streets, to be a significant improvement to the Project and helps ensure the Project's consistency with the goals and policies of the Comprehensive Plan and the Brookland/CUA Metro Station Small Area Plan.
- The Commission applauds both the Applicant, the 200 Footers, and the Brookland Neighborhood Civic Association for their diligence in coming to agreement on the terms of a Construction Management Plan for the Project.
- In regard to the Brookland/CUA Metro Station Small Area Plan, the Commission finds that based upon guidance in the Framework and Implementation Elements of the Comprehensive Plan, because the Brookland SAP's recommended 50-foot building height conflicts with the density and height supported by the current FLUM, the particular Brookland SAP recommendation has been superseded and need not be considered supplemental guidance, and that the apparent inconsistency is outweighed by newer guidance provided in the current Comp Plan.
- The Commission finds the community benefits and amenities package provided in the Application to be appropriate and consistent with the requirements of the Zoning Regulations.
- The Commission finds that the Project does in fact satisfy the PUD balancing test. As noted above by the Applicant and OP, this Application does not seek any additional height or density that permitted in the MU-5B Zone as a matter-of-right. The public benefits and amenities that provided by the Project include the significant affordable housing component of 15% IZ, the provision of family-sized (three-bedroom) units, the undergrounding of utilities along Monroe Street, the setting back of the building from adjacent public streets, and a community benefits and amenities package. The benefits and amenities provided by the Application are both commensurate with the degree of flexibility requested and superior to the benefit that could be derived from a matter of right development on the site.

12. When viewed through the lens of racial equity, the Application is also not inconsistent with the Comprehensive Plan. The Commission agrees with the statements of the Applicant

and OP, that the Application would further a number of policies related to equity, including policies from the Upper Northeast, Land Use, Transportation, Housing, Environmental Protection, and Urban Design Plan elements. The Commission also agrees with OP's conclusion that the Project could help alleviate some degree of inequality, especially regarding housing availability and the number of families that are housing-cost-burdened. The Commission also notes OP's conclusion that the Project would not have negative impacts related to racial equity when addressing the factors of: direct displacement, indirect displacement, housing, or access to opportunity and community. (FF ¶¶ 42, 52.)

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

### **DECISION**

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

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

1. The Project shall be constructed in accordance with the plans and materials dated April 1, 2025 (Ex. 24A1-24A3), as modified in the materials included in the post-hearing submission dated August 4, 2025 (Ex. 135A). The Applicant shall have flexibility from the Final Plans in the following areas:
  - a. Interior Components: To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atria, and mechanical rooms, provided that the variations do not change the exterior configuration of the building as shown on the plans approved by the Order;
  - b. Exterior Materials - Color: 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 shown on the plans approved by the Order;

- c. Exterior Details - Location and Dimension: To make minor refinements to locations and dimensions of exterior details that do not substantially alter the exterior configuration of the building or the design shown on the plans approved by the Order. Examples of exterior details would include, but are not limited to, doorways, canopies, railings, skylights, windows, bays, and other architectural elements;
  - d. Number of Units: To provide a range in the approved number of residential dwelling units of plus or minus ten percent (10%); except that (1) the total square footage of the residential units shall not be reduced, and (2) the number of units and the square footage reserved for affordable housing shall not be reduced;
  - e. Parking Layout: To make refinements to the approved parking configuration, including layout and number of parking spaces of plus or minus ten percent (10%), so long as the number of parking spaces is at least the minimum number of spaces required by the Zoning Regulations;
  - f. 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;
  - g. Signage: To vary the font, message, logo, and color of the approved signage, provided that the maximum overall dimensions and signage materials are consistent with the signage on the plans approved by the Order and are compliant with the DC Signage Regulations; and
  - h. Sustainable Features: To vary the approved sustainable features of the project, provided the total number of LEED points achievable for the project does not decrease below the minimum required for LEED standard specified by the Order.
2. Proposed Retail Space. The Applicant will market the approximately 1,800 square feet of space located at the intersection of Monroe and 10<sup>th</sup> Streets, NE (depicted as “L/W 4” and “L/W 5” on the plans submitted as page 033 in Exhibit 24A2) for retail use for a period of at least eighteen (18) months, consisting of twelve (12) months prior to the opening of the Project and six (6) months after the opening of the Project. The term “opening” shall be considered the date the first Certificate of Occupancy is issued for the Project.
- a. Actions to be Taken to Market and Lease the Space. The Applicant shall take commercially reasonable actions to market the Retail Space for retail

use and will offer the Retail Space to potential tenants with terms and conditions that are commercially reasonable in the immediate submarket. The Applicant shall accept referrals of potential retail tenants from members of the surrounding community.

- b. Restrictions on Potential Tenants in Retail Space. The Applicant will not market the Retail Space to a cannabis retailer.
- c. Notice to Interested Parties. The Applicant will notify Advisory Neighborhood Commission 5B and the Brookland Neighborhood Civic Association when marketing of the Retail Space has commenced. The Applicant will also notify these organizations if the time period noted above expires and the Retail Space is marketed for Live/Work space.
- d. Ability to Return Retail Space to Live/Work Space. If the Applicant is not able to find an appropriate tenant to occupy the Retail Space within the time period noted above, it shall be able to lease the Retail Space as a Live/Work Unit(s).
- e. Ability to Lease. These proposed conditions of approval do not preclude the Applicant from seeking a possible future modification of the Application to allow additional retail use along Monroe Street.

- 3. The Property shall be subject to the requirements of the MU-5B zone.

## **B. PUBLIC BENEFITS**

- 1. **For the life of the Project,** the Project shall provide housing, including affordable housing as set forth in the following chart:

<b>Residential Unit Type</b>	<b>Total Residential Gross Floor Area ("GFA")</b>	<b>Units (Type)</b>	<b>Affordable Control Period</b>
<b>Total</b>	251,241 sf of GFA 179,283 net square feet	233	
<b>Market Rate</b>	152,390 net square feet	197 (49 live-work, studios, and junior one-bedrooms; 134 one-bedroom and one-bedroom with den; 38 two-bedrooms; and 12 three-bedrooms)	
<b>IZ</b>	26,893 net square feet (15% of Residential GFA, at 60% MFI)	36 (7 live-work, studios, and junior one-bedrooms; 20 one-bedroom and one-bedroom with den; 7 two-bedrooms; and 2 three-bedrooms)	Life of Project

2. **Prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall demonstrate that it has registered the Project with the USGBC to commence the LEED Gold certification process by furnishing a copy of its LEED Gold

certification application to the Zoning Administrator. The building permit application shall indicate that the Project has been designed to achieve at least the minimum number of points necessary to achieve Gold certification.

3. **For the life of the Project**, the Applicant shall maintain the solar panels and green roof on the building.
4. **Prior to the issuance of the first certificate of occupancy for the Project**, the Applicant shall provide written evidence to the Zoning Administrator that it has made the following contributions, and that the items or services funded have been or are being provided:
  - (a) \$30,000 to the Greater Brookland Intergenerational Village (GBIV) to expand intergenerational community events and support year-round programming and operations.
    - GBIV will use this financial contribution to sustain and expand inclusive, intergenerational community events such as Front Porch Fridays, Fall Fest, Holiday Meal Giveaway, and the Summer Solstice Celebration.
    - GBIV will use this financial contribution to directly support local businesses and community partners by sourcing food, beverages, services, event space, vendors, and supplies from within the Brookland and Ward 5 Areas.
    - The financial contribution will allow GBIV to continue to employ local Brookland area residents.
  - (b) \$25,500 to the Washington Area Bicyclist Association (WABA) to host a League Certified Instructor seminar and youth and adult community bike riding classes.
    - WABA will hold a class to train League Certified Instructors and then teach three learn to ride and/or bicycle safety classes in the Brookland community for youth and adults.
  - (c) \$15,000 to Casey Trees for a Brookland community tree planting event.
    - Casey Trees will collaborate with Horning DC, The Menkiti Group, and a local landowner (such as Catholic University of America) to organize an impactful tree planting event engaging up to 50 Brookland community volunteers.
  - (d) \$25,000 to Deaf-Reach, Inc. for main office facility capital improvements.
    - Deaf-REACH, Inc.'s services include housing, counselling, case management, and day programs. These services are provided by deaf and hard of hearing staff in a deaf-friendly environment. Deaf-REACH Inc.'s main facility is located at 3722 12<sup>th</sup> Street, NE in the heart of Brookland's longstanding commercial corridor.

- The funding provided by the Applicant will allow for necessary improvements to the facility, including the retrofitting of accessibility features for all client-facing spaces and upgrading kitchen and bathroom facilities.
- (e) \$30,000 for a study to examine activation of the land surrounding Brooks Mansion.
- Brooks Mansion is a key cultural and historical landmark in Brookland, Ward 5, and Washington, DC. The land surrounding the Brooks Mansion is currently used for surface parking and fenced-off grass areas and remains underutilized. This space represents a prime opportunity for community activation and engagement. The Applicant's financial contribution will fund a study exploring potential uses for this land. The study will focus on small-scale park concepts and developing a vision for long-term community engagement. The study will be prepared by an architectural and/or planning firm with experience in public space planning. The study will include a site analysis, a community engagement process, concept development ideas, a feasibility and cost analysis, and the preparation of a final report.

## C. MITIGATION

1. The Applicant will undertake the following actions to mitigate any adverse impact on adjacent properties resulting from construction activity related to the development of the project.
  - a. Alley Construction Logistics: The north-south public alley behind the six abutting 10<sup>th</sup> Street row-houses is the only ingress and egress route for the car driveways of these residents and their porches, living rooms, and bedrooms face this 10-foot alley and are the sole means of their essential air and light on that side. The Applicant will endeavor to minimize construction disruption in the north-south public alley with the objective of not having closures last longer than a day. Any closure of the public alley lasting longer than one hour for construction activities will come with advance notice of at least forty-eight (48) hours. This public alley shall never be used for staging. For purposes of this CMA, staging is defined as "use of any portion of said public alley for construction-related purposes, such as a construction trailer, construction equipment, a materials trailer, building materials and other related uses by the Applicant.
  - b. Traffic and Construction Control Plan: Vehicular ingress and egress will be only through approved, permitted construction entrances to be approved by DDOT. The Applicant will minimize truck and vehicle queuing (which is deemed to be waiting for more than 15 minutes) or idling in the 3400 blocks of 9<sup>th</sup> and 10<sup>th</sup> Street and the 900 blocks of Lawrence and Kearney Streets. Nor are workers' vehicles allowed to queue or idle in the residential areas before the 7 a.m. or 8 a.m. start of the construction day. However, vehicles may regularly queue along the northernmost



section of 9<sup>th</sup> Street on the east side of the street. There will be one or more regulated construction entrances for workers on foot, especially after the building superstructure is up. The Applicant will seek to have flagmen positioned on 9<sup>th</sup>, 10<sup>th</sup>, and Lawrence Streets to direct the flow of construction traffic and to maintain the public's safety in this residential area, subject to a DDOT approved Traffic Construction Plan.

- i. Throughout construction, the Applicant agrees to ensure safe pedestrian access around the perimeter of the site. The Applicant agrees to develop and implement (after approval by DDOT) a plan for temporary pedestrian and vehicular circulation during construction. At a minimum, the plan shall identify temporary sidewalks, interim lighting, fencing around the site, construction vehicle routes, and any other features necessary to ensure safe pedestrian and vehicular travel around the site during construction.
  - ii. The Applicant agrees to notify all adjacent property owners as well as all property owners facing the property across perimeter streets in writing or, if mutually agreeable, by e-mail, at least 48 hours in advance of any street or alley closure of more than one hour duration on any street, "emergencies" excepted, with "emergencies" as jointly defined by the Applicant and the 200-Footers Group.
- c. Construction Trucks: The Applicant will minimize the use of 9<sup>th</sup>, 10<sup>th</sup>, Lawrence, or Kearney Streets as construction truck or construction-related truck thoroughfares. There should be no construction truck parking along the 3400 blocks of 9<sup>th</sup> and 10<sup>th</sup> Streets and the 900 blocks of Lawrence and Kearney Streets.
- d. Construction Parking: Parking for construction workers will be provided within the fenced boundaries of the construction site. Construction personnel will be encouraged to utilize mass transit, including Metro rail and Metro bus. Parking by construction personnel along the 3400 blocks of 9<sup>th</sup> and 10<sup>th</sup> Streets and the 900 blocks of Lawrence and Kearney Streets will not be permitted. Construction personnel can utilize short-term parking in the Brookland-CUA Metro parking lot or park elsewhere off-site and be shuttled to the site.
- e. Site Management:
  - i. Fence: Once construction commences, a six foot (6') high construction fence with privacy fabric will be erected to screen construction activities and debris from the nearby affected properties. All construction trailers, all construction materials, and all equipment, and portable toilets will be located and always retained on the Applicant's property behind the construction fence for the duration of the construction. The construction fence will

shield the trailers and portable toilets from the neighborhood and residential areas.

- ii. Odors: The Applicant will use best efforts to minimize noxious odors emanating from the construction site.
  - iii. Lighting: Ongoing temporary on-site lighting during construction will be erected for the site to provide lighting for safety and security. No generators will be used at night to provide temporary site lighting. The Applicant will keep the lighting directed into the site only and not impact the surrounding community. In addition, the Applicant will maintain current lighting in the North-South alley at all times, subject to temporary construction needs.
  - iv. Electrical Generators: All electrical generators and compressors will be turned off at the end of each day's construction activities, i.e., by 7 p.m.
  - v. Stormwater Management: The Applicant will maintain temporary stormwater management systems throughout the Project's construction until such time as the permanent facilities are constructed, approved and functioning such that there shall be no adverse water impacts on the adjacent neighborhood.
  - vi. No Disruption of Services to Property Owners in Square 3829: The Applicant will work with all relevant utility providers to assure that construction activity on the 901 Monroe Street Property will minimize the disruption of utility, cable or phone services to other property owners within Square 3829, and that this will occur at no cost to the Square 3829 Property Owners.
- f. Hazardous Waste, Hazardous Materials and Pollutants: The Applicant shall not use, generate, manufacture, store, transport or dispose of, on or over the construction area any flammable liquids, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or any other "hazardous materials" as defined under Federal or DC law. However, materials that are commonly used in the construction of mixed-use projects such as the project proposed by the Applicant are not subject to this provision #6. The Applicant does not anticipate that any blasting will be required, however, should blasting be required the Applicant shall notify the Neighborhood Contact Person (discussed in provision #10) at least 48 hours prior to any blasting. The Applicant shall also give 48 hours notice to the Neighborhood Contact Person prior to the commencement of Foundation work.

- g. Rodent Infestation: The Applicant will enact a substantive rodent abatement/rodent control program during pre-construction and while construction activity is occurring on the 901 Monroe Street Property. Rodents are deemed to include rats, possums, raccoons, snakes, etc. Upon receipt of any rodent complaint, rodent damage and/or rodent issues from 200 Footers up until completion of project, the Applicant will immediately address with a professional pest control company.
- h. Cleanliness: The Applicant will require the continuous removal of rubbish and construction debris during the normal construction day and during any other periods of work. During construction activities, there will be a dumpster on-site (*i.e.*, inside of the fence) for the removal of trash and construction debris. The dumpster will remain contained and not overflow onto the ground. The removal and replacement of the dumpster will take place during normal working hours on Monday through Saturday. The Applicant will undertake a program of pest control to ensure that no increase in pest activity occurs during the construction period (see provision #7). All back-fill trucks will be covered before proceeding from the Applicant's property onto city streets.
  - h. The areas adjacent to the site will be policed on days of construction activity by the contractor and will always remain clean of any trash or debris resulting from construction activities. The Applicant will ensure regular cleaning of construction debris from the north-south alley and all surrounding streets (*i.e.*, 9<sup>th</sup>, 10<sup>th</sup>, and Lawrence).
  - ii. At the end of each work day during construction, the Applicant agrees to ensure that any streets used for hauling construction materials and the entrance to the construction site are free of mud, dirt, trash, dust and debris from the construction activity and that all streets adjacent to the construction site are free of construction trash and debris.
  - iii. The Applicant agrees to report the presence of potholes adjacent to the site to relevant authorities during the construction period.
- I. Work Hours and Workers: The normal construction work-week will be Monday through Friday, 7 a.m. to 7 p.m., and Saturday, 8 a.m. to 4 p.m. The Applicant will make good faith efforts to limit the work that could disturb the residents of the neighborhood to weekdays, except where limitations on work during the week require work on Saturdays to meet the requirements of construction teams for a 40-hour work week. No Sunday work hours will be utilized.
  - i. Trucks: All trucks for delivery of materials, construction or otherwise, will arrive, depart and operate on the Applicant's property during the foregoing hours. The Applicant agrees to

minimize queuing (which is deemed to be waiting for more than 15 minutes), idling, standing, or parking of delivery trucks on the 3400 blocks of 9<sup>th</sup> and 10<sup>th</sup> Streets and the 900 blocks of Lawrence or Kearney Streets. However, regular queueing may occur on the northernmost section of 9<sup>th</sup> Street on the east side of the street.

ii.     Workers: Workers will not loiter or play loud music and will be encouraged not to talk loudly on 9<sup>th</sup>, 10<sup>th</sup>, Lawrence, and Kearney Street.

iii.     Noise (also see provision n): There will be no noise generating activities prior to the start of the work day. There will be no start-up or idling of equipment prior to the start of the workday. Indoor construction activity, defined as activity occurring entirely within a structure fully enclosed on all sides by insulated exterior walls, windows and or doors shall end at midnight each day, and any such activity that occurs after 7:00 p.m. shall not annoy or disturb reasonable persons of normal sensitivities. The Applicant agrees to place a minimum of one (1) sign per street-front around the perimeter indicating the permissible hours of construction, to place additional signage within construction field offices, and to provide a written copy of the permissible hours and rules of construction to all subcontractors prior to the start of their work.

J. Communication: The Applicant shall designate a representative (the “Representative”) to be the key contact for interaction with members of the community (especially the 200 Footers) regarding construction. The Representative will have a local office, cell, and voice mail and be accessible during all business hours. The Representative will respond to all community queries within the same business day (Monday-Saturday). In addition, the Applicant will provide an emergency point of contact who can be reached 24 hours a day for construction concerns. The name of the key contact and his or her telephone numbers will be conspicuously posted on the Applicant’s property at all times. The Applicant will work with residents of 10<sup>th</sup> Street, NE whose homes are adjacent to the development site, residents of 9<sup>th</sup> Street, NE whose homes are directly across the street from the 901 Monroe Street Property, and residents of the 900 block of Lawrence Street, NE, to designate a contact person (“**Neighborhood Contact Person**”), who may change from time to time, to represent the surrounding community. The initial Neighborhood Contact Person shall be designated by the community and will be determined prior to the start of construction activity on the Property. The Neighborhood Contact Person will receive and disseminate information from the Applicant to the community. The Applicant shall provide to the Neighborhood Contact Person, and keep updated, the names of and pertinent information about the Representative, the designee and emergency contact

including their cell phone numbers. The community may also designate an alternate Neighborhood Contact Person, who will receive information related to construction activity and represent the community in the absence of the primary Neighborhood Contact person.

- i. The Applicant's designated Representative shall: (a) receive notice of violations of the Construction Management Plan/Agreement; (b) respond to the person who reported the violation within the same business day (Monday-Saturday); (c) act to remedy the violation as soon as possible; (d) correspond with the Neighborhood Contact Person to explain the complaint, proposed remedy, and timeframe for resolution of the problem; and (e) maintain a log of all complaints received and the steps taken to address the complaints (this log shall be continually available for inspection by the 200 Footers).
  - ii. Before commencing any clearing, or grading activities, the Applicant shall hold a meeting with the 200 Footers to review the construction hauling route, location of construction worker parking, plan for temporary pedestrian and vehicular circulation, and hours and overall schedule for construction. The Applicant further agrees to meet with the 200 Footers should the exigencies of construction require modifications to any details specified herein. In addition, the Applicant shall meet with the 200 Footers periodically during the construction activities and shall meet with the 200 Footers, at a minimum, once every three (3) months in order to review status/resolution of any construction or construction management issues from the prior quarter and provide an overview of major work for the upcoming quarter.
  - iii. Copies of the plans shall be available and permits posted on the construction site and provided to each subcontractor before its work commences.
- k. Contractors: The Applicant will enforce contractor compliance with all rules and regulations described herein with all such conditions included in all general and sub-contractor oral and written contracts. The Applicant will require that all contractors and subcontractors use only licensed vehicles and that they comply with all DC traffic laws and regulations.
- l. Pre- and Post-Construction Surveys. The Applicant will hire an independent testing and inspection firm. Prior to commencement of work on the Property, the Applicant will reach out to the owners of adjacent properties to inquire if such owners wish to have their property and all improvements on the property

thoroughly surveyed by an independent professional. The owners of the following properties will be contacted: the rowhouses on the west side of 9th Street in Square 3829W, the six rowhouses on the west side of 10th Street in Square 3829, the properties in the 900 block of Lawrence Street (907-919 Lawrence Street) on the south side of Lawrence Street in Square 3830, 1000 Monroe Street in Square 3881, and 901 Newton Street in Square 3827. The owners of these properties will hereby called "Adjacent Owners." The surveys will include photographs and video evidence of the condition of each surveyed Adjacent Owner property. After substantial completion of the excavation and construction work on the Property, a final survey of each interested Adjacent Owner property (with photographs and video evidence) will be undertaken by the same independent professional. The surveys are intended to provide the Applicant and each participating Adjacent Owner a reference point from which to determine the effect, if any, that construction activity on the Property had on each Adjacent Owner's property. The surveys will be performed at the Applicant's sole cost and expense. Each survey report shall be provided to the Applicant and to the Adjacent Owner. If the Applicant is not permitted access to an Adjacent Owner property, the Applicant is not required to perform the above-noted survey for that particular Adjacent Owner property.

Should the Applicant become aware of any cracks that develop in improvements on the Surveyed Properties during construction, a program of crack monitoring administered by a qualified independent company shall be put in place immediately.

- M. Responsibility for Damage to Adjacent Owner Property. The Applicant agrees to repair, at its own expense, any damage to the property or improvements thereon of an Adjacent Owner, which is proximately caused by the construction activity on the Property. All repairs shall be commenced within 60 days of the Applicant and the Adjacent Owner agreeing upon the necessary and appropriate repairs. Prior to beginning the pre-construction survey, the name and firm's biographical information will be provided to the owners of the Surveyed Properties. Any damage to adjacent properties that is valued less than \$5,000, as agreed upon by Applicant and Adjacent Owner, shall be repaired by the Applicant commencing within three business days (Monday-Saturday) unless Applicant and Adjacent Owner jointly agree to monetary reimbursement instead of repairs.
- N. Noise (see also provision i.iii.). The Applicant will not permit any activity on the Applicant's property which generates sound levels in excess of eighty decibels (80 db.) measured 25 feet from edge of site per DC Department of Buildings' Noise Regulation Handbook. Additionally, all electrical generators and compressors will not be turned on before 7:00 a.m. on weekdays and 8:00 a.m. on Saturdays and will be turned off by 7:00 p.m. All exterior work and interior work at any hour shall not exceed eighty decibels (80 db.). At all times, workers will be prohibited from

playing loud music and will be encouraged not to talk loudly on 9<sup>th</sup>, 10<sup>th</sup>, Lawrence, and Kearney Streets.

- O. Permits (see also provision j.iii.). All plans and permits will be on-site as required under the DC Construction Code and available for inspection by the community.
  - P. Tree Protection and Replacement. The Applicant agrees to implement a tree protection plan which will designate any trees proposed to be saved by the Applicant. These trees may be located on the 901 Monroe Street Property. The tree protection plan shall be prepared by a certified arborist or a horticultural professional with demonstrated expertise in tree protection techniques on urban sites and shall be submitted and approved by DDOT prior to the issuance of a clearing, grading or demolition permit.
  - Q. Crane Swing Agreements. The Applicant shall endeavor to enter into agreements with each property owner should there be crane swings above its adjacent property.
  - R. Maintenance Prior to Construction. The Applicant agrees to maintain the site in a clean, safe and well-maintained condition prior to the issuance of a clearing, grading or demolition permit.
  - S. Post-Completion Cleanup. The Applicant will work with the 200-Footers Group to determine the terms at a later date.
2. **Prior to the issuance of the first certificate of occupancy for the Project,** the Applicant shall provide the Zoning Administrator, with a copy delivered to OZ, information showing that:
- a. Submit a detailed curbside management plan with proposed signage for review and approval by DDOT Curbside Management Division (CMD). If CMD requires multi-space meters for the remainder of the frontage, they will be at the Applicant's expense;
  - b. Provide a plan showing the detailed design of the long-term bike storage room so PSD can confirm it meets the requirements in Title 11 of DCMR, Subtitle C § 800, Title 18 of DCMR, § 1214, and DDOT Bike Parking Guide best practices, including larger spaces for cargo bikes;
  - c. The Applicant recorded a permanent easement along the site's Monroe Street frontage and at the 9<sup>th</sup> Street/Monroe Street and 10<sup>th</sup> Street/Monroe Street intersections to include the full width of the DDOT Standard sidewalk and tree box (minimum 12 feet from back of curb) so that DDOT can provide cohesive maintenance **for the life of the Project;**

d. The Applicant recorded a permanent easement for the area of the widened alley so that DDOT can provide cohesive maintenance for the entire alley **for the life of the Project**; and

e. The Applicant funded and constructed the following infrastructure improvements in public space, subject to DDOT approval:

i. Add intersection “daylighting” at the twelve locations at the four (4) intersections surrounding the project identified below (which shall be constructed of flexiposts and striping) to increase visibility of pedestrians and slow down vehicles traveling to and from the site:

1. Monroe Street & 9th Street NE
  - a. Southeast and southwest corners (9th Street only)
2. Lawrence Street & 9th Street NE
  - b. Northeast and northwest corners (9th Street only)
  - c. Northeast and southeast corners (Lawrence Street only)
3. Lawrence Street & 10th Street NE
  - d. Northwest and southwest corners (Lawrence Street only)
  - e. Northeast and northwest corners (10th Street only)
4. Monroe Street & 10th Street NE
  - f. Southeast and southwest corners (10th Street only)

ii. Install two (2) TAPCO speed bump assemblies in the public alley adjacent of the Property with a gap of at least two (2) feet provided between the speed bumps; and

iii. Construct a concrete protective barrier along the bicycle lane on the south side of Monroe Street between each intersection and the end of the parking lane.

3. **For the life of the Project**, the Applicant shall implement the following Transportation Demand Management program:

a. Unbundle the cost of vehicle parking from the lease or purchase agreement for each residential unit or commercial lease and charge a minimum rate based on the average market rate within a quarter mile. Only hourly, daily, weekly or monthly rates will be charged. Free parking, validation, or discounted rates will not be offered for retail customers.

b. Identify Transportation Coordinators for the planning, construction, and operations phases of development. The Transportation Coordinators will act as points of contact with DDOT, goDCgo, and Zoning Enforcement and will provide their contact information to goDCgo.



- c. The Transportation Coordinator will conduct an annual commuter survey of building employees and residents on-site, and report TDM activities and data collection efforts to goDCgo once per year.
- d. The Transportation Coordinator will develop, distribute, and market various transportation alternatives and options to residents, including promoting transportation events (i.e., Bike to Work Day, National Walking Day, Car Free Day) on property website and in any internal building newsletters or communications.
- e. The Transportation Coordinator will subscribe to goDCgo's residential newsletter and receive TDM training from goDCgo to learn about the transportation conditions for this project and available options for implementing the TDM Plan.
- e. Provide residents and employees 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 (MWCOC) or other comparable service if MWCOC does not offer this in the future.
- f. Offer a SmarTrip card and one (1) complimentary Capital Bikeshare coupon good for a free ride to every new resident within the first two years of occupancy or until the building achieves 90% residential occupancy, whichever occurs sooner.
- g. Provide, at no charge to and use by any tenant of the building or employee thereof, 12 short- and 80 long-term bicycle parking spaces.
- h. Long-term bicycle storage rooms will accommodate non-traditional sized bikes including cargo, tandem, and kids bikes, with a minimum 5% of spaces (minimum 4) being designed for longer cargo/tandem bikes (10' by 3'), a minimum of 10% of spaces (Minimum 8) will be designed with electrical outlets for the charging of electric bikes and scooters. A minimum of 50% of the spaces (minimum 40) will be located horizontally of the floor. There will be no fee to the employees for the use of the bicycle storage room. There will be no fee to the residents for usage of the bicycle storage room and strollers will be permitted to be stored in the bicycle storage room.
- i. Install a minimum of two (2) electric vehicle (EV) charging stations.
- j. 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.

k. Post all transportation and TDM commitments on building website, publicize availability, and allow the public to see what has been promised.

l. Residents of the Project will not be permitted to obtain a Residential Parking Permit.

5. **Following the issuance of a Certificate of Occupancy for the Project**, the Transportation Coordinator will submit documentation 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.

#### **D. MISCELLANEOUS**

1. No building permit shall be issued for the Project until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia that is satisfactory to the Office of Zoning Legal Division and the Zoning Administrator (the “**PUD Covenant**”). The PUD Covenant shall bind the Applicant and all successors in title to construct and use the Site in accordance with this Order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of OZ.
2. The PUD shall be valid for a period of two (2) years from the effective date of this Order. Within such time an application shall be filed for a building permit, with construction to commence within three (3) years of the effective date of this Order.
3. In accordance with the Act, the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

#### **VOTE FINAL ACTION:**

\_\_-\_\_- (Anthony J. Hood, Robert E. Miller, Gwen Wright, Joseph S. Imamura, and Tammy Stidham to **APPROVE**, third Mayoral appointee seat vacant, not voting).

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

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

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

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**ANTHONY HOOD**  
**Chairman, Zoning Commission**

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

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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