

# EXHIBIT B

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Zoning Commission



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 13-08**

**Z.C. Case No. 13-08  
Square 5914, LLC**

**(Consolidated Planned Unit Development and Related Map Amendment @ Square 5914,  
Parcels 229/161, 229/160, 229/153, 229/151, and 229/103 and Lots 6 and 7)  
May 11, 2015**

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on January 22, 2015 to consider an application from Square 5914, LLC (“Applicant”) for consolidated review and approval of a planned unit development (“PUD”) and related Zoning Map amendment. The Commission considered the application pursuant to Chapters 1, 24, and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application.

**FINDINGS OF FACT**

**The Application, Parties, Motion, Public Hearing, and Post-Hearing submissions**

1. The project site consists of Parcels 229/161, 229/160, 229/153, 229/151, and 229/103 and Lots 6 and 7 in Square 5914 (“Subject Property” or “Property”). The Subject Property includes approximately 88,486 square feet of land area, is currently zoned R-5-A, is located within the boundaries of Advisory Neighborhood Commission (“ANC”) 8E. (Exhibit [“Ex.”] 2, p. 1.)
2. The Applicant filed this application on May 2, 2013. The PUD application sought approval of a mixed-use, transit-oriented project consisting of two buildings with frontage along Alabama Avenue, S.E. and 13<sup>th</sup> Street, S.E. and a private alley for servicing both buildings. The PUD project maintains the entrance to the Congress Heights Metro Station and includes an enhanced plaza area around the entrance to the Metro Station. The PUD project initially was proposed to include approximately 205-215 apartment units and ground-floor retail in the building located at the intersection of Alabama Avenue and 13<sup>th</sup> Street (“residential building”). Initially, the residential building was proposed to have a measured building height of approximately 93 feet. The PUD project also included an office building (“office building”) located along Alabama Avenue. The office building will include approximately 236,000 square feet and will also

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**ZONING COMMISSION**

District of Columbia

CASE NO.13-08

EXHIBIT NO.63

have ground-floor retail uses adjacent to the entrance to the Congress Heights Metro Station. Initially, the office building was proposed to have a measured building height of approximately 94 feet. The Zoning Map Amendment sought to rezone the Property to the C-3-B Zone District. (Ex. 2, p. 1-2.)

3. The Commission set the application down for a public hearing at its July 8, 2013 public meeting. The Applicant filed a pre-hearing statement on September 12, 2014, and a public hearing was timely scheduled for January 22, 2015. In response to the comments made at the July 8, 2013 public meeting, the Applicant made the following modifications to the project, as noted in the September 12, 2014 pre-hearing statement:

- The height of both the office and residential buildings was lowered to a measured height of 90 feet;
- The residential building included more red brick along Alabama Avenue, and the 13<sup>th</sup> Street façade was refined to add articulation and setbacks and convey more of a residential feel which better relates to the surrounding residential uses;
- The height of the Belvedere (architectural embellishment) located on the roof of the residential building along Alabama Avenue was reduced and the design refined to be more articulated;
- The upper two floors of the residential building along 13<sup>th</sup> Street were set back from the face of the building;
- Perspectives and site sections were provided which depicted the relationship of the proposed buildings to the scale of development that was approved on the St. Elizabeths East Campus; and
- The elevator penthouse structures were relocated to comply with the setback requirements from the public street facades and to reduce their visibility from the ground level, in particular their visibility from the Metro Plaza area.

(Ex. 15-15A7.)

4. Prior to the public hearing, the Applicant supplemented its application with additional information on January 2, 2015. The additional information included resumes of the Applicant's proposed expert witnesses, a final Community Benefits Agreement, and an additional rendering of the project as seen from Savannah Street, S.E. (Ex. 25C.)
5. On January 6, 2015, the Alabama Avenue/13<sup>th</sup> Street Tenants Coalition ("Coalition") filed a timely request for party status in opposition to the application. (Ex. 27.)

6. On January 21, 2015, the Coalition filed a motion to postpone the public hearing. The motion to postpone claimed that the Applicant lacked authorization to include Lot 7 in Square 5914 in the PUD application, and site control and title to Lot 7 in Square 5914 is clouded in several ways which prohibit the Zoning Administrator from approving building permit applications if the proposed PUD application is approved and may make moot any considerations and decisions by the Commission. The Coalition's motion claimed that "proceeding forward on this matter risks terrible administrative inefficiencies and the unnecessary expenditure of time and City money in processing the instant PUD application." (Ex. 32.)
7. On January 22, 2015, the Applicant filed a response to the Coalition's motion to postpone the public hearing. The Applicant's response noted that Square 5914, LLC is the contract purchaser of Lot 7 in Square 5914 and included signature pages for the PUD and Zoning Map Amendment application forms from the owner of Lot 7 in Square 5914 when the application was filed and from the current representative of the owner of Lot 7 in Square 5914. The Applicant noted that the arguments the Coalition raised regarding any lien and title issues and the Zoning Administrator's ability to approve a building permit application are not pertinent to the Commission's review of whether the consolidated PUD and Zoning Map amendment applications satisfy the relevant requirements of 11 DCMR § 2400 *et seq.* The Applicant also argued that the postponement of the public hearing on January 22, 2015, would result in "terrible administrative inefficiencies" as the Office of Planning ("OP"), the Department of Transportation ("DDOT"), the Department of the Environment ("DDOE"), and ANC 8E all submitted reports or took votes on this application in anticipation of the public hearing occurring on January 22, 2015. (Ex. 33.)
8. A public hearing was held on January 22, 2015. At the public hearing, the Commission granted the Coalition's request for party status. The Commission addressed the Coalition's motion to postpone the public hearing as a preliminary matter. The Commission determined that the issues raised in the Coalition's motion to postpone are not germane to the Commission's review of the application and it was appropriate to move forward with the public hearing and denied the Coalition's motion to postpone the public hearing. (Transcript of January 22, 2015 Public Hearing ("Tr."), pp. 10-11.)
9. Testimony was presented by the Applicant's project team, including representatives of the Applicant, the project architect and the project's transportation engineer. The Commission admitted Amanda Coen, one of the project architects, as an expert in architecture, and Jami Milanovich, the project's transportation engineer, as an expert in traffic engineering. (Tr., pp. 12-13.)
10. The Chairman of ANC 8E presented testimony in support of the application at the January 22, 2015 public hearing.

11. At the conclusion of the public hearing, the Applicant was requested to provide additional information regarding the following issues:

- The Applicant's proposed tenant relocation plan and dialogue with the Coalition;
- Potential architectural revisions to address the appearance of the roof structures, the private alley, retaining wall and fencing, the round retail corner element marking the entrance to the Plaza, and the relationship of this building to the adjacent school building;
- Information from WMATA regarding its support for the project;
- A calculation of the affordable housing requirement for the existing zoning of the Property and the amount of affordable housing provided in this project;
- Transportation issues, including the ability of residents of the project to obtain residential permit parking ("RPP") stickers and the Applicant's potential financial contribution to making the intersection of 15<sup>th</sup> Street and Alabama Avenue, S.E. a signalized intersection; and
- Additional information regarding the Applicant.

The Applicant was required to file this information with the Commission by February 23, 2015, and the Applicant and the Coalition were required to file proposed Findings of Fact and Conclusions of Law with the Commission on February 23, 2015. Any response to the Applicant's submission was required to be filed with the Commission by March 2, 2015, and the Commission could take proposed action on the applications at the March 9, 2015 public meeting.

12. On February 18, 2015, the Applicant and the Coalition filed a joint motion to extend the time for filing the required post-hearing submissions. The Applicant and the Coalition proposed that the Applicant submit its required information by March 16, 2015 and that the Applicant and the Coalition submit their proposed Findings of Fact and Conclusions of Law on March 16, 2015. Any responses to the Applicant's submission were to be filed with the Commission by March 23, 2015, and the Commission would schedule the case for proposed action on March 30, 2015. The Commission granted this joint motion on February 18, 2015. (Ex. 49.)

13. On March 16, 2015, the Applicant submitted the requested information into the record in response to issues that were raised at the public hearing, (Ex. 52-52F), and its proposed Findings of Fact and Conclusions of Law. (Ex. 51.) On March 16, 2015, the Coalition filed its proposed Findings of Facts and Conclusions of Law. (Ex. 54.)

14. On March 23, 2015, the Commission received the Coalition's response to the Applicant's post-hearing submissions. (Ex. 55.) The Coalition's response detailed the reasons the Coalition did not support the relocation agreement offered by the Applicant. It also stated that the Applicant's updated proffers contained in its post-hearing statement were not the same as those previously submitted into the record. The response further stated that because the Applicant had not quantified the rent range at which the space reserved for local tenants would be leased, its value as a proffer could not be quantified.
15. On March 30, 2015, the Commission took proposed action to approve the applications. The Commission requested that the Applicant provide the following additional information prior to final action: (i) the status of the negotiations of the relocation plan; (ii) the time period in which existing tenants may be able to return to the property; and (iii) the Applicant's proposal to pay for the design and installation of a traffic signal at the intersection of Alabama Avenue, S.E. and 15<sup>th</sup> Street, S.E. The Commission also requested a formal letter from ANC 8E noting the official action the ANC took in this case.
16. On April 6, 2015, the Applicant submitted its final proffers and conditions, pursuant to 11 DCMR § 2403.16. (Ex. 60.) The Applicant's April 6, 2015 submission also responded to the Commission's request for additional information. The Applicant's submission stated that it had not reached an agreement with the Coalition on the relocation plan, but that they hoped to reach an agreement, and further stated that it would provide a full and final description of its Tenant Relocation Plan when it submitted its final list of proffers and conditions on April 20, 2015. The Applicant stated that it expected that the tenants would need to be relocated for approximately 22-36 months. The Applicant stated that it agreed to pay for the cost of the design and construction of the new traffic intersection of Alabama Avenue, S.E. and 15<sup>th</sup> Street, S.E., with the cost capped at \$350,000 (the amount noted in DDOT's Supplemental Report), and requested that the Commission authorize the creation of an escrow account. The Applicant's letter also stated that it had encouraged the ANC 8E Chairman to submit a formal report, but stated that the Applicant had no control over whether such a report would be submitted.
17. On April 20, the Applicant submitted its revised list of final proffers and draft conditions, pursuant to 11 DCMR § 2403.20. (Ex. 61.) The Applicant's April 20, 2015 submission also stated that, while the Applicant remains committed to having a signed relocation agreement with the existing residents on the property, the Applicant did not believe that the parties will be able to come to mutually satisfactory terms on a tenant relocation plan. The Applicant proposed therefore that the Commission include the major components of the tenant relocation plan as a condition of this Order. The major components are as follows: (i) all existing tenants have the ability to return to the new residential building; (ii) the residents will continue to pay the amount of rent they pay in their current units, subject to annual rent increases equal to the amount of the "automatic" rent increase allowed by DC's rent control law (CPI or CPI +2% depending on whether a tenant is

senior or disabled), in both the temporary relocation unit and upon return to the new building; and (iii) the Applicant pays all costs of relocation for the existing tenants with the relocation units to be located within two miles of the Property.

18. The proposed action of the Commission was referred to the National Capital Planning Commission (“NCPC”) pursuant to the District of Columbia Home Rule Act. NCPC, by delegated action by NCPC’s Executive Director dated April 1, 2015, found the proposed PUD would not affect the federal interests in the National Capital, and would not be inconsistent with the Comprehensive Plan for the National Capital. (Ex. 59.)
19. The Commission took final action to approve the application in Z.C. Case No. 13-08 on May 11, 2015.

**The Subject Property and the Surrounding Area**

20. The Subject Property is currently improved with an entrance to the Congress Heights Metro Station and four residential buildings. The Subject Property includes approximately 370 feet of linear frontage along Alabama Avenue and 145 feet of linear frontage along 13<sup>th</sup> Street. The Subject Property includes some contour changes with the low point of the site located at the intersection of 13<sup>th</sup> Street and Alabama Avenue and rises approximately four and one-half feet as one moves east along Alabama Avenue. The Alabama Avenue frontage is also approximately five to six feet higher than the rear of the Subject Property. (Ex. 2, p. 2.)
21. Directly across Alabama Avenue from the Subject Property is the Kiss and Ride Parking Lot for the Congress Heights Metro Station and the Alabama Avenue entrance to the St. Elizabeths Hospital East Campus property, specifically subdistrict StE-18 of the recently adopted St. Elizabeths East (StE) District. (See Z.C. Order No. 12-08, effective March 29, 2013.) Across Alabama Avenue and further to the east is the historic Washington Hebrew Congregation Cemetery. (Ex. 2, pp. 2-3.)
22. Directly to the east of the Subject Property is the campus of the Malcolm X Elementary School. The grounds of this public elementary school extend to the south of the Subject Property all the way to Savannah Street. A garden apartment complex is located directly to the south of the Subject Property along 13<sup>th</sup> Street. To the west of the Subject Property, along Alabama Avenue and 13<sup>th</sup> Street, residential row houses are the primary use. (Ex. 2, p. 3.)

**Existing and Proposed Zoning**

23. The Property is located in the R-5-A Zone District and the mixed-use Medium-Density Commercial and Medium-Density Residential land use categories on the District of Columbia’s Future Land Use Map. The Zoning Map Amendment application sought to rezone the Property to the C-3-B Zone District. (Ex. 2, p. 2.)

**Description of the PUD Project**

**Applicant's Development Vision for the Project**

24. The Applicant's vision for the development of the Subject Property was guided by the following goals:

- Create a vibrant transit-oriented development with neighborhood-serving retail, office, and residential uses;
- Increase Metro ridership originating/terminating at the Congress Heights station with uninterrupted operation of the station entrance;
- Enhance pedestrian safety along Alabama Avenue; and
- Enliven the plaza surrounding the Metro Station entrance.

In furtherance of those goals, the Applicant stated that it created a truly transit-oriented project that helps achieve the District's vision of creating economic development opportunities in the Congress Heights neighborhood and Ward 8. The project will create new housing, office, and retail options for existing and new residents, and establish a high level of urban design and architectural quality that will guide future development in the area. (Ex. 2, p. 3.)

25. In written testimony, the Applicant noted that one of the focal points of the project's design process has been to create a truly special public space around the entrance to the Congress Heights Metro Station. The plaza area that is created by the location and architectural treatment of the proposed office and residential buildings will be a neighborhood center and focal point. A rotunda at the second level of the residential building provides a unique architectural marker for this building and helps pull pedestrians walking along Alabama Avenue into the plaza. Retail use is proposed along Alabama Avenue, at the corner of Alabama Avenue and 13<sup>th</sup> Street, as well as lining the proposed plaza that surrounds the Metro entrance. These retail uses will help animate the neighborhood and pedestrian realm as well as create a lively atmosphere for workers in the office building, tenants of the residential building, and patrons of the new stores and restaurants. (Ex. 2, pp. 3-4.)

26. The Applicant also noted that the buildings along Alabama Avenue have been pulled back from the property line in order to create a more lively and engaging public realm. The sidewalks along Alabama Avenue and 13<sup>th</sup> Street will include tree boxes of approximately six feet wide and pedestrian travel ways of between 10 and 20 feet wide. Planters with small trees and shrubs will help to define the plaza. All of the electrical vaults for both buildings will be placed on private property. (Ex. 2, p. 4.)

Residential Building

27. The 205-215 residential units will be located in the building at the intersection of 13<sup>th</sup> Street and Alabama Avenue, S.E. As noted above, this building will include ground-floor retail uses, a prominent lobby entrance on Alabama Avenue and small office users along 13<sup>th</sup> Street. The façade of this frontage on 13<sup>th</sup> Street is treated as a series of townhouse-like elements that step back at the fourth floor so as to better relate to the scale and rhythm of the neighboring buildings across 13<sup>th</sup> Street and further down 13<sup>th</sup> Street. Like the adjacent residential buildings, the main façade material is a warm red brick. A vertical band of sienna colored brick marks the corner while balconies farther up the façade break up the mass of the building, act as a cornice, and scale the new building to the existing context. (Ex. 2, p. 5.)
28. In order to help further animate the plaza, the residential building includes a gym (for use by the residents of the building) at the second level which includes a patio space that overlooks the plaza. A large courtyard, with significant plantings and vegetative treatment, is proposed at the rear of the building. Just as in the office building, the roof level for the residential building has been thoughtfully designed to take full advantage of the views to the North that the Subject Property provides. An open terrace area is proposed at the corner of 13<sup>th</sup> Street and Alabama Avenue and a large amount of the roof area will be covered with a vegetative green roof which will also reduce the urban heat island effect and treat storm water for both quality and quantity. (Ex. 2, p. 5.)

Commercial Building

29. The proposed office building will be eight stories tall, with the eighth level further set back from the building's edge along Alabama Avenue. The façade treatment for this building is intended to include mainly tan colored brick and sienna colored brick accents, precast trim, as well as painted aluminum windows and curtain wall elements. The entrance to the lobby at the plaza level, at the rear of the plaza, will be a double height atrium that is set back slightly from the main façade. The entrance will be framed with a stone surround and glass and metal accent elements. The roof level of the office building has been designed to highlight the truly special views that this project will have over the St. Elizabeths East and West Campuses and towards the Anacostia River. A large terrace area is proposed, as well as a significant vegetative green roof which will reduce the urban heat island effect and be used to treat storm water for both quality and quantity. (Ex. 2, p. 4.)

LEED Requirements

30. The Applicant has agreed to design the multi-family building so that it could achieve a LEED-Silver certification. The Applicant has agreed to design the office building so that it could achieve a LEED-Gold certification. The Applicant has also agreed to have both buildings go through the LEED certification process. (Ex. 2, p. 13; Ex. 52.)

Transportation Issues

31. The project will include approximately 218 car parking spaces, 148 bicycle parking spaces inside the building (78 for the office building and 71 for the residential), and 22 public bicycle parking spaces at grade as well as the DC Bikeshare station which includes 15 bicycle spaces. Vehicular access to the project will be provided through the creation of a private alley system that wraps the project. Access to this alley system will occur from an existing curb cut on Alabama Avenue at the eastern end of the site (expanded from its current 13 foot width to a minimum width of 20 feet throughout) and a relocated curb cut on 13<sup>th</sup> Street to the southern end of the Subject Property. One existing curb cut on Alabama Avenue will be closed as a result of this application. The private alley will operate as one-way for trucks, with a clockwise directional flow of trucks entering the Subject Property from Alabama Avenue and then exiting out of the project onto 13<sup>th</sup> Street. Passenger cars will be able to access the entrances to the parking spaces at grade as well as the two below-grade parking levels though the alley from either 13<sup>th</sup> Street or Alabama Avenue. (Ex. 2, pp. 5-6.)
32. The loading and parking facilities for each building will be separate. Access to the two below-grade levels of parking spaces for the office building (with approximately 132 spaces) will be from an entrance at the southeast corner of the Subject Property. Four 30-foot loading berths and associated platforms will be fully enclosed in the building and two 20-foot service/delivery Spaces are located in a wide portion of the alley. Access to the one below-grade level of parking for the residential building will be in the general center of the Subject Property. Two separate entrances allow access from the at-grade parking onto the private alley. A total of 72 parking spaces are provided for the residential use and 14 retail parking spaces for retail use on the residential lot. The residential building will have one 20-foot service/delivery space and one 30-foot loading berth. The Applicant is requesting flexibility from the requirement to provide a 55-foot loading berth. (Ex. 2, p. 6.)
33. The Subject Property includes a slope of approximately five to six feet from the northern edge along Alabama Avenue to the southern edge. The design of the private alley effectively utilizes this grade change to help buffer the visual and noise impacts of personal vehicles and trucks that will access the parking and loading facilities. A retaining wall along the eastern and southern edges of the Subject Property is proposed to separate the private alley from the adjoining properties. (Ex. 2, p. 6.)
34. The Applicant submitted a transportation impact study (“TIS”) prepared by Wells & Associates. The TIS included a Transportation Demand Management (“TDM”) Plan that included the following elements:
  - (a) A member of the property management team will be designated as the Transportation Management Coordinator (“TMC”). The TMC will be

responsible for ensuring that information is disseminated to tenants of the buildings. The position may be part of other duties assigned to the individual;

(b) Information on and/or links to the following programs and services will be provided on the property management website:

- Capital Bikeshare;
- Car-sharing services;
- Uber;
- Ridescout;
- Commuter Connections Rideshare Program, which provides complimentary information on a variety of commuter programs to assist in determining which commuting options work best for commuters;
- Commuter Connections Guaranteed Ride Home, which provides commuters who regularly (twice a week) carpool, vanpool, bike, walk, or take transit to work with a free and reliable ride home in an emergency; and
- Commuter Connections Pools Program, which incentivizes commuters who currently drive alone to carpool. Participants can earn money for carpooling to work and must complete surveys and log information about their experience;

(c) An electronic display will be provided in a common, shared space in each of the buildings and will provide public transit information such as nearby Metrorail stations and schedules, Metrobus stops and schedules, car-sharing locations, and nearby Capital BikeShare locations indicating the number of bicycles available at each location; and

(d) Convenient and covered secure bike parking facilities will be provided with storage for a minimum of 76 bicycles for the entire development.

(Ex. 15C, pp. 37-38.)

35. DDOT requested that the Applicant fund the design and installation of a traffic signal at the intersection of Alabama Avenue, S.E. and 15<sup>th</sup> Street, S.E. In testimony at the public hearing, the Applicant's transportation engineer noted that the costs associated with the design and installation of a traffic signal are approximately \$300,000-\$350,000. The

Applicant offered to pay for 25% of the cost of the signal. In response, DDOT submitted a supplemental report dated March 26, 2015. (Ex. 57.) DDOT's Supplemental Report stated that it was DDOT's position that the Applicant should be required to fully fund the new signal, and requested that the Applicant create an escrow fund of \$350,000 to fund the signal. The Supplemental Report further stated that the Applicant would be expected to complete a full warrant analysis as part of the public space permitting process, including existing conditions. In response to DDOT's Supplemental Report, the Applicant agreed to pay for the cost of design and construction of the new traffic signal at the intersection of Alabama Avenue, S.E. and 15<sup>th</sup> Street, S.E., with such costs capped at \$350,000 (the amount noted in DDOT's Supplemental Report). The Applicant explicitly requested that the Commission approve the Applicant's ability to establish an escrow account in which the \$350,000 will be placed. After the signal warrant analysis (noted by DDOT) is completed and if the signal is deemed to be warranted, the Applicant will agree that the signalized intersection will be operational prior to the issuance of a certificate of occupancy for the second building on the property. (Ex. 60.)

36. At the request of the Commission, the Applicant researched the ability of residents of this project to obtain residential permit parking ("RPP") stickers for their cars. The existing Alabama Avenue and 13<sup>th</sup> Street addresses associated with this property are not eligible for RPP parking. The Applicant agreed to add a condition to the Commission's approval of this application that prohibits any resident of this project from obtaining an RPP sticker. (Ex. 52, p. 6.)

**Tenant Relocation Plan and Discussions/Dialogue with the Community**

37. The Applicant's March 16, 2015 post-hearing submission included specific responses to questions that were raised by one of the Coalition members at the January 22, 2015 public hearing regarding the tenant relocation plan. The Applicant's tenant relocation plan consists of the following major components:

- All existing tenants have the ability to return to the new residential building;
- The residents will continue to pay the amount of rent they pay in their current units, subject to annual rent increases equal to the amount of the "automatic" rent increase allowed by DC's rent control law (CPI or CPI + 2% depending on whether a tenant is senior or disabled), in both the temporary relocation unit and upon return to the new building. This proposal means that tenants are paying no more than what they would pay if they continued living in their current buildings and they are protected from other forms of rent increases allowed under rent control, such as hardship petitions or capital improvement petitions; and
- The Applicant pays all costs of relocation for the existing tenants, the relocation units will be located within two miles of the property (the landlord has provided the tenants with the opportunity to visit the relocation units).

(Ex. 52, p. 2 and Tab B.)

38. At the request of the Commission at the conclusion of the January 22, 2015 public hearing, the owner of the existing residential properties (“Residential Property Owner”) sought to engage in substantive discussions with the Coalition regarding the terms of the tenant relocation plan and the issues that were raised by the Coalition at the January 22, 2015 public hearing. Unfortunately, the Residential Property Owner’s representatives found the Coalition to be unresponsive to these requests. The Applicant provided an outline of the correspondence between the Residential Property Owner’s representatives and the Coalition’s counsel which detailed the correspondence between the parties from September of 2014 (the tenant relocation plan was presented to the Coalition in July of 2014 to March 2015. (Ex. 52, p. 1.)
39. After the January 22, 2015 public hearing, the Residential Property Owner made a concession to the relocation plan offered to the tenants. The Residential Property Owner no longer asked that the tenants forego the exercise of their rights under the Tenant Opportunity to Purchase Act of 1980 (“TOPA”), D.C. Official Code §§ 42-3404.01 *et seq.* (2012 Repl.). The Residential Property Owner revised the draft agreement so that any decision that a tenant makes about returning to the new building after temporary relocation or accepting a buy-out would be made following the Residential Property Owner’s receipt of a demolition permit (which is only issued after the TOPA process is complete). (Ex. 52, pp. 1-2.)
40. In its April 20, 2015 submission, the Applicant stated that while it remained committed to having a signed relocation agreement with the existing residents on the property, it believed the parties were not going to be able to come to mutually satisfactory terms on a tenant relocation plan. The Applicant proposed instead that the Commission include the major components of the tenant relocation plan listed in the Applicant’s March 26, 2015 post-hearing submission as conditions of this Order. The Commission has adopted this approach, and this Order includes a condition requiring the Applicant to abide by the major components of the tenant relocation plan listed in the Applicant’s March 26, 2015 post-hearing submission.
41. Prior to taking final action to approve the application, the Commission requested that the Applicant’s attorney clarify the language of the first component of the tenant relocation plan. He stated that the Applicant will provide evidence to the Zoning Administrator that all existing tenants were provided the opportunity to return to the new residential building.

**Affordable Housing**

42. The Applicant's final proposal was to create 15,655 square feet ("sf") of workforce affordable housing, with 10,877 sf reserved for households making up to 80% of the area median income ("AMI") and 4,778 sf reserved for households earning up to 50% of AMI. (Ex. 52, p. 5.)
43. The Applicant's post-hearing submission also addressed the affordable housing component of the project. The Applicant provided information which calculated the Inclusionary Zoning ("IZ") requirement that would be applicable if the site was developed as a matter-of-right in the existing R-5-A Zone District at the maximum permitted floor area ratio ("FAR") plus the bonus 20% afforded IZ projects [9,556 sf (4,778 sf at 50% AMI and 4,778 sf at 80% AMI)], and the amount of affordable housing that is being provided in this PUD project [15,655 sf (10,877 sf square feet at 80% AMI and 4,778 sf at 50% AMI)]. The Applicant noted that it is providing 6,090 sf of affordable housing more than would be created on the property than if it was developed as a matter-of-right. The amount of affordable housing reserved for households at 50% in perpetuity is the same as what would be achieved on the property as a matter-of-right. The Applicant's post-hearing submission included a site plan which noted the number, size, and distribution of the IZ units in the residential building. (Ex. 52, pp. 4-5; Ex. 52D1-52D2.)
44. The Applicant also noted that one of the witnesses in opposition to the application questioned why there was no Housing Linkage payment required for the amount of office development that is being proposed in the project. The Applicant pointed to the fact that the residential and office components of this project have been designed to be one cohesive whole. These abutting buildings have been seamlessly designed to frame the Metro plaza and they share the private alley system which allows for an efficient and effective internal transportation system. The Applicant argued that it is entirely appropriate to include the total lot area in calculating the IZ requirement, and the applicability of the Housing Linkage requirement to this project. The Applicant concluded that this project does not trigger the Housing Linkage payment requirements, as the total amount of office gross floor area that is provided in this project is 226,695 sf, which results in a density of only 2.56 FAR, which is significantly less than the 4.0 non-residential FAR that is permitted in the C-3-B Zone District as a matter-of-right. (Ex. 52, p. 6.)

**Applicant's Testimony**

45. Amanda Coen, of Maurice Walters Architects, one of the project architects and admitted as an expert witness in the field of architecture, described the context of the area surrounding the Subject Property and how the massing and architectural details of the residential and office buildings (with the changes that were made to the buildings in