

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



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 15-21**  
**Z.C. Case No. 15-21**  
**Kenilworth Revitalization IJV, LLC & DCHA**  
**(1st-Stage & Consolidated PUDs & Related Map Amendment @**  
**Squares 5113, 5114, and 5116)**  
**December 12, 2016**

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on September 8, 2016 to consider applications from District of Columbia Housing Authority (“DCHA”) and Kenilworth Revitalization I JV, LLC (collectively, the “Applicant”), for review and approval of a first-stage and a consolidated planned unit development (“PUD”) and related map amendment to rezone Lots 5 through 9 of Square 5113 and Lot 10 of Square 5114 from the R-5-A Zone District to the R-5-B Zone District; to rezone Lots 164, 165, and 172 of Square 5116 from the R-1-B Zone District to the C-2-A Zone District; and to rezone Lots 173-180 and 186 of Square 5116 from the R-5-A Zone District to the C-2-A Zone District (collectively, the “PUD Site”). The Commission considered the applications pursuant to Chapters 24<sup>1</sup> and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the applications.

**FINDINGS OF FACT**

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

1. On August 31, 2015 the Applicant filed applications with the Commission for the review and approval of a mixed-use, mixed-income development and related zoning map amendment from the R-1-B and R-5-A Zone Districts to the R-5-B and C-2-A Zone Districts for the PUD Site (“Application”). The PUD Site runs from Kenilworth Avenue, N.E., south along Douglas Street, N.E., west to Anacostia Avenue, N.E. north. The property is presently the site of HUD-owned and DCHA-owned multi-family housing.

---

<sup>1</sup> Chapter 24 and all other provisions of Title 11 DCMR were repealed on September 6, 2016, and replaced with Chapter 3 of Title 11-X DCMR. However, because this application was set down for hearing prior to that date, the Commission’s approval was based upon the standards set forth in Chapter 24.

The property is presently zoned R-5-A, except for Lots 164, 165, and 172 of Square 5116, which are zoned R-1-B. (Exhibit [“Ex.”] 1-3A3.)

2. The Applicant proposes to build a mixed-use, mixed-income development on the PUD Site composed of up to 530 residential units, including public housing replacement units, tax credit rental units, and market-rate units for rent and sale (“Project”). The Project will also include approximately 4,500 square feet of non-residential space, which the Applicant will endeavor to devote to a grocer, food co-op, or other fresh food use. The proposed development provides an overall density of 1.6 floor area ratio (“FAR”), as permitted under the moderate-density zone designation for the PUD Site. The Applicant will provide a total of approximately 261 off-street parking spaces, along with 139 street spaces. (Ex. 2.)
3. At its public meeting held on December 15, 2015, the Commission voted to schedule a public hearing on the Application. (Ex. 17.)
4. On April 29, 2016, the Applicant submitted a Prehearing Statement. (Ex. 18-18G.) The Prehearing Statement included additional information regarding the phasing of the PUD; Relocation Plan, First Source Agreement, IZ Compliance Waiver, Status of Property Archeological Survey, and Compliance with the Requirements of § 3013.
5. On August 25, 2016, the Kenilworth Courts Resident Council (“KCRC”) filed a Party Status Request to participate at the hearing in opposition to the Application. (Ex. 29.) The KCRC is recognized by the DCHA as the official resident-elected entity representing all public housing tenants living at the subject property. The KCRC subsequently withdrew their Party Status Request (Ex. 43.)
6. On August 30, 2016, Advisory Neighborhood Commission (“ANC”) 7D submitted a report. (Ex. 31.) The report stated that on August 20, 2016, at a properly noticed public meeting at which a quorum was present, the ANC voted 4-0-0 to oppose the Application. The report stated that the issues and concerns of the ANC were, “failure to identify and explain with specificity the relocation plan, one to one replacement plan, displacement date to clearly give full disclosure as to how residents will be housed for duration of Phase I.”
7. After proper notice, the Commission held a public hearing on the application on September 8, 2016. At the public hearing, the Commission accepted KCRC’s withdrawal of its August 25, 2016 Request for Party Status as Opponent.
8. The parties to the case were the Applicant and ANC 7D, the ANC within which the PUD Site is located.
9. At the September 8, 2016 hearing, the Applicant submitted a copy of a report prepared by Kimberly Black King and Janice Burgess of the DCHA, and the hearing PowerPoint presentation. (Ex. 45A1, 45A2.) In addition, the following principal witnesses testified

on behalf of the Applicant: Kimberly Black King, Chief Development Officer of the DCHA and Janice Burgess, Deputy Director for Planning of the DCHA. (Ex. 48, 49.)

10. On September 30, 2016, the Applicant submitted a post-hearing submission. (Ex. 53). The post-hearing submission included: (i) an updated, consolidated draft Relocation Plan and completion schedule; (ii) additional architectural submissions; and (iii) statements regarding including fresh food use in the Project, van service to community recreation centers, multi-family amenity space use by the broader community, employment opportunities, and remaining DDOT issues.
11. On October 6, 2016, ANC 7D submitted a report stating that at a duly noticed public meeting at which proper notice was given, the ANC had voted 4-0-0 to adopt a report stating that they had rescinded the ANC's opposition to the Project because DCHA explained to its satisfaction why DCHA had not yet produced a fully developed relocation plan for the current residents, DCHA provided sufficient assurances that it would provide a full relocation plan, and because the ANC did not want to delay DCHA's ability to obtain funding for the Project. (Ex. 54.)
12. On October 7, 2016, the Applicant submitted its draft findings of facts and conclusions of law. (Ex. 56.)
13. On October 7, 2016, the Office of Planning ("OP") submitted a supplemental report. (Ex. 57.)
14. At its public meeting on October 17, 2016, the Commission took proposed action to approve the Application. The Commission requested that the Applicant consider revisions to the corner tower of the multi-family building and the fencing at the rear of the townhouse yards.
15. On October 24, 2016, the Applicant submitted its list of final proffers and draft conditions, and its affordable housing chart. (Ex. 58-60.)
16. On October 31, 2016, the Applicant submitted a letter responding to the two issues raised by the Commission when it took proposed action. (Ex. 61.) The Applicant attached plans showing its revised design of the corner tower of the multi-family building, and its revised fencing plan for the townhouse yards that included a complete enclosure for the yards.
17. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") as required by the District of Columbia Home Rule Act on October 18, 2016. (Ex. 66.) NCPC's Executive Director, by delegated action dated November 23, 2016, found that the proposed PUD would not adversely affect the federal establishment or other identified federal interests in the National Capital and would not be inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital. (Ex. 66A.)

## **The PUD Project**

18. The PUD Site runs from Kenilworth Avenue, N.E., south along Douglas Street, N.E., west to Anacostia Avenue, N.E. north. The property is presently the site of U.S. Department of Housing and Urban Development (“HUD”)-owned and DCHA-owned multi-family housing. The property is presently zoned R-5-A, except for Lots 164, 165, and 172 of Square 5116, which are zoned R-1-B. The PUD Site includes approximately 620,366 square feet (14.24 acres) of land. (Ex. 2.) The PUD Site is currently developed with the Kenilworth Courts residences (290 public housing units); consisting of 263 townhouse units and 27 walk-up garden style apartments. The property is located in historically rich Kenilworth-Parkside neighborhood, an area within Ward 7, bounded by Interstate 295 to the east, a decommissioned Pepco plant to the south, 1,200 acres of National Park land focused along the Anacostia River to the west, and the Maryland line to the north. (Ex. 18C.)
19. The Kenilworth Parkside community is also the footprint of the neighborhood selected by the US Department of Education (“DOE”) for a Promise Neighborhood Initiative (“PNI”) grant of \$25 million. DCHA received a Choice Neighborhood Initiative (“CNI”) Grant for \$500,000 in planning funds in 2011 and has worked very closely with DCPNI and Kenilworth Courts Resident Council coordinating planning efforts, sharing data and resources and conducting work groups and joint community meetings. (Ex 18 C.)
20. The Plan is to clear the site in three phases. The first phase (“Phase One”) consists of 89 existing public housing units. It is bordered by Quarles Street on the north, Douglas Street on the south, Kenilworth Avenue on the east, and 45<sup>th</sup> Street on the west. DCHA will submit an application to HUD to demolish and dispose the 89 units in Phase One. Once approved, DCHA will begin the process of relocating the residents remaining in that phase. Seventy-two of the 89 units are occupied as of March 15, 2016. (Ex. 18 C.)
21. The proposed redevelopment plan would provide a mixed-use, mixed-income development of approximately 530 residential units. The residential units would include a mix of public housing replacement units, tax credit units and workforce units, both for rent and for sale. (Ex. 13.) The majority of the proposed housing units included in the PUD will be affordable. Affordable units include 290 public housing replacement units, a portion of which will be provided in the first phase, (“Consolidated PUD”). These units will include 290 very-low-income units (below 50% AMI) and approximately 240 low- and moderate-income (60% to 120% AMI) units. The PUD will also include approximately 42 homeownership units. (Ex. 2.)
22. The Consolidated PUD comprises approximately three acres and consists of two multi-family buildings which front on Kenilworth Avenue, a 67-unit building (Apartment Building 3), and a 42-unit senior building (Apartment Building 4), as well as 44 additional rental units in a mix of single-family town houses and stacked flats with two-, three-, four-, and five-bedroom unit types. The first-stage PUD includes a second and third phase of development which consist of three multi-family buildings, townhouses and stacked flats with two-, three-, four- and five-bedroom types (“First Stage PUD”). A

total of approximately 321 units is included in Phase 2 and 42 units in Phase 3. Pursuant to § 2407.10, there is an additional two years to apply for second-stage approval of the second phase and an additional three years to apply for the third phase. The Commission finds that the additional time is necessary to allow the Applicant to address infrastructure and relocation needs.

23. The PUD incorporates a realigned the street and alley scheme within the PUD Site. These proposed scheme will provide enhanced connectivity within the community and will provide additional security within the development by providing new and better views and additional eyes and ears on the street.
24. The Applicant will provide a total of approximately 304 vehicular parking spaces and 263 bicycle parking spaces in the PUD Project.

### **Development Under Existing Zoning**

25. The PUD Site is currently zoned R-5-A with a small portion of the PUD Site zoned R-1-B. R-5 Zone Districts are general residence districts designed to permit flexibility of design by permitting all types of urban residential development if they conform to the height, density, and area requirements established for the applicable zone district. The maximum height permitted by right in the R-5-A Zone District is 40 feet, and the maximum permitted density is 1.08 FAR, utilizing Inclusionary Zoning bonus density. A PUD in the R-5-A Zone District may achieve a maximum height of 60 feet and a maximum density of 1.0 FAR.
26. The Applicant is requesting a PUD-related zoning map amendment to rezone the PUD Site to the R-5-B Zone District with a small strip of C-2-A zoning to accommodate a grocer, food coop, or other fresh food distribution use. The maximum height permitted by right in the R-5-B Zone District is 50 feet, and the maximum permitted density is 2.16 FAR, utilizing Inclusionary Zoning bonus density. A PUD in the R-5-B Zone District may achieve a maximum height of 60 feet and a maximum density of 3.0 FAR. The R-5-B Zone District also includes the following additional development requirements:
  - (a) The maximum percentage of lot occupancy for a building or portion of building devoted to residential uses is 60% (11 DCMR § 403.2);
  - (b) A minimum rear yard depth of four inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 15 feet (11 DCMR § 404.1);
  - (c) If provided, a side yard width of at least three inches wide per foot of height of building, but not less than eight feet wide (11 DCMR § 405.6); and
  - (d) If provided, an open court width of four inches per foot of height of court but not less than 10 feet; a closed court width of four inches per foot of height of court but not less than 15 feet; and a closed court area of twice the square of the

required width of court based on the height of court, but not less than 350 square feet (11 DCMR § 406.1); and

- (e) For a row dwelling, one parking space for each dwelling unit; and for a flat, one parking space for each two dwelling units (11 DCMR § 2101.1).
27. The C-2-A Zone District is designed to provide facilities to support shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core. The maximum height permitted by right in the C-2-A Zone District is 50 feet, and the maximum density permitted is 3.0 FAR, utilizing Inclusionary Zoning bonus density. A PUD in the C-2-A Zone District may achieve a maximum height of 65 feet and a maximum density of 3.0 FAR. The C-2-A Zone District includes the following additional development requirements:
- (a) The maximum percentage of lot occupancy for a building or portion of building devoted to residential use is 60%; (11 DCMR § 772.1)
  - (b) A minimum rear yard depth of 15 feet; (11 DCMR § 774.1)
  - (c) If provided, a side yard width of at least two inches wide per foot of building height, but not less than six feet; (11 DCMR § 775.5)
  - (d) For an apartment house, one off-street parking space for each two dwelling units; and for a retail establishment in excess of 3,000 square feet, one parking space for each additional 300 square feet of gross floor area and cellar floor area; and (11 DCMR § 2101.1)
  - (e) For an apartment house with 50 or more units, one loading berth at 55 feet deep, one loading platform at 200 square feet, and one service/delivery space at 20 feet deep; and for a retail or service establishment with 5,000 to 20,000 square feet of gross floor area and cellar floor area, other than a grocery store or drug store, one loading berth at 30 feet deep and one loading platform at 100 square feet (11 DCMR § 2201.1).

### **Requested Flexibility**

28. The Applicant requested the following areas of flexibility from the Zoning Regulations for the First-Stage PUD (Ex. 40A, S16-18):
- (a) Off-Street Parking: Relief is requested primarily for the apartment buildings located closer to Kenilworth Avenue and public transportation with less relief requested for the lower-density housing. Relief is required for rental units – only 200 spaces are required and 150 are proposed. All home ownership units comply. The applicable Zoning Regulations require one parking space for every townhouse unit, 0.5 spaces per unit for the stacked unit, and one space for every two apartment-style dwelling units;

- (b) Side Yards: The Application requested flexibility for one of the apartment buildings north of Quarles Street (eight feet required; five feet proposed) and for some of the lower-density housing west of 45<sup>th</sup> Street (eight feet is required, with side yards between four and six feet proposed);
  - (c) Rear Yards: A fifteen-foot-deep rear yard is required for most of the structures within the First Stage PUD, although two of the apartment buildings require a rear yard of 16.67 feet. The majority of the rear yards are proposed to be five feet deep; and
  - (d) Lot Occupancy: For the two larger apartment buildings north of Quarles Street, flexibility from the 60% lot occupancy standard is requested and 79.32% and 83.77% lot occupancy is proposed. For the remainder of the first-stage portion of the PUD, 61.54% to 68.63% lot occupancy is proposed.
29. The Applicant requested the following areas of flexibility from the Zoning Regulations for the Consolidated PUD: ( Ex. 40A, S16-18.)
- (a) Off-Street Parking: Thirty-six to 40 off-street parking spaces would be required for the apartment building proposed for Lot 3B. Flexibility is sought to permit thirty spaces. Fifty-two spaces are required for the lower-density housing within this portion of the PUD, and 47 are proposed;
  - (b) Side Yards: A minimum side yard of eight feet is required and the Applicant proposes six-foot side yards;
  - (c) Rear Yards: A rear yard for the lower-density housing of between 15 feet and 16.67 feet, is required and the Applicant proposes a minimum of 10 feet for some of the townhouses and stacked flats;
  - (d) Lot Occupancy: The Zoning Regulations permit maximum lot occupancy of 60% for apartment buildings. The Applicant proposes 87% for the Apartment Building 3 and seeks flexibility. OP supported the request to enable the Applicant to provide additional units and accommodate a variety of sizes and types of households; and (Ex.33.)
  - (e) Loading: The regulations require a 55-foot loading berth for the Apartment Building 3 and the Applicant requested relief for a 30-foot loading berth. Provision of a larger loading berth within this building would reduce the amount of retail space available. As the Project is located within an area with few retail choices, OP supported the requested flexibility to loading, but requested the Applicant to provide a loading management plan for DDOT review. The Applicant provided the requested loading management plan. (Ex. 33, p.7; Ex. 53, p. 44.)

30. The Commission finds that the normal court, side yard, rear yard, and lot occupancy requirements would adversely impact the design of the PUD and would hinder the Applicant's ability to provide an optimal amount of affordable housing.
31. The Applicant requested a complete waiver of the Inclusionary Zoning ("IZ") requirements of the IZ Regulations of Chapter 26 as a form of PUD relief
32. The Project will include affordable units reserved for households earning no more than 60% AMI for a minimum period of 40 years and affordable units reserved for households earning no more than 80% AMI for a minimum period of 40 years. The Department of Housing and Community Development only administers IZ units for households earning 50% or 80% of the AMI, and requires the IZ units to be reserved for as long as the development exists. In lieu of the IZ requirements, the PUD will include significantly more affordable housing than is required under IZ. All of the housing in the Consolidated PUD is comprised of affordable units, with 118 units reserved for households earning no more than 50% of the AMI for a reserve period of at least 40 years, and 49 units reserved for households earning no more than 60% of AMI for a reserve period of at least 40 years. The First Stage PUD is also comprised entirely of housing units with income restrictions, including 172 units reserved for households earning no more than 50% of the AMI for a reserve period of at least 40 years, 84 units reserved for households earning no more than 60% of AMI for a reserve period of at least 40 years, and 65 units reserved for households earning no more than 80% of the AMI for a reserve period of at least 30 years. The total gross floor area reserved for affordable housing is far greater than required by IZ.
33. OP supported the waiver in view of the overall affordability of the PUD and the conflict between the IZ affordability periods and that of some of the funding sources for the Project.

#### **PUD Benefits and Amenities**

34. The Commission finds that the following benefits and amenities will be created as a result of the PUD:
  - (a) *Urban Design, Architecture, and Landscaping (§ 2403.9(a)).* The Commission finds that the PUD will implement a number of current best planning practices within a site that has not seen significant improvement or redevelopment for over half a century. (Ex. 2, 33.) These include the introduction of a rational street grid with the creation of smaller, pedestrian-friendly blocks. The proposed PUD would eliminate the super-block design of the existing neighborhood, improving the connectivity of neighborhood, with increased density at a site located approximately 0.6 miles from the Deanwood Metrorail station. The interior of the PUD would include traditional architecture, with larger apartment buildings with a modern theme buffering the traffic noise from Kenilworth Avenue;

- (b) Transportation Features (§ 2403.9(c)). A new pattern of public streets would provide improved connectivity, eliminating the superblocks, improving pedestrian safety and pedestrian crossing opportunities. Access to Kenilworth Aquatic Gardens and the Riverwalk Trail system would also be improved. New sidewalks would be provided along all streets, with all off-street parking accessible via public alleys only. Street parking would be permitted where appropriate. The Applicant has proposed transportation management measures that have been developed in conjunction with DDOT; ( Ex. 30, 33.)
- (c) Employment and Training Opportunities (§ 2403.9(e)). The Applicant will enter into a First Source Employment Agreement with the Department of Employment Services. The Applicant is committed to complying with § 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), as amended by § 915 of the Housing and Community Development Act of 1992 by ensuring that all contractors and any tier subcontractors that are awarded contracts partially or wholly funded by DCHA for work generated through HUD funding shall take all necessary and reasonable steps to provide meaningful, full-time, permanent employment and training to § 3 residents. DCHA's Office of Resident Services will establish a committee composed of Kenilworth residents to facilitate Kenilworth residents' access to the job opportunities and to promote job readiness and will monitor § 3 compliance; (Ex. 18D, 53.)
- (d) Housing and Affordable Housing (§ 2403.9(f)). The PUD's most important benefit is the creation of new housing consistent with the goals of the Zoning Regulations, the Comprehensive Plan, and the Mayor's housing initiative. The PUD includes a variety of housing types to serve households of all sizes and at a range of incomes. The PUD will provide a mixed-income development of approximately 530 residential units. The residential units would include a mix of public housing replacement units, tax credit units and workforce units, both for rent and for sale. (Ex. 13.) Affordable units include 290 public housing replacement units. These units will include 290 very-low-income units (below 50% AMI) and approximately 240 low- and moderate-income (60% to 120% AMI) units. The PUD will also include approximately 42 homeownership units. (Ex. 2.) Phase 1 will include four- and five-bedroom units. Later phases will include four-, five- and six-bedroom units. (Ex. 44.) The Project will include affordable housing in accordance with the following charts:

***Kenilworth Courts - Consolidated PUD***

Residential Unit Type	GFA & Percentage of Total	Units	Target Income	Affordable Control Period	Affordable Unit Type
Total	207,698 / 100%	167			
Market Rate	0	0			
IZ	N/A				
Affordable / Non IZ	151,401 / 73%	118	< = 50% AMI	Min. 40 years	Rental
Affordable/Non IZ	56,297 / 27%	49	< = 60% AMI	Min. 40 years	Rental

**Kenilworth Courts - Stage 1 PUD**

Residential Unit Type	GFA & Percentage of Total	Units	Target Income	Affordable Control Period	Affordable Unit Type
Total	461,414 / 100%	363			
Market Rate	0	0			
IZ	N/A				
Affordable / Non IZ	197,738 / 43%	172	< = 50% AMI	Min. 40 years	Rental
Affordable/Non IZ	133,400 / 27%	84	< = 60% AMI	Min. 40 years	Rental
Affordable/Non IZ	65,780 / 14%	65	< = 80% AMI	Min. 30 years	Rental
Affordable/Non IZ	74,496 / 16%	42	< = 120% AMI	First sale only. No price controls on subsequent sales.	For-Sale

(Ex. 2, 33, 65.)

- (e) Environmental Benefits. The PUD incorporates green building practices. The PUD will comply with applicable Enterprise Green Communities standards; and
- (f) Special Value for the Neighborhood.
  - (1) The proposed PUD would add new residents to the neighborhood, provide housing designed specifically for seniors which is in great need in the City and the neighborhood and provide for a mix of income levels to stabilize the neighborhood; (Ex. 2.)
  - (2) DCHA will establish a regular meeting schedule with the Kenilworth Resident Council Board on at least a quarterly basis to share information on the redevelopment progress and resident relocation plans; (Ex. 44.)
  - (3) DCHA will establish criteria for residents' right to return to the Project which require lease compliance but bar criminal background, work or service requirements, and credit and drug screening that is more stringent than DCHA policy; (Ex. 44.)
  - (4) The Applicant will make best efforts to work with Good Food Markets or other potential fresh food distributors, as needed, to assure that 4,500 square feet of nonresidential space in the Project is available for a small grocer, food coop, or other fresh food distribution use; and
  - (5) The Applicant will provide a van service to both the Deanwood and the Kenilworth Recreation Centers until a more direct, well-lit pedestrian path from the Project to the new Kenilworth Recreation Center is established. Loop service from the Project to the Deanwood and Kenilworth facilities will be provided four times per weekday, in the morning hours and after school. During this period, the Applicant will include the costs of the van and its operation in development and operating budgets for the approval of the affordable housing development funders.

### **Compliance with the Comprehensive Plan**

35. The Commission finds that the PUD advances the purposes of the Comprehensive Plan, is not inconsistent with the Future Land Use Map and Generalized Policy Map, complies with the guiding principles in the Comprehensive Plan, and furthers a number of the major elements of the Comprehensive Plan.

### **Compliance with the Comprehensive Plan Future Land Use Map and Generalized Policy Map**

36. The District of Columbia Comprehensive Plan Future Land Use Map designates the PUD Site for Moderate-Density Residential uses. The Moderate-Density Residential category is used to define the District's row house neighborhoods, as well as its low-rise garden apartment complexes. The designation also applies to areas characterized by a mix of single family homes, two-four unit buildings, row houses, and low-rise apartment buildings.. In some of the older inner city neighborhoods with this designation, there may also be existing multi-story apartments, many built decades ago when the areas were zoned for more dense uses (or were not zoned at all). The R-3, R-4, and R-5-A Zone Districts are generally consistent with the Moderate-Density Residential category; the R-5-B Zone District and other zones may also apply in some locations. OP indicated that the PUD is consistent with these designations with its mix of building types at the scale proposed by the Applicant.
37. The Commission finds that both the proposed R-5-B and C-2-A Zone Districts for the PUD Site is not inconsistent with the Moderate-Density Residential Category or with the Future Land Use Map. The C-2-A Zone District is only designated to accommodate 4,500 square feet of needed nonresidential space which the Applicant will endeavor to devote to a grocery or other fresh food use. The majority of the PUD Site is proposed to be zoned R-5-B.
38. The Commission finds that the policies and goals of the Comprehensive Plan, which sometimes may be in conflict with one another, must be applied using the interpretive guidelines of the Comprehensive Plan. These guidelines state that the Future Land Use Map is to be "interpreted broadly" and recognize that the densities within any given area on the Future Land Use Map "reflect all contiguous properties on a block - there may be individual buildings that are higher or lower than these ranges within each area." (10A DCMR § 226(c) (emphasis added).) The guidelines further advise that "the land use category definitions describe the general character of development in each area, citing typical building heights (in stories) as appropriate. It should be noted that the granting of density bonuses (for example, through Planned Unit Developments) may result in heights that exceed the typical ranges cited here." (*Id.*)
39. The Commission finds that based on the flexibility afforded by the PUD process, the proposed density can be appropriately distributed across the PUD Site by concentrating the higher density apartment buildings closer to Kenilworth Avenue and directing the

lower density housing types to the interior of the PUD Site. The Commission finds that the proposed density and the distribution of the density across the PUD Site are acceptable.

40. The District of Columbia Comprehensive Plan Generalized Policy Map designates the PUD Site as a Neighborhood Enhancement Area with the exception of the portion of the lots fronting on Douglas Street which are designated as a Neighborhood Conservation Area.. The guiding philosophy of Neighborhood Enhancement Areas is to:

“ensure that new development “fits in” and responds to the existing character, natural features, and existing/planned infrastructure capacity. New housing should be encouraged to improve the neighborhood and must be consistent with the land use designation on the Future Land Use Map. The unique and special qualities of each area should be maintained and conserved, and overall neighborhood character should be protected as development takes place.”

(10 DCMR A § 223.8.) The Commission finds that the PUD is consistent with the goals of the Neighborhood Enhancement Area designation because it responds to the existing character of the Kenilworth/Parkside neighborhood. The PUD will retain and realign the existing streets to connect the PUD Site to the surrounding community and create a grid pattern with smaller pedestrian-oriented blocks and put additional eyes and ears on the street to increase safety and security. The PUD also includes a diversity of housing types that meet the various needs of community residents. The Commission finds that these features sufficiently demonstrate the PUD’s consistency with the Comprehensive Plan Generalized Policy Map’s designation.

41. The Commission finds that the proposed PUD-related map amendment will continue to protect and strengthen the residential uses of the PUD Site while creating new, high-quality public housing, affordable housing, and market-rate housing units and significant new infrastructure improvements. The PUD will replace each public housing unit, bring residents back to the redeveloped site while adding new mixed-income housing. Based upon the testimony and evidence submitted in this case, the Commission finds that the development effort will stabilize and enhance the Kenilworth/Parkside neighborhood.
42. The Commission finds that the PUD-related map amendment would implement the Future Land Use Map’s designation of the PUD Site for Moderate-Density Residential and permit the development of the proposed new residential uses on the PUD Site, which are not inconsistent with the PUD Site’s designation within a Neighborhood Enhancement Area on the Generalized Policy Map. The Commission notes that the amount of nonresidential zoned area is nominal and will facilitate the Applicant’s ability to bring a fresh food use to the neighborhood.

### **Compliance with the Guiding Principles of the Comprehensive Plan**

43. The Commission finds that the proposed PUD would further many guiding principles in the Comprehensive Plan for managing growth and change, creating successful neighborhoods, increasing access to employment, connecting the city, and building green and healthy communities, as follows:
- (a) Managing Growth and Change. The guiding principles of this element are focused on ensuring that the benefits and opportunities of living in the District are equally available to everyone in the city. The PUD is fully consistent with a number of the goals set forth in this element. Specifically, the PUD will help to attract a diverse population with the inclusion of a mix of housing types for households of different incomes; and (§§ 217.2 and 217.3.)
  - (b) Creating Successful Neighborhoods. The guiding principles for creating successful neighborhoods include both improving the residential character of neighborhoods and preserving existing affordable housing and producing more new affordable housing. (§§ 218.1, 218.3.) Another guiding principle for creating successful neighborhoods is getting public input in decisions about land use and development, from development of the Comprehensive Plan to implementation of the Plan's elements. (§ 218.8.) The PUD furthers each of these guiding principles with the construction of affordable and market-rate housing on the PUD site. (Ex. 13, p. 8.)

### **Compliance with the Elements of the Comprehensive Plan**

44. The Commission finds that the proposed PUD furthers the objectives and policies of many of the Comprehensive Plan's major elements as set forth in the OP reports (Ex. 13, 33, 57.) and as discussed in more detail below.
45. Land Use Element. For the reasons discussed below, the PUD supports a number of the policies of the Land Use Element of the Comprehensive Plan:
- (a) Policy LU-1.2.1: Reuse of Large Publicly-Owned Sites: Recognize the potential for large, government-owned properties to supply needed community services, create local housing and employment opportunities, remove barriers between neighborhoods, and improve and stabilize the city's neighborhoods;
  - (b) Policy LU-2.1.3: *Conserving, Enhancing, and Revitalizing Neighborhoods*- Consistent with this policy, the PUD both conserves public housing and affordable housing options on the PUD Site while enhancing that housing with new, higher quality development;
  - (c) Policy LU-2.2.4: *Neighborhood Beautification* - This policy encourages projects to improve the visual quality of the District's neighborhoods. The PUD includes

a number of neighborhood beautification elements including new high-quality architecture and design and landscaping; and (Ex. 13.)

- (d) Policy LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods - In designing the PUD, and consistent with this policy element, the Applicant has sought to balance the housing supply in the area by ensuring the replacement of the existing housing on the Site and providing additional mixed-income housing. The lower-density housing proposed for the interior of the Site will preserve surrounding neighborhood character. (Ex. 13, p. 9.)
46. Transportation Element. The overarching goal of the Transportation Element is to create a safe, sustainable, efficient and multi-modal transportation system that meets the access and mobility needs of District residents, the regional workforce, and visitors; supports local and regional economic prosperity; and enhances the quality of life for District residents. (10A DCMR § 401.1.) The PUD furthers several policies of the Transportation Element of the Comprehensive Plan, including:
- (a) Policy T-2.2.2: Connecting District Neighborhoods - The PUD will help to encourage improved connections between District neighborhoods by eliminating existing superblocks and adding new and extended streets improving access through the PUD Site and surrounding neighborhood; (Ex. 30, p. 9.)
  - (b) Action T-2.3-A: Bicycle Facilities - This element encourages new developments to include bicycle facilities. The Applicant has integrated a substantial amount of bicycle parking in the Project as well as a bike repair station in the Consolidated PUD; and (Ex. 53.)
  - (c) Policy T-2.4.1: Pedestrian Network - The PUD will further this policy through constructing new sidewalks to ensure a safe pedestrian network within and around the PUD Site.
47. Housing Element. The overarching goal of the Housing Element is to “[d]evelop and maintain a safe, decent, and affordable supply of housing for all current and future residents of the District of Columbia.” (10 DCMR § 501.1.) The PUD will help achieve this goal by advancing the following policies:
- (a) Policy H-1.1.1: Private Sector Support - The PUD helps to meet the needs of present and future District residents at locations consistent with District land use policies and objectives. Specifically, the PUD will contain a substantial contribution to the District’s housing supply. The Applicant will provide a one-for-one replacement of all public housing units that are removed from the PUD Site. The Applicant will also undertake an extensive relocation and return process to ensure that current residents have a place to live during redevelopment of the PUD Site and to guarantee that those residents can return to the PUD Site after redevelopment if they choose to do so. (Ex. 53.) The PUD will also provide additional affordable and workforce housing on the Site. Overall, the PUD will

leverage private sector development to assist in the District's affordable housing needs; and

- (b) Policy H-1.2.3: Mixed-Income Housing - The Applicant will build a wide range of housing options, including public and affordable housing. Housing on the PUD Site will be offered to households at a range of sizes and income levels.
48. Environmental Protection Element. The Environmental Protection Element addresses the protection, restoration, and management of the District's land, air, water, energy, and biologic resources. This element provides policies and actions on important issues such as energy conservation and air quality, and specific policies include the following:
- (a) Policy E-1.1.3: Landscaping - encourages the use of landscaping to beautify the city, enhance streets and public spaces, reduce stormwater runoff, and create a stronger sense of character and identity. The Applicant's Plans include a detailed landscaping plan; and (Ex. 18A11-18A14.)
  - (b) Policy E-3.2.1: Support for Green Building - calls for the use of green building methods in new construction projects. The PUD includes green building aspects including solar panels on the multi-family buildings. Planting street tree and adding new landscaping will also help to reduce urban run-off consistent with the Environmental Protection Element.
49. Urban Design. The Urban Design Element supports high-quality distinctive design especially for East of the River gateways like the PUD Site:
- (a) Policy UD-1.4.2: City Gateways: Create more distinctive and memorable gateways at points of entry to the city, and points of entry to individual neighborhoods and neighborhood centers. Gateways should provide a sense of transition and arrival, and should be designed to make a strong and positive visual impact;
  - (b) Policy UD-2.2.8: Large Site Development: Ensure that new developments on parcels that are larger than the prevailing neighborhood lot size are carefully integrated with adjacent sites. Structures on such parcels should be broken into smaller, more varied forms, particularly where the prevailing street frontage is characterized by small, older buildings with varying façades; and
  - (c) Policy UD-3.2.5: Reducing Crime Through Design: Ensure that the design of the built environment minimizes the potential for criminal activity. Examples of preventive measures include adequate lighting, maintaining clear lines of sight and visual access, and avoiding dead-end streets.
50. The PUD site, located east of the river along Kenilworth Avenue just inside the District line, is a large site that would be redeveloped with housing that would blend into existing surrounding development, especially to the existing single-family detached housing to the

south, while also providing modern apartment buildings at the city's gateway. The existing superblock layout would be eliminated, replaced with smaller blocks and housing directly facing streets to improve "eyes on the street" and safety of the residents.

51. Based upon the testimony and evidence presented, as well as the OP reports, the Commission finds that the proposed rezoning is not inconsistent with numerous elements of the Comprehensive Plan. The Commission also finds that the proposed PUD-related map amendment would create favorable conditions for the District and satisfies each of the statutory standards applicable to map amendments.
52. The Commission further finds that the Applicant's proposal to replace 290 public housing units on the PUD Site will meet the needs of the returning residents. DCHA submitted a draft Relocation Plan which details the process for relocating residents back to the redeveloped Site in a manner which meets their specific housing needs. (Ex. 53.) Based upon the testimony and this evidence presented by the Applicant, the Commission finds that relocated residents will be able to return to a unit that includes a bedroom size consistent with their needs. (See DCHA testimony and draft Relocation Plan dated September 30, 2016.)
53. Moreover, the Commission finds that the PUD will include major infrastructure investments in order to create a sustainable neighborhood that will serve the city in the long term. Proposed infrastructure improvements include the demolition of existing structures; the creation or reconstruction of a new street and alley grid to include new street lighting and sidewalks, new landscaping, and stormwater management and erosion control measures.

#### **Zoning Map Amendment Application**

54. The Applicant is requesting a PUD-related map amendment to rezone a portion of the PUD Site to the R-5-B Zone District and a portion of the PUD Site to the C-2-A Zone District. OP reviewed the Applicant's proposal to rezone the PUD Site and in its reports recommended approval of the map amendment. (Ex. 13, 33.) OP opined that the map amendment would not be inconsistent with the Comprehensive Plan, and that the proposed map amendment and redevelopment would facilitate numerous policy statements of the Comprehensive Plan. OP also indicated that the proposed map amendment coupled with the accompanying PUD is intended to facilitate a site-specific project and ensure a quality of development at a scale that is consistent with the surrounding neighborhood.
55. The Commission's authority to amend the Zoning Map derives from the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, D.C. Official Code § 6-641.01 *et. seq.*) ("Zoning Act"). Section 2 of the Zoning Act provides:

Zoning maps and regulations, and amendments thereto, shall not be inconsistent with the comprehensive plan for the national capital, and zoning regulations shall be designed to lessen congestion on the street, to

secure safety from fire, panic, and other dangers to promote health and the general welfare, to provide adequate light and air, to prevent the undue concentration and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection of property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein.

56. The Commission finds that the proposed PUD-related map amendment is consistent with the purposes of the Zoning Act. The PUD will use land efficiently and at an appropriate height and density and provide much needed affordable housing and housing for seniors. Furthermore, the Commission finds that the map amendment will allow use of the PUD Site that is not inconsistent with its designation on the Future Land Use Map, as indicated in the findings of fact in this Order.

#### **Office of Planning Reports**

57. By report dated November 13, 2015, OP stated that it supported the Application and that the proposed PUD is not inconsistent with the Comprehensive Plan. Therefore, OP recommended that the Commission schedule a public hearing on the Application. (Ex. 13.)
58. On August 31, 2016, OP submitted a report recommending approval of the Application and recommended that the Applicant address a number of issues and concerns. (Ex. 33.) The issues primarily revolved around additional information and clarifications requested by OP. OP also noted the relocation and reentry concerns expressed by the Residents Council in their Party Status Request as an opponent of the PUD. However, the Office of Planning indicated that it was supportive of the proposal and that the proffered benefits and amenities are commensurate with the relatively limited amount of flexibility gained through this PUD, in terms of additional density or height. The Applicant proposes to phase in the development, which will serve to minimize displacement during construction. At the public hearing and in the Applicant's supplemental filings, the Applicant provided details on the affordable housing program as well as additional information requested by OP. Further, based on the updated relocation and reentry details provided by the Applicant, the Resident's Council withdrew its party status request and filed a letter from legal counsel supporting the PUD. Finally, the ANC rescinded its opposition to the PUD. Therefore, the Commission finds that the Applicant adequately addressed the comments outlined in OP's report.

59. On October 7, 2016, OP submitted a supplemental report. The report responded to the Commission's request that it provide an update on the issues raised in OP's August 31<sup>st</sup> report. (Ex. 57.)

**District Department of Transportation Report**

60. The District Department of Transportation ("DDOT") submitted a report, dated August 29, 2016, indicating DDOT's support for the PUD subject to the following conditions: (Ex. 30.)
- (a) Disperse the long-term bicycle parking in all of the multi-family residential buildings, including the senior housing development;
  - (b) Install 16 short-term bicycle parking spaces (eight inverted U-style racks) located in public space near the entrances of the multi-family buildings (one short-term space per 20 apartment units);
  - (c) Modify the TDM plan to include the following:
    - Provide to each new resident, upon move-in, for a period of three years, a one-time Capital Bikeshare membership. This benefit shall be codified in rental/condominium documents;
    - Provide each new resident, upon move-in, for a period of three years, a one-time car-share membership. This benefit shall be codified in rental/condominium documents;
    - Provide each new resident, upon move-in, for a period of three years, a one-time SmartTrip card, valued at \$50. This benefit shall be codified in rental/condominium documents;
    - Provide a welcome packet to each new resident with transportation information and TDM amenities;
    - Appoint a TDM coordinator and share contact information with goDCgo, DDOT's TDM program;
    - Coordinate annually with goDCgo on transportation fares for residents and to receive customized marketing materials;
    - Unbundle parking from leases of all multi-family units and charge market rate, defined as the average cost for parking within a quarter-mile of the site on a weekday; and
    - Provide a Transit Screen in the lobby of each multi-family building;

- (d) Public space, including curb and gutter, street trees and landscaping, street lights, sidewalks, and other features within the public rights of way, are expected to be designed and built to DDOT standards. Careful attention should be paid to pedestrian and bicycle connections along the site's perimeter and adjacent infrastructure, particularly connecting the site to the Deanwood Metro Station;
  - (e) Street closure and rededication will require coordination with DDOT and may require Council action. This includes coordination regarding street distribution, and ensuring that building projections meet code. New public streets and alleys shall be designed and constructed to DDOT standards in order for acceptance by DDOT;
  - (f) The location of utility vaults. DDOT expects vaults to be located on private property; and
  - (g) The exact location of short-term bicycle parking spaces will be addressed during the public space permitting process.
61. The DDOT report states that the new street network has the potential to disperse traffic throughout the site in a way that minimizes impact on the road network in the vicinity and improves connectivity to the adjacent neighborhood. The Commission therefore finds that the PUD will have minimal impacts to traffic in the surrounding area.
62. The Applicant's post-hearing submission included a loading management plan requested by DDOT as well as enhanced TDM provisions. The Applicant will provide outlets for charging stations in the private townhouse garages. (Ex. 38.) The Applicant has agreed to provide a bike repair station in Phase 1 and later phases where secure bike parking is provided. The Applicant will consider including a bike-share station in a later phase of the Project contingent on future DDOT subsidies to install and/or operate such a station. (Ex. 53.) Based on the Applicant's loading management plan and TDM measures, the Commission finds that the Applicant has addressed the comments outlined in DDOT's report.

### **Contested Issues**

63. ANC 7D, EGCA, and a number of individuals raised concerns at the public hearing and in written testimony. The concerns raised include the following issues: density and compliance with District plans; affordability; phasing; reentry eligibility criteria; need for fresh food alternatives in the community; and potential displacement. The Commission has carefully reviewed the written and oral testimony presented by ANC 7D and individuals and makes the findings below.
64. Density. The Commission notes that the ANC subsequently rescinded its opposition to the PUD and finds that the proposed number of units for the PUD Site is appropriate and

that additional density is needed as outlined by the Applicant's witness to attain the goal of achieving a sustainable, mixed income community.

65. The Commission finds that the PUD's proposed zoning designation is appropriate for the PUD Site and is not inconsistent with the Comprehensive Plan's designation for the PUD Site. The PUD Site is designated Moderate-Density Residential on the Comprehensive Plan's Future Land Use Map, and the Commission notes that guidelines state that the Future Land Use Map is to be "interpreted broadly" and that the densities within any given area on the Future Land Use Map "reflect all contiguous properties on a block - there may be individual buildings that are higher or lower than these ranges within each area."
66. The Commission also finds that the PUD's overall density is not inconsistent with the moderate-density designation. Similar to other developments reviewed by this Commission, through the flexibility afforded by the PUD process, the proposed density can be appropriately distributed across the PUD Site. In this case, the Applicant carefully located the taller, multi-family buildings along Kenilworth Avenue with the lower density housing closer to the Eastland Gardens lower-density neighborhood.
67. Unit Size, Relocation and Return Plans. ANC 7D and a number of individuals asserted that the Applicant did not provide adequately detailed information regarding the intended income mix or unit size of the replacement public housing units, or describe whether the PUD would replace each public housing unit with another public housing unit with the same number of bedrooms and at the same level of affordability. ANC7D and a number of individuals asserted that the Applicant did not provide an adequate relocation or return plan for current residents, and did not explain how people would be transitioned during redevelopment, where they would go, how they would go, and when they would return. EGCA stated that the Applicant did not provide sufficient measures to prevent displacement of current tenants. In addition, ANC 7D argued that the proposed PUD did not provide a sufficient number of larger units.
68. The Commission finds that the Applicant provided sufficient details regarding the intended income mix, and size of the proposed residential units on the PUD Site as well as an updated draft Relocation Plan which addressed a number of the concerns expressed. The Commission finds that the Applicant has submitted detailed information regarding the timing and process for finalizing the draft Relocation Plan. (Ex. 44-45A2, 49, 53; and DCHA testimony from the Transcript dated September 8, 2016.) Moreover, based on the additional information submitted by the Applicant including an updated draft Relocation Plan, the Residents Council withdrew its Party Status Request in opposition to the PUD and submitted a letter in support of the PUD and ANC 7D also rescinded its opposition to the PUD. (Ex. 44, 54, 55,)
69. The Commission has reviewed the submissions of ANC 7D, EGCA, and the Applicant, and the Commission has given great weight to ANC 7D's views. The Commission finds that the Applicant has responded in detail to each of the concerns raised by the ANC, EGCA, and other individuals, and the Commission further finds that the Applicant's

exhibits, expert testimony, and reports, as well as the testimony and reports of OP, address the substantives issues raised in this case.

### **CONCLUSIONS OF LAW**

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD “offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience.” (11 DCMR § 2400.2.)
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider this application as a first-stage PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking, loading, yards, or courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.
3. Development of the property included in this Application carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
4. The PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations.
5. The PUD, as approved by the Commission, complies with the applicable height, bulk, and density standards of the Zoning Regulations. The uses for this Project are appropriate for the property. The impact of the Project on the surrounding area is not unacceptable. Accordingly, the Project should be approved.
6. The Application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
7. The Applicant’s request for flexibility from the Zoning Regulations is not inconsistent with the Comprehensive Plan. Moreover, the Project’s benefits and amenities are reasonable tradeoffs for the requested development flexibility.
8. Consolidated and first-stage approval of this PUD is appropriate because the proposed development, and the proposed R-5-B and C-2-A zoning, are not inconsistent with the Comprehensive Plan. In addition, the proposed development will promote the orderly development of the property in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
9. The Commission is required under § 13(d) of the Advisory Neighborhood Commission Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)

(2001)) to give great weight to the affected ANC's recommendation. Great weight requires the acknowledgement of the ANC as the source of the recommendations and explicit reference to each of the ANC's concerns. The written rationale for the decision must articulate with precision why the ANC does or does not offer persuasive evidence under the circumstances. In doing so, the Commission must articulate specific findings and conclusions with respect to each issue and concern raised by the ANC. (D.C. Official Code § 1-309.10(d)(3)(A) and (B).) ANC 7D submitted two reports described in Findings of Fact 6 and 11. The second report rescinded the opposition expressed in the first report. Because the Applicant had addressed the issues related to relocation to its satisfaction, it believed the Applicant would provide a full relocation plan, and therefore it was rescinding its opposition to the Project. The Commission therefore concludes that all of the issues stated in the first report were resolved to the ANC's satisfaction and thus there are no issues and concerns remaining for the Commission to give great weight to.

10. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to OP's recommendations. For the reasons stated above, the Commission concurs with OP's recommendation for approval and has given the OP recommendation the great weight it is entitled.
11. The application for a PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401 *et seq.*, (2007 Repl.)

### **DECISION**

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the Application for review and approval of a first-stage and consolidated planned unit development ("PUD") and related Zoning Map amendment from R-5-A and R-1-B to R-5-B and C-2-A for Lots 5 through 9 in Square 5113, Lot 10 in Square 5114, and Lots 164, 165, 172 through 180, and 186 in Square 5116 (collectively the "PUD Site") subject to the following guidelines, conditions, and standards:

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

1. The PUD shall be developed in accordance with the architectural plans and development data submitted in to the record on April 29, 2016 as Exhibits 18A1 through 18A14, as modified by the architectural drawings and pages submitted on September 6<sup>th</sup> as Exhibits 40A-40C, the architectural drawings submitted on September 30<sup>th</sup> as Exhibit 53, pp. 26-39, and the architectural drawings and plans submitted on October 31, 2016 as Exhibit 61, and as further modified by the guidelines, conditions, and standards herein (collectively, the "Plans").
2. In accordance with the Plans, the PUD shall be a mixed-use project consisting of 530 residential uses, and approximately 4,500 square feet of gross floor area devoted to nonresidential uses:

- (a) The Consolidated PUD shall include two multi-family buildings which front on Kenilworth Avenue, a 67-unit building (Apartment Building 3) which includes 4,500 square feet of nonresidential space on the ground floor and a 42-unit senior building (Apartment Building 4), as well as 44 additional rental units in a mix of single-family town houses and stacked flats with two-, three- four-, and five- bedroom unit types; and
  - (b) The First Stage PUD shall include a second and third phase of development (“Phase 2” and “Phase 3”) which consist of three multi-family buildings, townhouses and stacked flats with two-, three-, four- and five-bedroom types. A total of approximately 321 units is included in Phase 2 and approximately 42 units in Phase 3.
- 3. The overall PUD shall have a maximum density of 1.61 FAR, with a maximum density of 1.57 FAR for the Consolidated PUD and a maximum density of 1.63 FAR for the First Stage PUD.
- 4. The Applicant shall construct the fencing shown in Sheet L-220 of Exhibit 61 for the townhouses and low rise units.
- 5. The Applicant is granted flexibility from the parking requirements, side yard requirements, rear yard requirements, loading requirements, and lot occupancy requirements consistent with the approved Plans (Ex. 40A, pp. S16-S18A) as well as a complete waiver of the Inclusionary Zoning Regulations set forth in former Chapter 26 of Title 11 DCMR as those regulations existed on September 5, 2016.
- 6. The Applicant is granted additional flexibility with the design of the PUD as follows:
  - (a) To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration or appearance of the structure;
  - (b) To vary final selection of the exterior materials within the color ranges and materials types as proposed based on availability at the time of construction; and
  - (c) To make minor refinements to exterior details and dimensions, including balcony enclosures, bell courses, sills, bases, cornices, railings, and trim, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit, or to address the structural, mechanical, or operational needs of the building uses or systems

**B. PUBLIC BENEFITS**

1. Housing and affordable housing. The Applicant shall provide the following housing and affordable housing benefits:

- (a) The Applicant shall provide affordable housing units in accordance with the following charts:

***Consolidated PUD***

Residential Unit Type	GFA & Percentage of Total	Units	Target Income	Affordable Control Period	Affordable Unit Type
Total	207,698 / 100%	167			
Market Rate	0	0			
IZ	N/A				
Affordable / Non IZ	151,401 / 73%	118	< = 50% AMI	Min. 40 years	Rental
Affordable / Non IZ	56,297 / 27%	49	< = 60% AMI	Min. 40 years	Rental

***First Stage PUD***

Residential Unit Type	GFA & Percentage of Total	Units	Target Income	Affordable Control Period	Affordable Unit Type
Total	461,414 / 100%	363			
Market Rate	0	0			
IZ	N/A				
Affordable / Non IZ	197,738 / 43%	172	< = 50% AMI	Min. 40 years	Rental
Affordable / Non IZ	123,400 / 27%	84	< = 60% AMI	Min. 40 years	Rental
Affordable / Non IZ	65,780 / 14%	65	< = 80% AMI	Min. 30 years	Rental
Affordable / Non IZ	74,496 / 16%	42	< = 120% AMI	First sale only. No price controls on subsequent sales.	For-Sale

- (b) The Consolidated PUD shall include four- and five-bedroom units;
    - (c) For each second-stage application for the development of the First Stage PUD, the Applicant shall include at least one of the following unit types: four-bedroom, five-bedroom, and six- bedroom units; and
    - (d) The monitoring and enforcement documents required by D.C. Official Code § 6-1041.05 (a)(2) (2012 Repl.) shall include a provision requiring compliance with this Condition.
2. **Prior to the issuance of a Building Permit for the Project**, the Applicant shall establish a meeting schedule with the Kenilworth Resident Council Board. The meeting schedule shall include meetings at least quarterly between the Applicant and the Kenilworth Resident Council Board beginning with the quarter the meeting schedule is established, and lasting until the redevelopment and relocation process is completed.

3. **Prior to the issuance of a Certificate of Occupancy for the Consolidated PUD**, the Applicant shall finalize a written tenant selection/screening plan for the Consolidated PUD that shall bar the establishment of any minimum work or service requirements, criminal background requirements, or credit or drug screening requirements more stringent than DCHA policy in order for Kenilworth residents to return to units supported by District or HUD subsidy.
4. **Prior to the issuance of a Certificate of Occupancy for the non-residential space in the Project**, the Applicant shall make best efforts to work with potential grocers, food coops, or other fresh food distributors to make the 4,500 square feet of non-residential space in the Project available for a fresh food distribution use.
5. **Commencing with the issuance of a Certificate of Occupancy for the first building in Phase 1 and continuing service up until the issuance of a Certificate of Occupancy for the first building in Phase 2**, the Applicant shall provide a van loop service from the Project to both the Deanwood and the Kenilworth Recreation Center. The Applicant shall provide loop service from the Project to the Deanwood and Kenilworth facilities four times per weekday, in the morning hours and after school.
6. **Prior to the issuance of a Building Permit for each multi-family building**, the Applicant shall include an appropriate checklist with the building permit application for each multifamily building indicating that the building has been designed to meet the Enterprise Green Communities standards.
7. **Prior to the issuance of a Building Permit for the first building in the Consolidated PUD**, the Applicant shall submit to the Zoning Administrator at the Department of Consumer and Regulatory Affairs a fully executed First Source Employment Agreement between the Applicant and the D.C. Department of Employment Services. DCHA's Office of Resident Services will establish a committee composed of Kenilworth residents to facilitate Kenilworth residents' access to the job opportunities and to promote job readiness and will monitor § 3 compliance.

**C. TRAFFIC MITIGATION**

1. The Applicant shall construct new streets and sidewalks as shown on the Plans and the Applicant's PowerPoint presentation in accordance with DDOT standards and subject to DDOT approval; (Ex. 45A1-45A2.)
2. The PUD shall provide a total of approximately 304 vehicular parking spaces within the PUD Site, and a total of 263 bicycle parking spaces;
3. **For the life of the Project**, the Applicant shall implement the following TDM measures;

- (a) Designate a TDM coordinator (“TDM Leader”) responsible for implementing the TDM plan;
  - (b) Unbundle the parking costs in the multi-family buildings from the lease/rent and price at market rate;
  - (c) Provide each new age-eligible resident with a one-time Capital Bikeshare membership for the initial three years of their residency;
  - (d) Work with DDOT and Capital Bikeshare as to the feasibility of locating a new bike-share station within or adjacent to the Project;
  - (e) SmartTrip Registration: Upon move in, provide every household with a one-time SmartTrip card and one initial pass with \$50 credit on the entire Metro system and instructions on how to load value onto the card and account;
  - (f) Car-share membership: Offer each new resident a membership with both a traditional and point-to-point car-share program of their choice;
  - (g) Work with ZipCar or other car-share companies to locate vehicle in the multi-family building garage or on-street;
  - (h) Install a Transit Screen or a similar product in the Phase I multi-family building lobbies;.
  - (i) Provide a Welcome Package to all households outlining the information available on the various commute options and transportation programs for residents; and
  - (j) Work with goDCgo to coordinate social events and friendly challenges to continuously raise the awareness of the available transportation options among Project residents and broaden the education of the surrounding community.
4. The Applicant shall provide a bike repair station in the Consolidated PUD and later phases where secure bike parking is provided.
  5. **Prior to the sale of the for sale townhouses**, the Applicant shall provide the infrastructure necessary for car charging stations in those townhouses, which shall include a conduit and an adequate size house panel to support a charging station.
  6. **For the life of the Project**, the Applicant shall abide by the following loading management plan requirements:
    - (a) The Applicant shall ensure that all tenants are required to schedule deliveries that utilize the loading dock – defined here as any loading

operation conducted using a truck 20 feet in length or larger. If a restaurant or food store is included as a retail tenant, the tenant shall designate its own loading manager to coordinate with the building's dock manager;

- (b) The dock manager shall schedule deliveries in such a way that the deliveries do not exceed the dock's capacity. In the event that an unscheduled delivery vehicle arrives while the dock is full, that driver shall be directed to return at a later time when a berth will be available so as to not impede the alley that passes in front of the loading dock;
- (c) The dock manager shall monitor inbound and outbound truck maneuvers and shall ensure that trucks accessing the loading dock do not block vehicular traffic from accessing the alley or adjacent parking except during those times when a truck is actively entering or exiting a loading berth;
- (d) The loading dock shall be open seven days a week. The potential overlap of service vehicle traffic with residential traffic shall be monitored at all times and management measures shall be taken if necessary to reduce conflicts between truck, vehicular, and pedestrian movements;
- (e) Trucks using the loading dock shall not be allowed to idle and must follow all District guidelines for heavy vehicle operation including but not limited to DCMR 20 - Chapter 9, Section 900 (Engine Idling), the regulations set forth in DDOT's Freight Management and Commercial Vehicle Operations document, and the primary access routes listed in the DDOT Truck and Bus Route System;
- (f) The dock manager shall be responsible for disseminating suggested truck routing maps to the building's tenants and to drivers from delivery services that frequently utilize the loading dock. The dock manager shall also distribute flyers and other written materials such as DDOT's Freight Management and Commercial Vehicle Operations document to drivers, as needed, to encourage compliance with idling laws. The dock manager shall also post these documents in a prominent location within the service area;
- (g) The Applicant shall coordinate with the community quarterly to discuss any specific issues regarding the loading dock and/or loading operations; and
- (h) The Applicant shall coordinate with bicycle access to the building via the alley. The bicycle access must remain available at all times and not blocked by delivery vehicles.


**D. MISCELLANEOUS**


1. No building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia that is satisfactory to the Office of the Attorney General and the Zoning Division, Department of Consumer and Regulatory Affairs. Such covenant shall bind the Applicant and all successors in title to construct and use the PUD 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 the Office of Zoning.
2. The Consolidated PUD shall be valid for a period of two years from the effective date of this Order. Within such time, an application must be filed for a building permit for the Consolidated PUD. Construction of the Consolidated PUD must begin within three years of the effective date of this Order.
3. Pursuant to § 2407.10 of the Zoning Regulations, the Commission is specifying a longer period than one year for the First Stage PUD, which shall be valid for a period of three years from the effective date of this Order, provided that a second-stage application for Phase 2 shall be filed within two years of the effective date of this Order.
4. 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.

October 17, 2016, upon the motion of Vice Chairman Miller, as seconded by Commissioner May, the Zoning Commission took **PROPOSED ACTION** to **APPROVE** the Application at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, and Peter G. May to approve; Michael G. Turnbull to approve by absentee ballot; Third Mayoral Appointee position vacant, not voting).

On December 12, 2016, upon the motion of Chairman Hood, as seconded by Vice Chairman Miller, the Zoning Commission took **FINAL ACTION** to **APPROVE** the Application at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull too approve; Peter Shapiro, not present, not voting).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the D. C. *Register*; that is on January 20, 2017.

  
\_\_\_\_\_  
**ANTHONY J. HOOD**  
**CHAIRMAN**  
**ZONING COMMISSION**

  
\_\_\_\_\_  
**SARA A. BARDIN**  
**DIRECTOR**  
**OFFICE OF ZONING**