

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 14-18A
Z.C. Case No. 14-18A

**Second-Stage Approval for a Planned Unit Development and
Modification of an Approved First-Stage Planned Unit Development
Application of Mid-City Financial Corporation
(Square 3953, Lots 1-3)**

[Date of Final Action], 2017

Pursuant to notice, the Zoning Commission for the District of Columbia (“**Commission**”) held public hearings on February 23 and March 16, 2017 to consider an application from Mid-City Financial Corporation (the “**Applicant**”) for second-stage approval of a planned unit development and modification of an approved first-stage planned unit development (collectively, a “**PUD**”). The Zoning Commission considered the application pursuant to Title 11 of the District of Columbia Municipal Regulations (“**Zoning Regulations**”), Subtitles X and Z. The public hearing was conducted in accordance with the provisions of Chapter 4 of Subtitle Z of the Zoning Regulations. For the reasons stated below, the Zoning Commission hereby **approves** the application.

FINDINGS OF FACT

PUD History and Application

1. The property that is the subject of this PUD includes Lots 1-3 in Square 3953 (the “**Property**” or “**Block 7**”) of the Brookland Manor apartment complex in the Brentwood neighborhood of Ward 5. Exhibit (“**Exh.**”) 1H. The Property is a contiguous block bounded by Saratoga Avenue, NE to the north, 14th Street, NE to the east, a 16-foot wide public alley to the south, and Brentwood Road, NE to the west. *Id.* The Property is approximately 111,807 square feet (2.62 acres) in area. Exh. 24E at G07. The Applicant proposes to redevelop Block 7 with: (i) a four-story apartment building containing approximately 131 units with associated ground floor level amenity space and 68 below-grade parking spaces (“**Building A**”), and (ii) a four-story residential building containing approximately 200 seniors-only independent living units with associated ground floor level amenity space and 48 below-grade parking spaces (“**Building B**” and together with Building A, the “**Project**”). *Id.*

2. In an order effective as of November 6, 2015, this Commission approved the first-stage Planned Unit Development application of the Applicant and related parties in Zoning Commission Order No. 14-18A (the “**First-Stage Order**”), the first-stage order to which the Application for a second-stage PUD succeeds. Exh. 1F.

3. On August 4, 2016, the Applicant delivered a notice of its intent to file a zoning application to all owners of property within 200 feet of the perimeter of the Property as well as to Advisory Neighborhood Commission (“ANC”) 5B and 5C. Exh. 1C. The Applicant filed the Application for this PUD on September 22, 2016, Exh. 2, and the Application was accepted as complete by the Office of Zoning on September 28, 2016. Exh. 4. The Applicant certified the Application satisfied the PUD filing requirements. Exhs. 1D and 12C. The Office of Zoning referred the Application to the ANCs, the Councilmember for Ward 5, and the District Office of Planning (“OP”), and notice of the filing of the Application was published in the *D.C. Register*. Exh. 5-9. The notice mailed to ANC 5C was returned as undeliverable. Exh. 11.

4. On November 4, 2016, OP delivered a report (the “**OP Setdown Report**”) on the Application recommending that this Commission set it down for public hearing and requesting additional information from the Applicant. Exh. 10.

5. At a public meeting on November 14, 2016 (“**Setdown**”), OP presented the OP Setdown Report. November 14, 2016 Transcript (“**Tr. 1**”) of the Zoning Commission Regular Public Meeting at 39-41. At that time, this Commission requested additional information from the Applicant. The Commission confirmed that ANC 5C received actual notice of the Application. *Id.* at 45.

6. On December 8, 2016, the Applicant filed its pre-hearing statement (“**PHS**”), which included updated plans and information in response to the requests from OP and this Commission. Exh. 12. On January 24, 2017, the Applicant filed an initial comprehensive transportation review for the Project, which review was supplemented by that certain technical memorandum dated February 10, 2017 (collectively, the “**CTR**”). Exh. 19-20, 40 at 15.

7. Notice of the public hearing for Z.C. Case No. 14-18A was published in the *D.C. Register* on December 30, 2016 (64 *D.C. Reg.* 65395) and was mailed to the ANC and to owners of property within 200 feet of the Property. Exh. 14-16. On January 13, 2017, the Applicant posted notice of the public hearing at the Property. Exh. 17. On February 17, 2017, the Applicant filed an affidavit describing the maintenance of such posted notice. Exh. 62.

8. OP requested comments on the Project from District agencies and received comments from the District Department of Energy and the Environment (“**DOEE**”), the District Department of Transportation (“**DDOT**”), DC Water, the Department of Housing and Community Development (“**DHCD**”), and the Fire and Emergency Medical Services Department (“**FEMS**”). Exh. 34 at 16. DOEE and DDOT provided written comments separately. *Id.*

9. On February 3, 2017, the Applicant filed a supplemental statement (“**20-Day Statement**”) providing additional information requested from OP, attaching letters in support, and providing an updated set of architectural plans, drawings, and renderings. Exh. 24.

10. Prior to the public hearing, OP, DOEE, DDOT, and the Urban Forestry Administration (“**UFA**”) each submitted a final report (respectively, the “**OP Final Report**”),

“DOEE Report”, “DDOT Report”, and “UFA Report”). Exh. 33-35, 40-41. DDOT requested, and this Commission granted, a waiver from the requirement that DDOT file its report ten days before the public hearing. Exh. 35.

11. The ANCs are automatically a party to this proceeding. 11-Z DCMR § 403.5(b). Neither ANC filed a report on this Application.

12. On February 9, 2017, the Brookland Manor/Brentwood Village Residents Association (the “**Association**”) filed a request for party status in opposition to the Application. Exh. 30. No other requests for party status were filed.

13. On February 16, 2017, the Applicant filed a response to the Association’s request for party status and objected to the scope of the Association’s proposed testimony. Exh. 38.

14. On February 23, 2017 this Commission conducted a public hearing on the Application, and the public hearing was held in accordance with Subtitle Z of the Zoning Regulations. February 23, 2017 Transcript (“**Tr. 2**”) of the Zoning Commission Public Hearing Case No. 14-18A at 3. On behalf of the Applicant, the Commission accepted Sarah Alexander, a Ward 5 resident, as an expert in architecture and Rob Schiesel as an expert in traffic engineering. Tr. 2 at 5-6, 20.

15. As a preliminary matter prior to the Applicant’s testimony, this Commission voted to grant the Association party status and discussed the appropriate scope for the Association’s testimony. *Id.* at 7-12. This Commission requested that the Association’s presentation focus on the Application, but the Commission noted that persons or organizations providing testimony in opposition to the Project would not have their testimony limited. *Id.* at 11. This Commission denied the Applicant’s request to limit the Association’s testimony. *Id.* at 12.

16. At the hearing, the Applicant provided testimony from Ms. Alexander and Mr. Schiesel. Tr. 2 at 20-35. ANC 5C and the Association each cross-examined the Applicant’s testimony. Tr. 2 at 58-89.

17. OP presented its report at the hearing. Tr. 2 at 90-92. DDOT rested on the record. *Id.* at 93. The Association cross-examined OP. *Id.* at 93-98.

18. At the hearing, twelve persons or organizations spoke in support of the Application. Tr. 2 at 100-26. Neither the ANC nor the Association cross-examined those speaking in support of the Application. *Id.* at 126.

19. At the February 23 hearing, the Association presented its testimony. Tr. 2 at 129-64. The Applicant did not cross-examine the Association. *Id.* at 164. The ANC did cross-examine the Association. *Id.* at 164-66.

20. One person spoke in opposition to the Application at the February 23 hearing, which was continued to March 16, 2017. *Id.* at 166-75. On March 16, 2017 this Commission resumed the public hearing on the Application to hear opposition testimony. March 16, 2017

Transcript (“**Tr. 3**”) of the Zoning Commission Public Hearing Case No. 14-18A at 3. Neither the Applicant nor the ANC cross-examined any persons or organizations peaking in opposition to the Application. *Id.* Prior to his participation in the March 16 hearing, Commissioner Shapiro reviewed the entire record. Commissioner Shapiro confirmed he had reviewed the entire record prior to his involvement in the March 16 hearing. April 24, 2017 Transcript (“**Tr. 4**”) of the Zoning Commission Regular Public Meeting at [__].

21. Opposition testimony was heard at the March 16 hearing. Tr. 3 at 3. At the conclusion of the opposition testimony on March 16, the Applicant provided closing remarks. *Id.* at 134. Upon conclusion of the Applicant’s closing statement, this Commission closed the record with the exception of items requested from the Applicant, the ANC, and the Association.

22. On April 10, 2017, the Applicant filed a written post-hearing submission (“**Post-Hearing Submission**”) in response to items requested by this Commission, Exh. [__] and a draft order. Exh. [__]. On April 17, the ANC and Association filed [_____]. Exh. [__]. On April [__], 2017, the Applicant provided its list of final proffers and draft conditions pursuant to Subtitle X, Section 308.8. Exh. [__]. On May [__], 2017 the Applicant filed its revised list of proffers and conditions pursuant to Section 308.12. Exh. [__]. This Commission finds that all of the Applicant’s filings and testimony were credible and thorough.

23. [The proposed action of this Commission was not referred to the National Capital Planning Commission pursuant to Subtitle Z, Section 603.1.]

24. On May [__], 2017, this Commission took final action to approve the Application.

First-Stage Order and the RIA Development

25. This Application is the first of what the Applicant anticipates will be at least four second-stage PUD applications arising out of the First-Stage Order. Exh. 1 at 6. The First-Stage Order established the framework for the comprehensive redevelopment of the Brookland Manor apartment complex and the adjacent Brentwood Village Shopping Center (collectively, the “**RIA Site**”). *Id.*

26. The RIA Site is located at the intersection of Rhode Island Avenue, NE and Montana Avenue, NE and is generally bounded by Rhode Island Avenue, NE to the north, Montana Avenue, NE to the east, Downing Street, NE/14th Street, NE/Saratoga Avenue, NE to the south, and Brentwood Road, NE to the west.¹ Exh. 1F, Findings of Fact (“**FF**”) ¶ 1. The RIA Site was previously zoned C-2-A and R-5-A. *Id.*

27. The RIA Site consists of approximately 20 acres and includes the Brookland Manor apartment complex and the recently-demolished Brentwood Village Shopping Center. *Id.*; Exh. [Post-Hearing Submission] at 12. The sprawling Brookland Manor apartment complex

¹ The RIA Site includes Square 3953, Lots 1-3; Square 3954, Lots 1-5 and Parcel 143/45; Square 4024, Lots 1-4; and Square 4025, Lots 1-7.

currently includes nineteen garden apartment buildings, ranging in height from 2-4 stories, and is spread over approximately 18 acres of land. Exh. 1 at 6. The 535-unit apartment complex was built as a planned community as part of the Garden City movement of the 1930-1940's. *Id.*

28. The First-Stage Order approved a total of approximately 1,760 residential units and approximately 181,000 square feet of new retail and commercial development for the RIA Site. Exh. 1F, FF ¶ 10. For context, Blocks 1, 2, and 3 of the RIA Site will be improved with mixed-use buildings with retail and apartment uses. *Id.* at 29-40. The maximum height of these buildings will be 65 feet, and each block is proposed to have a maximum floor area ratio (“**FAR**”) of 3.0. *Id.* Blocks 5 and 6 of the RIA Site do not include ground-floor retail uses. *Id.* Blocks 5 and 6 will include 60 foot tall multi-family residential buildings, with a maximum FAR of 3.0. *Id.* Blocks 4 and 7 will include a mix of apartments, row houses, and flats with maximum heights of 60 feet and a maximum FAR of 3.0. *Id.* Block 8 will include 48 sixteen-foot wide townhouses. *Id.* The total FAR of the redevelopment will be 2.8. *Id.*

29. Although the existing apartment buildings are meticulously maintained and the grounds are kept free of trash and litter, the existing apartment buildings and adjacent former strip shopping center lot suffer from three broad sets of problems that necessitate demolishing the entire complex and redeveloping the entire RIA Site anew. Exh. 1 at 6.

(a) The existing apartment buildings are now approximately 80 years old and have significant engineering and design features that cannot be easily addressed or fixed. *Id.* The low-quality buildings comprising the shopping center similarly came to the end of their useful existence and were demolished in early 2017. *Id.*; Exh. [Post-Hearing Submission] at 12.

(b) The urban design of the apartment buildings and adjacent public streets and public spaces is obsolete and exacerbate problems of crime and loitering that plague the neighborhood. That is, although ample green space surrounds the nineteen apartment buildings, this green space is highly undefined, creates numerous blind corners and darkened recesses in the buildings, and lacks clear understanding as to ownership or utility. Consequently, these open spaces do not provide the existing residents or their guests with a sense of safety, and there is no readily identifiable “defensible space” in the complex. Furthermore, the existing street configuration does not allow for safe and efficient pedestrian and vehicular access through the property. Internal streets lead to dead ends and do not connect with the surrounding neighborhood. From a contemporary urban design perspective, these buildings do not provide strong edges along the adjacent streets. Likewise, the adjacent Brentwood Village Shopping Center had become obsolete. It was designed for automobiles rather than pedestrians and no longer provided quality retail or services that support the needs of the nearby residents. Exh. 1 at 6-7.

(c) The apartment complex includes an intense concentration of low income residents with only a small number of market rate tenants amongst the existing residential units. Such concentration of poverty is widely regarded as perpetuating cycles of poverty. Other projects that have deconcentrated low income housing in the District and

elsewhere have been celebrated successes for interrupting the self-reinforcing nature of poverty and crime. *Id.*

30. The First-Stage Order identified six interrelated objectives to address the three problems identified above. The initial application sought to (i) preserve on a greater than one-for-one basis the number of affordable units currently in the Brookland Manor apartment complex, (ii) create a truly mixed-income community with a wide variety of housing types and sizes, (iii) rectify decades-old urban design mistakes by creating a safer, more inviting and more attractive project that better connects to the surrounding community, (iv) prioritize pedestrian activity and communal and usable green spaces, (v) introduce enhanced retail opportunities including a full-service grocery store, and (vi) be a project representative of community and tenant input and dialogue. *Id.* at 7.

31. The instant Application represents the first phase in what will be a multi-year effort to implement these goals and realize the vision of redeveloping the RIA Site. *Id.* at 8.

Block 7

32. The Property is located in Ward 5 in the Northeast quadrant of DC, and consists of an elongated block located along the southern border of the RIA Site. The Property is bounded by Saratoga Avenue, NE to the north, 14th Street, NE to the east, Brentwood Road, NE to the west, and a public alley to the south. Exh. 1G. Immediately north and east of the Property opposite Saratoga Avenue, NE and 14th Street, NE, respectively, are other apartment buildings that are part of Brookland Manor and that will be redeveloped during later phases pursuant to subsequent second-stage PUD applications under the First-Stage Order. Exh. 1 at 8. West of the Property across Brentwood Road, NE is the Israel Baptist Church. *Id.* South of the Property are two- and three-story apartment buildings fronting on Bryant Street, NE and Downing Street, NE and separated from the Property by an existing 16-foot wide public alley (to be expanded to 20 feet as part of the Project). *Id.*

33. Three apartment buildings owned by the Applicant and containing 64 total units occupied the Property on the date this Application was filed. *Id.* The buildings are generally vacant, and all but one of the residents of these three existing buildings have already been relocated to appropriate and comparable units elsewhere in Brookland Manor. Exh. [Post-Hearing Submission]A. The one remaining resident will be relocated, at the Applicant's expense, prior to commencement of construction of the Project. *Id.*

34. Residential uses, including the other apartments comprising Brookland Manor and lower density apartment buildings and single-family rowhouses, make up the neighborhoods immediately to the north, south, and east of the Property. Exh. 1 at 15.

35. The Property has excellent transit and vehicular access, with a Metrorail station and nearly a dozen Metrobus routes in operation nearby. *Id.* Rhode Island and New York Avenues, NE are both just a couple of blocks from the RIA Site and afford easy access to downtown DC and regional highways. *Id.*

36. A future phase of redevelopment of the RIA Site will entail developing the proposed green space at the heart of the RIA Site (the “**Community Green**”) immediately adjacent to the Property; no work on the Green is proposed in the instant Application. *Id.*

37. Pursuant to the First-Stage Order, the Property was approved to be rezoned to the R-5-B Zone District, which is now the RA-2 zone under the Zoning Regulations. *Id.* at 9.

The Project

38. The Project includes (i) Building A, a four-story apartment building containing approximately 131 mixed-income units with associated ground floor level amenity space and 68 below-grade parking spaces, and (ii) Building B, a four-story residential building containing approximately 200 senior-only independent living units with associated ground floor level amenity space and 48 below-grade parking spaces. Exh. 24E at G07. Building A has 169,342 square feet of gross floor area (“**GFA**”), a maximum height of 49 feet 4 inches, and an FAR of 2.97. *Id.* Building B has 172,266 square feet of GFA, a maximum height of 51 feet, and an FAR of 3.0. *Id.* Block 7 has a total FAR of 2.98 and contains 341,608 square feet of GFA, all of which is devoted to residential uses. Exh. 1 at 9, 17. Building A has a lot occupancy of 70 percent and Building B has a lot occupancy of 73 percent. *Id.* at 20. The lot occupancy of each building exceeds the maximum allowed occupancy under the approved zoning for the Property. *Id.* The Applicant therefore seeks relief from the lot occupancy requirements.

39. The rationale for the Project, as the first phase of the overall redevelopment under the First-Stage Order, is to construct (i) a mixed-income multi-family building that can accommodate residents relocated during future phases and the overall redevelopment, and (ii) a senior independent living building, which was a top priority of tenants, community members, the ANCs, and OP as part of the approval of the First-Stage Order. *Id.* at 16.

40. A significant objective of the Project is the preservation of existing affordable housing units. As a result, the Project readily achieves—and greatly exceeds—the minimum number of affordable units that would be required under the Zoning Regulations. The Applicant intends to maintain its contract with the HUD through the Section 8 program, and will accordingly comply with the requirements thereunder and in the First-Stage Order with respect to the provision of affordable housing as part of the Project. Of the Project’s 331 units, the Applicant expects that approximately 265 (80.3 percent of the total) will be affordable upon completion of Block 7. *Id.* at 23-24.

41. The Project is anticipated to initially include a minimum of approximately 265 units (80 percent of the total units delivered as part of this phase) that will be deeply affordable and reserved for occupants eligible to receive Section 8 assistance through the project based contract with the Department of Housing and Urban Development (“**HUD**”) or through a District of Columbia Housing Authority (“**DCHA**”) Housing Choice Voucher (“**HCV**”). *Id.* All of the units (200) in Building B (the senior independent-living building) will be reserved for residents that that will be assisted by the project based and HCV Section 8 programs. Approximately 65 of the units in Building A will initially be reserved for other current residents of Brookland

Manor. The 65 replacement units in Building A will consist of 25 units that will be reserved as permanently affordable units and at least 40 “temporary” replacement units that will be used to house existing Brookland Manor residents. These temporary replacement units will be used to support the goals of the Applicant’s Tenant Relocation Plan, which includes keeping Brookland Manor residents on-site and minimizing the number of times that residents are required to move. Exh. 12. As the Applicant undertakes future phases of the overall redevelopment approved pursuant to the First-Stage Order, some affordable units in Building A may be reallocated to other buildings in the RIA development so that the ultimate affordability mix on Block 7 is less than it will be upon initial lease-up. *Id.* The Applicant noted that based on timing and phasing considerations for the entire project, it may be necessary to utilize all of Building A (131 units) as replacement housing for the first 8-13 years of occupancy of the building. Therefore, the Applicant requires flexibility as to the total number of temporary replacement units that will be included in the initial lease-up of Building A.

42. Building A contains a mix of studios and 1-, 2-, and 3-bedroom units. *Id.* at 20. The Building is proposed to include 3 studio units of approximately 500 square feet each; 60 1-bedroom/1-bath units ranging in size from 700 to 900 square feet; 50 2-bedroom/2-bath units ranging from 980 to 1,370 square feet; and 18 3-bedroom/2-bath units ranging from 1,180 to 1,400 square feet. Building B contains primarily 1-bedroom/1-bath units (192 total, ranging from 570 to 700 square feet) with 8 2-bedroom/2-bath units of approximately 850 square feet. The two Buildings have dedicated amenity space for resident and community events. *Id.* at 21.

43. Building B has 265 1-bedroom units and many programmatic features characteristic of a seniors-only independent living building and meets or exceeds the requirements of HUD’s Section 231 Mortgage Insurance for Rental Housing for the Elderly. Among these features, Building B contains: (i) a minimum of five percent (5%) fully accessible units, (ii) two percent (2%) hearing and vision accessible units, (iii) common areas, all of which are ADA-compliant; (iv) multiple elevators, major entrances, and communal laundry facilities on each floor, all designed to reduce walking distance for seniors; (v) first floor amenity space for health and wellbeing social service programming designed for seniors. *Id.*

44. Both Buildings contain segregated garage parking and separate at-grade loading. All vehicular entrances to parking and loading facilities are provided from the rear of the Property along the existing 16-foot wide public alley that will be improved as part of the Project to become 20 feet wide. Building A contains 68 parking spaces (in excess of the 44 required under the Zoning Regulations), and Building B contains 48 (in excess of the 33 required). Both Buildings contain a single loading berth and a single delivery berth, as required under the Zoning Regulations. *Id.* at 24.

45. Building A provides the requisite number of bicycle parking spaces (44 long-term and 7 short-term), but Building B provides only 22 long-term (plus the requisite 10 short-term spaces) bicycle parking spaces. Thus, Building B complies with the short-term bicycle parking requirements—spaces that are most likely to be used by employees or visitors to the Building—but not with the long-term parking requirements (58 such parking spaces are required), which are spaces most likely to be used by residents. The Applicant does not expect that demand for

bicycle parking will arise to the level of requiring full build-out of the requisite number of spaces for Building B's senior residents, and accordingly requests relief from these requirements. *Id.* at 24-25; Exh. 24.

46. In response to comments from the District of Columbia Metropolitan Police Department raised during the first-stage PUD process regarding public safety along the walkways and interior courtyards of the future RIA Site, the Project will include the installation of fencing in the courtyard area between the two Buildings to limit access to residents only. Exh. 1 at 23. From a broader urban design perspective, the two Buildings exemplify the "eyes on the street" philosophy with windows looking directly onto the public way. The design eliminates the currently existing "pockets" where individuals are not visible from the street and walkways. *Id.*

47. The Applicant intends to begin construction of the Project in the first quarter of 2018 and anticipates the Project will take approximately 18-20 months to build. *Id.* at 15.

Modifications to the First-Stage Order

48. The Project is consistent with the general parameters established for Block 7 in the First-Stage Order, but differs with respect to height, lot occupancy, building type, gross floor area, the location of the senior building, and the alley configuration. *Id.* at 25-26. In addition, the Project requires relief from the Zoning Regulations that was not contemplated in the First-Stage Order. *Id.* at 27. Therefore this Application includes a modification of the First-Stage Order.

49. The First-Stage Order described the approved plans for Block 7 as follows: "Block 7 is proposed to be rezoned to the R-5-A zone district. Twenty-eight two-over-two residential units are proposed along Brentwood Road, N.E. and Saratoga Avenue, N.E. A five-story building, with a height of approximately 60 feet, and approximately 217,332 square feet of space is also proposed along Saratoga Avenue, N.E. and will have frontage on the [Community Green]. This building is expected to include up to 286 units of housing, with a senior housing component that will consist of approximately 150-200 units. The total amount of density proposed on this Block is 3.0 FAR." Exh. 1F, FF ¶ 39.

50. The elements of the Project that differ from the First-Stage Order include:

- (a) Height. The Project is one story shorter than the maximum approved for Block 7 in the First-Stage Order. This Commission finds that this change accommodates a more harmonious transition between the Project and the existing multi-family buildings to the south of Block 7 and improves the Project's consistency with the Plan (as hereinafter defined) and reduces its impacts on the surrounding area.
- (b) Lot Occupancy. To compensate for the reduced height, the Project's lot occupancy is slightly greater than contemplated under the First-Stage Order. In light of the benefits created by reducing the Project's height, this Commission finds that the increase in lot area relative to the First-Stage Order is appropriate and necessary and does not create unacceptable impacts on the surrounding area

or impair the purposes or intent of the Zoning Regulations. The new Community Green will be located immediately north of Block 7, and as such will offset any concerns about the lot occupancy of the Property. In addition, the Applicant intends to comply with the stormwater and green area ratio requirements, so the change in lot occupancy does not create unacceptable environmental impacts.

- (c) Building Type and Gross Floor Area. The Project replaces with a single multi-family building the two-over-two building proposed in the First-Stage Order, and the number of units proposed for this Project and the total GFA exceeds the number of units and GFA contemplated for Phase I under the First-Stage Order.² This Commission finds that this modification reduces the impacts of the overall PUD by allowing the Applicant to construct a greater amount of replacement housing in this first phase of the overall redevelopment of the RIA Site in order to reduce resident inconvenience and provide the Applicant with greater flexibility in undertaking future relocation of existing tenants.³
- (d) Location of Senior Building. The location of the senior building and the two-over-two (now multi-family) building have been swapped to improve the relationship of the building massing to the Community Green while allowing for access to said Green from both buildings. This Commission finds that this modification is beneficial from an overall site design, has no unacceptable impacts, and is not inconsistent with the Plan.
- (e) Alley and Parking Modifications. The Project includes minor deviations from the previously proposed configuration of the alley separating the Project from its neighbors to the south and from the proposed parking on the block. A north-south alley through Block 7 shown in the plans for the First-Stage Order has been removed. These changes are a result of replacing the two-over-twos (which contemplated above-grade parking under the First-Stage Order) with a more traditional apartment building with below-grade parking. This Commission finds that these modifications have favorable impacts and render the Project more consistent with the Plan.

51. This Commission finds that these proposed modifications, though significant, are consistent with the overall massing, development envelope, policy objectives, character and appropriateness of the First-Stage Order. This Commission further finds that these design and

² The Applicant noted that one or more future phases of the RIA development will have fewer units and less GFA than previously contemplated in order to remain within the overall parameters approved under the First-Stage Order. Exh. 1 at 25.

³ In addition, because this first phase of RIA includes neither two-over-two units nor townhouses, the Project does not include any of the 11 townhouse or two-over-two “inclusionary units” (as such term is defined in the Zoning Regulations) contemplated pursuant to Decision Subparagraph B.1.a of the First-Stage Order. This modification does not relieve the Applicant from ensuring that the overall RIA Site provides, at all times including during and after construction of Block 7, the requisite aggregate number of affordable units to satisfy the other conditions of said Subparagraph B.1.

program alterations improve the overall quality of the community in this first phase of RIA as well as the relocation process for existing tenants. Indeed, the modifications will allow the overall redevelopment of the RIA Site to proceed in a more orderly way, will better advance the objectives of the Project approved by the First-Stage Order, and will better protect the interests of residents and neighbors. These modifications are not inconsistent with the Plan, have favorable impacts or impacts that are capable of being mitigated, and do not result in unacceptable impacts on the surrounding area or on the operation of District services and facilities.

52. The Applicant provided detailed information describing the Project's consistency with the Conditions of the First-Stage Order. Exh. 1 at 26-27. The Commission finds that the Project satisfies the applicable conditions of the First-Stage Order and is consistent with the specific proposal for Block 7 that this Commission approved in the First-Stage Order, as well as with the Findings and Conclusions of that Order more generally. The Applicant has submitted revised plans that replace those approved in the First-Stage Order for Block 7. Exhs. 24E, 101A, and Exh. [Post-Hearing Submission]F.

Relief and Flexibility Requested

53. The PUD process was created to allow greater flexibility in planning and design than is possible under strict application of the Zoning Regulations. Under Subtitle X, Sections 303.1, 303.11, and 303.13, the Zoning Commission retains discretion to grant flexibility with respect to development standards. As part of this Application, the Applicant requested the Zoning Commission grant flexibility with respect to the lot occupancy requirements for both Buildings A and B and the bicycle parking requirements for Building B (the senior independent living building). The Applicant initially requested, but subsequently withdrew, relief from the penthouse setback requirements on Building B. Exh. 1 at 28; Exh. 24.

- (a) Lot Occupancy. Under Subtitle F, Section 304.1 of the Zoning Regulations, the maximum lot occupancy is 60 percent for lots in the RA-2 zone, and the Project proposes to exceed that amount by 11 percent in the aggregate. Exh. 24E at G09b. Therefore, the Project requires flexibility from Subtitle F, Section 304.1. The requirement for this lot occupancy relief arises from the reduction in height relative to the maximum approved under the First-Stage Order. The Applicant submitted information demonstrating that the Project satisfied the variance standard with respect to the requested flexibility. Exh. 24A. The Applicant also demonstrated that the Project could proceed without relief at the permitted height of 60 feet, but that the lot occupancy relief became necessary at the lower proposed height. Exh. 24, 24E at G09b. This Commission's findings above in FF ¶ 50(b) are applicable with respect to this request for relief.
- (b) Long-Term Bicycle Parking Flexibility (Building B). Pursuant to Subtitle C, Section 802.1, long-term bicycle parking spaces must be provided at the rate of 1 space for each 3 dwelling units in a residential apartment, except that the rate is reduced to 1 space for each 6 units after the first 50 such spaces. The Zoning Regulations do not distinguish age-restricted units from unrestricted units for the

bicycle parking requirements. As the Applicant notes, the Zoning Regulations have a vehicle parking requirement that acknowledges that residents of seniors-only buildings are less likely to require car parking, but the bicycle parking requirement does not make this concession. *Id.* at 30. The Project includes a slightly higher number of vehicle parking spaces than bicycle parking spaces in Building B in anticipation of its senior residents being less likely than a general population of apartment-dwellers to require bicycle parking. For the 200 units in Building B, the Zoning Regulations would require 58 long-term parking spaces, but the Project proposes 22 such spaces. (Ten additional short-term bicycle parking spaces are provided at Building B.) As a result, Building B requires flexibility from the long-term bicycle parking requirements. This Commission finds that this relief is reasonable and warranted in this circumstance. The relief is not inconsistent with the Plan, given the amount of bicycle parking provided, and the relief will have no unacceptable impacts on surrounding areas or District services and facilities.

54. The Project requires minor flexibility from the lot occupancy requirements and reasonable relief from the long-term bicycle parking requirements in a seniors-only building. In return, the Project provides superior design, efficient usage of the Property, a substantial amount of affordable housing, and robust a package of additional benefits.

55. The requested relief satisfies the special exception standards of the Zoning Regulations.

- (a) The minimal flexibility requested results in a Project with a multitude of benefits and does so without adversely affecting neighboring properties or the community generally. Instead, the Project made possible by the requested flexibility will likely enhance such neighboring property by replacing the existing buildings with a well-designed and contextually appropriate redevelopment. Any effects on the neighboring properties from the request lot occupancy relief is significantly mitigated by the Buildings being less than the allowed maximum height and by the high-quality improvements in urban design and architecture, including breaking up the southern facades with five courtyards and also contributing land towards the widening of the alley to the south. The Project also significantly improves the pedestrian experience and urban design-related safety of Block 7 such that the lot occupancy relief is well-warranted.
- (b) The requested flexibility is generally in harmony with the purpose and intent of the Zoning Regulations and Zoning Maps even if not strictly in compliance with the technical specifications of the code. The Project still provides ample open space at the ground level in keeping with the general objectives of the lot occupancy requirements. When viewed in conjunction with the planned development of the Community Green that will be developed across Saratoga Avenue, NE, the minor flexibility in lot occupancy on Block 7 itself is generally in keeping with the purpose of the Zoning Regulations. The Project provides a

nonconforming number of bicycle parking spaces, however, this too is in keeping with the purpose and intent of the Zoning Regulations, which provide for fewer required vehicular spaces for senior apartment buildings.

56. The requested flexibility with respect to the bicycle parking is mitigated by the transit options proximate to the RIA Site, the expectation that Capital Bikeshare stations will be installed nearby as part of future phases of the redevelopment of the RIA Site, and the age-constrained demographics of the occupants of the building requiring such flexibility.

57. The Commission finds that, overall, the Project conforms to the Zoning Regulations, except for the few items of articulated relief set forth in the immediately foregoing paragraph. Where the Project requires zoning relief, the Commission finds that such relief is either minimal in nature or reasonable in light of the proposed uses and otherwise does not derogate or impair, but rather is in accordance with, the purposes or intent of the Zoning Regulations or Zoning Map.

58. The Applicant also requested flexibility to rebalance affordable units initially provided in Building A to other portions of the RIA Site upon completion of subsequent phases, with the objective of avoiding a permanent disproportional concentration of low income residents in particular buildings. This Commission finds that this requested flexibility is warranted in this instance because of the Project's public benefits and compliance with the PUD evaluation standards.

PUD Evaluation Standards

59. As set forth in Subtitle Z, Section 304 of the Zoning Regulations, the Commission must evaluate and grant or deny a PUD application according to the standards of such section. The Applicant has the burden of proof to justify the granting of the Application according to such standards. In deciding this PUD Application, the Commission has judged, balanced, and reconciled the relative value of the public benefits project and amenities offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case. As set forth in the immediately succeeding paragraphs, the Commission hereby issues findings that, subject to the Conditions of this Order, the Project:

- (a) Is not inconsistent with the Comprehensive Plan for the District of Columbia, 10-A DCMR § 100, *et seq.* (the “**Comprehensive Plan**”), and with other adopted public policies and active programs (collectively, the “**Plan**”) related to the Property and the RIA Site as a whole nor with the Zoning Regulations (including the PUD process set forth therein);
- (b) Does not result in unacceptable project impacts on the surrounding area or on the operation of District services and facilities but instead is either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the project; and

- (c) Includes specific public benefits and amenities, which are not inconsistent with the Plan with respect to the Property and the RIA Site as a whole.

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

60. For the following reasons, the Commission finds that, subject to the Conditions of this Order, the Project is not inconsistent with the Comprehensive Plan:

- (a) Future Land Use Map. The Future Land Use Map of the Comprehensive Plan designates the Property as appropriate for Moderate Density Residential use. The Moderate Density Residential designation defines neighborhoods where low-rise apartment buildings and other residential uses are to predominate. 10-A DCMR § 225.4. The Project includes residential uses only with a maximum of four floors. The Commission therefore finds that the Project is not inconsistent with the Future Land Use Map of the Comprehensive Plan.
- (b) Generalized Policy Map. The Generalized Policy Map of the Comprehensive Plan categorizes how different parts of the District may change between 2005 and 2025. The Project is located in the “Neighborhood Conservation Area.” The Commission takes notice that the Comprehensive Plan defines such Areas as generally having little amounts of vacant land but that some new development and reuse opportunities are anticipated. 10-A DCMR § 223.4. Moreover, “[t]he diversity of land uses and building types in these areas should be maintained and new development and alterations should be compatible with the existing scale and architectural character of each area.” *Id.* § 223.5. The Project is to be developed on what is effectively a vacant lot, so it is an infill project that avoids any displacement and that redevelops the lot in a manner and scale compatible with prior and surrounding uses and the architectural character of the surrounding area. The Commission therefore finds that the Project is not inconsistent with the Generalized Policy Map of the Comprehensive Plan.
- (c) District-Wide and Area Elements. As part of the First-Stage Order, this Commission found “that the testimony of the Applicant and OP that the proposed PUD project and rezoning of the [RIA Site] are not inconsistent with the Comprehensive Plan. This Commission has spent considerable time considering how its decisions are to be guided by the various maps, guidelines, policies, and elements that make up the Comprehensive Plan. This Commission has appropriately determined that the Comprehensive Plan provides it with a series of tools that help guide decisions regarding consistency with the Comprehensive Plan. The [Future Land Use Map], the [Generalized Policy Map], or specific elements and policies are not in and of themselves determinative of whether a project or proposed zone district is consistent with the Comprehensive Plan. Rather, the Commission looks at the Comprehensive Plan in its entirety. In this case, the Commission finds that the proposed PUD and related map amendment of the [RIA Site] to the C-2-A and R-5-B Zone Districts is appropriate given the

[Future Land Use Map] designation of the [RIA Site] and the project's satisfaction of numerous policies enumerated in the Comprehensive Plan. [This finding] is consistent with OP's recommendations to approve the project and the PUD-related Zoning Map amendment." Exh. 1F, FF ¶ 106. This Commission devoted twelve pages of the First-Stage Order to enumerating the myriad ways in which the first-stage application was consistent with the Comprehensive Plan. *See id.*, FF ¶¶ 53-62. Given the extensive findings in the record, and the clear conclusions of law in the First-Stage Order, and the consistency between the instant Project and the First-Stage Order, this Commission sees no reason to disturb its original findings. The Project is not inconsistent with the Comprehensive Plan.

61. This Commission separately makes findings regarding the Project's consistency with the Plan based on comments from the Association and persons and organizations in opposition. *See infra* FF ¶¶ 98(b), 99(o). Other than those specific policies of the Plan addressed below, neither the Applicant, the Association nor any person who provided testimony with respect to this Application presented any evidence of other adopted public policies or active programs related to the Property nor any claims of inconsistency therewith, and the Commission takes no notice thereof. Therefore, for the reasons set forth more fully below the Commission finds that the Project is not inconsistent with the Plan. *See id.*

62. This Application is also in compliance with and not inconsistent with the general intent and purpose of the Zoning Regulations. The general intent and purpose of the Zoning Regulations is, *inter alia*, to promote the "public health, safety, morals, convenience, order, prosperity, and general welfare." 11-A DCMR § 101.1. The Project exemplifies orderly, well-planned development that is undertaken on behalf of the best interests of the residents of the District with respect to the above-cited objectives. Additional findings addressing the Project's promotion of the zoning purposes are set forth below. *See* FF ¶¶ 64-67. The Project complies with all of the specific development standards set forth in the Zoning Regulations, except where flexibility is hereby requested, which flexibility is expressly contemplated as part of the PUD process.

63. The purpose of the PUD process is: "to provide for higher quality development through flexibility in building controls, including building height and density, provided that a PUD: (a) Results in a project superior to what would result from the matter-of-right standards; (b) Offers a commendable number or quality of meaningful public benefits; and (c) Protects and advances the public health, safety, welfare, and convenience, and is not inconsistent with the Comprehensive Plan." 11-X § 300.1. The Project achieves substantial public benefits in a manner far superior to a matter-of-right project. Exh. 1 at 48. These benefits simply would not occur but for this PUD, and there is a very real likelihood that none of the deeply affordable housing preserved by this Project would be so-preserved by a matter-of-right development. Tr. 2 at 111. For all of the reasons set forth herein, the Project advances these general purposes of the Zoning Regulations and the PUD process.

Project Impacts

64. For the following reasons, the Commission finds that, subject to the Conditions of this Order, the Project does not result in unacceptable project impacts on the surrounding area or on the operation of District services and facilities but instead is either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the Project.

- (a) Development Period Impacts on Residents and Neighbors.⁴ This Commission finds that the development period impacts for Block 7 on residents and neighbors and more generally are not unacceptable and are capable of being mitigated or acceptable given the quality of public benefits in the Project. The Applicant prepared a tenant relocation plan (“**Relocation Plan**”) and a construction management plan. Exh. 1G; Exh. [Post-Hearing Submission] at 2. The construction management plan was referenced in the First-Stage Order as Exh. 23E and is replaced with an updated Block 7-specific version in Exh. B of the Post-Hearing Statement. The Relocation Plan and construction management plan are thorough and reasonable plans to mitigate the Project’s development period impacts. This Commission finds that quality of public benefits in the Project are high and on balance outweigh the impacts on residents and the surrounding area.
- (b) Housing Impacts. This Commission finds that the Project’s housing impacts are not unacceptable but are instead favorable for the surrounding neighborhoods and the District as a whole because the Project helps address a housing shortage in a manner sympathetic to Brookland Manor residents. The Project delivers 200 units of much-needed affordable senior independent-living housing, which is a housing type of particular policy focus in the District. Exh. 1 at 32. The provision of such senior housing as part of the Project allows many existing residents of Brookland Manor to remain in the neighborhood and “age in place” in a community with a robust set of social programs, community activities, and strong public transit access. Exh. 1 at 33. In addition, the Project will provide approximately 131 additional units of mixed-income housing that facilitate future phases of development of the RIA Site. The immediate impact of the mixed-income units is that they will accommodate the relocation of existing Brookland Manor residents as future phases of the overall RIA Site redevelopment proceed. In the longer term, these units will help mitigate the overall housing shortage in the District as well as the need for affordable units and 3-bedroom units. Aside from facilitating future phases of RIA’s development, perhaps the most significant favorable housing impact of Building A over time is the development of a truly mixed-income building where residents of market-rate and affordable units share common spaces and amenities in the spirit of reversing some of the negative impacts of the concentrated poverty affecting Brookland Manor today. As a result,

⁴ Additional findings on the Project’s impact on existing residents of Brookland Manor are provided *infra* at FF ¶¶ 98-103.

the Project has an overall favorable impact on the surrounding area and the District as a whole from a housing perspective.

- (c) Land Use Impacts. The Commission finds that the Project's land use creates no unacceptable impacts on surrounding neighborhoods. The Project's mix of senior and multi-family uses are entirely appropriate in context given the existing uses on the Property and the nearby multi-family and commercial uses. Block 7 is surrounded exclusively by other multi-family or institutional uses. The nearest single-family uses are more than a block away, and the intervening, existing multi-family uses gently step down in density and height from Block 7 to those single-family streets. *Id.* at 33. Given the Project's proximity to Metrorail transit and the busy bus services along Rhode Island Avenue, NE, and given the overall approvals in the First-Stage Order for additional commercial activities on the RIA Site, the density on the Property has positive impacts on the surrounding neighborhoods. The Project helps transform the RIA community, and Brentwood generally, into more of a mixed-use, mixed-income, transit-oriented neighborhood. Accordingly, the overall land use impacts of the Project are not unacceptable and are either entirely favorable or acceptable given the quality of public benefits in the Project.
- (d) Design Impacts. The Project favorably improves upon the existing conditions with respect to the relationship between the buildings, open spaces, and the public realm. The current relationship between the Brookland Manor buildings and the surrounding open spaces and public realm is a source of considerable concern from a public safety perspective. The existing buildings and open spaces form partially-enclosed and semi-obscured areas that create uncomfortable conditions for pedestrians and facilitate illicit outdoor activities. The existing buildings are not strongly oriented toward the street, and as a result, create irregularly shaped open spaces and numerous blind corners and darkened recesses. There is no clear understanding as to the ownership or utility of these open spaces. The Project greatly improves upon these conditions by being oriented along the surrounding streets with definite edges and an unambiguous expression of control over green spaces. The Project's edges are highly designed and integrated into the Buildings' overall function. The proposed courtyards fall into a clear taxonomy, courtyards to the rear of the Buildings are generally private and function as "outdoor rooms." Courtyards to the front of the Buildings serve practical purposes rather than as amorphous in-between spaces. In addition, the Project facilitates the development of future phases of RIA, including the development of the Community Green (which, unlike Brookland Manor's existing green spaces, will become the type of inviting passive recreation area needed in the Brentwood neighborhood), so the Project will have a significantly favorable impact on open space in the neighborhood. This Commission finds that the Project's impact from an open space, urban design, and massing perspective is entirely favorable and not at all unacceptable.

- (e) Land Value Impact. The Applicant commissioned a report to analyze whether the development of Block 7 would result in the destabilization of land values near the Property. Exh. [Post-Hearing Submission]D (“**RCLCO Report**”). The Commission finds the RCLCO Report uses a sound methodology provides substantial evidence that the Project will not have any unacceptable impacts on surrounding land values or economic conditions but instead will have largely favorable impacts. The RCLCO Report concludes that “Overall, not only will RIA not add in any significant way to the gentrification that has already been occurring in the surrounding neighborhoods, it will in fact mitigate many of the negative impacts of gentrification and deliver many positive impacts. The [overall RIA] project will provide a significant increase in the total number of housing units, which will help to correct the imbalance between housing demand and supply; support a significant number of jobs at all income levels; provide neighborhood-serving grocery and other retail; and retain very deeply subsidized affordable housing on a significant scale that would otherwise likely be lost if the site were redeveloped by another owner. These are exactly the types of benefits that are vital to offsetting the negative impacts of gentrification.” *Id.* The initiation of development activities at Brookland Manor coincide with a reduction in crime within 1000 feet of the community. Exh. [Post-Hearing Submission]E. The Commission credits the Applicant’s removal of the Brentwood Village Shopping Center, increased neighborhood and property social programing, increased security presence, and greater partnership between the Applicant and MPD to improve safety in and around the property as having a favorable impact on the surrounding area, an impact that is highly likely to continue as the Project proceeds.
- (f) Environmental Impact. The Commission finds the Project’s environmental impacts either acceptable or capable of being mitigated. The Project is designed so as to minimize any adverse environmental impacts that would otherwise result from the construction of this Project. The Project has been designed to achieve high levels of on-site stormwater retention. *Id.* at 38. The proposed bio-retention basin planters, green roofs, and permeable pavement are designed to meet or exceed DOEE stormwater management retention and detention requirements, and the requisite inlets and closed pipe system will be designed and constructed in compliance with the standards set by DOEE, DC Water, and DDOT. *Id.* The Project will be constructed in full compliance with the District’s Building Code. *Id.* at 39. Conformance to code standards will minimize the amounts of energy needed for the heat, ventilation, hot water, electrical distribution, and lighting systems contained in the building. *Id.* The Project will achieve an environmentally sustainable design as evidenced by its compliance with the Green Communities program. Exh. 12A at G13. The RIA Site overall will achieve a LEED-ND (Leadership in Energy and Environmental Design for Neighborhood Developments) level of Silver. Exh. 12.

- (g) Services and Facilities Impact. The Commission finds that the Project will have an acceptable impact on the District's services and facilities given the quality of the Project's and the RIA Site's overall public benefits. The Project's increased demand on water and sanitary services can be met by the existing District water system. Exh. 1 at 38. Solid waste and recycling materials generated by the Project will be collected regularly by a private trash collection contractor. *Id.* The Project is highly unlikely to have an unacceptable impact on schools in the District given the size of the Project, its mix and type of units, and the capacity for the District's nearby schools to take on additional students because the Project is expected to be occupied primarily by seniors and existing residents of Brookland Manor. *Id.* at 39. As a result, there is unlikely to be a material net new impact on the District's school system.
- (h) Transportation Impact. The Commission finds that this Project's transportation impacts are not unacceptable and are capable of being mitigated subject to the Conditions of this Order. The Applicant has prepared a robust transportation demand management ("TDM") in concert with review and analysis by DDOT. Exh. 20. The proposed Project will not have an adverse impact on the public transportation facilities or roadways that it will rely on for service. The Project's vehicular traffic impacts are strongly mitigated by its transit options, and the Project achieves the right balance of mobility. The Property is well-served by transit and vehicular infrastructure, and the Project's relatively small scale will not introduce adverse impacts on either system. The Project contains adequate vehicular and bicycle parking, and such parking has been well-integrated into the design of the Project. The Project makes reasonable accommodations for those who choose to or must drive without interfering with the parking supply of neighboring residents. The Project provides sufficient new off-street parking to serve new residents, but not so much parking as to induce unnecessary driving. The Project's physical form—no new curb cuts, new construction facing the street, on-street parallel parking, a tree-lined streetscape—mitigates traffic impacts by promoting and encouraging active mobility over driving. Improvements to the alley as part of the Project allow the Project to prioritize pedestrian access along each of the main streets surrounding Block 7 and to create a permeable boundary between the Project and the Community Green. The Project has a robust TDM package. Taken together, the Project's transportation elements are sufficient mitigation for the Project's impacts.

65. The Commission finds that the Project's impacts will improve upon, and not injure, the public health, safety, welfare and convenience, especially in light of the Project's public benefits address herein.

Public Benefits

66. The objective of the PUD process is to encourage high-quality development that provides public benefits and amenities by allowing greater flexibility in planning and design than

may be possible under matter-of-right zoning. The Project achieves the goals of the PUD process by creating a high quality residential project with significant housing opportunities and furthering the objectives of the First-Stage Order, with its many benefits and amenities. The Commission finds that, subject to the Conditions of this Order, the Project includes the following specific public benefits and amenities, which are not inconsistent with the Plan with respect to the Property and the RIA Site as a whole:

- (a) Urban Design, Architecture, and Landscaping. This Commission finds that the Project's urban design, architecture, and landscaping are superior public benefits. The Project incorporates numerous urban design precepts that guide attractive urban design in the District and that represent significant improvements over the existing aesthetic and functional conditions of the existing buildings on the Property. This Commission judges the following elements indicative of superior design and architecture: the two Buildings' strong orientation to the surrounding streets, the prioritization of pedestrians over vehicles, the thoughtful site planning as part of the integrated redevelopment of the RIA Site, the use of open courtyards along the alley to the south, and the high quality of design, materials, and finishes. The Project's superior architecture establishes a baseline for future phases of the RIA Site's redevelopment and helps re-calibrate expectations about the quality of design and architecture for future development nearby.
- (b) Site Planning. The Project's site plan is another superior benefit of the Project. The benefits of the Project's site plan and efficient land utilization are captured in the Project's overall density and absolute number of new residential units provided. At an FAR of just under 3.0, the proposed density is appropriate for the Property given the proximity to transit options while not overbearing the lower density residential neighborhoods to the north, south, and east of the RIA Site. Given the considerable economic development opportunities emerging along Rhode Island Avenue, NE and in Northeast DC generally, the transportation options, and the services and stores to become available as a result of the redevelopment of the RIA Site, preserving and replacing a significant number of deeply affordable residential units at this location is a benefit of the Project. Exh. 1 at 42. Moreover, the Project represents efficient and thoughtful site planning in the context of the Applicant's plans for the RIA Site generally. The Project is an opportunity to establish a dedicated building for Brookland Manor's senior residents and to provide flexibility to allow other Brookland Manor residents to be relocated to a new building on site during future phases of construction. This Commission finds that taken together these attributes of the Project are reflective of superior site planning and economical and efficient land use.
- (c) Housing and Affordable Housing. The Commission finds that the Project provides housing and affordable housing in excess of the amount possible under a matter-of-right development. The Project provides approximately 331 new residential units (a net of 267 new units), a minimum of 265 of which will be affordable

immediately upon completion. The Project's housing and affordable housing are a superior public benefit for the following reasons:

- The District faces a shortage of virtually every kind of housing product, but the need for additional affordable housing in established neighborhoods, affordable senior housing, and affordable housing near transit is particularly severe. The Project makes a significant contribution of new affordable units on a site that is transit-accessible and well-positioned to take advantage of economic opportunities that emerge in the Brentwood neighborhood in the future.
- The housing proposed as part of the Project exceeds the amount possible through a matter-of-right redevelopment pursuant to the applicable limits in the underlying zone (i.e., the RA-1 zone) by approximately 217,965 square feet.
- The affordable housing proposed substantially exceeds the amount that would be required under the Inclusionary Zoning provisions of the Zoning Regulations.
- The Project will simultaneously modernize and preserve a significant amount of affordable housing reserved for households eligible to participate in HUD's Section 8 program.
- The Project's proffer of affordable housing is at a deeper level of affordability than is ordinarily required. That is, by reserving a majority of the Project's units for families eligible to participate in the Section 8 program (which generally involves residents earning less than 30 percent of the area median income), the Project provides housing at a deeper level of affordability than is currently required under the Inclusionary Zoning regulations.
- The Project includes two types of housing—senior housing, and three bedroom units—that the Zoning Regulations specifically identify as constituting public benefits. The Project includes 200 units of senior housing (with all such units being affordable, and most anticipated to house existing residents of Brookland Manor, allowing them to remain on site as RIA is introduced) and 18 units of three-bedroom housing.

The Project's housing and affordable housing are superior public benefits and vastly exceed what would be possible through a matter-of-right development.

- (d) Employment Benefits. The Applicant has entered into a First Source Agreement with the District Office of Employment Services (“**DOES**”) to promote and encourage the hiring of District residents. Exh. 121. This Commission finds that such an Agreement constitutes a public benefit. This Commission also finds that

the Applicant has a long history of providing job-training and career development opportunities for Brookland Manor residents and that it has committed to providing additional employment and education programs at its expense in an attempt to ensure its residents and Ward 5 residents have job opportunities. Exh. [Post-Hearing Submission] at 8.

- (e) Social Service Programs. The Applicant currently provides, and will continue to provide, a number of programs that are designed for all residents, including the children and seniors who live in the community. Existing programs for children living in Brookland Manor include a variety of enrichment activities, such as after school care, tutoring, arts and crafts, community gardening, summer camp, meal programs to ensure that no child goes home hungry, girls' self-esteem workshops, reading and math tutoring, school supply drives, holiday gifts and a food pantry for families. Exh. 1 at 45; Exh. 12. Existing programs for Brookland Manor's senior residents include brown-bag lunches and other events designed to bring Brookland Manor's senior community together. *Id.* The Applicant has undertaken a survey of the residents to program the amenity space in the new buildings. This Commission adjudges these programs to be a public benefit of this Project. The Commission finds that the Applicant's long history of providing such programs justifies determining these programs to be a public benefit notwithstanding their ongoing status after the issuance of a certificate of occupancy for the Project.
- (f) Building Space for Special Uses. The Project provides for residents of Block 7 amenity spaces in each of the two Buildings. *Id.* at 46. Buildings A and B each provide amenity spaces for special uses including, but not limited to, community educational or social development, promotion of the arts or similar programs. These amenity spaces support the Applicant's strong commitment to providing services for children and seniors and give residents of the two Buildings safe indoor and outdoor places to gather in community, recreate, and relax. This Commission finds that these amenity spaces are public benefits given the supporting role such spaces play in facilitating the social services and programs described herein.
- (g) Environmental and Sustainable Benefits. The Project complies with the requirements of the Enterprise Green Communities checklist and is part of a master development that will achieve LEED-ND level of Silver. Exh. 12, 12A. The Commission finds that these programs constitute public benefits.
- (h) Uses of Special Value to the Neighborhood or the District of Columbia as a Whole. As part of the First-Stage Order, the Applicant agreed: (i) to ensure that existing qualified Brookland Manor residents, at the time that the redevelopment commences, will have the ability to remain at the new RIA redevelopment; (ii) to manage the onsite relocation of residents to minimize the impact on educational, social, emotional, and employment needs of individuals and families and phase the overall redevelopment (including building out its infrastructure) in a manner

that is most efficient; (iii) and to implement a robust construction management for each phase of the redevelopment, including for this Project. This Commission finds that the Applicant is under no obligation to perform these tasks outside of the context of the First-Stage Order and accordingly adjudges such tasks to be public benefits. The Commission further finds that the Applicant's investment in community events (e.g., hosting the Ward 5 National Night Out event in Summer 2016; hosting a series of BBQ, music, and art events in the parking lot of the former Brentwood Village Shopping Center; sponsoring RIA Main Street's Fall Fest event in October 2016; contributing \$200,000 towards Academy of Hope's acquisition of its new adult charter school Ward 5 campus in 2016; and donating the former Brentwood Village Shopping Center to DC Fire to be used as a training opportunity for approximately 500 fire fighters) constitute public benefits attributable to this Project and the First-Stage Order more generally. Exh. 24.

- (i) Revenue for the District. Finally, the Commission finds that the District will benefit significantly from the additional tax revenues generated by the Project.

67. The Commission also finds that the Project's public benefits and amenities enumerated herein: (i) are commendable in number and quality for the foregoing reasons, (ii) are not inconsistent with the Plan because each is an integral part of the Project, which itself is not inconsistent with the Plan, (iii) are tangible, quantifiable, measurable, and, except as noted, generally capable of being completed or arranged prior to the issuance of a certificate of occupancy for the Project, and (iv) benefit the Brookland Manor, Brentwood and Ward 5 neighborhoods, and primarily benefit the areas within the geographic boundaries of ANCs. Moreover, the Commission finds that the foregoing benefits and amenities are possible only through the PUD process and would not be achievable as part of a project developed as a matter-of-right.

Commission Comments and Questions

68. At Setdown, this Commission requested additional information from the Applicant regarding: (i) the requested zoning relief; (ii) perspective views down the alley to the south of the Project; (iii) improvements along blank walls of Building B; and (iv) proposed materials, including the proposed brick color. *Id.* at 41-46.

69. In response to the Commission's questions and comments at Setdown, the Applicant provided: (i) a discussion of the requested zoning relief, Exh. 24A; (ii) drawings and renderings of the proposed improvements to the alley immediately south of the Property were provided, Exh. 24E at A14b and A14c (iii) revisions to the south elevation of Building B to continue the rusticated texture of the red brick masonry along the entire base of the building including the previously blank courtyard walls, Exh. 12; and (iv) a discussion of the rationale for the Project's color palette and the various brick colors that reflects the quality of the new buildings and creates an environment for the enhanced architectural treatment of the buildings that will be constructed in the future as part of this PUD, *id.*

70. The Applicant also provided the following changes to the Project: (i) Juliet balconies were added to the third floor of Building B's north and west elevations; (ii) minor bay projections were added to the fourth floor of Building B's north and west elevations to correspond with bay projections below; (iii) cornice was added to the top of bays on Building A's north and east elevations; and (iv) Building A's east elevation was revised with additional balconies to create repetition of bays along the east façade. Exh. 24.

71. At the public hearing, the Commission asked questions regarding: (a) the requested long-term bicycle parking relief; (b) the layout of the units in Building A that will be affordable on a temporary basis upon completion of construction; (c) the color of the red brick on Building B; (d) the dimensions of the siding at the rear of the Project; (e) precedential images for the RFP concrete; (f) whether the cornice could be extended to the rear of Building A; (g) whether horn beams are an appropriate planting choice; (h) the monitoring procedures for the Applicant's proposed First Source Employment Agreement; (i) whether the Applicant had anyone on its team with a strong connection to the neighborhood; (j) renderings showing the Project in context with the existing houses on Bryant Street, NE; (k) the proposed "RIA" name; and (l) an updated Relocation Plan. Tr. 2 at 36-57.

72. Following opposition testimony, the Commission asked for information regarding: (m) allegations from residents regarding the private security service at Brookland Manor, *id.* at 173, Tr. 3 at 29; (n) information regarding displacement and a "one-pager" on the details of the Relocation Plan, *id.* at 90; (o) the on-site relocation process for existing residents of Brookland Manor; (p) a construction mitigation plan; (q) changes to the Relocation Plan to accommodate resident families that contain one or more seniors with adult children or with grandchildren; (r) whether any seniors have been evicted from Brookland Manor; (s) the Applicant's proposal for accommodating families that cannot be accommodated in a three-bedroom or smaller unit; and (t) the Applicant's commitment to voucher holder residents, *id.* at 135-142. The Commission also requested that (u) the Applicant meet with the Association. *Id.* at 143.

73. The Applicant has responded completely to the Commission's questions, comments, and concerns raised at the public hearings as filed in the Post-Hearing Submission. In sum, the Commission finds that the Applicant has thoroughly addressed its comments and provided, in response to the Commission's questions, answers that are supported by substantial evidence. Moreover, the Commission finds that the Applicant's changes to the Project resulting from the Commission's comments improve the Project.

- (a) Bicycle Parking. In response to questions from Commissioner May, the Applicant analyzed its ability to provide additional long-term bicycle parking spaces in the garage of the seniors building. It managed to reconfigure the bicycle parking to accommodate 22 bicycles, which is still fewer than the 58 required, but more than the 10 initially provided. The Applicant noted that if there is sufficient demand for such bicycle parking spaces, it could convert a vehicular parking space to bicycle parking spaces because Building B already exceeds the vehicular parking space requirements of the Zoning Regulations. Exh. [Post-Hearing Submission] at 8.

- (b) Layout of Temporarily Affordable Units. The Applicant committed to allocate such units as is necessary to accommodate on-site relocation from other Brookland Manor blocks during future phases of construction, without overly distinguishing between market rate and affordable units in any area of the building. *Id.* at 4.
- (c) Brick Color on Building B. In response to questions raised from ANC 5C as well as from the Commissioners regarding the texture of the brick of Building B, the Applicant has refined the color of the proposed brick to a warmer shade of red (which remains in the same general color range) with a crisper finish. *Id.* at 7.
- (d) Siding Dimensions. The Applicant also provided greater detail on the cementitious siding that will be used on the rear façades of the Project. *Id.*
- (e) Precedential Images. The Applicant provided precedential images of the proposed FRP treatment. *Id.*
- (f) Cornice Extension. The Applicant extended the cornice of Building A around the rear of the Project. *Id.*
- (g) Planting Choices. The Applicant removed hornbeams from the landscape plan in favor of a bosque of ornamental trees such as honey locust. *Id.* at 7
- (h) First Source Employment Agreement. The Applicant provided additional information regarding its extensive history of supporting job training among the residents of Brookland Manor. *Id.* at 8. In addition, as a condition of approval for this Application, the Applicant agreed that all future second-stage PUD applications must include information as to the Applicant’s satisfaction of the terms of the First Source Agreement associated with prior approved second-stage PUD applications. *Id.* at 8.
- (i) Neighborhood Connections. The Applicant stated that it had extended an employment offer to a Senior Vice President of Community Development who is a native of the District and who has significant experience in communities such as Brookland Manor. *Id.* at 9.
- (j) Context Renderings. In response to a question from Chairman Hood regarding the context of the existing neighborhood, the Applicant provided images showing the Project in relation to the surrounding existing buildings on Downing Street, NE. *Id.* at 7. The Commission finds the Project is seamlessly integrated into the existing neighborhood from a massing, size, and architectural context. *Id.*
- (k) The “RIA” Name. The Applicant provided information that it worked with a consultant and Brookland Manor residents to develop a new name for Brookland Manor to signal a shift away from problems that have plagued Brookland Manor

and the Brentwood Village Shopping Center in the past and towards a new and better future for residents and the community. *Id.* at 11. The Applicant notes that it will continue to work with residents to solicit feedback on naming individual buildings at the RIA Site. *Id.*; Exh. [Post-Hearing Submission]C at 12.

- (l) Relocation Plan. The Applicant provided a thorough and clear update to the Relocation Plan. The Applicant does not anticipate any development related tenant relocation activity will occur prior to the occupancy of the Block 7 buildings, which is expected to occur in late 2019 or early 2020. All resident relocations have been completed on site and at the Applicant's expense. *Id.* at 3. Brookland Manor resident demographics indicate that upon the anticipated completion of Building B, at least 167 Brookland Manor residents will be 62 and older and therefore eligible to live in Building B. To the extent that the 200-unit senior building is not entirely occupied by eligible Brookland Manor residents, the Applicant will lease units to outside seniors utilizing DCHA vouchers supported by the Section 8 program. The Applicant has anticipated all along that non-Brookland Manor residents might occupy the senior building. Flexibility as to the overall number of senior affordable units to be occupied by Brookland Manor residents is contemplated in the First-Stage Order and the Applicant's initial statement, both of which note that the units in the senior building will likely not all be occupied by Brookland Manor seniors. Exh. 1F, FF ¶ 96; Exh. 1 at 45. The Applicant has occasionally described the 200-unit Building B as being designated for Brookland Manor's senior residents to assure residents that long-standing members of the community will have the first opportunity to move into a brand new building before that opportunity is offered to those from outside of Brookland Manor. Exh. [Post-Hearing Submission] at 2.
- (m) Security Force Concerns. The Applicant provided extensive information regarding the Brookland Manor security force and noted that it had retained a new security company in response to resident concerns. *Id.* at 10. The Applicant also provided an explanation that fences newly installed at Brookland Manor were intended to protect residents from ongoing construction sites and, in one instance, as a public safety measure where a number of murders had previously occurred. *Id.*
- (n) "One-Pager". The Applicant provided a summary document that outlines the information requested by the Commission. Exh. [Post-Hearing Submission]A.
- (o) Relocation Process. The Applicant engaged a not-for-profit organization to survey current residents to ascertain their housing preferences and to assist the Applicant with the design of enrichment programs that will maximize professional, educational, and life opportunities for existing residents in the future redevelopment. Exh. [Post-Hearing Submission] at 5. The Applicant has committed to providing various services and amenities, including a fitness center and computer lab, as requested by residents. *Id.*

- (p) Construction Mitigation Plan. The Applicant submitted a Development and Construction Management Plan to guide construction activity on Block 7. *Id.* at 9; Exh. [Post-Hearing Submission]B.
- (q) Residents with Extended Families. The Applicant's Post-Hearing Submission clarified that current Brookland Manor residents will have the opportunity to make an election about which building they will reside in. The Applicant will not require any multi-generational households to change household formation. For example, those existing households with seniors and grandchildren, or with seniors and adult children who have special needs will have the opportunity to choose which housing option best suits their circumstances. *Id.* at 5.
- (r) Senior Evictions. The Applicant noted that it had sought and obtained a court-ordered eviction against only one senior citizen resident of Brookland Manor in the past three years (i.e., since the commencement of development activities). *Id.* at 6.
- (s) Family Accommodations. The Applicant also reiterated its commitment to allow all households in good standing that reside at Brookland Manor at the time that redevelopment starts the opportunity to remain in the redeveloped RIA community. This includes households that currently have more than six residents in their apartment unit and may need a 4-bedroom accommodation (based upon the HUD occupancy standard of 2 people per bedroom). As indicated previously, the preponderance of large units on site are in Blocks 1 and 4 and these are in the final phase of the project, where construction is not expected to commence until 2023 at the earliest. The Applicant will continue to work with these households in the future to ascertain their needs and preferences, and will house them appropriately according to Section 8 program requirements. The Applicant agreed to provide updates to the Zoning Commission on the status of these households in each subsequent second-stage PUD application. With respect to large bedroom households, the Applicant noted that the townhome component of the overall RIA project will contain only three and four bedroom style housing and will be subject to the District's Inclusionary Zoning requirements. The Applicant has begun an effort to identify resources to support first-time homeownership opportunities for current residents and has received positive feedback from residents regarding this housing option. The Association has indicated that this is an area of agreement they have with the Applicant and provides an opportunity to work collaboratively in the future to support residents who desire home ownership opportunities. *Id.* at 3.
- (t) Voucher Holder Residents. The Applicant committed to retain voucher-holding residents on site through the build-out of the RIA Site and to work with the Association, DCHA and other DC public officials to ensure that the future voucher payment standard for the Brentwood neighborhood is sufficient to cover the future market rate rent levels for voucher-holding residents. *Id.* at 5.

- (u) Community Meeting. The Applicant provided updates on its numerous and ongoing meetings with the residents of Brookland Manor. *Id.* at 9.

74. At the public hearing the Commission requested a post-hearing submission from the Association that responds to the Applicant's "one-pager". Tr. 3 at 148. The Commission also repeated its request for a report from the ANC. *Id.* at 134.

Agency and ANC Reports and Testimony

Office of Planning

75. In the OP Setdown Report, OP requested the following information: (a) the unit sizes and location of the units in Building A that would remain affordable indefinitely; (b) provision of an executed First Source Employment Agreement with DOES; (c) the services and programs being offered existing and future residents; (d) how the Project achieves high levels of sustainability; and (e) a transportation plan for the Project. Exh. 10.

76. In the OP Final Report, OP requested additional information with respect to the requested lot occupancy relief in order to detail the exceptional situation of the Property that results in a practical difficulty. Exh. 34 at 10.

77. The OP Final Report included comments from District agencies that did not separately submit reports. DC Water noted that additional review of the Project's water infrastructure would be undertaken at permitting. *Id.* DHCD requested a formal commitment from the Applicant that the Section 8 project remain in effect in perpetuity or at least 40 years. *Id.* FEMS recommended that fire access to the Project not be compromised and that the Project be developed in accordance with fire codes. *Id.*

78. This Commission finds that the Applicant satisfactorily addressed all of OP's comments and questions by providing information as follows in the PHS and 20-Day Statement:

- (a) Unit Sizes and Location of Permanently Affordable Units. The Applicant committed that a minimum of 265 units in this project will be deeply affordable and reserved for existing residents. All of the units (200) in Building B (the senior-only building) are reserved at deeply affordable rates, and at least approximately 65 of the units in Building A are initially to be reserved for other current residents of Brookland Manor. The initially affordable units in Building A consist of 25 units to be reserved as permanently affordable units and at least 40 "temporary" replacement units that will be used to house existing Brookland Manor residents. These temporary replacement units are to be used to support the goals of the Applicant's Relocation Plan, which includes keeping Brookland Manor residents on-site and minimizing the number of times that residents are required to move. The chart below details the size of the temporarily and permanently affordable units. Exh. 12-13.

Unit	Unit Mix (of 131 total units)	Percentage	Permanently Affordable Units (of 25 total units)
Studio	3	2%	1
1-Bed	60	46%	12
2-Bed	50	38%	9
3-Bed	18	14%	3

A plan shows the location of the permanently affordable units. Exh. 12A at G14. Given the nature of the temporarily affordable units, the Applicant requested flexibility to locate these units throughout Building A as needs may dictate, provided such units are not overly concentrated on one floor. *Id.* Initially, Building A will include 66 market-rate units.⁵ Over time, as the 40 temporary affordable units are no longer needed to meet the Relocation Plan requirements, those 40 units will transition to market-rate units. Ultimately, Building A will include 81 percent market-rate units and 19 percent deeply affordable units. As a result of the removal of the two-over-two units that were initially approved for Block 7, the Applicant does not propose to include any IZ units in Block 7. Subsequent second-stage PUD applications will incorporate the IZ units required under the First-Stage Order. *Id.*

- (b) First Source Agreement. The Applicant and DOES entered into a First Source Agreement, a copy of which was entered into the record prior to the public hearing. Exh. 121.
- (c) Services and Programs for Residents. The Applicant currently provides, and will continue to provide, a number of programs that are designed for the children and seniors that live in the community. *See supra* FF ¶ 65(e).
- (d) Sustainability. The Applicant provided information detailing how the Project achieves environmentally sustainable design objectives by complying with the requirements of the Enterprise Green Communities checklist. Exh. 12, 12A.
- (e) CTR. The Applicant entered a complete CTR into the record. Exh. 19-20.
- (f) Zoning Relief. The Applicant provided information regarding the requested zoning relief. Exh. 24A.

⁵ Based on timing and phasing considerations for the entire project, it may be necessary to utilize all of Building A (131 units) as replacement housing. Therefore, the Applicant requested flexibility as to the total number of “Temporary Replacement Units” that will be included in the initial lease-up of Building A. This building is not anticipated to be completed until the Summer of 2019, at which time the Applicant will have already made progress on Phases 2a and 2b of the project and will have greater insight as to how many units in Building A will be used as Temporary Replacement Units.

- (g) Section 8 Contract Period. This Commission takes notice that the Project is subject to obligations under the First-Stage Order with respect to the period of effectiveness of the Section 8 contract or alternative affordable housing obligations. Exh. 1F, Decision ¶ B.1. The Applicant provided an update on the status of its Section 8 contract in its Post-Hearing Submission and reiterated its commitment to extend that contract. Exh. [Post-Hearing Submission] at 6.

79. At the public hearing, OP recommended approval of the Project, Tr. 2 at 90-92. This Commission finds that OP's reports and testimony were thorough and credible and helpful in considering this Application.

Department of Energy and the Environment

80. DOEE supported the Project and recommended approval subject to considerations provided regarding design and environmental performance. Exh. 33.

81. In response to the comments raised in the DOEE Report, at the public hearing the Applicant agreed to utilize the considerations in the DOEE Report in future development of the RIA Site. Tr. 2 at 19; 45. DOEE did not attend the public hearing and did not testify on its report.

District Department of Transportation

82. The DDOT Report noted no objection to the Project presuming the TDM program is effectively implemented. Exh. 40 at 2. The DDOT Report found that the Applicant used sound methodology to perform the transportation impact analysis in the CTR. The DDOT Report includes findings and analysis regarding the Project's impact on District transportation services and facilities and concludes there is no unacceptable impact that is not mitigated by the TDM. *Id.*

83. The DDOT Report includes analysis that Building B does not satisfy the long-term bicycle parking requirements of the Zoning Regulations, but that lesser amounts of such parking is anticipated in Building B. *Id.* The UFA Report provides information on the removal and planting of trees but is neutral with respect to the Project. Exh. 41.

84. At the public hearing, DDOT confirmed it had nothing beyond the DDOT Report to add with respect to the instant Application. Tr. 2 at 93.

Advisory Neighborhood Commissions 5B and 5C

85. Neither ANC 5B nor ANC 5C provided a report on the Application. Tr. 2 at 57, 98.

86. At the public hearing, the ANC cross-examined the Applicant's testimony, and asked for information regarding the proposed name of RIA. Tr. 2 at 57-64.

87. In response to the ANC's cross-examination, the Applicant in its Post-Hearing Submission noted that it worked with a consultant and Brookland Manor residents to develop a new name for Brookland Manor to signal a shift away from problems that have plagued

Brookland Manor and the Brentwood Village Shopping Center in the past and towards a new and better future for residents and the community. Exh. [Post-Hearing Submission] at 11. The Applicant notes that it had not received negative feedback on the name prior to the February 23 public hearing despite advertising the name widely but that it will continue to work with residents to solicit feedback on naming individual buildings at the RIA Site. *Id.*

88. At the public hearing, the ANC cross-examined the Association. Tr. 2 at 164-166. The ANC asked the Association whether it had settled its lawsuit, which this Commission understands is in reference to a suit filed against the Applicant. The Association responded that it was not a party to the lawsuit but that it could provide contact information for the lawyers involved in the lawsuit. *Id.*

Applicant Community Outreach

89. As part of the First-Stage Order, the Applicant engaged in significant community outreach to the ANCs, its neighbors, and its tenants as part of the PUD process. As a result, dozens of tenants, neighbors and neighboring institutions and organizations submitted letters in support of the First-Stage Order. Prior to filing the instant Application, the Applicant met with officials from OP, DDOT, DC Housing Authority, and Office of the Deputy Mayor for Planning and Economic Development, as well as the Ward 5 Councilmember, and officials from HUD. Exh. 1 at 11.

90. The Applicant kept its residents aware of the status of the re-development plans by hosting an all-resident meeting January 23, 2017 to provide a project update and obtain additional resident input. In addition to the meeting with the residents of Brookland Manor, the Applicant has participated (or will participate) in a number of community meetings since the Application was filed, including the ANC 5B meeting on September 28, 2016. The Applicant presented the Application at an ANC 5C05 Single Member District Commissioner meeting on February 13, 2017. All of the ANC 5C commissioners attended that meeting. Other outreach by the Applicant included meetings with the Brookland Neighborhood Civic Association on October 18, 2016, Woodridge Civic Association on January 3, 2017, and Brentwood Civic Association meeting scheduled for February 7, 2017. Exh. 12 at 4. The Applicant meets regularly with smaller neighborhood groups to exchange information and to make sure that community feedback is considered and incorporated into the project. *Id.* Exh. [Post-Hearing Submission] at 9. The Applicant has also hosted multiple events for residents to discuss the Project and the overall development of the RIA Site as well as for social events. *Id.* at 9-10.

Parties and Persons in Support

91. This Commission finds that there is strong and enthusiastic support for this Application among residents of Brookland Manor, neighboring communities in Ward 5, and throughout the District more generally. More than 180 residents of Brookland Manor signed onto a “Letter of Support” of the Application. Exh. 24B. The Commission accepts this submission as a credible expression of support from a subset of existing Brookland Manor residents. Prior to the closing of the record, more than 100 letters were submitted into the record expressing support for

the Project. Exh. 21-22, 24C, 24D, 25-26, 29, 31-32, 36-37, 39, 42, 45-61, 63-67, 69-72, 74-84, 86-93, 95-97, 102, 106, 108-13, 115, 117-20, 122-23, and 126-31. The letters of support addressed the following categories of issues that this Commission finds material to the Application:

- (a) Resident Support for the Project. In addition to the resident signatures on the Letter of Support, the Commission counts nearly three dozen letters of support from Brookland Manor residents. Exh. 75-82, 88, 113, 122. The Commission reviewed letters from residents who have already relocated from Block 7 and who had positive comments about their relocation experience. Exh. 76, 88 at 10-11. The Commission also reviewed letters from residents who have had positive experiences with Brookland Manor management staff. Exh. 78, 81. Finally, the Commission notes written testimony remarking on improvements in crime reduction and positively anticipating a “more gentrified culture.” Exh. 82 at 8.
- (b) Abutter Support for the Project. Numerous residents of Downing Street, NE, and 14th Street, NE the residential streets south and west of the Project, wrote in support of the Project. Exh. 49-61, 64, 66-67, 90-92. The Commission notes that many of these letters are form in nature but appreciates the feedback from those living closest to Block 7.
- (c) Community Support for the Project (Economic Development). Numerous residents and property owners from surrounding neighborhoods wrote in support of the Project. Exh. 21, 31, 32, 36-37, 39, 48, 69-71, 130, 131, 156. Many letters indicated excitement regarding change and development in the neighborhood. One supporter, Ms. Jarrai Stephens, expressed hope that the Project would increase the value of her property in the neighborhood. Exh. 110.
- (d) Community Support for the Project (Community Safety). Ms. Shaina Ward, of Langdon Park, wrote in support of the Project in the hopes that it would continue a trend of crime reduction and safety improvements. Exh. 22.
- (e) Community Support for the Project (Urban Design and Architecture). Two neighborhood residents wrote in support of the Project, noting among other things, approval of the Project’s urban design and architecture. Exh. 25, 126.
- (f) Applicant-Supported Community Services. Numerous community and service organizations wrote in support of the Project and the Applicant’s work to provide social and community programs at Brookland Manor. Exh. 24D, 26, 27, 42, 47, 63, 65, 93, 102, 123. These organizations universally thanked the Applicant for its support for their missions and for financial contributions or other donations.
- (g) Broader District Resident Support for the Project. Numerous residents of the broader District community wrote in support of the Project and in particular the

retention of the Section 8 contract. Exh. 72, 74, 83-84, 86-87, 89, 95-97, 106, 108, 109, 111, 118-120.

92. At the public hearing, twelve persons or organizations spoke in support of the Project. Tr. 2 at 98-129.

- (a) Resident Support for the Project. Ms. Wilma Carter, Ms. Cheryl Brunson,⁶ Ms. Evelyn Hudgeson, Mr. Guillermo Gutierrez, and Mr. Hector Gutierrez, all residents of Brookland Manor spoke in favor of the Project. *Id.* at 104, 108, 113, 125-26.
- (b) Community Support for the Project. Ms. Earline Frazier, a resident of Downing Street, NE testified as to the improvements in the neighborhood surrounding Brookland Manor as a result of the Applicant's improved security at Brookland Manor. *Id.* at 112. Ms. Betty Mugrow, a Brentwood resident also spoke in support of: the Project's improvements to the neighborhood generally, the Applicant's proposal to allow residents in good standing to remain at or return to the new RIA redevelopment, and the continued presence of security at Brookland Manor. *Id.* at 121-22.
- (c) Security Staff/Security Concerns. Ms. Debbie Steiner testified as to the public safety and crime concerns historically associated with Brookland Manor and the Applicant's recent role in reducing those concerns. Ms. Steiner noted that DC Police requested the Applicant provide security staff at Brookland Manor following an assessment of public safety concerns. *Id.* at 102. Ms. Steiner also testified that HUD specifically asked the Applicant to hold its residents accountable under their leases. *Id.* at 103.
- (d) Preservation of Affordable Housing. Mr. Stillman Knight, a former HUD Assistant Secretary testified in support of the Applicant's preservation of affordable housing. *Id.* at 109. Mr. Knight testified that the concentration of subsidized housing promotes cycles of poverty and noted that the Project provided the benefit of retaining deeply affordable residential units while expanding housing opportunities and bringing services to the neighborhood. *Id.* Mr. Knight testified to the maturation of Section 8 contracts around the country and the end of affordability restrictions associated with those projects. Mr. Knight noted that the Applicant was free to let the affordable housing restrictions lapse at Brookland Manor, at which point the affordable units would be lost along with the HUD support for such units. The Applicant's election to retain the Section 8 contract is unique; the majority of landlord's in the Applicant's position choose not to renew their contracts. *Id.* at 111. *See also* Exh. 128.

⁶ The Commission notes that Ms. Brunson spoke in opposition to the Project as well. Tr. 3 at 27-29. The Commission takes the entirety of Ms. Brunson's testimony into consideration.

- (e) Applicant-Supported Community Services. Mr. Dwayne Dawson spoke in support of the Project to discuss the many social programs offered at Brookland Manor to its residents at no charge with the support of the Applicant. *Id.* at 105-08; *see also* Exh. 63. Mr. Charles Brown testified in support of the Project on behalf of Healthy Families Grow. Tr. 2 at 119. Mr. Brown identified the community and support programs his organization offers at Brookland Manor in partnership with the Applicant. *Id.* at 119-20. *See also* Exh. 63.
- (f) Applicant Community Outreach. Mr. Kyle Todd spoke in support of the Applicant and the Application on behalf of the Rhode Island Avenue Main Street program. *Id.* at 114. Mr. Todd praised the Applicant's outreach and commitment to community programs and support. *Id.* at 115-16. Mr. Todd testified that the Project will improve conditions in the neighborhood more broadly. *Id.* *See also* Exh. 129.

Association Cross-Examination and Testimony

Cross-Examination of the Applicant

93. At the public hearing, the Association cross-examined the Applicant's testimony, Tr. 2 at 65-89, and asked questions covering the following topics:

- (a) Unit Counts. The Association asked Ms. Alexander to repeat the unit count breakdown by bedroom size in the Project. *Id.* at 66. Ms. Alexander responded that Building B contains 200 units, 192 of which have one bedroom and the eight of which have two and that Building A has 131 units, with three studios, 60 one-bedrooms, 52 two-bedrooms, and 18 three-bedrooms. *Id.* at 66-70.
- (b) Resident Eligibility. The Association asked whether only seniors would be eligible to live in Building B. *Id.* at 67. A representative of the Applicant confirmed that only those 62 and over would be eligible to live in Building B. *Id.*
- (c) Replacement Units. The Association noted that there were 200 proposed senior-only units and an overall requirement under the First-Stage Order for the Applicant to provide 373 affordable units. The Association asked how the Applicant would ensure no existing residents were displaced. *Id.* 71-83. The Applicant, following colloquy with the Commission, agreed to provide in its Post-Hearing Submission: (i) information regarding the replacement units implicated by keeping the senior building entirely affordable, (ii) the number of existing residents, and (iii) the criteria by which residents would be eligible to remain. *Id.*
- (d) Cross-Examination Colloquy Not Considered. The Association made several statements during its cross-examination that were not directed as questions to the Applicant and were not relevant to items raised in testimony by the Applicant or its experts. *Id.* 83-89. This Commission finds that it is inappropriate for it to

consider as part of this second-stage Application issues it considered and decided in the First-Stage Order, except as expressly raised herein with respect to the design modifications proposed by the Applicant for the Project. This Commission disturbs no findings of its First-Stage Order except with respect to the modifications thereof expressly addressed herein and finds no reason to re-open the record of the First-Stage Order.

94. In its Post-Hearing Submission, the Applicant responded to the requests of the Association: (i) the Applicant reiterated that the First-Stage Order imposes two separate affordable housing requirements which together ensure that 373 units of deeply affordable housing remain at the RIA Site and that all existing residents in good standing are eligible to remain at RIA upon its completion; (ii) 431 units at Brookland Manor are occupied by existing residents as of April 9, 2017; and (iii) the tenant qualification criteria requires (x) the resident must be in compliance with the terms of their lease agreement; and (y) if subsidized, the resident must be in compliance with HUD or DCHA program requirements. The Applicant has committed to provide the Resident Association with additional clarity regarding the good standing criteria to address concerns raised by residents regarding their status. . Exh. [Post-Hearing Submission] at 6. This Commission notes that no resident of Brookland Manor will be dispossessed without compliance with applicable District law. *Id.*

95. This Commission finds that the Applicant has thoroughly addressed in a manner supported by substantial evidence those comments and questions of the Association that are relevant to the Application and has moreover provided helpful contextual information that is beyond the scope of this Application.

Cross-Examination of OP

96. At the public hearing, the Association also cross-examined OP's testimony. Tr. 2 at 93-97.

- (a) Unit Mix. The Association asked whether OP was clear that the Buildings in Building B would be for seniors only. Tr. 2 at 94. OP confirmed that it was. *Id.* OP declined to answer a question about hypothetical scenarios, and this Commission finds such question was irrelevant to this Application. *Id.*
- (b) DHCD Letter. The Association asked whether OP had correspondence with DHCD and whether it had contacted the Applicant regarding the status of the renewal of the Section 8 contract. Tr. 2 at 96-97. OP confirmed that it had corresponded with DHCD but had not contacted the Applicant regarding that correspondence. *Id.*
- (c) Land Value Studies. The Association asked whether OP had conducted any studies with respect to destabilization of land values that the Project may cause. *Id.* OP confirmed that it had not. *Id.* This Commission takes notice that the

Applicant entered into the record the RCLCO Report regarding the impacts of the Project on surrounding land values. *See supra* FF ¶ 64(e).

97. The Association's questions of OP do not change this Commission's findings above regarding the completeness and credibility of OP's reports and testimony.

Association Written and Direct Testimony

98. The Association provided written testimony in advance of the public hearing. Exh. 132. The Association also presented direct testimony in opposition to the Application at the public hearing. Tr. 2 at 134-164. The Association's testimony raised the following issues:

- (a) Resident Displacement. The Association, through its lawyer, noted that the number of residents at Brookland Manor had declined from 503 occupied units to 438 between the inception of the application that gave rise to the First-Stage Order and the Applicant's filing of the instant Application. *Id.* at 135. The Association's lawyer referred to a newspaper report regarding evictions at Brookland Manor that described increased rates of eviction and eviction practices at Brookland Manor. *Id.* at 136; Exh. 132 at 5. The Association's lawyer stated without basis or justification that 200 of the 373 overall affordable Section 8 units will be in Building B and incorrectly implied that there will be only 173 affordable units elsewhere at the RIA Site upon completion of the Project. *Id.* at 137. The Association's lawyer also asserted that existing Brookland Manor residents who are seniors and who head households with non-senior members will have to choose between either moving to Building B without their families or being displaced from Brookland Manor. This Commission finds this statement unsupported by any evidence and erroneous in light of the Applicant's Post-Hearing Submission. The Association's lawyer also averred that the Applicant is encouraged to displace residents. *Id.* at 138. This Commission finds just the opposite: the Applicant has committed to allow existing residents to remain on site during construction and/or return thereafter. Exh. 1F, FF ¶¶ 49, 56, Exh. [Post-Hearing Submission] at 1-5.
- (b) Inconsistency with the Comprehensive Plan. The Association's lawyer also alleged that the Application was inconsistent with policies of the Housing Element of the Comprehensive Plan. More particularly, the Association's lawyer cited the following sections:
 - *Policy H-1.2.3 Mixed Income Housing*, which seeks to "Focus investment strategies and affordable housing programs to distribute mixed income housing more equitably across the entire city, taking steps to avoid further concentration of poverty within areas of the city that already have substantial

affordable housing.”⁷ 10-A DCMR § 504.8. The Association’s lawyer asserted that the “[A]pplicant’s proposed elimination of deeply affordable units proposed both in Block 7 and the overall redevelopment will drive families out of an intensely gentrifying neighborhood, into hyper-segregated and impoverished areas of the city, thus furthering segregation and concentrating poverty” Tr. 2 at 139. The Commission found in the First-Stage Order that the overall RIA Site redevelopment was consistent with Policy H-1.2.3. Exh. 1F ¶ 56. The OP Final Report arrives at a similar conclusion for this Application. Exh. 34 at 18. In light of the Applicant’s failure to provide any evidence or justification for its assertion, the Commission sees no reason to disturb its previous finding. The Project provides 225 new, high-quality, permanently and deeply affordable units where currently there are 64 units more than approximately 80 years old. The overall RIA Site will create a mixed-income community where currently there is a community of concentrated poverty.

- *Policy H-1.2.1 Affordable Housing Production*, which seeks to “Establish the production of housing for low and moderate income households as a major civic priority, to be supported through public programs that stimulate affordable housing production and rehabilitation throughout the city.” 10-A DCMR § 504.6. The Association stated that the Project does not promote affordable housing. Tr. 2 at 139. This Commission disagrees. The Applicant is constructing brand new affordable housing to replace housing with an expiring affordability restriction. OP reaches a similar conclusion, and the Commission is directed to give great weight to its analysis. Exh. 34 at 18. The Applicant’s commitment to and promotion of affordable housing is evidenced by its election to deliver new affordable housing as part of its first phase of construction before proceeding to blocks that will have higher concentrations of market-rate units.
- *Policy H-1.3.1 Housing for Families*, which seeks to “Provide a larger number of housing units for families with children by encouraging new and retaining existing single family homes, duplexes, row houses, and three- and four-bedroom apartments.” 10-A DCMR § 505.6. The Association stated that the Project as well as the overall RIA Site redevelopment eliminates existing four-bedroom units and reduces the number of three-bedroom units. Tr. 2 at 139. The Commission does not disagree with the factual statement, but disagrees that the Project is inconsistent with this objective of the Comprehensive Plan. The OP Final Report finds the Application consistent with this policy objective and again the Commission gives such finding great weight. Exh. 34 at 18. The Applicant is making a significant commitment to retaining family-

⁷ Although the text of this and the succeeding policy excerpts are not reproduced directly in the Association’s testimony, the entirety of the Comprehensive Plan’s text is incorporated into the record by reference pursuant to the Zoning Regulations, so these policies are provided here for context. See 11-Z DCMR § 203.7 and Exh. 1 at Appendix at 1.

sized units. The Project includes three-bedroom units. The First-Stage Order also provides for rowhouses, where currently none exist. The Applicant reiterated its commitment to provide rowhouses as part of future phases of development and to identify resources to support first-time homeownership opportunities for current residents. Exh. [Post-Hearing Submission] at 3. This section of the Comprehensive Plan calls for the *provision* of housing units for families and not necessarily the *retention* of existing three- and four-bedroom apartment units, especially existing three- and four-bedroom apartment units that were constructed many decades ago and no longer conform to market standards. Overall, the Project is not inconsistent with this policy objective.

- *Policy H-2.1.1, Protecting Affordable Rental Housing*, which has the objective of “Recogniz[ing] the importance of preserving rental housing affordability to the well-being of the District of Columbia and the diversity of its neighborhoods [and] [u]ndertak[ing] programs to protect the supply of subsidized rental units and low-cost market rate units.” 10-A DCMR § 509.5. The Association stated that the plan for Block 7 shows that affordable housing will be greatly reduced. Tr. 2 at 140. Again, the Commission disagrees. The Project is an express effort to extend and retain an expiring Section 8 affordable housing contract. The Applicant is under no obligation to retain the existing affordability restriction at the RIA Site as a former HUD official testified. Exh. 128. Its election to do so on a one-for-one basis is a significant public benefit for the District and the existing residents who benefit from the Section 8 program.
- *Policy H-2.1.3, Avoiding Displacement*, which seeks, in relevant part, to “Maintain programs to minimize displacement resulting from the conversion or renovation of affordable rental housing to more costly forms of housing.” 10-A DCMR § 509.8. The Association’s lawyer alleged that Brookland Manor had already experienced “mass displacement” resulting from the reduction in occupancy at Brookland Manor. Tr. 2 at 140. This Commission cannot agree with the Association. The Applicant has repeatedly committed to allowing existing tenants who wish to remain and who maintain good standing the opportunity to do so. Exh. 1F, FF ¶ 56; Exh. [Post-Hearing Submission] at 1-5. This Commission finds that the Applicant has agreed to do far more than “minimize” displacement; it has developed a plan to avoid Brookland Manor resident displacement altogether. The Association seems to equate, without credible evidence, turnover in Brookland Manor residents with “displacement.” The Commission is not convinced. The Applicant credibly notes that residential turnover in apartment buildings is common and gives a number of reasons why residents leave Brookland Manor regularly of their own accord. Exh. [Post-Hearing Submission] at 6 (listing moving out of the District, purchasing homes, getting married, moving for employment reasons or passing away as instances of natural attrition at Brookland Manor similar to

apartment buildings generally). A change on the order suggested by the Association is in keeping with the Applicant's analysis of ordinary background conditions of resident turnover. *Id.* The Commission previously found redevelopment of Brookland Manor is not inconsistent with this policy objective and sees no reason to reverse that finding now. Exh. 1F, FF ¶ 56.

For the reasons set forth above, this Commission does not find that the Project is inconsistent with the Comprehensive Plan policies cited by the Association.

- (c) Affordable Housing as a Public Benefit. The Association's lawyer stated that the Project reduces the number of affordable units and eliminates deeply affordable units and therefore the Project does not provide any affordable housing public benefit. Tr. 2 at 141. The Association appears to misunderstand the nature of the affordability at Brookland Manor. The units there are not affordable in perpetuity. Tr. 2 at 101; Exh. 128. Rather than eliminate deeply affordable units, the instant Application preserves them, and in so doing improves the quality of condition of such units and provides substantial amenities that do not currently exist. This Commission declines to disturb its finding, repeated in this Order, that the Project's affordable housing is a public benefit.
- (d) Brookland Manor Resident Concerns: The Association provided testimony from five residents⁸ of Brookland Manor in opposition to the Project. Tr. 2 at 142-164. The specific nature of the residents' concerns is addressed below along with comments from the community more generally.

Parties and Persons in Opposition

99. This Commission finds that there is strong and passionate opposition to this Application among residents of Brookland Manor, neighboring communities in Ward 5, and among various community organizations. Prior to the closing of the record, more than 60 letters or items of written testimony were submitted in this matter. Exh. 18, 27-28, 43-44, 68, 73, 85, 94, 98-100, 104-05, 107, 112, 114-17, 121, 124, 125, 127, 132-38, 140-50, 152-54, 156-163, 165-176. At the hearing, numerous persons and organizations provided testimony in opposition to the Project. The Commission finds the Association's witnesses' testimony to be generally credible. The residents' and community members' concerns related to the following items with respect to the Project:

- (a) Displacement of Families. Ms. Dorothy Davis testified as to concerns regarding impacts on families and avoiding displacement. Tr. 2 at 143. Ms. Serita El-Amin stated concerns regarding there being insufficient demand among Brookland Manor residents for units in Building B and therefore possible displacement effects among non-senior residents. *Id.* at 148-49. The Reverend Dr. Loretta

⁸ The Reverend Dr. Houston spoke on behalf of Brookland Manor resident and Association president Ms. Minnie Elliott. Tr. 2 at 149.

Houston also expressed concerns regarding ensuring existing residents were able to remain following redevelopment. *Id.* at 151-52. Other Brookland Manor residents expressed a desire to remain in the community. Tr. 3 at 14-15, 17-18, 26. Several community organizations and neighbors spoke in support of the existing tenants and the importance of allowing families to continue to live together and in opposition to alleged aggressive eviction practices. Tr. 3 at 23-24, 53-54, 59-60, 64-66, 80-81, 83, 86, 87, 103, 108-09, 113-14, 116-17, 119-20, 123-25, 130; Exh, 18, 27-28, 43-44, 68, 73, 94, 99-100, 104-05, 112, 114, 115, 133, 135-36, 146, 148, 152-54, 157, 159-60, 165-66, 171-72, 174, 176.

- (b) Senior and Accessible Units. Ms. Davis further noted that the Association has a preference for housing that is accessible to seniors and those with disabilities. Tr. 2 at 143. Exh. 142. The Commission finds that the Applicant has provided evidence that the senior housing will be accessible for seniors and those with disabilities. *See supra*, FF ¶ 43.
- (c) Isolation of Seniors. Ms. Davis noted that the Project isolates seniors in a senior building that does not meet their needs or allow them to remain an active part of the community. Tr. 2 at 144. Community members noted a concern that a senior-only building might separate seniors from other family members. Tr. 3 at 55, 103, 109; Exh. 144. The Commission credits the Applicant's testimony that senior residents of Brookland Manor will have the choice as to whether to relocate to the senior building. Exh. [Post-Hearing Submission] at 5.
- (d) Community Dialogue. Ms. Davis and noted a lack of trust towards the Applicant. Tr. 2 at 143-44. *See also* Tr. 3 at 56. Ms. Elliott, testifying at the second night of the public hearing, raised concerns about being able to meet with the Applicant and work out an agreement. Tr. 3 at 87-98. This Commission appreciates the Association and the Applicant engaging in productive dialogue. Exh. [Post-Hearing Submission] at 9.
- (e) Definition of Good Standing as a Criteria for Eligibility to Remain. Ms. El-Amin and others asked for clarification about the standards required for residents to be able to remain at Brookland Manor. Tr. 2 at 149, 171. *See also* Tr. 3 at 66. Exh. 140. The Application has provided this information. Exh. [Post-Hearing Submission] at 6.
- (f) Younger/Youth Residents' Concerns of Displacement. Ms. Yvonne Johnson noted that she had observed youth residents of Brookland Manor showing signs of depression and concern regarding displacement. Tr. 2 at 144-45, 167-69. *See also* Tr. 3 at 66, 103; Exh. 138, 141.
- (g) Preservation of Family Housing. Ms. Johnson also expressed support for retaining affordable housing that accommodates families. Tr. 2 at 144-45. Community

members and advocates expressed similar concerns. Tr. 3 at 31-36, 42-44, 62-63, 74-76; Exh. 98, 121, 125, 134, 141, 143, 145, 147, 160, 165.

- (h) Vacant Units at the RIA Site Could Be Used to House Others. Ms. El-Amin and Ms. Valerie Scott noted a concern about some units in Brookland Manor being vacant when other families need housing. Tr. 2 at 144-45, 162. *See also* Tr. 3 at 52-53; Exh. 144. The Commission finds that a certain percentage of vacant units are necessary for the Applicant to undertake relocations on site during construction so that Brookland Manor residents are not displaced during construction. Exh. [Post-Hearing Submission] at 6-7. The Commission notes that the Applicant is voluntarily foregoing rental income by doing so. *Id.*
- (i) Security Staff Harassment/Infraction Notices. Ms. El-Amin, Ms. Neeka Sullivan, Ms. Scott, and others raised concerns regarding unprofessional behavior and harassment by the Brookland Manor private security staff. Tr. 2 at 146-47, 155-58, 160-61, 170. Tr. 3 at 24-25, 28-29, 45, 55, 68-69, 82, 111-12, 125-28, 131; Exh. 94, 115, 116, 137, 144-46, 148, 157. The Commission shares the residents' concerns regarding the troubling allegations of the Brookland Manor security staff's behavior, unprofessionalism, and tactics. The Commission is heartened that the Applicant has deemed it appropriate to terminate its relationship with the existing security service in light of these concerns. Exh. [Post-Hearing Submission] at 10.
- (j) Park Space. Ms. El-Amin noted that the residents of Brookland Manor would like a new park in their neighborhood and was disappointed that one was not proposed as part of the Project. Tr. 2 at 148. *See also* Tr. 3 at 107; Exh. 144. The Commission notes that the Community Green will be constructed in a subsequent second-stage PUD.
- (k) Community Development/Non-housing Related Resident Needs. Rev. Houston expressed a desire for support programs for residents. Tr. 2 at 151. The Commission notes that the Applicant provides extensive support programs for residents. *See supra*, FF ¶¶ 91(f), 92(e); Exh. [Post-Hearing Submission].
- (l) Job Placement/Training. Rev. Houston expressed a desire for additional job training so that residents are prepared to participate in the actual construction efforts of the Project. Tr. 2 at 152, Exh. 85, 143.
- (m) Fences. Ms. El-Amin and Ms. Scott also raised concerns about fences having been installed at Brookland Manor. Tr. 2 at 147, 162. Multiple community members raised concerns regarding the fences as well. Tr. 3 at 24, 54, 68. Exh. 144, 148. The Commission finds that the Applicant's installation of fences as a safety measure around construction sites and as a public safety measure in light of criminal activity in and around Brookland Manor is entirely warranted. Exh. [Post-Hearing Submission] at 10-11.

- (n) Design and Density. One interested community member spoke in favor of the existing garden apartment style design and noted that the density of the Project was inappropriately high. *Id.* at 105. *See also* Exh. 124, 163, 168. Though appreciative of these thoughtful comments, this Commission uniformly disagrees with this criticism and finds that the urban design and architecture is exemplary. The Commission notes that this commenter’s assessment of the FAR for the Project appears to be incorrect. The Project has an overall FAR of 2.8, not 5.95.
- (o) Inconsistency with the Plan and/or Zoning Regulations. Several parties in opposition presented testimony that the Project is inconsistent with the Plan and/or the Zoning Regulations. For the reasons set forth below, this Commission disagrees.
- Law for Black Lives Matter D.C. (“**LBLM**”) alleges that the Project violates various public policies, including the District’s New Communities Initiative (“**NCI**”) and the federal Fair Housing Act (“**FHA**”) and regulations thereunder (“**AFFH**”). Tr. 3 at 82; Exh. 169. As a threshold matter, this Commission notes that LBLM’s NCI claim is poorly researched. According to NCI information cited in LBLM’s filing, NCI applies only to four specific communities in the District and does not apply to the Project. Setting aside that obvious deficiency, this Commission takes notice of the policy objectives of NCI based on information provided in LBLM’s filing and finds the Project is perfectly aligned with the “Guiding Principles” of NCI. These principles include: (i) replacement of affordable housing, (ii) the opportunity to return/stay, (iii) mixed-income housing, and (iv) build first. Exh. 169 at 5 n. 21. The Project satisfies each of these criteria: it advances the First-Stage Order’s directive to replace 373 units of deeply affordable housing with newly constructed deeply affordable housing; it provides Brookland Manor residents the opportunity to remain in place during future phases of construction; it facilitates a mixed-income development; and it builds first (i.e., it builds new housing prior to the demolition of the vast majority of the existing housing at Brookland Manor). With regard to the FHA and AFFH allegations, this Commission has determined it must adjust the scope of analysis encouraged by LBLM. This Commission has the capacity to determine whether the Application is consistent with the legislative policy objectives of the FHA and regulations thereunder. This Commission is quite certain the PUD process is an inappropriate forum for adjudicating specific FHA claims, including those referenced by LBLM and other opponents. Examining the broad policy objectives of the FHA and the administrative regulations promulgated thereunder, both of which are helpfully cited in LBLM’s written testimony, the Commission finds the Application is inconsistent with the stated purposes⁹ of

⁹ 80 Fed. Reg. 42271, 42353 (Jul. 16, 2015) (to be codified at 24 C.F.R. pt. 5) (“A program participant’s strategies and actions must affirmatively further fair housing and may include various activities, such as *developing affordable housing*, and removing barriers to the development of such housing, in areas of high opportunity; strategically

neither the AFFH regulations nor the declaration of policy under the FHA itself.¹⁰ This Commission finds that the Application develops and preserves affordable housing, constitutes targeted neighborhood revitalization or stabilization and provides housing in a manner not inconsistent with the purposes and policies of the AFFH and FHA.

- The Washington Lawyers’ Committee for Civil Rights and Urban Affairs (“**WLC**”) provided testimony regarding this Commission’s role in implementing the District’s fair housing obligations. Tr. 3 at 122; Exh. 167. This Commission appreciates WLC’s thoughtful research and finds that the Project fully advances the District’s fair housing obligations. The Commission disagrees that the Project will result in the loss of affordable units; rather the Project affirmatively preserves deeply affordable units and creates both new affordable and market rate units. Moreover, the Applicant has committed pursuant to the First-Stage Order to avoid displacement, a commitment renewed in the instant Application. This Commission has no doubt that the Applicant can fulfill its commitments. Finally, the Commission finds that the Project and the overall redevelopment approved by the First-Stage Order will have the capacity to accommodate all kinds of families, including without limit, families with children and extended families.
- DC for Reasonable Development (“**DCRD**”) alleges that the Project is inconsistent with the Comprehensive Plan. Exh. 133 at 2. In support of this allegation, DCRD cites a list of Comprehensive Plan directives and policies but does not provide even the merest of allegation or offer any explanation as to why the Project would be inconsistent with these particular directives and policies. Moreover, the DCRD letter does not assert that the Project is inconsistent with the provisions cited therein; it merely asserts that such policies are “relevant” without justification or explanation as to how such policies are relevant. Accordingly, these policies and directives are not material contested issues about which the Commission can make a finding or draw conclusions.
- Justice First (“**JF**”) separately alleges that the Project is inconsistent with the Area Element of the Comprehensive Plan. Exh. 162 at 2; Tr. 3 at 47-52. This Commission has previously found precisely the opposite with respect to the overall redevelopment approved under the First-Stage Order and sees no compelling arguments or substantial evidence in JF’s testimony that would

enhancing access to opportunity, including through: *Targeted investment in neighborhood revitalization or stabilization; preservation or rehabilitation of existing affordable housing; promoting greater housing choice within or outside of areas of concentrated poverty and greater access to areas of high opportunity; and improving community assets such as quality schools, employment, and transportation.*) (emphasis added). The Project is advances the emphasized elements of the AFFH purposes.

¹⁰ 42 U.S.C. § 3601.

tend to disturb that finding. Exh. 1F, FF ¶¶ 62. JF also claims that the Project fails to comply with the intent and purposes of the Zoning Regulations, but offers no justification for this claim. Exh. 162 at 1. Again, the Commission disagrees with JF and notes its extensive findings herein with respect to the Project's consistency with the Zoning Regulations. JF further claims that the Applicant's proffer of affordable housing as part of the First-Stage Order is not a public benefit. *Id.* JF appears to misunderstand the Zoning Regulations, which expressly state that senior housing is a public benefit. 11-X DCMR § 305.5(f)(2). The Zoning Regulations are not so granular as to discriminate senior housing constructed anew from senior housing constructed as part of a redevelopment of a Section 8 property, as JF encourages. Accordingly, the Commission again disagrees, having previously made extensive findings to the contrary and having reaffirmed those findings for the reasons articulated herein. Finally, JF alleges an unspecified adverse impact on the surrounding area arising from the Project's creation of affordable housing. *Id.* For the reasons set forth above, the Commission finds that the Project will create no unacceptable impact on land values in the surrounding area. *See supra*, FF ¶ 64(e).

A subset of these concerns raised by the Association and parties in opposition are addressed in the "Findings on Contested Issues." *See infra* FF ¶¶ 102-103.

100. The Association raised the following additional concerns:

- (a) Retention of 535 affordable units. Multiple of the Association's witnesses expressed a desire for the Applicant to provide 535 units of affordable housing as part of the overall RIA Site redevelopment. Tr. 2 at 150; Tr. 3 at 62-64, 88, 108; Exh. 117, 141, 146, 161.
- (b) Large bedroom units. Multiple of the Association's witnesses and community members expressed a preference for large-bedroom count units. Tr. 2 at 143, 145-46, 150. Tr. 3 at 23, 84, 119, Exh. 85, 104-05, 117.

This Commission notes that the overall number of affordable units and the bedroom counts of the various units in the overall RIA Site redevelopment was established in the First-Stage Order, Exh. 1F, Conclusions ¶ 8-9, and is not properly before the Commission as part of this Application.

101. The Commission notes that the Brookland Neighborhood Civic Association ("BNCA") filed a letter declining to take a formal position on the Project. Exh. 127. BNCA noted its support for the residents of Brookland Manor and its lack of opposition to the Project itself. *Id.* BNCA noted a lack of support for the Project's architecture. *Id.*

Findings regarding Contested Issues

102. This Commission has reviewed the entire record for the Application and finds that two items raised by the Association, the ANC, the community generally, the agencies, or this Commission itself rise to the level of a material contested issue of fact. In sum, the Commission finds that the Applicant has responded fully and satisfactorily to each material contested issue.

103. The Commission's findings on the contested issues in this matter are as follows:

- (a) Replacement Units. The Association, residents in opposition to the Project, and community organizations have raised legitimate questions about how the Applicant will provide replacement units for all existing residents who remain in good standing and wish to remain as part of the redevelopment in light of its proposal to devote 200 units of affordable housing to seniors when a lesser number of senior-eligible residents reside at Brookland Manor today. The Commission finds that some Brookland Manor households contain extended families where seniors raise grandchildren or where seniors reside with adult children who are unable to live on their own. The Commission also finds that the Applicant's Relocation Plan and affordable housing commitments do not require it to force those families to break apart in order to remain at Brookland Manor. The Applicant has provided a clear commitment to provide 373 units of deeply affordable housing in addition to providing housing for those existing residents who wish to remain. The Applicant has also provided the commitment that Brookland Manor senior residents will have a choice of remaining with extended families, if applicable, or relocating to the senior building. The Applicant has also convincingly demonstrated that this phase of the redevelopment is somewhat premature for fully resolving this issue. The Applicant has provided substantial evidence that upon completion of Block 7, there will be 802 units on the entire property, a more than adequate amount of housing to accommodate current residents. This Commission has looked behind the numbers in the Applicant's proposal and finds no merit to the Association's claim that the numbers don't add up.
- (b) Resident Displacement. Current Brookland Manor residents, the Association and other opponents raised legitimate concerns with this Project related to the displacement of existing Brookland Manor residents. Opponents cited a suite of concerns including: the Applicant forcing extended families to split up to remain at Brookland Manor, doubts experienced by children about the stability of their home environment, and allegations of aggressive eviction tactics. On balance, though these items concern the Commission deeply, the Commission finds that the Applicant has made unambiguous commitments that avoid displacing existing Brookland Manor residents. Moreover, the Commission finds that the Project and the Applicant enjoy broad support from residents, neighbors, and community organizations alike. There is some disagreement among existing residents, which is not unexpected in a community of 400-plus households, but there is nonetheless

clear and broad support for the Project. The Commission finds that the concerning allegations raised about the Applicant do not square with the overwhelming body of evidence in the record before us. Finally, the Commission recognizes the primary benefit of this Project: it allows the Applicant to undertake the complicated venture of redeveloping Brookland Manor while keeping the existing residents on-site in order to simultaneously preserve a substantial supply of deeply affordable housing and create a new mixed-use community. The Commission recognizes the magnitude of this challenge and finds the proposal highly commendable.

This Commission therefore resolves these contested questions in favor of the Applicant and finds that the Project is consistent with the First-Stage Order, the Zoning Regulations, and the PUD evaluation standards.

104. On balance, this Commission finds that there is comparatively little opposition to the Project itself. Even the Association conceded that it is not opposed to this Project, Tr. 2 at 88-89 and Tr. 3 at 88, and understandably so. At its core, the Project replaces 64, now-vacant, 80-year old apartment units subject to a maturing affordability restriction with 331 brand new mixed-income units of the highest-caliber design with modern amenities and subject to a new affordability restriction.

CONCLUSIONS OF LAW

Consistency with the PUD Process, Zoning Regulations, and Plan

1. Pursuant to the Zoning Regulations, the purposes of the PUD process are “to provide for higher quality development through flexibility in building controls, including building height and density, provided that a PUD: (a) Results in a project superior to what would result from the matter-of-right standards; (b) Offers a commendable number or quality of meaningful public benefits; and (c) Protects and advances the public health, safety, welfare, and convenience, and is not inconsistent with the Comprehensive Plan.” 11-X DCMR (“X”) § 300.1 (the “**PUD Process**”). This Commission concludes that the approval of the Application is an appropriate result of the PUD Process. The Project is a high-quality development that is superior to what could be constructed on the Property as a matter-of-right via the underlying zoning. *See supra*, FF ¶ 67. This Commission has found that the Project provides public benefits that are commendable both in number and quality. *Id.* Finally, this Commission has found that the Project will not injure the public health, safety, welfare or convenience, *id.* ¶ 62, and is not inconsistent with the Comprehensive Plan. *Id.* ¶ 60.

2. The PUD process is intended to “provid[e] for greater flexibility in planning and design than may be possible under conventional zoning procedures, [but] the PUD process shall not be used to circumvent the intent and purposes of the Zoning Regulations, or to result in action that is inconsistent with the Comprehensive Plan.” X § 300.2. This Commission has found that the Project generally conforms to the requirements of the Zoning Regulations except for the two areas of articulated zoning relief, which are nonetheless consistent with the intent and

purposes of the Zoning Regulations. FF ¶ 62. The Project is not inconsistent with the Comprehensive Plan. *Id.* ¶ 60. Therefore, this Commission concludes that Project does not circumvent the Zoning Regulations and is not inconsistent with the Comprehensive Plan.

Procedural and Jurisdictional Conclusions

3. Any PUD application must meet the requirements of Subtitle Z, Chapter 3, X § 307.1, and this Commission must hear any PUD case in accordance with the contested case procedures of Subtitle Z, Chapter 4. *Id.* § 300.3. This Commission previously found and hereby concludes that the Application satisfies the PUD application requirements, FF ¶ 3, and that this Commission has satisfied the procedural requirements of the Zoning Regulations, including the applicable notice thereof, necessary to issue this Order. *Id.* ¶ 14. This Commission concludes that this Application complies with the Zoning Regulation’s procedural requirements and notice provisions.

4. The minimum area included within a proposed PUD must be no less than 15,000 square feet and all such area must be contiguous. X § 301. The Application satisfies these minimum area and contiguity requirements. FF ¶ 1.

Evaluation Standards

5. As part of a PUD application, the Commission may, in its discretion, grant relief from any building development standard or other standard (except use regulations) referenced in the zone reference table. X §§ 303.1, 303.11. The Applicant seeks relief from the lot occupancy (with respect to both Buildings) and long-term bicycle parking requirements (with respect to Building B only) of the Zoning Regulations. FF ¶¶ 53-58. The Commission has found that these items of relief do not impair the purposes or intent of the Zoning Regulations and are not inconsistent with the Comprehensive Plan. *Id.* Therefore, the Commission concludes it may authorize its discretion to grant such items of relief subject to the Conditions hereof.

6. The Zoning Regulations define public benefits as “superior features of a proposed PUD that benefit the surrounding neighborhood or the public in general to a significantly greater extent than would likely result from development of the site under the matter-of-right provisions of this title.” X § 305.2. Such public benefits must satisfy the following criteria: (a) benefits must be tangible and quantifiable items; (b) benefits must be measurable and able to be completed or arranged prior to issuance of a certificate of occupancy; (c) benefits must primarily benefit the geographic boundaries of the ANC; and (d) monetary contributions shall only be permitted if made to a District of Columbia government program or if the applicant agrees that no certificate of occupancy for the PUD may be issued unless the applicant provides proof to the Zoning Administrator that the items or services funded have been or are being provided. *Id.* §§ 305.3, 305.4 (“**Public Benefit Criteria**”). Based on this Commission’s findings regarding the Applicant’s proposed public benefits and the Conditions of this Order, FF ¶¶ 66-67, this Commission concludes that the public benefits proposed by the Applicant will benefit the surrounding neighborhood or the District as a whole to a significantly greater extent than would a matter-of-right development and will satisfy the Public Benefit Criteria.

7. This Commission must undertake a “comprehensive public review” of any PUD application “in order to evaluate the flexibility or incentives requested in proportion to the proposed public benefits,” and in deciding on the Application, this Commission must “judge, balance, and reconcile the relative value of the public benefits project and amenities offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case.” X §§ 300.5, 304.3. A PUD-related zoning map amendment is flexibility against which the Commission must weigh the benefits of the PUD. *Id.* § 303.12.

- (a) This Commission heard the Application in a public hearing and followed the contested case procedures of the Zoning Regulations. FF ¶¶ 3-24. This Commission therefore concludes that it has satisfied the procedural requirements in order to review the Application and evaluate the flexibility and incentives requested against the proposed public benefits.
- (b) The Project warrants the requested relief, modifications to the approved First-Stage Order PUD, flexibility afforded by the Zoning Map amendment in light of the extensive public benefits offered by the Project. The relief, flexibility and modifications are comparatively minor and largely offset by mitigation plans and superior design. Moreover, the benefits of the Project and the First-Stage Order more generally are extensive. The Applicant is in the midst of constructing a new mixed-use, mixed-income, transit-oriented neighborhood, replete with amenities such as the Community Green, and introduction of commercial uses, all while preserving a significant quantity of deeply affordable housing that will be indistinguishable from market rate units. The individual elements of the Applicant’s undertaking are benefits to the existing residents and the neighborhood locally; the Applicant’s preservation of affordable housing and creation of new housing is a benefit to the District as a whole. The Applicant’s additional provision of service, employment, and special use benefits is accretive to the Project’s design and programmatic benefits.
- (c) The Project and its incentives and benefits must be evaluated also against the special circumstances in this case, which include Brookland Manor resident and Association concerns regarding the availability of units and the displacement of residents. The Commission has found that this Project, by itself, does not create unacceptable concerns regarding the availability of units to meet the need of Brookland Manor residents. At the conclusion of the construction of the Project, there will be more than 800 units available to house Brookland Manor residents. This Commission has also found that the strong support for the Applicant among the community for this Project and the Applicant’s good will from decades of laudable service to the Brentwood neighborhood and Brookland Manor residents outweigh the concerns alleged. The Commission recognizes the Applicant’s challenge in recreating Brookland Manor into a new mixed-use, mixed-income neighborhood and concludes that the benefits it is providing outweigh any special circumstances before the Commission at this time.

8. Accordingly, the Project's benefits and amenities outweigh the relief, flexibility and modifications requested even in light of the background concerns in the community, which concerns this Commission will reevaluate in future second-stage applications under the First-Stage Order.

9. The PUD provisions require the Commission to evaluate whether the Application: "(a) is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site; (b) does not result in unacceptable project impacts on the surrounding area or on the operation of city services and facilities but instead shall be found to be either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the project; and (c) includes specific public benefits and project amenities of the proposed development that are not inconsistent with the Comprehensive Plan or with other adopted public policies and active programs related to the subject site." *Id.* § 304.4. The Commission has reviewed the entire record and issued findings to support its conclusion that the Application satisfies the relevant evaluation criteria. *See supra*, FF ¶¶ 59-67. In particular, the Commission concludes the Project is consistent with all aspects of the Plan presented to the Commission by opponents, reiterates its conclusions regarding consistent with the Comprehensive Plan as determined in the First-Stage Order, accepts the Applicant's impact analysis, and concludes that the Project will not have any unacceptable impacts.

10. Nothing in the record leads the Commission to disturb its conclusion from the First-Stage Order regarding the Zoning Map amendment applicable to the Property. Exh. 1F, Conclusions of Law ¶ 13 ("The Commission finds that rezoning the site is consistent with the Comprehensive Plan. The PUD is fully consistent with and fosters the goals and policies stated in the elements of the Comprehensive Plan."). Therefore, the Commission concludes that the Zoning Map amendment for the Project is consistent with the Plan.

11. The Applicant has the burden of proof to justify the granting of the Application according to the PUD standards enumerated above. X § 304.2. The Applicant's filings, testimony, and expert witness presentations are credible and thorough. FF ¶ 22. Accordingly, the Applicant has provided substantial evidence to demonstrate that the Project satisfies the relevant PUD evaluation standards.

12. The Commission is required to give "great weight" to the issues and concerns of the affected ANC. D.C. Code § 1-309.10(d)(3)(A). This Commission has heard testimony from the ANC. FF ¶¶ 85-90. The Commission concludes that the Applicant appropriately engaged in dialogue with the ANC and addressed the issues and concerns of the ANC .

13. The Commission is also required to give great weight to the recommendations of OP. D.C. Code § 6-623.04. This Commission has reviewed the OP Setdown Report, the OP Final Report and heard testimony from OP. FF ¶¶ 4-5, 75-79. The Commission gives OP's recommendation to approve the application great weight, and concurs with OP's conclusions.

14. This Commission must grant approval to the Application, subject to any guidelines, conditions, and standards that are necessary to carry out this decision if the

Commission finds the Application to be “in accordance with the intent and purpose of the Zoning Regulations, the PUD process, and the first-stage approval.” X § 309.2. The Commission has found the Application to be in accordance with the intent and purpose of the Zoning Regulations, FF ¶ 62, the PUD Process, *id.*, and the First-Stage Order, *id.* ¶ 48. Accordingly, the Commission concludes it must grant approval of the Application subject to the Conditions set forth herein.

15. The Application seeks a modification of the First-Stage Order pursuant to Subtitle Z, Sections 703 and 704 of the Zoning Regulations. Based on the findings associated with the modification request, FF ¶¶ 48-52, the Commission concludes the Applicant has satisfied the requirements of the Zoning Regulations with respect to the modification request.

16. The Application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

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 second-stage review of a Planned Unit Development and related modification of an approved first-stage PUD for the Subject Property (Square 3953, Lots 1-3). The approval of this PUD is subject to the following guidelines, conditions and standards (“**Conditions**”). For the purposes of these Conditions, the term “**Applicant**” shall mean the person or entity then holding title to the Property. If there is more than one owner, the obligations under this Order shall be joint and several. If a person or entity no longer holds title to the Property, that party shall have no further obligations under this Order; however, that party remains liable for any violation of these conditions that occurred while an owner. The approval of this second-stage PUD Application and related modification of the approved first-stage PUD is subject to the following guidelines, conditions, and standards:

A. PROJECT DEVELOPMENT

A.1. The Second-Stage PUD project shall be developed in accordance with the plans prepared by Torti Gallas Urban marked as Exhs. 24E, 101A and supplemented by drawings submitted on April 10, 2017 as Exh. __ of the record (“Approved Plans”), as modified by the guidelines, conditions and standards herein.

A.2. The Second-Stage PUD project consists of: (i) Building A, a four-story apartment building containing approximately 131 mixed-income units with associated ground floor level amenity space, 68 below-grade vehicular parking spaces, and 54 bicycle parking spaces (44 long-term and 7 short term); and (ii) Building B, a four-story residential building containing approximately 200 seniors-only independent living units with associated ground floor level amenity space, 48 below-grade vehicular parking spaces, and 32 bicycle parking spaces (22 long-term and 10 short term). Building A has 169,342 square feet of gross floor area, a maximum height of 49 feet 4 inches, and an FAR of 2.97. Building B has 172,266 square feet of GFA, a maximum height of 51 feet, and an

FAR of 3.0. Block 7 has a total FAR of 2.98 and contains 341,608 square feet of GFA, all of which is devoted to residential uses.

B. PUBLIC BENEFITS

B.1. Affordable Housing. The second-stage PUD Project will initially include a minimum of approximately 265 units (80 percent of the total units delivered as part of this phase) that will be deeply affordable and reserved for occupants eligible to receive Section 8 assistance through the project based contract with HUD or through a DCHA Housing Choice Voucher.

- a. All of the units (200) in the seniors only building (Building B) will be reserved for residents that that will be assisted by the project based and/or HCV Section 8 programs.
- b. Approximately 65 of the units in Building A will initially be reserved for other current residents of Brookland Manor. The 65 replacement units in Building A will consist of 25 units that will be reserved as permanently affordable units reserved for residents that that will be assisted by the project based and/or HCV Section 8 programs and 40 “temporary” replacement units that will be used to house existing Brookland Manor residents. As the Applicant undertakes future phases of the overall redevelopment approved pursuant to the First-Stage Order, some affordable units in Building A may be reallocated to other buildings in the RIA development. Given the timing and phasing considerations for the entire project, the Applicant is provided the flexibility to utilize all of Building A (131 units) as replacement housing for the first 8-13 years of the occupancy of Building A.

B.2. Employment Benefits. The Applicant has entered into a First Source Agreement with DOES to promote and encourage the hiring of District residents. The Applicant will provide updates in all future second-stage applications as to the Applicant’s satisfaction of the terms of the First Source Agreement associated with approved second-stage PUD applications.

B.3. Construction Management Plan. The Applicant shall abide by the terms of the Construction Management Plan as detailed in Exh. [Post-Hearing Submission]B____.

B.4. Social Services and Facilities. The Applicant will continue to provide programs that are designed for the children and seniors that live in the community. Such programs for children living in Brookland Manor will include a variety of enrichment activities, such as after school care, tutoring, arts and crafts, community gardening, summer camp, meal programs to ensure that no child goes home hungry, girls’ self-esteem workshops, reading and math tutoring, school supply drives, holiday gifts and a food pantry for

families. Such programs for Brookland Manor’s senior residents will include brown-bag lunches and other events designed to bring Brookland Manor’s senior community together.

B.5. Building Space for Special Uses. The second-stage PUD Project shall provide residents of Block 7 amenity spaces in each of the two Buildings. Buildings A and B each provide amenity spaces for special uses including, but not limited to, community, educational or social development, promotion of the arts or similar programs.

C. TRANSPORTATION MITIGATION

C.1. The Applicant will continue to work with DDOT on the following matters: (i) for each subsequent second-stage PUD submission the Applicant will provide an updated CTR for the specific second-stage application which will also include an updated analysis for the entire first-stage PUD, as appropriate; (ii) further coordination to determine the appropriateness of curb bulbouts, the proposed curbside management, and the exact width dimensions for the Saratoga Street layout for Block 7; and (iii) design of the public realm for Block 7, including utility vault location and treatment, and bike rack locations.

D. MISCELLANEOUS

D.1. The Zoning Regulations Division of the Department of Consumer and Regulatory Affairs (“DCRA”) shall not issue any building permits 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, DCRA. Such covenant shall bind the Applicant and all successors in title to construct and use the property in accordance with this order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.

D.2. The change of zoning to the RA-2 Zone District shall be effective upon the recordation of the covenant discussed in Condition No. D.1.

D.3. The second-stage PUD approval for the development of Block 7 shall remain valid for a period of two years from the effective date of this Order.

D.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 also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On _____, 2017, upon the motion of _____, as seconded by _____, the Zoning Commission **APPROVED** the application for the PUD and related Zoning Map amendment by a vote of _____.

On _____, 2017, upon the motion of _____, as seconded by _____, the Zoning Commission **ADOPTED** this Order to approve the PUD and related Zoning Map amendment by a vote of _____.

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

ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION

SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING