

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 15-13**

**Z.C. Case No. 15-13**

Consolidated Planned Unit Development and Related Zoning Map Amendment  
Watkins Alley, LLC – 1309-1323(rear) E Street SE and 516(rear) 13<sup>th</sup> Street SE (Square 1043,  
Lots 142, 849-851, & 859)

**[date of final action]**

Pursuant to proper notice, the Zoning Commission for the District of Columbia (the “Commission”) held a public hearing on April 4, 2016 to consider an application by Watkins Alley, LLC (the “Applicant”) for consolidated review and approval of a planned unit development (“PUD”) and related Zoning Map amendment from the C-M-1 and R-4 Zone Districts to R-5-B for Square 1043, Lots 142, 849-851, & 859 (the “Application”). The Commission considered the Application pursuant to Chapter 24 and Chapter 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. The Commission approves the Application, subject to the conditions below.

**FINDINGS OF FACT**

**Application, Parties, and Hearing**

1. The project site consists of Square 1043, Lots 142, 849-851, & 859 (the “Property”) with the address of 1309-1323(rear) E Street SE and 516(rear) 13<sup>th</sup> Street SE.
2. On June 3, 2015, the Applicant filed an application for consolidated review and approval of a PUD and related Zoning Map Amendment from the C-M-1 and R-4 zones to the R-5-B zone. (Exhibit (“Ex.”) 1).
3. On July 15, 2015, the Office of Planning (“OP”) filed a report recommending that the Application be set down for a public hearing. (Ex. 9).
4. At its public meeting on July 27, 2015, the Commission did not take any action on the Application and requested that the Applicant modify the design of Project pursuant to their comments. (7/27/2015 Transcript (“Tr.”) at 83-85.)
5. On October 13, 2015, the Applicant filed a set of amended plans that included responses to the Commission’s comments. (Ex. 10.)
6. On July 15, 2015, the Office of Planning (“OP”) filed a supplemental report recommending that the Application be set down for a public hearing. (Ex. 12.)
7. During its public meeting on November 9, 2015, the Commission unanimously voted to set down the Application for a public hearing. Notice of the public hearing was

published in the D.C. Register on February 12, 2016 and was mailed to Advisory Neighborhood Commission (“ANC”) 6B and to owners of property within 200 feet of the Property. (Ex. 17, 18; 11/9/2015 Tr. at 78-79).

8. The Application was further updated by pre-hearing submissions that the Applicant filed on and January 20, 2016 and March 14, 2016. (Ex. 14, 25).
9. The Commission held a public hearing on the Application on April 4, 2016. The Commission accepted Greg Sparhawk as an expert in the field of architecture and Jami Milanovich as an expert in the field of traffic engineering. (Ex. 24). The Applicant provided testimony from these experts and from Sean Ruppert of OPaL, LLC. (4/4/2016 Tr. At 7-21).
10. In addition to the Applicant, ANC 6B was automatically a party in this proceeding and submitted a report and testified in support of the Application. (Ex 30).
11. At the public hearing, the Commission heard testimony and received reports from OP and the District Department of Transportation (“DDOT”) in support of the Application. (Ex.18 ,19) No persons testified in either support of or opposition to the Application.
12. At the public hearing, the Commission requested additional information and changes to the project design. (4/4 Tr. at 23-77).
13. The Applicant responded to the Commission’s comments and concerns in a post-hearing filing that it submitted on May 12, 2016. (Ex. 40-40C2).
14. At a special public meeting on June 13, 2016, the Commission took proposed action to approve the Application by a vote of \_\_\_\_\_. (6/13 Tr. at \_\_\_\_\_).
15. The proposed action of the Commission was referred to the National Capital Planning Commission (“NCPC”) pursuant to § 492 of the Home Rule Act. NCPC, by action dated \_\_\_\_\_, found that the proposed PUD would not be inconsistent with the Comprehensive Plan for the National Capital, nor would it adversely affect any other identified federal interests.
16. The Commission took final action to approve the Application at a public meeting on \_\_\_\_\_, 2016 by a vote of \_\_\_\_\_.

## **THE MERITS OF THE APPLICATION**

### **Overview of the Property**

17. The Property contains approximately 30,067 square feet of land area. The Property contains one larger contiguous parcel and a smaller parcel to the west across an alley. The larger parcel has a north block and a south block that are connected by a narrower strip of land. Generally, the Property is bounded by E Street SE to the north, a public alley to the south, an industrial building and alley to the east, and row dwellings/flats and

a public alley to the west. The public alley is 16 feet wide along the east side, 30 feet wide along the south side, and 25 feet wide along the west side. (Ex. 1, 1A, 1B.)

18. The Property is currently improved with an automobile repair shop, an automobile repair parking lot, and a warehouse for food trucks. (Ex. 1).
19. The surrounding area is a mix of residential uses, industrial uses, parking lots, commercial/retail uses, and institutional uses. Across the street to the north is the International Graduate University site (slated for residential redevelopment), a hardware store is directly adjacent to the Property, a small commercial/residential building is adjacent to the Property to the west, townhouses/flats are directly to the west across the alley, and an industrial building is to the south across the alley. A garbage truck parking lot is directly to the east across the alley, but that site is slated for redevelopment. To the southeast and south across the alley is a DDOT facility that fabricates signs. Along the same block of E Street are a small commercial building, an automotive repair shop, and townhouses/flats. To the northwest across E Street is the Watkins Recreation Center and Elementary School. To the northeast across E Street is a Safeway supermarket. (Exhibits 1, 10B).
20. The Property is located approximately ¼ mile from the Potomac Avenue Metrorail station, which is to the southeast of the Property. Also, two Capital Bikeshare stations are within ¼ mile of the Property. (Ex. 14I.)
21. The Property is zoned C-M-1 with the small parcel across the alley zoned R-4. Industrial properties to the east and south of the Property are zoned C-M-1. To the north, west, and further to the east, along 14<sup>th</sup> Street, properties are zoned R-4. To the northeast and further to the south along Pennsylvania Avenue, properties are zoned C-2-A. (Ex. 1, 10B).
22. The Future Land Use Map (“FLUM”) of the Comprehensive Plan designates the Property in the Moderate Density Residential Land Use Category. The Generalized Policy Map (“GPM”) designates the Property as a Neighbor Conservation Area. (Ex. 1, 1C.)

### **The Project**

23. The Applicant plans to redevelop the Property as a multifamily residential building with multiple unit types (“Project”). The Project will contain 44 residential units and a total of approximately 87,703 gross square feet, which equates to a FAR of 2.92. (Ex. 1, 35A, 40C1).
24. The Project will have three components, but all structures will be connected so that they will be one building for zoning purposes. The north portion of the Property closest to E Street will contain a block of approximately ten four-story townhouse-like condominiums with recessed fourth floors. Seven of these townhouse-like units will front on E Street, and three will be along the western side of the property perpendicular to the other seven townhouse-like units. These three townhouse-like units will be oriented around a large

courtyard that will open to the south onto the alley. These units will have a maximum height of approximately 44.8 feet, including mechanical equipment, so they will not have separate mechanical penthouses. These units will contain two bedrooms or three bedrooms. Initial purchasers of the units without rear windows will be given the option of locating the kitchens at either the front or rear. (Ex 1, 40C1, 40C2; 4/4 Tr. at 6-14.)

25. The south portion of the Property, surrounded by the alley system, will contain another block of approximately 20 townhouse-like units. These townhouse-like units also will be four stories with a recessed fourth story and will have a height of approximately 42.8 feet, including mechanical equipment; they will not have mechanical penthouses. These units will be oriented in two parallel rows facing each other with a large central pedestrian lane (mews). These units will contain three bedrooms or four bedrooms. (Ex 1, 40C1, 40C2.)
26. Connecting the north and south blocks of townhouse-like units will be a five-story bar of 15 apartments that will contain one bedroom, one bedroom + den, or three bedrooms. The height of this bar will be approximately 56.5 feet. (Ex. 1, 40C1, 40C2.)
27. Across the alley to the west from the large parcel of the Property, the small parcel will contain a small three-story (approximately 26 feet tall) single-family one bedroom townhouse. (Ex. 1, 40C1, 40C2.)
28. The Project will include 45 underground parking spaces. The parking will be under the south block of townhouse units, and it will be accessed from the block's west side via the 25-foot alley to the west of the Property. In addition, the Project will provide 48 secure bicycle parking spaces. (Ex. 1, 40C1, 40C2.)
29. The Project will be designed so as to satisfy the standards for Silver certification under LEED for Homes version 4. (Ex. 25, 40C1.)
30. Open space and green features will be incorporated throughout the Project. The north block of townhouse units will include a landscaped courtyard. Also, the central mews in the south block of townhouse units will be landscaped. In addition, nearly every unit will have outdoor space, either a roof deck or a balcony. A significant green roof will occupy the roof of the apartment bar and the westernmost group of townhouse units in the north block. (Ex. 1, 40C1, 40C2.)
31. Access to the Project will be through various points. Pedestrian access will be via E Street and via the alley system. Pedestrians from E Street will be able to pass into the north block courtyard through a passageway in the center of the building. This passageway will be open to the public at all times. Pedestrians also may access the system through the alley system entered to the east either from E Street or G Street. Residents in the apartment bar will have access from E Street to an enclosed hallway leading to their units and elevators. Bicycles similarly will be able to access the Project from either E Street or the alley system. Automobiles will access the Project first via the 15-foot wide north-south alley from either E or G Streets, then west along the alley to the

south of the Property, and then enter the parking garage from the 25-foot wide alley to the west of the south block. (Ex 1, 35A, 40C1, 40C2; 4/4 Tr. at 14-15.)

32. The design of the Project will vary depending on location. The E Street façade will have a style more reflective of the Federal style townhouses and flats in the neighborhood. The façades facing the alley system will have more of an industrial style reflective of the warehouses in the alley system. (Ex. 10, 40C1, 40C2; 4/4 Tr. at 6-14.)
33. The townhouse on the small parcel across the alley will be designed in the Federal style. The parking for this townhouse will be located in the garage under the south block of townhouse units. (Ex. 1, 40C1, 40C2.)

#### Zoning Map Amendment

34. The Property is located primarily in the C-M-1 Zone District, with the small parcel across the alley zoned R-4. As a matter-of-right, the maximum height allowed in the C-M-1 Zone District is 40 feet, and the maximum density is 3.0 FAR. Residential use is not permitted in the C-M-1 zone.
35. The Applicant requested a PUD-related Zoning Map amendment to the R-5-B Zone District to permit the Project to achieve the requested use, height, and density. The maximum height permitted in the R-5-B Zone District under the PUD guidelines is 60 feet, and the maximum density permitted is 3.0 FAR.

#### PUD Flexibility Requested

36. The Applicant requested flexibility from the minimum land area for a PUD, rear yard, lot occupancy, alley width for alley dwelling, alley dwelling height, and parking space location requirements in order to accommodate the proposed design of the Project, as detailed in the Applicant's written submission and the OP final report. The PUD land area flexibility is required to allow an all-residential project on a site that is less than one acre. The rear yard and lot occupancy flexibility is justified by the Property's configuration and the Project's unique site design of reorienting open space. The alley width, alley dwelling height, and parking space location flexibility is justified by the construction of the townhouse on the small parcel that would otherwise remain undeveloped. (Ex. 1, 35A, 40C1, 40C2.)

#### Project Amenities and Public Benefits

37. As detailed in the Applicant's testimony and written submissions, the proposed Project will implement the following project amenities and public benefits:
  - a. Exemplary urban design, architecture, and landscaping, including high-quality materials, superior architecture that responds to and is consistent with the various historical uses in the vicinity, and sustainable features. The Commission finds that the Project's design adequately incorporates and responds to the design suggestions and concerns raised by both the Commission and OP. (Ex. 1, 14, 29, 40C1, 40C2.)

- b. Site planning and efficient land utilization, through the redevelopment of an auto repair shop and warehouse into a multifamily building with a unique site plan in a predominantly residential neighborhood. (Ex. 1, 14, 29, 40C1, 40C2.)
- c. Public Space & Park Improvements. Specific improvements include:
  - i. The Applicant will make the following improvements to the plaza adjacent to the Potomac Avenue Metrorail station: installing greenery/landscaping around the station elevator and removal of the kiosk. (Ex. 1, 25, 35A, 40B; 4/4 Tr. at 18).
  - ii. The Applicant will improve and enhance the 13 tree boxes around Square 1043 and repaint light posts. (Ex. 40B)
- d. Effective and safe vehicular and pedestrian access and transportation management measures. Specific features include:
  - i. TDM plan as set forth in the Applicant's transportation assessment. (Ex. 14I, 35A).
  - ii. Approximately 48 secure bicycle parking spaces inside the Project. (Ex. 35A, 40C1, 40C2.)
  - iii. A pedestrian passageway through the building from E Street. (Ex. 35A, 40C1, 40C2.)
  - iv. Location of the parking garage where it is least likely to conflict with pedestrians and other traffic. (Ex. 14, 35A, 40C1, 40C2; 4/4 Tr. at 16).
- b. Transportation and streetscape infrastructure improvements, including:
  - i. Improved Alley System: The Applicant will repave the section of the alley system west of the Property's south block.
  - ii. Alley Safety Improvements: Provide additional features to improve the functionality and safety of the alley including security cameras, lights, and mirrors on the Property. (Ex. 35A, 40B).
  - iii. Reduction in Curb Cuts: Eliminate curb cuts on E Street, thereby creating more on-street parking. (Ex. 1, 29.)
- e. Housing and affordable housing, through the creation of 44 residential units, including five units set aside for affordable units. The affordable unit mix will contain two 2-bedroom and two 3-bedroom units at 50% AMI and one 3-bedroom unit at 80% AMI. This represents a significant increase in amount of affordable housing over both a matter-of-right project in the underlying C-M-1 zone and over the base requirements of the R-5-B zone sought through the PUD. (Ex. 35A, 40B, 40C1.)

- f. Environmental benefits, including a commitment to achieve Silver under LEED for Homes version 4 for the Project. (Ex. 35A, 40B, 40C1; 4/4 Tr. at 13-14.) The Project will also include specific sustainable design features such as extensive green roof and courtyard. (Ex. 40C1, 40C2.) The Project will remove a large impermeable surface. Sustainable features will include permeable pavement, lack of irrigation, drought tolerant landscape, bird attracting features including bird houses, outdoor terraces, fruiting shrubs, and a pollinator garden.
- g. Social services/facilities through one of the residential units being designed as a “senior unit” to include features to make it accommodating to a senior resident. (Ex. 29, 35A.)
- h. Uses of special value, including:
  - i. The Applicant will incorporate into the condominium documents a requirement that the condominium association will plow snow from the alley system adjacent to the project site and out to E Street.
  - ii. The Applicant will replace the metal fence along G Street for the Potomac Gardens apartment complex.
  - iii. The Applicant will contribute \$1000 to DC Safety Net for its Safe Routes program for the purchase of vests and office supplies.

(Ex. 1, 29, 35A, 40B; 4/4 Tr. at 17-21.)

### Transportation Issues

- 38. The Applicant’s traffic expert submitted a detailed transportation impact analysis that concluded that the proposed Project would not generate an adverse traffic impact on the surrounding roadway network or cause objectionable impacts in the surrounding neighborhood due to traffic or parking impacts. The Applicant’s traffic consultant also concluded that the number of automobile trips generated by the Project would be equal to or less than the number generated by the existing uses. Further, the Applicant’s traffic consultant testified that the location of the parking entrance is best because of ease of use, least likely for conflicts, most feasible site design, and because a curb cut on E Street would not be permitted. Finally, the Applicant’s transportation analysis included a loading management plan and a transportation demand management (“TDM”) plan to reduce automobile trips. (Ex. 14I, 35A; 4/4 Tr. at 14-17.)
- 39. The Applicant’s representative testified about a meeting with a representatives from the DDOT and DPW facilities across the alley from the Project to the south. He testified that the representatives committed to working with the neighbors and to reducing alley parking that would obstruct circulation. (4/4 Tr. at 63.)
- 40. DDOT submitted a report stating that it has no objection to the Project. DDOT concurred with the scope, methodology, and findings of the Applicant’s transportation study, and found the loading management plan and TDM plan acceptable. DDOT agreed that the

Project would have a low number of vehicle trips and did not object to the site design or site circulation. DDOT further found that the bicycle facilities in the Project will be adequate and that the site is well served by public transit. DDOT recommended continued coordination with the Applicant for improvements in the public realm. (Ex. 28.)

41. Several neighbors filed a letter in support of the PUD and made three recommendations regarding their concerns about alley congestion: (1) that the north-south alley to the east of the Project site be widened; (2) that the parking garage entrance be located to E Street via a curb cut; and (3) that safety measures be incorporated into the Project because of the Pedestrian's pedestrian passageway from E Street. Another neighbor also expressed a concern about the enforcement of parking restrictions in the alley. (Ex. 23, 30.)
42. The Project will not cause unacceptable impacts on vehicular or pedestrian traffic, or cause unacceptable alley impacts, as demonstrated by the testimony and reports provided by the Applicant's traffic expert and DDOT.
  - a. The Commission finds that the Project will not impose adverse impacts on the surrounding transportation network. The Commission credits the findings of the Applicant's traffic expert as verified by DDOT that the Project will not create any adverse traffic or parking impacts when compared with existing conditions.
  - b. The Commission finds that the number of vehicular parking spaces will not result in adverse parking conditions in the neighborhood and is appropriate given the location well served by public transit. The Commission concludes that the number of vehicular and bicycle parking spaces provided within the Project, combined with the site's proximity to multiple transportation options, and the Applicant's TDM plan, will ensure that the Project does not adversely impact on-street parking in the surrounding neighborhood.
  - c. The Commission finds that the location of the Project parking entrance will not generate adverse conditions in the alley for the reasons set forth above, including safety, DDOT's policy against curb cuts when alley access is available, and because it allows for the most efficient site plan.
  - d. The Commission recognizes the concerns of the neighbors about the width of the north-south alley but finds that widening the alley on the Project's site would have little effect because the Property is adjacent to only a portion of the alley length. In any event, the Commission finds that the alley system is sufficient to accommodate the traffic generated by the Project.
  - e. The Commission finds that the neighbors' concerns about safety for the pedestrian passageway will be adequately addressed through the Applicant's provisions of cameras, lights, and mirrors on the Project.
  - f. The Commission finds that the Project will not impose adverse impacts on the surrounding pedestrian and bicycle network. The Commission also credits



DDOT's acceptance of the pedestrian and related streetscape measures proffered by the Applicant subject to final approval by DDOT. The Commission recognizes that DDOT will determine the final measures to be installed through the public space approval process.

#### Construction Impacts

43. Several neighbors filed letters in support of the Project but expressed concern about the combined construction-related impacts from this Project and the planned project across the alley to the east. (Ex. 23, 30.)
44. Working with the ANC 6B and the adjacent neighbors, the Applicant agreed to enter into a Memorandum of Understanding governing Project construction and operations to mitigate impacts from the construction of the Project. The MOU also includes the Applicant's agreement to work with the developer of the property to the east across the north-south alley to coordinate construction to the greatest extent possible and to minimize cumulative impacts on neighboring properties. (Ex. 32, 33; 4/4 Tr. at 63-64; 85-86.)

#### Project Design and Materials

45. The Commission finds that the Project design and materials will be high-quality and will be appropriate for the neighborhood context. All building façades will feature attractive and time-tested materials to ensure that the Project's material visual quality will not degrade over time. The design of the Project has been sufficiently refined to be context-appropriate and will be architecturally superior. (Ex. 40C1, 40C2).

#### Compliance with the Comprehensive Plan

46. The Commission finds that the PUD advances the goals and policies in the Land Use, Transportation, Housing, Urban Design and Capitol Hill Area Elements of the District of Columbia Comprehensive Plan ("Plan").
47. The Land Use Element of the Plan includes the following policies advanced by the Project:

- **Policy LU-1.3.2: Development Around Metrorail Stations** – Concentrate redevelopment efforts on those Metrorail station areas which offer the greatest opportunities for infill development and growth, particularly stations in areas with weak market demand, or with large amounts of vacant or poorly utilized land in the vicinity of the station entrance. Ensure that development above and around such stations emphasizes land uses and building forms which minimize the necessity of automobile use and maximize transit ridership while reflecting the design capacity of each station and respecting the character and needs of the surrounding areas.
- **Policy LU-1.3.3: Housing Around Metrorail Stations** – Recognize the opportunity to build senior housing and more affordable “starter” housing for first-time homebuyers adjacent to Metrorail stations, given the reduced necessity of auto ownership (and related reduction in household expenses) in such locations.
- **Policy LU-1.4.1: Infill Development** – Encourage infill development on vacant land within the city, particularly in areas where there are vacant lots that create “gaps” in the urban fabric and detract from the character of a commercial or residential street. Such development should complement the established character of the area and should not create sharp changes in the physical development pattern.
- **Policy LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods** – Recognize the importance of balancing goals to increase the housing supply and expand neighborhood commerce with parallel goals to protect neighborhood character, preserve historic resources, and restore the environment. The overarching goal to “create successful neighborhoods” in all parts of the city requires an emphasis on conservation in some neighborhoods and revitalization in others.
- **Policy LU-2.2.4: Neighborhood Beautification** – Encourage projects which improve the visual quality of the District’s neighborhoods, including landscaping and tree planting, facade improvement, anti-litter campaigns, graffiti removal, improvement or removal of abandoned buildings, street and sidewalk repair, and park improvements.
- **Policy LU-2.3.1: Managing Non-Residential Uses in Residential Areas** – Maintain zoning regulations and development review procedures that: (a) prevent the encroachment of inappropriate commercial uses in residential areas; and (b) limit the scale and extent of non-residential uses that are generally compatible with residential uses, but present the potential for conflicts when they are excessively concentrated or out of scale with the neighborhood.
- **Policy LU-3.1.4: Rezoning of Industrial Areas** – Allow the rezoning of industrial land for non-industrial purposes only when the land can no longer viably support industrial or PDR activities or is located such that industry cannot co-exist adequately with adjacent existing uses. Examples include land in the immediate vicinity of Metrorail stations, sites within historic districts, and small sites in the midst of stable residential neighborhoods. In the event such rezoning results in the displacement of active uses, assist these uses in relocating to designated PDR areas.
- **Policy LU-3.1.5: Mitigating Industrial Land Use Impacts** - Mitigate the adverse impacts created by industrial uses through a variety of measures, including buffering, site planning and design, strict environmental controls, performance standards, and the use of a range of industrial zones that reflect the varying impacts of different kinds of industrial uses.

The Commission finds that the PUD will advance the land use element of the Comprehensive Plan. The Project will replace undesirable industrial and will rezone industrially-zoned land in the center of a well-established residential neighborhood. At the same time, the Project will enhance this residential neighborhood and will beautify this block by constructing new residences with compatible architectural style. Furthermore, the Project will promote better development on the PUD Site through the provision of new housing units with close proximity to a Metrorail station. The Project will be the quintessential infill development that will allow an underutilized site to be brought to its highest and best use with new housing in an established residential neighborhood and close to a Metrorail station. Given the innovative site plan and replacement of an industrial use with mostly new single-family townhouse-like units, the Project will promote the stability and preservation of the existing residential neighborhood. (Ex. 1, 9.)

48. The Project will advance the following policies of the Transportation Element of the Plan:

- **Policy T-1.1.4: Transit-Oriented Development** – Support transit-oriented development by investing in pedestrian-oriented transportation improvements at or around transit stations, major bus corridors, and transfer points.
- **Policy T-2.4.1: Pedestrian Network** – Develop, maintain, and improve pedestrian facilities. Improve the city’s sidewalk system to form a network that links residents across the city.

The Commission finds that the Project will be a transit oriented development since will contribute a notable amount of new housing at in close proximity to a Metrorail station and a major Metrobus corridor. The Property’s proximity to public transportation makes it a prime location for additional density and residences. Also, the Project will improve the pedestrian experience on the block by eliminating a large three-bay curb cut and resulting pedestrian-automobile conflicts. (Ex. 1, 9, 40C1, 40C2.)

49. The Urban Design Element of the Plan includes the following policies that the Project will advance:

- **Policy UD-2.2.1: Neighborhood Character and Identity** – Strengthen the defining visual qualities of Washington’s neighborhoods. This should be achieved in part by relating the scale of infill development, alterations, renovations, and additions to existing neighborhood context.
- **Policy UD-2.2.2: Areas of Strong Architectural Character** - Preserve the architectural continuity and design integrity of historic districts and other areas of strong architectural character. New development within such areas does not need to replicate prevailing architectural styles exactly but should be complementary in form, height, and bulk (see Figure 9.10).
- **Policy UD-2.2.5: Creating Attractive Facades** – Create visual interest through well-designed building facades, storefront windows, and attractive signage and lighting. Avoid monolithic or box-like building forms, or long blank walls which detract from the human quality of the street.

- **Policy UD-2.2.7: Infill Development** – Regardless of neighborhood identity, avoid overpowering contrasts of scale, height and density as infill development occurs.
- **Policy UD-2.2.9: Protection of Neighborhood Open Space** – Ensure that infill development respects and improves the integrity of neighborhood open spaces and public areas. Buildings should be designed to avoid the loss of sunlight and reduced usability of neighborhood parks and plazas
- **Policy UD-3.1.11: Private Sector Streetscape Improvements** – As appropriate and necessary, require streetscape improvements by the private sector in conjunction with development or renovation of adjacent properties

The Commission finds the Project design will embrace and enhance the existing neighborhood through the incorporation of varied and attractive architecture, and through innovative urban site design. The Project’s design will take cues from the established neighborhood architectural style while facilitating the vibrancy and growth of the neighborhood with a contemporary interpretation. The Project’s site plan will successfully create a strong sense of place, while relating to the existing residential buildings nearby. The courtyard and the central lane (mews) will provide the open space commensurate with the rest of the residential neighborhood. At the same time, the Project will have a scale, height, and density that is both compatible with the neighborhood and appropriate for an infill site in a highly desirable neighborhood with close proximity to a Metrorail station. (Ex. 1, 9, 40C1, 40C2.)

50. The PUD will advance the following goals and policies from the Housing Element of the Plan:

- **H-1.1 Expanding Housing Supply** – Expanding the housing supply is a key part of the District’s vision to create successful neighborhoods. Along with improved transportation and shopping, better neighborhood schools and parks, preservation of historic resources, and improved design and identity, the production of housing is essential to the future of our neighborhoods. It is also a key to improving the city’s fiscal health. The District will work to facilitate housing construction and rehabilitation through its planning, building, and housing programs, recognizing and responding to the needs of all segments of the community. The first step toward meeting this goal is to ensure that an adequate supply of appropriately zoned land is available to meet expected housing needs.
- **Policy H-1.1.1: Private Sector Support** – Encourage the private sector to provide new housing to meet the needs of present and future District residents at locations consistent with District land use policies and objectives.
- **Policy H-1.1.3: Balanced Growth** – Strongly encourage the development of new housing on surplus, vacant and underutilized land in all parts of the city. Ensure that a sufficient supply of land is planned and zoned to enable the city to meet its long-term housing needs, including the need for low- and moderate-density single family homes as well as the need for higher-density housing.
- **Policy H-1.2.1: Affordable Housing Production as a Civic Priority** – 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.

- **Policy H-1.1.6: Housing in the Central City** – Absorb a substantial component of the demand for new high-density housing in Central Washington and along the Anacostia River. Absorbing the demand for higher density units within these areas is an effective way to meet housing demands, create mixed-use areas, and conserve single-family residential neighborhoods throughout the city. Mixed income, higher density downtown housing also provides the opportunity to create vibrant street life, and to support the restaurants, retail, entertainment, and other amenities that are desired and needed in the heart of the city.
- **Policy H-1.3.1: Housing for Families** – 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.
- **Policy H-4.2.2: Housing Choice for Seniors** – Provide a wide variety of affordable housing choices for the District’s seniors, taking into account the income range and health-care needs of this population. Recognize the coming growth in the senior population so that the production and rehabilitation of publicly-assisted senior housing that meets universal design standards becomes a major governmental priority. Acknowledge and support the establishment of Senior Villages throughout the city that allow seniors to remain in their homes and age in-place.

The Commission finds that the Project will expand the District’s housing supply in an established and highly desirable central residential neighborhood on a parcel that is otherwise underutilized. By providing 44 new housing units, the Project will promote housing in the central part of the city. Furthermore, almost all of the units will be suitable for families because they will be large (2+ bedrooms), with the townhouse units providing 3+ bedrooms each. Furthermore, the Project will provide more affordable housing than required at the lowest level of affordability (50% AMI) under Inclusionary Zoning. Finally, the inclusion of a unit designed for seniors will give a senior resident the option for housing in this location that accommodates their needs. (Ex. 1, 9, 40C1, 40C2.)

51. The PUD will advance the following policy from the Parks, Recreation and Open Space element of the Comprehensive Plan:

- **Policy PROS-4.3.3: Common Open Space in New Development** – Provide incentives for new and rehabilitated buildings to include “green roofs”, rain gardens, landscaped open areas, and other common open space areas that provide visual relief and aesthetic balance.

The Commission finds that the Project will provide significant common open space through the two courtyards as well as the improved tree boxes along the sidewalks in the Square. (Ex. 9, 40C1, 40C2).

52. The PUD will promote the following policies from the Environmental Protection Element of the Plan:

- **Policy E-1.1.1: Street Tree Planting and Maintenance** – Plant and maintain street trees in all parts of the city, particularly in areas where existing tree cover has been reduced over the last 30 years. Recognize the importance of trees in providing shade, reducing energy costs, improving air and water quality, providing urban habitat, absorbing noise, and creating economic and aesthetic value in the District’s neighborhoods.
- **Policy E-3.1.1: Maximizing Permeable Surfaces** – Encourage the use of permeable materials for parking lots, driveways, walkways, and other paved surfaces as a way to absorb stormwater and reduce urban runoff.
- **Policy E-3.1.2: Using Landscaping and Green Roofs to Reduce Runoff** – Promote an increase in tree planting and landscaping to reduce stormwater runoff, including the expanded use of green roofs in new construction and adaptive reuse, and the application of tree and landscaping standards for parking lots and other large paved surfaces.

The Commission finds that the Project will contain environmentally sustainable features. The Project’s extensive green roof, and inclusion of courtyards will maximize permeable surfaces and reduce runoff. Also, the reparation of tree boxes will improve and increase tree coverage. (Ex. 9, 40C1, 40C2.)

53. The PUD will promote the following policies from the Capitol Hill Element of the Plan:

- **Policy CH-1.1.1: Conserving Residential Uses** – Maintain the integrity and quality of Capitol Hill’s residential uses, and recognize the importance of its historic architecture and housing stock to the entire District of Columbia. Ensure that Comprehensive Plan and zoning designations for Capitol Hill neighborhoods sustain its moderate density land use pattern.
- **Policy CH-1.1.2: Renovation of Housing Stock** – Encourage the rehabilitation and renovation of the building stock throughout the Capitol Hill Planning Area, taking steps to preserve and restore important historic features. Where infill development occurs, its scale and character should be compatible with prevailing neighborhood densities and its design should contribute to neighborhood continuity and quality.
- **Policy CH-1.1.7: Alleys** – Protect Capitol Hill’s system of historic alleys and develop plans for the use of large block interior spaces where appropriate. These plans should be developed in coordination with the affected Advisory Neighborhood Commissions, residents, and community groups.

The Commission finds that the Project will advance three key policies of the Capitol Hill Area Element by constructing an infill residential project that respects the integrity of the architecture and maintains the scale of the neighborhood. As described, the scale and character of the Project will emulate that of the surrounding community and will respect and improve the character of the surrounding alley system. Furthermore, the Project will put a large block of interior alley space into productive residential use that benefits the community by replacing an otherwise disruptive automobile repair shop and parking lot and warehouse. (Ex. 1, 9, 40C1, 40C2.)

## **Compliance with PUD Standards**

54. In evaluating a PUD application, the Commission must “judge, balance, and reconcile the relative value of project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects.” The Commission finds that the development incentives for the height, density, flexibility and related rezoning to R-5-B are appropriate and fully justified by the additional public benefits and project amenities proffered by the Applicant. The Commission finds that the Applicant has satisfied its burden of proof under the Zoning Regulations regarding the requested flexibility from the Zoning Regulations and satisfaction of the PUD standards and guidelines as set forth in the Applicant’s evidence and testimony and the OP report. (Ex. 1, 10, 14, 25, 40, 40C1, 40C2).
55. The Commission credits the testimony of the Applicant, its architectural expert, and its transportation expert as well as OP, DDOT, and ANC 6B, and finds that the superior design, site planning, sustainable design features, transportation infrastructure improvements, housing and affordable housing, and uses of special value of the Project all constitute acceptable project amenities and public benefits.
56. The Commission finds that the Project is acceptable in all proffered categories of public benefits and project amenities, and is superior in public benefits and project amenities relating to urban design, landscaping and open space, housing and affordable housing, site planning, transportation measures, environmental benefits, social services, parks and open space, and uses of special value to the neighborhood and District as a whole.
57. The Commission credits the testimony of the Applicant regarding the community-based planning effort that guided the development of the Project, and finds that the process resulted in amenities that reflect community preferences and priorities. The Commission credits OP and ANC 6B that the PUD provides significant and sufficient public benefits and project amenities.
58. The Commission finds that the character, scale, and design of the Project are appropriate, and finds that the site plan is consistent with the intent and purposes of the PUD process to encourage high quality developments that provide public benefits.
59. The Commission credits the testimony of OP and ANC 6B that the Project will provide benefits and amenities of substantial value to the community and the District commensurate with the additional density and height sought through the PUD. Further, the Commission credits OP’s testimony that the impact of the PUD on the level of services will not be unacceptable.
60. For the reasons detailed in this Order, the Commission credits the testimony of the Applicant’s traffic consultant and DDOT and finds that the traffic, parking, and other transportation impacts of the Project on the surrounding area, including in the alley system in particular, are not likely to be adverse and are capable of being mitigated through the measures proposed by the Applicant. Any transportation impacts will be acceptable given the quality of the public benefits of the PUD.

61. The Commission credits the testimony of the Applicant and OP that the Project is not inconsistent with the District of Columbia Comprehensive Plan. The Project is consistent with and furthers the goals and policies in the map, citywide, and area elements of the plans, including:
- a. Designation of the Property as Moderate Density Residential on the Future Land Use Map as well as provisions of the Framework Element of the Comprehensive Plan that explicitly state density and height gained through the PUD process are bonuses that may exceed the typical ranges listed in the Comprehensive Plan;
  - b. Land Use Element policies promoting redevelopment around Metrorail stations, strengthening of residential neighborhoods, infill development, management of non-residential uses in residential areas, and rezoning of industrial land;
  - c. Housing Element policies promoting the even distribution of mixed-income housing across the city;
  - d. Other policies in the Transportation, Urban Design, Environmental Protection, and Parks Recreation and Open Space Elements related to the Land Use policies and goals stated above;
  - e. The Capitol Hill Area Element of the Comprehensive Plan; and
  - f. The Generalized Policy Map (“GPM”) which includes the Property in the Neighborhood Conservation Area category.

### **Agency Reports**

62. By report dated March 25, 2016 and by testimony at the public hearing, OP recommended approval of the application and concluded that the Applicant had addressed previous concerns raised by OP and the Commission, including questions about design and circulation, a lighting plan, justifications for requested flexibility, and refined public benefits package. OP raised several supplemental comments to be addressed at the hearing: reducing E Street projections to two stories; changing windows to double-hung; removing arches on the E Street elevation; and separating ganged windows with brickwork. The Applicant responded to these issues at hearing and addressed them further in its post-hearing submission. OP concluded that the PUD and related rezoning was not inconsistent with the Comprehensive Plan. OP evaluated the PUD and related rezoning under the evaluation standards set forth in Chapter 24 of the Zoning Regulations and concluded that the Project’s benefits and amenities package was appropriate given the size and nature of the PUD and related requests for rezoning and flexibility. (Ex. 29; 4/4 Tr. at 78).
63. By report dated March 25, 2016 and by testimony at the public hearing, DDOT expressed no objection to the PUD. DDOT found that the Project would have minimal impact on the existing roadway and alley network, that existing transit service should be able to accommodate demand, that the Project will include adequate bicycle facilities; that the



Project is expected to generate a low number of vehicle trips; and that the Applicant's loading management and TDM plans are acceptable. DDOT also noted that it would continue to work with the Applicant on public space matters including curbside management and design, and pedestrian safety measures in the alley. (Ex. 28; 4/4 Tr. at 79-81.)

### **ANC 6B Report**

64. At a properly noticed special public meeting on March 29, 2016, with a quorum present, ANC 6B voted to support the proposed PUD and related rezoning, based on the Project's benefits and amenities and a Memorandum of Understanding between the ANC and the Applicant. (Ex. 32, 33.)
65. At the April 4, 2016 public hearing, a representative of the ANC testified in support of the application. (4/4 Tr. at 84-86)

### **Letters in Support**

66. The Commission received four letters in support of the Application. One neighbor's letter stated that the Project will be an asset to the neighborhood. Two letters stated support for the project but expressed some concern about potential congestion in the alley, the width of the north-south alley east of the Property, the combined impacts of another project planned for directly across the alley to the east, and safety and security resulting from the E Street pedestrian passageway. The Capitol Hill Restoration Society stated its support for the Project, particularly the large unit sizes. (Ex. 23, 27, 30, 34.)

### **CONCLUSIONS OF LAW**

1. Pursuant to the Zoning Regulations, the PUD process provides a means for creating a "well-planned development." The objectives of the PUD process are to promote "sound project planning, efficient and economical land utilization, attractive urban design and the provision of desired public spaces and other amenities." 11 DCMR § 2400.1. The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." 11 DCMR § 2400.2.
2. Under the PUD process, the Commission has the authority to consider this application as a consolidated PUD. 11 DCMR § 2402.5. The Commission may impose development conditions, guidelines and standards that may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking, loading, yards and courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment. 11 DCMR § 2405.
3. Proper notice of the proposed PUD and related rezoning was provided in accordance with the requirements of the Zoning Regulations.

4. The development of the Project will implement the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter-of-right standards. Here, the height, character, scale, and proposed use for the proposed PUD are appropriate, and the proposed construction of an a multifamily residential building with large, family-sized units that capitalizes on the Property's transit-oriented location is compatible with the citywide and area plans of the District of Columbia.
5. The Applicant seeks a PUD-related zoning map amendment to the R-5-B Zone District, including flexibility from the minimum PUD area, lot occupancy, rear yard, alley lot alley width, alley lot dwelling height, and parking space location requirements in the Zoning Regulations. The Commission has judged, balanced, and reconciled the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects, and concludes approval, including the requested flexibility from the Zoning Regulations, is warranted for the reasons detailed below.
6. The Commission concludes that approval of the PUD and related rezoning is not inconsistent with the Comprehensive Plan. The Commission agrees with the determination of OP and finds that the proposed project is consistent with the Property's Moderate Density Residential designation on the FLUM and is consistent with the Property's Neighborhood Conservation Area designation on the GPM. The Project will further numerous goals and policies of the Comprehensive Plan in the Land Use Element, Housing Element, Transportation, and other citywide elements and policies as delineated by the Applicant and in the OP reports.
  - a. The Interpretation Guidelines for the FLUM also state that the Future Land Use Map is not a zoning map and does not specify allowable uses or dimensional standards. The Guidelines also indicate that the typical building heights and densities included in the land use category simply describe the "general character" of the area, and state that the "granting of density bonuses [through PUDs] may result in heights that exceed the typical ranges cited here." Finally, the Guidelines indicate that the Future Land Use Map designations are not parcel-specific and should be interpreted in conjunction with the text of the Plan.
  - b. The Interpretation Guidelines for the FLUM indicate that it should be considered in conjunction with the policies and guidelines in the text of the Comprehensive Plan. The location and uses of the PUD will advance many policies in the text of the Comprehensive Plan, such as transit-oriented development. Thus, the proposed scale of the Project is not inconsistent with Moderate Density Residential development.
  - c. The Commission finds that the proposed Map Amendment to the R-5-B Zone District is not inconsistent with the Comprehensive Plan or the character of the surrounding area. The Commission notes that the proposed zoning is consistent with the Property's location in a moderate density residential neighborhood. The

rezoning is necessary to allow additional development in this residential and transit-oriented location. Further, the rezoning is part of a PUD application, which allows the Commission to review the design, site planning and provision of public benefits and amenities against the requested zoning flexibility.

7. The Commission concludes that the proposed PUD-related Zoning Map Amendment for the Property from the C-M-1 and R-4 Zones to the R-5-B Zone District is not inconsistent with the Comprehensive Plan, including the Property's designation as Moderate Density Residential on the FLUM, and is appropriate given the superior features of the PUD, the benefits and amenities provided through the PUD, the goals and policies of the Comprehensive Plan, and other District of Columbia policies and objectives.
8. The proposed height, density, and bulk of the PUD will not cause an adverse effect on nearby properties, are consistent with surrounding properties, and will create a more appropriate and efficient utilization of land in a predominantly residential neighborhood. The large family-sized residential units also will be appropriate for the site's location.
9. The Project's design will be appropriate for and consistent with its context. The varied architectural styles – on both the E Street elevation and within the alley system – will create architectural variety that is compatible with its surroundings. The Project's design reflects influences from the history of the neighborhood to appropriately integrate the Project while giving it architectural interest.
10. The Project will provide superior features that benefit the surrounding neighborhood to a significantly greater extent than a matter-of-right development on the Property would provide. The Commission finds that the urban design, site planning, efficient and safe traffic circulation, sustainable features, housing and affordable housing, and uses of special value all are significant public benefits. The impact of the Project will be acceptable given the quality of the public benefits of the Project.
11. The impact of the Project on the surrounding area and the operation of city services will be acceptable. The Commission agrees with the conclusions of the Applicant's traffic expert and DDOT that the proposed project will not create adverse traffic, alley, parking, or pedestrian impacts on the surrounding community. The application will be approved with conditions to ensure that any potential adverse effects on the surrounding area for the Project will be mitigated.
12. The PUD and rezoning for the Property will promote orderly development of the Property in conformance with the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
13. The Commission is required under D.C. Official Code § 6-623.04 to give great weight to OP recommendations. OP recommended approval and, accordingly, the Commission concludes that approval of the consolidated PUD and related rezoning should be granted.
14. In accordance with D.C. Official Code § 1-309.10(d), the Commission must give great weight to the written issues and concerns of the affected ANC. The Commission

accorded the issues and concerns raised by ANC 6B the “great weight” to which they are entitled, and in so doing fully credited the unique vantage point that ANC 6B holds with respect to the impact of the proposed application on the ANC’s constituents. ANC 6B recommended approval of the Application, so the Commission concludes that the PUD and related rezoning should be approved.

15. The Applicant 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 of the District of Columbia orders **APPROVAL** of the application for consolidated approval of a PUD and related rezoning to the R-5-B Zone District for the Property. This approval is subject to the following guidelines, conditions, and standards of this Order:

A. **Project Development**

1. The Project shall be developed in accordance with the plans marked as Exhibits 40C1 and 40C2 of the Record, as modified by guidelines, conditions, and standards herein (collectively, the “Plans”).
2. The Property shall be rezoned from C-M-1 and R-4 to R-5-B. Pursuant to 11 DCMR § 3028.9, the change of zoning shall be effective upon the recordation of the covenant discussed in Condition No. D1.
3. The Applicant shall have flexibility with the design of the PUD in the following areas:
  - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, kitchens, and toilet rooms, provided that the variations do not change the exterior configuration or appearance of the structure;
  - b. To vary final selection of the exterior materials within the color ranges and materials types as proposed based on availability at the time of construction;
  - c. To vary the final selection of landscaping materials utilized, based on availability and suitability at the time of construction;
  - d. To vary the final streetscape design and materials, including the final design and materials, in response to direction received from District public space permitting authorities;

- e. To make minor refinements to exterior details and dimensions, including balcony enclosures, belt courses, sills, bases, cornices, railings, trim, louvers, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit, or to address the structural, mechanical, or operational needs of the building uses or systems;
- f. To adjust the final unit type mix of the Project.

B. Public Benefits

1. The Applicant shall reserve ten percent (10%) of the residential gross floor area for five affordable housing units subject to Inclusionary Zoning (IZ) for the life of the Project. The five IZ units will be distributed as follows:
  - a. Two 3-bedroom townhouse units and two 2-bedroom apartment units (approximately 7.6% of the residential gross floor area) for households earning up to 50% of the AMI.
  - b. One 3-bedroom townhouse unit (approximately 2.4% of the residential gross floor area) for a household earning up to 80% of the AMI.
2. Prior to the issuance of a certificate of occupancy for the Project, the Applicant shall complete or provide the following:
  - a. The Applicant will improve and enhance the 13 tree boxes on the sidewalks west of the north-south alley in Square 1043 and will repaint the street light posts, subject to all permits and final approval from DDOT.
  - b. The Applicant will design and construct the interior of one of the townhouse units as a “senior unit” incorporating design features to accommodate seniors pursuant to the guidelines supplied by Capitol Hill Village.
  - c. The Applicant will install \$30,000 worth of improvements to the Potomac Avenue Metro Station plaza. Subject to WMATA’s final approval, these improvements will include installing greenery/landscaping around the station elevator and removal of the kiosk.
  - d. Up to a maximum cost of \$40,000, the Applicant will resurface a portion of the alley system in Square 1043 in a material to be coordinated with DDOT. Subject to all final permits and approvals, the Applicant will resurface the portion of the alley system west of the project site.

- e. The Applicant will install mirrors, signage, and cameras on the building, subject to all permits and final approval from DDOT if necessary, to improve safety and circulation in the alley system.
  - f. The Applicant will incorporate into the condominium documents for the Project a requirement that the condominium association will plow snow from the alley system adjacent to the project site and leading out to E Street any time there is a more than three (3) inches of snow from a single event.
  - g. The Applicant will replace the metal fence along G Street for the Potomac Gardens apartment complex.
  - h. The Applicant will contribute \$1000 to DC Safety Net for the purchase of vests and office supplies for its Safe Routes program.
3. The Project shall be designed to achieve a Silver level under LEED for Homes version 4, but the Applicant shall not be required to obtain LEED Silver certification from the U.S. Green Building Council. Prior to the issuance of a certificate of occupancy, the Applicant shall submit to the Zoning Administrator a LEED scorecard showing that the Project will receive sufficient points to achieve Silver certification.

C. Mitigation

- 1. The Applicant shall implement the following transportation demand management (“TDM”) measures:
  - a. Designate a Transportation Management Coordinator (TMC). The TMC will be responsible for ensuring that information is disseminated to residents of the building. The position may be part of other duties assigned to the individual.
  - b. Provide information on and/or links to current transportation programs and services on the property management website.
  - c. Provide convenient, covered, and secure bike parking facilities. A bicycle storage room will be provided in the lower level of the building with storage for approximately 48 bicycles.
  - d. Provide a one time, one year Capital Bikeshare membership or one time, one year car share membership for all new residents for the first three years the project is open.
- 2. The Applicant shall implement the following loading management plan.

- a. A member of the management team will be designated as a loading coordinator (duties may be part of other duties assigned to the individual). He or she will coordinate all loading activities of the building (including deliveries, trash disposal, and residential move-in and move-out activities). The loading coordinator will be responsible for informing residential tenants of the guidelines and procedures for loading and delivery operations.
- b. All tenants will be required to notify the loading coordinator before moving in or out so that the loading coordinator can assist in the establishment of curbside loading, if needed. In the event that a moving truck is required for residential tenants, a temporary no parking zone can be established on the adjacent E Street to allow for curbside loading or unloading adjacent to the building, in accordance with DDOT policies. The residential tenant shall provide the loading coordinator the following information: time and date that the truck is anticipated to arrive, size of truck being used, and name of the moving service, if applicable.

D. Miscellaneous

1. No building permit shall be issued for this project until the owner of the Property has recorded a covenant among the land records of the District of Columbia between the owners and the District of Columbia that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs. Such covenant shall bind the owner of the Property and all successors in title to construct on or use the Property in accordance with this Order and any amendment thereof by the Zoning Commission.
2. The application approved by this Commission shall be valid for a period of two (2) years from the effective date of this Order. Within such time, an application must be filed for the building permit as specified in 11 DCMR § 2409.1.
3. The Applicant shall file with the Zoning Administrator a letter identifying how it is in compliance with the conditions of this Order at such time as the Zoning Administrator requests and shall simultaneously file that letter with the Office of Zoning.
4. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., ("**Act**") the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, 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. The failure or refusal of the applicant to comply shall furnish grounds for denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this order.

On June 13, 2016, the Zoning Commission **APPROVED** the application for the PUD and related Zoning Map amendment by a vote of \_\_\_\_\_.

On \_\_\_\_\_, 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 DCMR § 2038, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on \_\_\_\_\_.