



## Memorandum

**TO:** District of Columbia Zoning Commission

**FROM:** *JL for* Jennifer Steingasser, Deputy Director  
Development Review and Historic Preservation

**DATE:** June 27, 2016

**SUBJECT:** **ZC 15-32 – Public Hearing Report** for Consolidated Planned Unit Development (PUD) with PUD-related Map Amendments for 1126 9<sup>th</sup> Street NW

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### I. RECOMMENDATION

The Office of Planning (OP) recommends **approval** of PUD application and related map amendment 15-32, to rezone most of Square 369 Lot 880 from DD/C-2-A to DD/C-2-C (a small portion of the site would remain DD/C-2-A). OP is supportive of the proposed development and the building massing and design, which would be not inconsistent with the Comprehensive Plan, and would positively contribute to the redevelopment of the Mount Vernon Square/Shaw neighborhood. However, the application itself, despite OP and Commission comments at setdown, remains lacking in detail and refinement. OP's recommendation is based on the following conditions:

- The provision of more refined drawings at the public hearing;
- Refinement and modification of the affordable housing proffer as described in this report;
- Submission to the record of the Transportation Demand Management Plan noted in the original submission;
- Submission of justification for the requested relief from parking requirements;
- Submission of justification for the requested relief from the DD Overlay M Street height restrictions; and
- Clarification of the monetary contributions to neighborhood groups as part of this proposal.

### II. COMMISSION AND OP CONCERNS FROM SETDOWN

At its February 29, 2016 public meeting, the Zoning Commission voted to set down the application for a public hearing. The Applicant subsequently submitted its Pre-Hearing Statement (April 14, 2016, Exhibit 12). Mainly, the submission addresses requests for additional information; the submission does not note significant changes to the building design or program, other than the following:

- Although not clearly stated in the pre-hearing statement, the applicant has advised OP that the originally requested flexibility to provide the second floor as office space has been removed and the second floor would be residential;

- The development would be LEED Gold equivalent including an increase in the amount of green roof to 4,650 square feet; and
- The affordable housing proffer has been amended to provide one affordable unit at 50% AMI, and one “workforce housing” unit at up to 120% AMI.

Commission /OP Comments	Applicant’s Response	OP Analysis
Provide better, more detailed drawings overall.	The applicant has provided additional drawings, renderings, and sections in the pre-hearing statement.	Overall, the drawings continue to lack detail and refinement – more refined drawings should be provided at the public hearing to allow a more comprehensive review of the proposal. The applicant has indicated to OP that additional, more refined drawings will be submitted.
Provide additional renderings / perspectives of the building from the alley.	The applicant has provided renderings (sheets 13c and 13d) and a west (alley) elevation (sheet 33).	While the drawings provide additional information, they are difficult to read; more refined drawings should be provided at the public hearing.
Provide additional renderings of the south façade.	The south elevation is provided as sheet 32; and this façade shows in various renderings (sheet 37, 38b).	The drawings appear to indicate that this elevation would be largely brick, with some aluminum siding and glazing. OP supports the design direction.
Provide detailed street-level renderings showing building materials and signage.	The pre-hearing statement notes that these are provided in sheets 13a (M Street) and 13b (9 <sup>th</sup> Street).	These renderings lack detail and provide, at best, a cursory description. Additionally, part of the 9 <sup>th</sup> Street rendering is obscured by trees. Although this would have also been the subject of design related review as part of the HPRB process, more refined drawings should be provided.
Provide additional renderings of the proposed development in context with surrounding buildings.	Additional information has been provided – elevation drawings (sheets 29-31) show the immediately adjacent buildings, and various renderings also show the context.	While these drawings are somewhat unrefined, they do show the scale and massing of the proposal and that of adjacent buildings.
Pursue LEED Gold; meet with DOEE.	The pre-hearing statement indicates that the applicant has met with DOEE, and is now proposing LEED Gold equivalent.	OP supports this change; the applicant should clarify whether they will pursue actual LEED certification.

Commission /OP Comments	Applicant’s Response	OP Analysis
Better explain alley access / loading.	Sheet 11 shows general circulation patterns.	<p>Given the tight nature of the alley and access to the site, more detail remains needed on access for both loading and parking, including vehicle movement diagrams normally provided. The applicant has indicated to OP that circulation and turning movement diagrams will be submitted to the record.</p> <p>OP further notes that the original submission notes the provision of a “robust Transportation Demand Management Plan”, and this has not been provided in the pre-hearing statement.</p>
Provide additional detail regarding the affordable housing proffer, noting that the originally proposed (1 unit at 80% AMI and one unit at up to 120% AMI) does not adequately serve District needs.	The applicant has amended the proposal to provide 2% of gross residential floor area (1 unit) at 50% AMI, and 2% of gross floor area at a maximum of 120% AMI (1 unit). The units would be distributed throughout the building. As the site is within the DD Overlay, the IZ requirements do not apply.	<p>OP is supportive of the unit at 50% AMI. To be deemed a project benefit, however, the second unit should also be provided at 50% AMI, or 80% AMI at the maximum to comport with the District’s IZ program.</p> <p>The applicant has confirmed with OP that these numbers are based on the currently proposed residential square footage of 36,567 sq.ft. As requested by the Commission, plans showing the location of affordable units will be submitted.</p>
Provide detail regarding and justification for the setback relief requested for rooftop structures, including justifying the amount of penthouse space (are two stairwells needed).	This is provided in the prehearing statement, with the areas of setback relief shown on sheet 26c.	As described later in this report, the site presents unique challenges and OP is not opposed to this relief.
Provide detail regarding and justification for the zoning relief requested for courts.	This is provided in the prehearing statement, and depicted in the drawings of sheets 41a and 41b.	Flexibility for two closed courts facing the off-site existing buildings along 9 <sup>th</sup> Street NW is requested. As described later in this report, OP is not opposed to this relief.
Provide additional information on historic preservation.	The applicant notes that the existing building is not individually landmarked, but is a contributing building to the Shaw Historic District.	The proposal has received concept approval by the HPRB.

Commission /OP Comments	Applicant’s Response	OP Analysis
Update information regarding communication with residents of the adjacent Whitman Building and the potential blocking of “at-risk” windows.	The pre-hearing statement includes a description of meetings with the owners of the Whitman Building.	The design and massing is intended to minimize impacts on the owners of this building. According to the submission, the owners of units which would lose at-risk windows do not oppose this application.

### III. PROJECT DESCRIPTION

**Location:** Square 369, Lot 880

**Zoning:** Predominantly DD/C-2-A; a small portion of the site is zoned DD/C-2-C

**Property Size:** 7,610 square feet

**Property Description:** The M Street portion of the lot is vacant. The 9<sup>th</sup> Street portion of the lot is occupied by a one to two story brick structure constructed in 1925 as a retail building with an apartment above.

As the site is within the Downtown Development (DD) Overlay, it is not subject to the District’s Inclusionary Zoning (IZ) program.

**Proposal:** The Applicant is longer requesting flexibility for the second level of the project to be utilized as office space (as originally requested), so the use mix would include approximately 33 residential units, and approximately 3,723 gross square feet of commercial space on the ground floor, for a total gross square floor area of approximately 40,290 gross square feet (overall FAR of 5.3).

Maximum Height of 100 feet stepping down to the existing two story building height along 9<sup>th</sup> Street, and 61 feet, 4 inches along M Street NW.

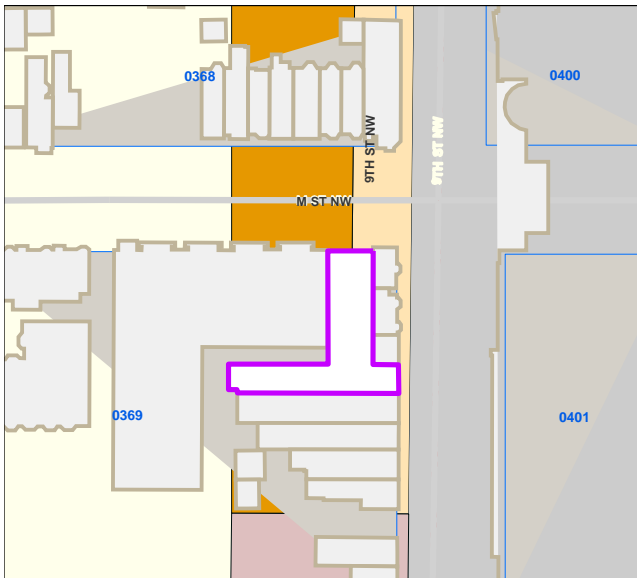
A full description of the site, the context and the proposed development is found in the OP Setdown Report (Exhibit 10).

### IV. COMPREHENSIVE PLAN AND PUBLIC POLICIES

The Property is located in the Near Northwest Area of the Comprehensive Plan. The development proposal would particularly further the Land Use, Transportation, Housing, Economic Development, Environmental Protection, Historic Preservation, and Urban Design Citywide Elements, as well as the Near Northwest Area Elements and policies. The proposal infill development would provide a mixed-use, transit-oriented building near the Mt. Vernon Square Metro Station, and provide vibrancy and an active streetscape along 9<sup>th</sup> Street that would interact with the new hotel to the south and the Convention Center to the east. The Project would include residential and retail space, consistent with the goals of the Near Northwest Element.

A full review of the proposal against Comprehensive Plan policy statements is provided in the OP setdown report (Exhibit 10).

## B. Comprehensive Plan Generalized Policy Map



The site is designated on the Generalized Policy Map as within a Main Street Mixed Use Corridor, with Neighborhood Enhancement Area directly along 9<sup>th</sup> Street NW. A Main Street Mixed-Use Corridor is a traditional commercial business corridor with a concentration of older storefronts along the street. Conservation and enhancement of these corridors is desired to foster economic and housing opportunities and serve neighborhood needs. Any development or redevelopment that occurs should support transit use and enhance the pedestrian environment. A Neighborhood Enhancement Area is intended to ensure that new development fits in and responds to the existing character while encouraging new housing.

## C. Future Land Use Map



The Future Land Use Map designates the subject site for High Density Commercial and High Density Residential Uses. High Density Commercial uses define the central employment district of the city and other major office employment centers on the downtown perimeter. These areas are characterized by office and mixed office/retail buildings greater than eight stories in height, although many lower scale buildings (including historic buildings) are interspersed. High Density Residential uses define neighborhoods and corridors where high-rise (8 stories or more) apartment buildings are the predominant use.

The proposed development is not inconsistent with these designations, which support the construction of a residential project with lower level commercial uses on a site that is currently underutilized.

## V. ZONING

Approximately 843 square feet of the Property is within the DD/C-2-C District, and the remaining 6,789 square foot portion is within the DD/C-2-A District. The Applicant is proposing DD/C-2-C for most of the site, characterized by medium/high density development, including office, retail,

housing, and mixed uses. A small portion (381 square feet) along 9<sup>th</sup> Street (the location of the front of the historic building to be retained) would remain DD/C-2-A. The Project would be located in Housing Priority Area A, and would exceed the housing requirements of this area. Overall, the project would have an FAR of 5.3, and a maximum defined height of 100 feet; although the portion proposed to remain zoned DD/ C-2-A (along 9th Street NW) would have a height equivalent to that of the existing two story building, while the portion fronting onto M Street NW would have a height of 61'-4".

In addition to the PUD-related map amendment for much of the site from DD/C-2-A to DD/C-2-C, the following zoning flexibility is requested:

- Roof Structures

The Applicant requests flexibility from the roof structure setback requirements – a setback of 1:1 is required, but is not provided (see Sheet 26c) from all exterior walls. The roof structure would provide the required setback relief from the streets, and all handrails would provide the required 1:1 setback. The uniquely shaped and narrow site presents practical difficulties in meeting all of the penthouse setbacks, and the penthouse is sited to minimize its visual impact from the street. OP is not opposed to this relief.

- Courts (§ 776)

Two closed courts, as detailed on page 8 of the pre-hearing statement. The courts are shown on the building plans, and rendered on sheets 41a and 41b. OP is not opposed to this relief request.

- DD Overlay (§1706.15)

The original submission indicates that the Applicant seeks flexibility from this provision of the DD Overlay, which states that new construction within 40 feet of M Street in DD Overlay may not be constructed above 60 feet. The proposed building has a baseline height of 54 feet, two (2) inches, with a loft element rising to a level 61 feet, 4 inches, for a total deviation of 1 foot, four inches. The pre-hearing statement does not provide justification for this relief. Without the submission of adequate justification to the record, OP would not support approval of this relief request.

- Parking (§ 2101.1)

The Applicant requests flexibility from parking requirements as a total of nine spaces are required and no conforming spaces are proposed, although there would be two non-compliant spaces in the rear yard. The applicant has not provided justification for this relief. However, the site is uniquely shaped and narrow, and has limited access to the alley system on this square, so, pending any comments from DDOT, OP would not likely be opposed to this relief. However, the applicant has not submitted to the record a TDM Plan, as would typically be expected.

- Land Area Requirements for PUD (§ 2401.1)

§ 2401.1(c) requires a minimum land area of 15,000 square feet for a PUD in the C-2-C District. The Subject Property has a land area of approximately 7,610 square feet and therefore does not meet the area requirement of § 2401.1. The Commission may waive up to

50% of the minimum area requirement, provided that the Commission finds, after a public hearing, that the Project is of exceptional merit and is in the best interest of the city or country. The applicant’s original submission provides a justification for this relief. Should the Commission find that the project has exception merit, OP has no opposition to this relief request.

**VI. PUD EVALUATION STANDARDS AND PUBLIC BENEFITS AND AMENITIES**

The purpose and standards for Planned Unit Developments are outlined in 11 DCMR, Chapter 24. Section 2400.1 states that a PUD is “designed to encourage high quality developments that provide public benefits.” In order to maximize the use of the site consistent with the Zoning Regulations, and be compatible with the surrounding community, the application requests that the proposal be reviewed as a consolidated PUD. This will allow the use of the flexibility stated in § 2400.2:

*The overall goal is to permit flexibility of development and other incentives, such as increased building height and density; provided, that the project offers a commendable number or quality of public benefits and that it protects and advances the public health, safety, welfare, and convenience.*

The application requests a PUD-related map amendment, which is not inconsistent with the Comprehensive Plan, to allow approximately 50’ of additional building height above DD/C-2-A limits. The Project proposes an FAR of 5.3; the net gain in density, compared to the DD/C-2-A and DD-C-2-C by-right amount, would be approximately 18,259 square feet.

Standard	Matter of Right	Proposal	Gains Over M-O-R
Height (ft.)	50 feet; 65’ with a PUD (C-2-A) 90 feet (C-2-C)	Varies to 100 feet max.	Up to 50 feet
FAR	2.5; 3.0 with a PUD (C-2-A) 6.0 (C-2-C) Approx. 22,031 sq.ft. total	5.3 40,290 sq.ft.	Approx. 2.4 FAR 18,259 sq.ft.

The Applicant has offered the following amenities and benefits as an offset to the additional flexibility development gained through the application process:

- (a) *Urban design, architecture, landscaping, or creation or preservation of open spaces - § 2403.9(a)*

The Applicant has worked closely with OP Development Review and Historic Preservation staff on the massing and design of the building, which fills in a gap in the M Street residential street wall of the re-emerging 9<sup>th</sup> Street commercial corridor, and OP is supportive of the overall building massing, design, and choice of materials. The design attempts to address the neighborhood’s character through the building’s materials and its articulation along both M and 9th Streets. The design makes extensive use of setbacks, projections, and other elements to articulate the massing. The design has received concept approval from the Historic Preservation Review Board (HPRB) as being compatible with the Shaw Historic District.

- (b) *Site planning, and efficient and economical land utilization - § 2403.9(b)*

The proposal would enhance a currently underused site located within close proximity to a Metro station and several Metrobus lines. The Project would activate the surrounding street network with a combination of active retail uses, additional residents, and streetscape improvements.

(c) *Historic preservation of private or public structures, places, or parks - § 2403.9(d)*

The proposed design and street orientation is consistent with the historic character of the Shaw Historic District. The design team worked extensively with the Historic Preservation staff to preserve and reuse the contributing building. The proposal has received concept approval from the HPRB.

(c) *Housing - § 2403.9(f)*

The Applicant proposes to provide over 36,500 square feet of gross floor area devoted to residential uses comprised of 33 new residential units, including studios, one- and two- bedroom apartments. The Project would be located in the Mount Vernon Square neighborhood, which is a Housing Priority Area as provided by § 1706.8. The Project's residential component would help accomplish the balanced mixture of uses essential to a "Living Downtown".

Additionally, the applicant is now proffering 2% of the residential component of the Project for households earning no more than 50% AMI, and 2% of the residential component for households earning up to 120% of AMI (workforce housing), on a site not subject to the IZ regulations. Two percent of the residential floor area equates to 731 square feet. While OP is supportive of the revision to provide one unit of 731 square feet minimum at 50% AMI, OP does not support a unit at 120% AMI as a PUD benefit, and recommends that the applicant commit to providing this unit at either 50% (which would seem appropriate given the level of flexibility gained through this PUD) or 80% AMI, consistent with the District's Inclusionary Zoning program.

(e) *Environmental benefits- § 2403.9(h)*

The proposed development provides a number of environmental benefits and includes street tree planting and maintenance, landscaping, energy efficiency, extensive green roof of over 4,500 sq.ft., stormwater mitigation methods, green engineering practices and an emphasis on transit and pedestrian and bike access. The Project would provide an enhanced Green Area Ratio for the site. The Applicant has now committed to LEED Gold status, but has not indicated that actual certification would be pursued.

(f) *Uses of special value to the neighborhood or the District of Columbia as a whole § 2403.9 (i)*

The pre-hearing statement notes that the applicant has worked with the ANC and has agreed to the following contributions totaling \$12,500:

- Friends of Gompers Park for improvements to the irrigation system;
- Friends of 10th Street Park for various improvements to the park; or
- Armstrong School Parent Teachers Association for a potential new roof garden project.

The applicant has advised OP that the ANC requested flexibility to administer this monetary contribution. OP appreciates the applicant working with the community on these contributions, but notes that to be considered benefits or amenities of a PUD, the feature must comply with § 2403.6 especially as the section relates to monetary contributions:

2403.6 Public benefits are 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. All public benefits shall meet the following criteria:

- (a) Benefits shall be tangible and quantifiable items; and



- (b) Benefits shall be measurable and able to be completed or arranged prior to issuance of a Certificate of Occupancy.

Monetary contributions shall only be permitted if made to a District 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.

To be fully considered as part of the PUD package, the applicant should commit to actually providing the Gompers Park irrigation system; a defined set of improvements to park; and/or the installation of the roof garden project, to be completed by the applicant prior to a certificate of occupancy for the PUD development.

Finally, the applicant had noted the provision of a TDM Plan in the original submission but this has not been noted in the pre-hearing statement or added to the record. The applicant has confirmed with OP that they are not proffering employment and training opportunities.

## **VII. AGENCY COMMENTS**

To date, OP has not received comments from other District agencies. OP understands that the applicant has met and worked with DDOT and DOEE staff.

## **VIII. PUBLIC COMMENTS**

The pre-hearing statement notes numerous meetings with the ANC and residents and owners of adjacent residents and commercial buildings. As of the date of this report, the ANC report had not been filed to the record.