

March 2, 2017

VIA IZIS

Chairman Anthony Hood  
District of Columbia Zoning Commission  
441 4th Street NW, Suite 200  
Washington, DC 20001

Re: **ZC Case No. 16-20 – Application of 3443 Benning LLC (the “Applicant”) for Approval of a Consolidated Planned Unit Development and Zoning Map Amendment for Square 5017, Lots 839, 840, 841 and 842, and a portion of the public alley abutting Lots 839 and 840 (collectively, the “Property”)**

Dear Chairman Hood and Members of the Commission:

This letter and attached materials address the issues that were raised in the Set-Down Report, dated November 4, 2016 (the “**OP Report**”) prepared by the Office of Planning (“**OP**”) for the (“**Project**”) proposed in the above-referenced case, as well as the comments made by the Zoning Commissioners at the November 14, 2016 Public Meeting.

### **Project Revisions**

The Applicant has redesigned the Project in accordance with feedback from the Zoning Commission and OP. Attached hereto as Exhibit E are revised plans (the “**Revised Plans**”) depicting the revisions to the Project proposed in this pre-hearing submission.

Use. The Project unit mix has been revised to include approximately 70 units. All of the units will be either studio or one-bedroom units.<sup>1</sup> All of the units within the Project continue to be reserved for households earning up to 50% of the Area Median Income (“**AMI**”). A

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<sup>1</sup> The Revised Plans show 69 units currently. The Applicant anticipates that minor programmatic changes will result in a final program of 70 units, of which two will be studios and the remainder one-bedrooms.

percentage of the proposed units—approximately 20%--will be reserved for individuals with incomes earning up to 30% AMI.

The Applicant has revised the Project, based on discussions with the surrounding community, to set aside a minimum of 60% of the proposed units for seniors (55 years of age or older), including assisted living and intergenerational housing units, provided that a market study, as required by the Department of Housing and Community Development (“DHCD”) demonstrates sufficient demand for such age-restricted units.

Additional Zoning Flexibility with Respect to Loading Design. The Applicant seeks additional minor flexibility with respect to the Project’s loading. Under Subtitle C, Section 905.2 of the Zoning Regulations loading berths must have 14 feet of vertical clearance. The Project proposes to have less vertical clearance than is required because the floor-to-floor height on the first floor of the Project is not otherwise required to be 14 feet and because providing such additional height unnecessarily increases the cost of the Project. Prior to the public hearing, the Applicant will demonstrate that the height of the loading berth will not impact the ability of the loading berth to accommodate vehicles needed and likely to serve the Project.

Design. At set-down the Zoning Commission suggested that the shorter “townhouse”-style portion of the Project be redesigned. More particularly, the Zoning Commission noted that the gabled roof of this portion of the Project was unnecessary in this context and that the townhouse portion should more closely match the multi-family portion so that the two components more clearly read as a single project.

As shown on the Revised Plans, the former townhouse portion of the Project has been redesigned to read as a more conventional multi-family building. The gabled roof has been removed, and the materials and façade for this portion of the Project more closely match those proposed for the eastern portion of the Building.

The revised Project preserves at its western end the proposed step down in height, which is a design feature that the Zoning Commission noted with approval at set-down. However, the step down will now be to a four-story building rather than to a three-story plus gabled-roof building, as was previously proposed. Because the gabling has been removed, the mass of the redesigned structure approximates the previously-proposed mass, but the additional story allows the Applicant to provide additional affordable units as part of the Project.

Façade Materials and Color. The Zoning Commission raised concerns with the Project’s original selection of façade materials and color. In particular, the Zoning Commission suggested the Applicant reconsider the hardieplank material and color, select a material that was more

cohesive with the rest of the design and provide the Project with more “heft”, study the details for proposed cementitious panel (e.g., with respect to size, reveals, and the connection to the Building), and use materials, definition, and styling to add ornamentation and character.

In response to these comments, the Applicant undertook a comprehensive study of the Project’s proposed materials and color palette. As shown on the Revised Plans, the front façade will now be composed of brick materials on all facades. The base material is a red brick building that is similar to the brick character of the nearby townhouses. A darker gray brick will be used to distinguish the projecting bay components, and a lighter beige brick will be used to highlight the entrance as well as lighten the apparent mass of the uppermost story.

Building Amenities. The OP Report requests information regarding “the type of amenities proposed/indicated at the lobby level.” As shown on the Revised Plans, the Applicant anticipates that the ground floor will include a 1,200 square-foot community room, which could be programmed for building residents as well as for community educational or social development activities. The room has been configured to allow for direct access from the entrance lobby into the community room itself in order to facilitate access to and use of the room through authorized community members (such as representatives of the Advisory Neighborhood Commission (“ANC”) or River Terrace Community Organization (“RTCO”)). Details regarding the hours and other conditions regarding the use of the community room will be developed prior to the public hearing.

Rooftop. The OP Report requests that a “well-annotated roof plan should be included in the public hearing plans.” In response to this request, included on page A-16 of the Revised Plans is an updated roof plan identifying the location and setback of all roof structures. The section attached as A-4.1 indicates the height of all roof structures. The roof is composed of a small elevator penthouse and a separate stair tower penthouse, which is permitted under the Zoning Regulations, as well as two separate rooftop units (“RTU”). The RTUs are screened as required, but they continue to require flexibility from the Zoning Regulations because each screened RTU is not connected to the main elevator penthouse. Also shown on the roof are smaller condenser units and trash chutes that are not required to be enclosed because they are less than four feet tall. In a revision from the initial filing, the Project no longer includes rooftop outdoor space accessible to building residents.

Parking. The Project has been revised to eliminate the below-grade parking level and instead locate parking at ground level, accessed from the alley, as shown on the Revised Plans. Because of the change in unit mix and housing type, the Project is now required to provide approximately 16 parking spaces. As shown on the Revised Plans, the Project will provide

approximately 17 parking spaces. (The initial filing for this Project included approximately 22 parking spaces in a below-grade parking garage.) The elimination of the underground parking level addresses community concerns about excavation impacts, and it also represent a significant cost savings for the Project that will help the Applicant ensure that the Project serves residents who most need affordable housing.

### **Affordability and Unit Mix**

The OP Report requests that the Applicant “provide information regarding the [P]roject’s financing and its long-term affordability, i.e. whether the rentals would be affordable for the life of the [P]roject.” Relatedly, the Zoning Commission requested information regarding the overall unit mix for each bedroom type.

As discussed above, the Project will consist of approximately 70 total units: two studio units plus 68 one-bedroom units. The Applicant offers the following information regarding the Project’s affordability, duration, marketing obligations, governing regime(s), and mix of units:

- The Project will be financed in part through a combination of Low Income Housing Tax Credits (“LIHTC”), DHCD gap financing, a conventional mortgage, and a deferred developer fee.
- Pursuant to the requirements of the LIHTC financing, all of the units will be reserved for households earning up to 50% of AMI, and approximately 20% of the units will be reserved for individuals with incomes earning up to 30% AMI.
- The covenant associated with the financing will require that the levels of affordability described above be maintained for the life of the loan—which is 40 years.
- After the loan expires, the Applicant will maintain 8% of the Project’s gross floor area set aside at AMI levels consistent with the IZ requirements.
- Approximately 60% of the proposed units will be reserved for seniors (55 years of age or older) for a duration consistent with the Project’s affordable housing financing restrictions.

To the extent DHCD and/or the IZ requirements obligate the Project to provide any 80% AMI units, the Applicant seeks flexibility to provide all units at 50% AM for the duration of the LIHTC financing obligations.

### **Streetscape**

In the OP Report, OP request that the Applicant “provide a statement that the streetscape would be developed according to DDOT’s and DDOE’s standards.”

As shown on the Revised Plans, the Project will provide a streetscape design in accordance with DDOT’s and DOEE’s standards and guidelines. The public space design will follow DDOT guidelines for pedestrian traffic in a residential neighborhood, including a planting and amenity zone between the building and sidewalk, a sidewalk with a 6-foot wide pedestrian clear path, a 4-foot wide tree planting area between the public sidewalk and curb. To facilitate these dimensions, the Applicant has set back the building from the property line.

The green infrastructure within the public realm will meet both DDOT and DOEE standards for public space. Where possible, the Applicant intends to construct the tree areas as a “bioretention box.” In addition, the portion of the amenities area that is located on private property will include features that advance the overall sustainability goals of the project, including bioretention facilities.

### **Employment Practices**

The OP Report encourages the Applicant “to participate in the DSLBD programs to hire locally and to use local support services, wherever possible.”

The Applicant, an affiliate of Neighborhood Development Company (“NDC”), is committed to such participation. As evidenced by past projects, NDC has a strong track record of meeting and exceeding the District’s requirements for utilizing DSLBD and creating opportunities for employment and training. As a part of the financing for the Project, NDC and its development partners will participate in the District of Columbia Small Business Enterprise (“SBE”) monitoring program and enter into a First Source Employment Agreement with the Department of Employment Services. NDC itself is also a certified business enterprise (“CBE”).

### **Public Benefits and Amenities**

The Applicant continues to work with the ANC and RTCO to prepare a public benefits package. In response to community input, the Applicant has agreed to the following benefits:

- Reserve 60% of the housing units within the Project as senior housing, which is type of housing product that is expressly identified as a public benefit under the Zoning Regulations;<sup>2</sup>
- Provide a 1,200 square-foot community room on the ground floor of the Project, entered through the building lobby and therefore directly accessible to delegated community members; and
- Provide a contribution of \$47,000 to the RTCO to support ongoing community beautification and community gathering activities.

In addition, the Applicant eliminated the below-grade parking level in part due to community concerns about impacts from excavation. The Applicant will also perform necessary site investigations (i.e., a geotechnical study) to assess existing conditions and to establish pre-construction conditions of adjacent residential buildings. The Applicant will implement a monitoring plan during construction to ensure that no negative impacts are occurring to residential properties during construction, in accordance with the District of Columbia Building Code.

As part of its supplemental submission filed prior to the public hearing, the Applicant will provide additional information regarding the Project's public benefits.

### **Fee and Exhibits**

Enclosed is a check in the amount of \$6,500 for the hearing fee, as determined pursuant to the Hearing Fee Calculation Form attached as Exhibit A. The following exhibits are also attached to this pre-hearing statement:

Exhibit A – Hearing Fee Calculation Form

Exhibit B – Resumes of Expert Witnesses

Exhibit C – Outlines of Testimony for Expert Witnesses

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<sup>2</sup> The Applicant hereby supplements Section V (Compliance with the Comprehensive Plan) of its Statement in Support of the Applicant (Exhibit 2) to note that the programmatic change in the Project to include senior housing makes the Project further still consistent with the Comprehensive Plan. *See* Policy H-4.2.3 (“Neighborhood-Based Senior Housing: Encourage the production of multi-family senior housing in those neighborhoods characterized by large numbers of seniors living alone in single family homes. This will enable senior residents to remain in their neighborhoods and reduce their home maintenance costs and obligations.”). The Project includes neighborhood-based senior housing.

Exhibit D – List of Publicly Available Information

Exhibit E – Revised plans, drawings, elevations, photographs, diagrams and renderings depicting revisions to the Project.

**Conclusion**

The materials included in this pre-hearing submission address the comments and requests for additional information that have been provided in this case to date. These materials were filed electronically through the District of Columbia Interactive Zoning Information System on March 2, 2017. The Applicant respectfully asks the Zoning Commission to schedule this Application for public hearing at its earliest opportunity.

Please feel free to contact Dave Avitabile at (202) 721-1137 or Dave Lewis at (202) 721-1127 if you have any questions regarding this Application. We look forward to the Commission's consideration of this matter.

Sincerely,



David M. Avitabile



David A. Lewis

## Certificate of Service

The undersigned hereby certifies that copies of the foregoing document will be delivered by first-class mail or hand delivery to the following addresses on March 2, 2017.

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David A. Lewis