



February 25, 2019

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VIA IZIS

Zoning Commission of the District of Columbia
441 4th Street NW Suite 200S
Washington, DC 20001

**Re: Z.C. Case No. 18-13 - 1530 First Street SW - Design Review
Proposed Findings of Fact and Conclusions of Law**

Dear Chairman Hood and Members of the Zoning Commission:

On behalf of TM Jacob, LLC, (the “Applicant”), please find enclosed proposed Findings of Fact and Conclusions of Law for the above-referenced design review application. This filing is made pursuant to the requirements of Subtitle Z § 601.1.

The Applicant wishes to inform the Commission that while the Applicant has engaged in fruitful dialog with the neighboring property owner regarding a formal easement, no such agreement has been reached at this time. Accordingly, the Applicant is requesting Commission approval of the “Adjusted Loading Design” at Ex. 38A1-A2 allowing loading access without traversing the adjacent property (the “Project”). The proposed Findings of Fact and Conclusions of Law reflect Ex. 38A1-A2.

By way of background, in response to questions raised during the November 15, 2018 public hearing, the Applicant’s Post-Hearing Submission at Ex. 38 identified that the Project’s loading could be accessed either by obtaining an easement from the neighboring property at 1515 Half Street SW to traverse a small portion of that property (plans shown in Ex. 38C1-C2) or, if no easement could be obtained, by adjusting the Project’s design to accommodate loading that would not require access over the adjacent property line (plans shown in Ex. 38, 38A1-A2).

After filing the Post-Hearing Submission, the Applicant requested two deferrals of the Commission’s decision so that the Applicant could engage with the neighboring property owner at 1515 Half Street SW regarding an easement. (Exs. 39 & 41).

Unfortunately, no such agreement has been reached at this time. Accordingly, in order to complete the Design Review approval process, the Applicant will incorporate the adjusted loading design (which does not require the easement), which is in the record at Ex. 38A1-A2. The proposed Findings of Fact and Conclusions of Law reflect this adjusted loading design. The Applicant will continue to work with the adjacent neighbor towards securing an easement. If an

easement can be finalized, the Applicant will likely, at a later date, seek a modification of the project approval to accommodate the resulting changes to the project design.¹

In closing, the Applicant would like to remind the Commission of the other items identified in the Post-Hearing Submission, including the flexibility to research and incorporate solar capabilities, and the Applicant's agreement to conditions that (1) restrict the Project from the Residential Parking Permit ("RPP") program in accordance with the ANC's requested Parking Plan and (2) adopt DDOT's additional Loading Management Plan elements. *See* Ex. 38. These are referenced at pages 25-28 of the Proposed Findings of Fact and Conclusions of Law.

Thank you for your consideration. We look forward to the Commission's decision on this design review application on March 11, 2019.

Sincerely,
COZEN O'CONNOR



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¹ As referenced in Ex. 38, it would be within the Commission's authority to provide the Applicant flexibility to obtain building permits for the project design at Ex. 38C1-C2, if evidence of a recorded easement is provided to the Zoning Administrator in conjunction with a requested modification of approved plans. With or without said flexibility, the Applicant seeks to proceed with the Ex. 38 A1-A2 plans at this time.

Certificate of Service

I hereby certify that on this 25th day of February, 2019, copies of this Cover Letter with proposed Findings of Fact & Conclusions of Law was served via email, as follows:

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Meridith H. Moldenhauer

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 18-13
Z.C. Case No. 18-13
TM Jacob LLC
(CG Zone Design Review @ Square 656, Lot 53)
March 11, 2019

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on November 15, 2018, to consider an application for design review and necessary special exceptions and variances of a new building in Square 656 in the CG-4 zone filed by TM Jacob LLC ("Applicant"). The Commission considered the application pursuant to Subtitle K §§ 512.1, 512.2, and 512.7 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 Subtitle Z, Chapter 400. For the reasons stated below, the Commission hereby **APPROVES** the application.

FINDINGS OF FACT

The Application and Parties

1. On August 10, 2018, the Applicant, the owner of property located at 1530 First SW (Square 656, Lot 53) ("Property"), filed an application for design review. The application included a request for variance relief from the residential loading requirements of Subtitle C § 901.1 for one 20' delivery/service space and one 100 square foot loading platform, and special exception relief from the lot occupancy requirements of Subtitle K § 504.6 and the court requirements of Subtitle K § 504.10. On October 26, 2018, the Applicant submitted a pre-hearing statement explaining that the Applicant could provide the 20' delivery/service space and 100 square foot loading platform, but that relief would still be necessary for the 30' loading berth. On November 2, 2018, the Applicant submitted a supplemental statement requesting a variance from the plaza requirements of Subtitle K § 504.13. The Commission is authorized to approve such relief pursuant to Subtitle K § 512.7.
2. The Applicant is a joint venture between the United Planning Organization's Community Development Corporation ("UPO CDC") and subsidiary of the development company, T.M. Associates, Inc. ("TMA Inc."). TMA Inc. was formed in 1999 and primarily focuses on developing apartments and residential buildings for low-income residents. UPO CDC is a non-profit 501(c)(3) organization that is affiliated with the United Planning Organization ("UPO") and was incorporated in 1962 to plan, coordinate and implement

human services programs for low-income residents of the District. For more than 50 years, UPO CDC has been at the forefront of the war on poverty and has planned, coordinated and offered a vast array of programs and services for those in need.

3. The Property will be developed with approximately 101 residential units, with a range of one- to four-bedroom units, neighborhood-serving commercial uses from one or more of the following commercial use groups: (i) Office (Subtitle B § 200.2(x)); (ii) Retail (Subtitle B § 200.2(cc)); (iii) Services, General (Subtitle B § 200.2(dd)); (iv) Services, Financial (Subtitle B § 200.2(ee)); and (v) Eating and Drinking Establishments (Subtitle B § 200.2(j)) (“Project”). All units will be affordable. Of the 101 units, 80 percent of the dwelling units will be reserved for households with incomes not exceeding 50 percent of area median income (“AMI”) and 21 of the units will be reserved for households with incomes not exceeding 30% AMI.
4. A description of the proposed development and the notice of the public hearing in this matter were published in the *D.C. Register* on September 7, 2018. (Exhibit [“Ex.”] 7.) The notice of the public hearing was mailed to all owners of property located within 200 feet of the Property and to Advisory Neighborhood Commission 6D (“ANC”) on August 28, 2018. (Ex. 8.)
5. On October 15, 2018, the ANC held a public meeting to consider the application, for which notice was properly given and a quorum was present. The ANC voted unanimously to support the design review application and zoning relief requested by the Applicant subject to certain conditions. (Ex. 30.)
6. On October 26, 2018, the Applicant submitted its 20-Day Supplemental Statement, which included revised architectural drawings and an explanation of the revised loading variance relief. (Ex. 21A1-A2.) On November 2, 2018, the Applicant submitted a Supplemental Statement, which included further revised architectural drawings (Ex. 26A1-A2) and the additional variance request from the plaza requirements.
7. On November 1, 2018, the District Department of Transportation (“DDOT”) submitted a report finding no objection to the application including the zoning relief requested subject to the mitigations listed on pages 11-13 of its report. (Ex. 22.)
8. On November 9, 2018, the Office of Planning (“OP”) submitted a report to the Commission recommending approval of the application, including the variances from the loading and plaza requirements, and special exceptions from the lot occupancy and court requirements. (Ex. 29.)
9. On November 13, 2018, the Applicant submitted a signed Memorandum of Agreement between the ANC and the Applicant, for the benefit of neighbors listed therein. (Ex. 31.)
10. On November 15, 2018, ANC Commissioner Moffatt submitted written testimony on behalf of the ANC to reiterate the ANC’s support for the application subject to the provision of a Parking Plan to address concerns of impacted neighbors. (Ex. 36.)

11. After the hearing, the Applicant agreed to remove the Property from eligibility for DDOT's Residential Parking Permit ("RPP") Program. The Applicant has agreed to do so in response to the ANC's request that the Applicant propose a Parking Plan for the Project. (Ex. 38).

Party in Opposition Withdrawn

12. On September 6, 2018, a party status application from Hosea McClain, et al. in Opposition with a Request for Advanced Consideration was submitted ("Original Party Status Request"). (Ex. 9). On October 19, 2018, the Original Party Status Request was withdrawn. (Ex. 9A).
13. On November 1, 2018, Hosea McClain, et al. submitted a Revised Party Status Application in Opposition ("Revised Party Status Request"). (Ex. 23.)
14. On November 14, 2018, the Revised Party Status Request was withdrawn. (Ex. 32.)

Public Hearing of November 15, 2018

15. The Commission held a public hearing on the application on November 15, 2018. As a preliminary matter, the Commission accepted Sean Pichon of PGN Architects as an expert in Architecture, Erwin Andres of Gorove Slade Associates as an expert in Transportation, and Stephen Varga of Cozen O'Connor as an expert in Land Use. Neil Mutreja of T.M. Associates and Wendell Smith of UPO were available for questions.
16. At the time of public hearing, the parties to the case were the Applicant and the ANC in which the Property is located.
17. Elisa Vitale and Joel Lawson of OP and Jonathan Rogers of DDOT testified in support of the application at the public hearing.
18. No persons testified in opposition to the application at the public hearing. ANC Commissioner Roger Moffatt testified in support of the application at the public hearing.
19. At the public hearing, the Commission identified that trucks would need to cross the adjacent property line to access the loading area to the rear of the Project. Accordingly, the Commission requested that the Applicant obtain an easement from the adjacent neighbor to allow access over that property line or, alternatively, update the loading design to obviate the need to cross the lot line. The Commission also requested clarification on the viability of enhanced environmental improvements from the Department of Energy & Environment ("DOEE"). Finally, the Commission directed the Applicant to finalize the Parking Plan with the ANC.
20. The record was closed at the conclusion of the public hearing, except to receive additional submissions from the Applicant, as requested by the Commission, and responses thereto from DDOT, OP, and ANC 6D, if desired.

Post-Hearing Submissions

21. On December 3, 2018, the Applicant submitted its post-hearing submission addressing the Commission's, OP's and the ANC's comments. (Ex. 38-38C2.) In regard to the loading access, the Applicant contacted the adjacent property owner to determine whether the Applicant could secure an easement over the adjacent property's lot line. (Ex. 38.) The Applicant also provided alternate ground floor layouts that would allow access to the loading area without an encroachment in the event that the Applicant could not obtain an easement,. (Ex. 38A1-A2.) The Applicant requested flexibility to the Final Plans to accommodate DDOT's loading access requirements. (Ex. 38.) At the Commission's request, the Applicant also supplied a Supplemental Statement from Gorove/Slade incorporating the additional Transportation Demand Management Plan ("TDM") and Loading Management Plan measures identified in the DDOT report. (Ex. 22, 38B.)
22. As addressed in the post-hearing submission, the Applicant met with DOEE on November 13, 2018 to discuss the potential for adding solar energy panels to the Project. (Ex. 38.) Subsequently, the DC Sustainable Energy Utility ("DCSEU") prepared an analysis of the energy savings available to the Project. The Applicant reached out to several solar companies and conducted meetings to determine the feasibility of the use of solar energy for the Project.
23. As addressed in the post-hearing submission, the Applicant also detailed discussions with the ANC concerning parking. (Ex. 38.) As a result, the Applicant will ensure that the Project is excluded from DDOT's RPP program.
24. In response to OP's request for clarification on the Property's lot size, the Applicant submitted images using civil survey information, which establishes the lot area of 13,265.53 square feet. (Ex. 38A1-A2.)
25. On December 7, 2018, the Applicant requested a deferral of the decision in this matter in order to continue discussions with the adjacent neighboring regarding a potential easement. (Ex. 39.) The ANC supported the deferral. (Ex. 40.)
26. On January 11, 2019, the Applicant requested a second deferral of the decision in this matter in order to continue discussing an easement over the adjacent property. (Ex. 41.)
27. On February 25, 2019, the Applicant filed proposed Findings of Fact and Conclusions of Law. (Ex. 42.). In the enclosed cover letter, the Applicant stated that it was unable to come to an agreement with the neighboring property owner regarding an easement for access to the Project's loading area. Accordingly, the Applicant stated that it will incorporate the adjusted loading design at Ex. 38A1-A2, which does not require traversing the adjacent property. The Applicant also confirmed that the Project would be excluded from the RPP Program and that the Applicant has agreed to DDOT's proposed loading management plan. Finally, the Applicant reaffirmed its intent to incorporate solar panels in the Project, if possible, and that discussions on solar energy remain ongoing.
28. At its public meeting on March 11, 2019, the Commission voted to approve the

application consistent with the plans at Ex. 38A1-A2 and to allow additional flexibility to add solar panels to the roof so long as the solar panels do not interfere with the building's green roof. The Project will also be excluded from the RPP program.

Description of the Site and Surrounding Area

29. The Property is located approximately mid-block on the east side of First Street SW between P Street SW to the north and Q Street SW to the north in the southwest quadrant of the District. First Street SW is 90 feet wide. The Property is presently improved with a former private school building and is currently vacant. Based upon the District's tax record and a Civil Engineer's survey, the Property has a land area of 13,265.53 square feet.
30. The Property is located two blocks west of South Capitol Street. To the north is a series of three-story apartment buildings. To the south is 1542-1550 First Street SW that was approved in 2017 under ZC Case No. 17-13 for construction of a mixed-use building of 100 feet in height ("Phase I Building"). The Phase I Building shares a lot line with the Property. Fort McNair is located approximately two blocks to the west of the Property. Nationals Stadium is also approximately two blocks northeast of the Property and the area in between the stadium and the Property includes a mix of commercial and residential uses. The area south of Q Street includes numerous industrial uses, vacant properties, single-family row houses, the Pepco Waterfront Substation, and Audi Field.
31. The Property is located within 0.5 miles of the Waterfront-SEU Metrorail Station, serviced by the green line, Metrobus service stops in close proximity, and two Capitol Bikeshare stations within 0.2 miles.

Description of the Project

32. The Property will be developed with a 100% affordable housing development for individuals and families in need. The Project includes approximately 101 residential units, comprised of 46 one-bedroom units, 37 two-bedroom units, 10 three-bedroom units, and 8 four-bedroom units with ground-floor, neighborhood-serving commercial uses from one or more of the following commercial use groups: (i) Office (Subtitle B § 200.2(x)); (ii) Retail (Subtitle B § 200.2(cc)); (iii) Services, General (Subtitle B § 200.2(dd)); (iv) Services, Financial (Subtitle B § 200.2(ee)); and (v) Eating and Drinking Establishments (Subtitle B § 200.2(j)).
33. The Project is a companion project to the Phase I Building.
34. The Project is pursuing Housing Production Trust Fund ("HPTF") funding and would be exempt from the Inclusionary Zoning ("IZ") requirements for the 40-year HPTF affordability period. The Project in connection with anticipated HPTF financing will reserve 21 units for households with incomes not exceeding 30% of the AMI and 80 units will be reserved for households with incomes not exceeding 50% AMI.

35. The Project would be required to remain IZ compliant after the 40-year HPTF affordability period expires as the Applicant is taking advantage of bonus density available to IZ projects in the CG-4 zone (Subtitle K § 504.3).
36. In conjunction with the Property's management, UPO CDC will provide wraparound services to the building's residents. The residents of the 21 units reserved for households with incomes not exceeding 30% AMI will be referred through the District's Coordinated Entry System. These residents will be provided with Permanent Supportive Housing ("PSH") services and will receive on-site case management services designed to help them attain self-sufficiency. Case management will be provided according to the Department of Human Services ("DHS") PSH standards. Moreover, UPO CDC will conduct monthly home visits to ensure residents are following their specified plan and are living in a safe environment. Other on-site programs and services provided to all of the building's tenants include the following:
- Summer Food Program that provide lunches to kids in the summer months who receive a free lunch at school;
 - Holiday parties/kids toy drives;
 - Thanksgiving dinners;
 - End of school year (summer party) for children;
 - Informational speakers (crime prevention, saving, budgeting, etc.);
 - Computer classes; and
 - Financial education classes
37. As shown in Ex. 38A1-A2, the Project includes approximately 103,008 square feet of gross floor area, with a density of 7.77 floor area ratio ("FAR"). Approximately 95,970 square feet will be devoted to residential use and approximately 7,038 square feet will be devoted to ground-floor commercial uses. There are two separate entryways for the commercial and residential space, which will be located along First Street SW. The Project also includes an interior courtyard and approximately 1,318 square feet of amenity space on the second floor for building residents.
38. The Project will have 18 below-grade parking spaces and one ADA-compliant van space, which will be accessible from an existing public alley to the rear of the Property. Two of the parking spaces will be reserved for car-sharing services, each of which may count as three required parking spaces, per Subtitle C § 708.2. Thus, 23 parking spaces are provided for the development. No curb cuts are proposed.
39. On-site loading is provided through a 21'6" service/delivery space and a 100-square-foot loading platform. The service/delivery space and loading platform are accessed from the alley to the rear of the Property. As shown in the loading plans at Ex. 38A1-A2, the Project ensures that vehicles can access the loading area without traversing the adjacent property at 1515 Half Street SW.

40. The Project will have three, non-conforming courts. One closed court is located along the northern lot line (“North Court”). Two closed courts are located along the southern lot line (“South Courts”) abutting the Phase I Building.
41. The North Court is 99.58 feet in height, measures approximately 89 feet in width, and contains 534 square feet in area. Based on the height of the court, the minimum width required is 33.2 feet, and the requirement is satisfied. However, the area of the closed court is less than twice the square of the required width of court dimension, and so special exception relief for the court area requirement was requested and granted for the North Court.
42. The South Courts are stacked courts beginning with a courtyard on the second floor of the Project. The lower court is 99.58 feet in height, 27.66 feet in width, and contains approximately 226 square feet of area. The Applicant requested special exception relief because the lower court does not meet the width or area requirements. The upper court begins on the third floor, and has a height of 89.58 feet, a width of 37.66 feet, and area of 369 square feet. While the upper court meets the required width, the area is less than twice the square of the required width of court dimension. Accordingly, the Applicant requested special exception relief for the upper court.
43. The maximum lot occupancy for a residential use with Inclusionary Zoning in the CG-4 zone is 80%. All floors with a residential use, except for the third floor, meet the lot occupancy requirement of 80%. The Applicant requested special exception relief for the third floor lot occupancy, which is 80.67%.
44. The Project will have a maximum height of 100 feet and will include a penthouse containing both mechanical and habitable space. The penthouse will have a maximum height of 17 feet, as measured to the top of the mechanical screening. The penthouse will be set back at least 1:1 to the front (10’3”), rear (10’3”), and northern side (10’8”) of the Project as required by the Zoning Regulations. No penthouse setback is required on the southern side of the Project. The proposed 3’6” railing along the front of the penthouse will be set back 4’8” from the front building wall of the roof on which it is located, in conformance with the front setback requirements. The Project complies in all respects with the Zoning Regulations, except for the residential loading, lot occupancy, court, and plaza relief requested.
45. The Applicant is pursuing LEED-Silver certification for the Project under LEED v4, consistent with the Green Building Act and DHCD’s funding requirements. The Project includes an expansive green roof. The Applicant intends to provide solar panels on the Project’s roof depending on availability.
46. The Applicant worked with ANC to develop a Parking Plan, which includes restricting the Project from eligibility for the RPP program.

Capitol Gateway Zones Design Review Requirements

47. Pursuant to Subtitle K §§ 512.1(e), 512.2, the proposed development at the Property is

subject to design review and approval by the Commission since it is located in Square 656. The Applicant must show that the proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will meet the requirements of Subtitle K § 512.3. The Commission finds that the Project meets the requirements of Subtitle K § 512.3 as discussed below.

48. *Help Achieve the Objectives of the Capitol Gateway (Subtitle K § 512.3(a))*: The Project satisfies the following stated objectives for the Capitol Gateway zones as provided in Subtitle K § 500.1 including: (i) assuring development of the area with a mixture of residential and commercial uses, and a suitable height, bulk, and design of buildings, as generally indicated in the Comprehensive Plan and recommended by planning studies of the area; (ii) encouraging a variety of support and visitor-related uses, such as retail and service uses; and (iii) providing for a reduced height and bulk of buildings along the Anacostia riverfront in the interest of ensuring views over and around waterfront buildings, and provide for continuous public open space along the waterfront with frequent public access points. The Project includes 101 residential units, all of which will be reserved for households with incomes not exceeding 50% of the AMI. In addition, approximately 7,038 square feet on the ground floor will be devoted to neighborhood-serving commercial uses in a vibrant and attractive new building. The building will have a maximum height of 100 feet and an overall FAR of 7.77, both of which are permitted as a matter of right in the CG-4 zone. The Applicant is only requesting relief from the applicable zoning requirements of the CG-4 zone for loading, lot occupancy, courts, and the plaza. OP supports the Project, including the height, bulk, design, and use. DDOT also supports the Project.
49. *Help achieve the desired use mix, with the identified preferred uses specifically being residential, hotel or inn, cultural, entertainment, retail, or service uses (Subtitle K § 512.3(b))*: The Project includes approximately 7,038 square feet on the ground floor devoted to neighborhood-serving commercial uses and 101 residential units, all of which will be reserved for households with incomes not exceeding 50% of the AMI. The Applicant will continue to work with community to evaluate commercial uses that will serve the community's needs.
50. *Be in Context with Surrounding Neighborhood and Street Patterns (Subtitle K § 512.3(c))*: The Project is contextual to the surrounding neighborhood and street patterns. As shown on the architectural drawings included with the application, the Project is contextual to the surrounding neighborhood and street patterns, particularly in relationship to the Phase I Building. Further, the Project is respectful of the RF-1 zoned property to the north. The Applicant has taken steps to reduce the massing of the proposed building through projections, bays, recesses, and material changes to help soften the juxtaposition between the proposed building, the existing immediate context, and the adjacent property to the north. Furthermore, the existing apartment building is located 29 feet from the Property's northern lot line, which includes an approximately 18-foot wide open drive aisle separating the buildings. Furthermore, the Project's proposed penthouse is setback approximately 20 feet from the northern property line, resulting in a separation of approximately 50 linear feet from the tallest part of the Project to the adjacent building. The distinct façade articulations at each elevation creates

an innovative, high-quality design that connects the building to the street frontage and complements nearby buildings. In addition, the approved PEPCO Waterfront Substation, located to the southwest of the Property, will have a maximum building height of approximately 58 feet. (See BZA Order No. 18911 (August 4, 2015).) An additional example of development in the vicinity of the Property includes the redevelopment of the existing office building at the corner of T Street and Half Street. The existing office building on that site will be reconfigured into a mixed-use development with approximately 462 residential units and is expected to open by 2018. The Property is also located within the boundaries of the Buzzard Point Urban Design Framework Plan (the “Buzzard Point Plan”), which seeks to catalyze Buzzard Point’s “long-awaited economic revitalization and overcome its isolated, industrial character. (See Buzzard Point Plan, p. 2.) Improvements in the vicinity of the Property include the new South Capitol Street bridge and soccer stadium, which will initiate additional physical improvements and further development of Buzzard Point. (Id. at 10.) The Buzzard Point Plan specifically designates the Property for multifamily residential development. (Id. at 4.) Moreover, one of the overarching goals of the Buzzard Point Plan is to protect the existing public housing within the study area and create additional residential development. (Id. at 7.) As a result, the Commission finds that the Project is consistent with the Buzzard Point Plan and is in context with the street patterns and redevelopment plan for the surrounding neighborhood. The Project is contextually consistent with the density, bulk, and height of the Phase I Building, which directly abuts the Project. The Project complements the Phase I Building architecturally and programmatically as well.

51. *Minimize Conflict between Vehicles and Pedestrians (Subtitle K § 512.3(d))*: Access to the loading area and below-grade parking will be provided via the 16-foot wide rear alley network to the Property. There is no curb cut along the Property’s frontage, thereby preventing potential pedestrian and vehicle conflicts. The Applicant revised the Project design to ensure that access to the loading area can be accomplished without traversing the adjacent property.
52. *Minimize Unarticulated Blank Walls Adjacent to Public Spaces through Façade Articulation (Subtitle K §512.3(e))*: The building offers extensive façade articulation across all of its elevations abutting public space. The facades are distinctly and extensively conveyed through irregular patterns and the building’s materials, which include red and ironspot brick, fiber cement, wood, and metal paneling. On the Project’s frontage there is wood detailing at the ground level and bay projections beginning at the third story.
53. *Minimize Impact on the Environment (LEED) (Subtitle K § 512.3(f))*: The Applicant is providing an expansive green roof and is pursuing LEED-Silver certification for the Project under LEED v4, which is consistent with the Green Building Act and DHCD’s funding requirements. The Applicant is interested in providing solar panels on the Project’s roof, if possible.

General Design Review Requirements

54. In addition to the requirements of Subtitle K § 512.3, the Commission must also find that the Project is consistent with the general design review standards set forth in Subtitle X of the Zoning Regulations. The Commission finds that the Project is consistent with the standards set forth in Subtitle X of the Zoning Regulations as discussed below.
55. *The Zoning Commission shall find that the proposed design review development is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site (Subtitle X § 604.5):* The Project is not inconsistent with the Comprehensive Plan and with other adopted policies and active programs related to the Property. The Comprehensive Plan is described as “the centerpiece of a “Family of Plans” that guide public policy in the District. 10-A DCMR § 103.1. Under the DC Code, the Comprehensive Plan is the one plan that guides the District’s development, both broadly and in detail. Thus, it carries special importance in that it provides overall direction and shapes all other physical plans that District government adopts. In fact, all plans relating to the city’s physical development should take their lead from the Comprehensive Plan, building on common goals and shared assumptions about the future. (10-A DCMR § 103.2.) As the guide for all District planning, the Comprehensive Plan establishes the priorities and key actions that other plans address in greater detail. The broad direction it provides may be implemented through agency strategic plans, operational plans, long-range plans on specific topics (such as parks or housing), and focused plans for small areas of the city. (10-A DCMR § 103.3.)
56. The purposes of the Comprehensive Plan are six-fold: (a) to define the requirements and aspirations of District residents and, accordingly, influence social, economic and physical development; (b) to guide executive and legislative decisions on matters affecting the District and its citizens; (c) to promote economic growth and jobs for District residents; (d) to guide private and public development in order to achieve District and community goals; (e) to maintain and enhance the natural and architectural assets of the District; and (f) to assist in conservation, stabilization, and improvement of each neighborhood and community in the District. (D.C. Code §1-245(b).) The Project significantly advances these purposes by promoting the social, physical and economic development of the District through the provision of a high-quality mixed-use project consisting of affordable housing for low- and very low-income District residents and ground-floor neighborhood-serving commercial uses on the Property, all without generating any adverse impacts.
57. The policies contained in the Comprehensive Plan are based on 36 Guiding Principles that acknowledge that the benefits and opportunities of living in the District are not available to everyone equally and that divisions in the city—physical, social and economic—must be overcome to move from vision to reality. (10-A DCMR § 216.3.) The Guiding Principles are derived from the Comprehensive Plan’s “vision for growing an inclusive city,” and express cross-cutting goals for the District’s future. (10-A DCMR § 2004.4.) The Guiding Principles are grouped into five core themes: Managing Growth and Change, Creating Successful Neighborhoods, Increasing Access to Education and Employment, Connecting the City, and Building Green and Healthy Communities. (10-A DCMR § 216.2.)

58. The Project will aid in managing growth and change by assisting the District in retaining and attracting an economically diverse population, including families, by providing new affordable housing in a rapidly revitalizing area of the District that is close to public transportation. (10-A DCMR §§ 217.2, 217.3.) The Project also will support the District's non-residential growth through the proposed ground-floor commercial uses that will generate tax revenue and create jobs and opportunities for less affluent households to increase their income. (10-A DCMR § 217.4.) The Project will aid in the successful revitalization of the Buzzard Point neighborhood by ensuring that as this area of the District transforms from an industrial neighborhood to a vibrant, sought after mixed-use neighborhood it will include housing and services for low- and very low-income residents, including families, and will also provide employment opportunities through the proposed ground-floor neighborhood-serving commercial uses. (10-A DCMR §§ 218.3, 219.3.) The Project will also advance the District's environmental goals through the use of sustainable design strategies and adherence to LEED v.4 design criteria. (10-A DCMR § 221.3.)
59. The substantive policies of the Comprehensive Plan are organized into 12 Citywide Elements that each address a specific topic that is citywide in scope, and 10 Area Elements that focus on issues that are unique to a particular part of the District, and are intended to provide a sense of local priorities and to recognize the different dynamics at work in each part of the city. Although they focus on a specific area of the District, the policies contained within the Area Elements are still general in nature and do not prescribe specific uses or design details. (10-A DCMR §§ 104.4-104.6.) The Area Elements also do not repeat policies that already appear in the Citywide Elements; however, this does not mean all Comprehensive Plan policies are mutually exclusive from each other. On the contrary, the Comprehensive Plan specifically recognizes the overlapping nature among and between the Citywide and Area Elements, and that the policies in one element may be tempered by one or more of the other elements where there may be a need to balance competing policies.
60. Due to the wide range of topics addressed in the Comprehensive Plan, some Citywide Elements oftentimes are not necessarily applicable to a development project, or are applicable to only a minor degree. Such is the case for the Project where the Parks, Open Space, and Recreation; Community Services and Facilities; Infrastructure; and the Arts and Culture Elements have little to no applicability. Nonetheless, the Applicant still reviewed the overarching goal and the policies of these elements to confirm that the Project was not inconsistent.
61. Land Use Element: The Commission finds that the Project is not inconsistent with the Land Use Element. The Land Use Element is the cornerstone of the Comprehensive Plan. It establishes the basic policies guiding the physical form of the city, and provides direction on a range of development, conservation, and land use compatibility issues. The Element describes the balancing of priorities that must take place in order to accommodate a multiplicity of land uses within the boundaries of the District of Columbia. (10-A DCMR § 300.1.) The overarching land use goal of the District is to ensure the efficient use of land resources to meet long-term neighborhood, citywide, and regional needs; to help foster other District goals; to protect the health, safety, and

welfare of District residents, institutions, and businesses; to sustain, restore, or improve the character and stability of neighborhoods in all parts of the city; and to effectively balance the competing demands for land to support the many activities that take place within District boundaries. (10-A DCMR § 302.1.)

62. The Project will substantially advance the above-stated goal by redeveloping the underutilized Property into a new mixed-use project containing market-rate ground floor commercial use and affordable housing for low and very low income households, including families, in a rapidly revitalizing area of the District that is close to Metrorail. Currently, the existing improvements on the Property do not take advantage of the potential for the site, and are not compatible with the future vision for the neighborhood put forth by the District in the Buzzard Point Plan. Despite budget constraints due to the deep level of affordability of the proposed housing, the proposed design will blend with the designs of other market-rate projects that are underway or planned for the surrounding neighborhood, including the immediately adjacent Phase I Building. The Project is consistent with the CG-4 zoning of the Property, and the Medium Density Residential land use designation of the Comprehensive Plan (Policy LU-2.1.1: Multi-Family Neighborhoods). The height and massing of the Project will complement and be compatible with new development that is contemplated to the south of the Property near the new Audi Field (Policy LU-1.4.1: Infill Development). In addition, as addressed earlier, the adjacent lot to the north is zoned RF-1 and improved with an existing apartment building set back from the Property's northern lot line by 29 feet. The Applicant has taken steps to reduce the massing of the proposed building through projections, bays, recesses, and material changes to help soften the juxtaposition between the proposed building, the existing immediate context, and the adjacent property to the north.

63. Transportation Element: The Commission finds that the Project is not inconsistent with the policies contained within the Transportation Element of the Comprehensive Plan. The overarching goal for transportation in the District is to create a safe, sustainable, efficient multi-modal transportation system that meets the access and mobility needs of District residents, the regional workforce, and visitors; supports local and regional economic prosperity; and enhances the quality of life for District residents. (10-A DCMR § 401.1.) The Project will help achieve this goal due to its close proximity to Metrorail and several Metrobus routes, and through the substantial pedestrian improvements that will be made to the public realm adjacent to the Property (Policy T-1.1.4: Transit-Oriented Development, Policy T-2.4.1: Pedestrian Network, and Policy T-2.4.2: Pedestrian Safety). The Project will also provide secure bicycle parking as required under the Zoning Regulations (Action T-2.3.A: Bicycle Facilities). Finally, the Project will encourage the expansion of car-sharing by devoting two parking spaces within the below-grade garage of the building to car share spaces (Policy T-3.1.3: Car-Sharing).

64. Housing Element: The Commission finds that the Project is not only "not inconsistent" with the policies of the Housing Element, but it will directly and substantially advance several policies that are aimed at addressing the District's affordable housing crisis. The overarching goal of the Housing Element is to "[d]evelop and maintain a safe, decent,

and affordable supply of housing for all current and future residents of the District of Columbia." (10 DCMR § 501.1.) The Applicant will help the District achieve this goal by providing a mixed-use development that includes ground floor commercial use and 102 units of low and very low income affordable housing, including larger family-sized 3- and 4- bedroom units, in a rapidly revitalizing area of the District that is close to public transportation (Policy H-1.1.1: Private Sector Support, Policy H-1.1.3: Balanced Growth, Policy H-1.1.4: Mixed Use Development, Policy H-1.1.7: New Neighborhoods, Policy H-1.2.3: Mixed Income Housing, and Policy 1.3.1: Housing for Families).

65. Environmental Protection Element: The Commission finds that the Project is not inconsistent with the policies of the Environmental Protection Element. The overarching goal for environmental protection in the District is to protect, restore, and enhance the natural and man-made environment, taking steps to improve environmental quality, prevent and reduce pollution, and conserve the values and functions of the District's natural resources and ecosystems. (10-A DCMR § 601.1.) The Project will help achieve this goal, in part, through the improvements that will be made to the public space surrounding the Property including adding several new street trees and planters (Policy E-1.1.1: Street Tree Planting and Maintenance). The Applicant will also improve environmental sustainability and storm water management on the Property by achieving a LEED-Silver designation under the LEED v.4 checklist for the Project. The Project will incorporate a large green roof system and, depending on availability, solar panning (Policy E-3.1.2: Using Landscaping and Green Roofs to Reduce Runoff and Policy E-3.2.1: Support for Green Building).
66. Economic Development Element: The Commission finds that the Project is not inconsistent with the policies of the Economic Development Element. The Project will provide positive economic benefit both through the ground floor commercial use that is proposed, and the onsite financial education services that will be provided to the residents of the building. Specifically, the on-site services provided by UPO will include monthly financial education classes. In addition, UPO will provide access to offsite services including various construction, culinary arts, hospitality, and emergency medical technician training classes at UPO facilities within the District. (Policy ED-4.1.4: Adult Education, Policy ED-4.2.3: Focus on Economically Disadvantaged Populations, Policy ED-4.2.4: Neighborhood-Level Service Delivery). These services will strengthen the District workforce and help increase the income of building residents.
67. Parks, Recreation, and Open Space Element: This Element addresses the future of parks, recreation, and open space in the District of Columbia. It recognizes the important role parks play in recreation, aesthetics, neighborhood character, and environmental quality. It includes policies on related topics such as recreational facility development, the use of private open space, and the creation of trails to better connect the city's open spaces and neighborhoods. (10-A DCMR § 800.1.) The overarching goal for parks, recreation and open space is to preserve and enhance parks and open spaces within the District of Columbia to meet active and passive recreational needs, improve environmental quality, enhance the identity and character of District neighborhoods, and provide visual beauty in all parts of the national capital. (10-A DCMR § 801.1.) The Commission finds that the Project is not inconsistent with this stated goal, nor with the policies contained within the

Parks, Recreation, and Open Space Element.

68. Urban Design Element: The Urban Design Element addresses the District's physical design and visual qualities, and the goal of its various policies is to enhance the beauty and livability of the city by protecting its historic design legacy, reinforcing the identity of its neighborhoods, harmoniously integrating new construction with existing buildings and the natural environment, and improving the vitality, appearance, and security of streets and public spaces. (10-A DCMR § 901.1.) The Project will improve the urban design quality of First Street SW, a historic L'Enfant Plan street, by strengthening the street wall and respecting the right-of-way (UD-1.1 Protecting the Integrity of Washington's Historic Plans and Policy UD-1.1.2: Reinforcing the L'Enfant and McMillan Plans). The Project will also improve the sense of identity for the Buzzard Point neighborhood which, as stated in the Buzzard Point Plan, is envisioned as an environmentally sustainable, vibrant, mixed-use neighborhood with improved pedestrian circulation, continuous access to the water, and new development opportunities that could increase the inventory of mixed-use development and affordable housing. *Id.* Buzzard Point Plan, pgs. 6-7. The Project will advance this vision through the ground floor retail and substantial affordable housing that is proposed, as well as its attractive façade design and significant improvements to adjacent public space (Policy UD- 2.2.5: Creating Attractive Facades, Policy UD-3 .1.1: Improving Streetscape Design, Policy UD-3.1.7: Improving the Street Environment). In addition, as addressed above, because the lot to the north is zoned RF-1 and improved with an existing apartment building set back from the Property's northern lot line by 29 feet, the Applicant has taken steps to design and articulate the building in a way that orients the tallest part of the Project to the south, thereby reducing the overall scale and will providing visual interest to surrounding properties (Policy UD-2.2.4: Transitions in Building Intensity).
69. Historic Preservation Element: The overarching goal for historic preservation is to preserve and enhance the unique cultural heritage, beauty, and identity of the District of Columbia by respecting the historic physical form of the city and the enduring value of its historic structures and places, recognizing their importance to the citizens of the District and the nation, and sharing mutual responsibilities for their protection and stewardship. (10-A DCMR § 1001.1.) The Commission finds that the Project is not inconsistent with this stated goal, nor with the policies contained within the Historic Preservation Element. The site of the Project is not a historic landmark, nor is it located within the boundaries of a historic district. Nonetheless, the Project will improve the spatial character and urban design quality of First Street SW, a L'Enfant Plan street, by strengthening the street wall, and respecting the right-of-way (Policy HP-2.3.1: The Plan of the City of Washington, Policy HP-2.3.3: Spatial Character of L'Enfant Plan Streets, and Policy HP-2.3.4: Public Space Design in the L'Enfant Plan).
70. Community Services and Facilities Element: The Community Services and Facilities Element provides policies and actions on health care facilities, child care and senior care facilities, libraries, police stations, fire stations, and other municipal facilities such as maintenance yards. A well-balanced and adequate public facility system is a key part of the city's drive to sustain and enhance the quality of life for its residents. (10-A DCMR § 1100.1.) The Comprehensive Plan goal for community services and facilities is to

provide high-quality, accessible, efficiently managed, and properly funded community facilities to support the efficient delivery of municipal services, protect public health and safety, and enhance the well-being of current and future District residents. (10-A DCMR § 1101.1.) The Commission finds that the Project is not inconsistent with this stated goal, nor with the policies contained within the Community Services and Facilities Element.

71. Educational Facilities Element: The Educational Facilities Element addresses the location, planning, use and design of the District’s educational facilities and campuses. It includes policies and actions related to primary, secondary, and higher educational facilities. The Element focuses on the efficient use of school property, and the relationship between schools and the communities that surround them. For District public schools, it focuses on school modernization and the right-sizing of school facilities to meet existing and long-term educational needs. (10-A DCMR § 1200.1.) The overarching goal for educational facilities in the District is to transform the educational environment in the District of Columbia, providing facilities that inspire excellence in learning, create a safe and healthy environment for students, and help each individual achieve his or her fullest potential. (10-A DCMR § 1201.1.) The Commission finds that the Project is not inconsistent with this stated goal, nor with the policies contained within the Educational Facilities Element.
72. Infrastructure Element: The Infrastructure Element provides policies and actions on the District’s water, sanitary sewer, storm water, solid waste management, energy, and telecommunication systems. Investments in these systems are essential to our city’s future, both to meet the demands of existing users and to accommodate future change and development. (10-A DCMR § 1300.1.) The overarching goal for infrastructure is to provide high-quality, efficiently managed and maintained, and properly funded infrastructure to serve existing development, as well as future change and growth. (10-A DCMR § 1301.1.) The Commission finds that the Project is not inconsistent with this stated goal, nor with the policies contained within the Infrastructure Element.
73. Arts and Culture Element: The Arts and Culture Element provides policies and actions dedicated to the preservation and promotion of the arts in the District of Columbia. Its focus is on strengthening the role of the arts in shaping the physical form of our city. (10-A DCMR § 1400.1.) The overarching goal for arts and culture is to support and encourage arts and cultural venues, programs and learning experiences in the District of Columbia that inspire a vibrant cultural life for all segments of the population. Enhance the city’s diverse artistic and cultural traditions through decisions affecting the physical environment. (10-A DCMR § 1401.1.) The Commission finds that the Project is not inconsistent with this stated goal, nor with the policies contained within the Arts and Culture Element.
74. Lower Anacostia Waterfront/Near Southwest Area Element: The Lower Anacostia Waterfront/Near Southwest Planning Area encompasses approximately 3.0 square miles of land along both sides of the Anacostia River in the southwest and southeast quadrants of the District, and includes parts of Wards 6, 7, and 8. (10-A DCMR 1900.1.) The key planning and development priorities within this area include revitalizing and increasing

access to the waterfront; improving economic opportunities for the neighborhoods within the area; protecting existing neighborhoods while expanding housing, including affordable housing; and the protection of natural resources along the Anacostia and Potomac Rivers. The Commission Finds that the Project is not inconsistent with the policies of the Lower Anacostia Waterfront / Near Southwest Area Element. Specifically, the Project will support the revitalization of the Buzzard Point neighborhood into a new mixed-use neighborhood by adding new commercial uses and a substantial amount of affordable housing. (Policy AW-1.1.2: New Waterfront Neighborhoods, Policy AW-1.1.3: Waterfront Area Commercial Development, and Policy AW-2.2.7: Buzzard Point.)

75. *The Zoning Commission shall find that the proposed design review development will not tend to affect adversely the use of neighboring property and meets the general special exception criteria of Subtitle X, Chapter 9 (Subtitle X § 604.6):* The CG-4 zone “is intended to permit medium- to high-density mixed-use development with a balance of uses conducive to a higher quality of life and environment for residents, businesses, employees, and institutions...” (Subtitle K § 504.1.) The Project will have a maximum building height of 100 feet and an overall FAR of 7.77. The CG-4 zone permits a maximum of 100 feet and 8.2 FAR with Inclusionary Zoning (“IZ”) on the Property. As a result, the height and density are consistent with the development parameters for the CG-4 zone. The Applicant is only requesting zoning relief from the requirements for loading, lot occupancy (third story only), court, and the plaza.
76. *The Zoning Commission shall review the urban design of the site and the building for the following criteria:*
- (a) Street frontages are designed to be safe, comfortable, and encourage pedestrian activity, including:
 - (i) Multiple pedestrian entrances for large developments;
 - (ii) Direct driveway or garage access to the street is discouraged;
 - (iii) Commercial ground floors contain active uses with clear, inviting windows;
 - (iv) Blank façades are prevented or minimized; and
 - (v) Wide sidewalks are provided;
 - (b) Public gathering spaces and open spaces are encouraged, especially in the following situations:
 - (i) Where neighborhood open space is lacking;
 - (ii) Near transit stations or hubs; and

- (iii) When they can enhance existing parks and the waterfront;
- (c) New development respects the historic character of Washington's neighborhoods, including:
 - (i) Developments near the District's major boulevards and public spaces should reinforce the existing urban form;
 - (ii) Infill development should respect, though need not imitate, the continuity of neighborhood architectural character; and
 - (iii) Development should respect and protect key landscape vistas and axial views of landmarks and important places;
- (d) Buildings strive for attractive and inspired façade design, including:
 - (i) Reinforce the pedestrian realm with elevated detailing and design of first and second stories; and
 - (ii) Incorporate contextual and quality building materials and fenestration;
- (e) Sites are designed with sustainable landscaping; and
- (f) Sites are developed to promote connectivity both internally and with surrounding neighborhoods, including:
 - (i) Pedestrian pathways through developments increase mobility and link neighborhoods to transit;
 - (ii) The development incorporates transit and bicycle facilities and amenities;
 - (iii) Streets, easements, and open spaces are designed to be safe and pedestrian friendly;
 - (iv) Large sites are integrated into the surrounding community through street and pedestrian connections; and
 - (v) Waterfront development contains high-quality trail and shoreline design as well as ensuring access and view corridors to the waterfront. (11-X DCMR § 604.7.)

77. The street frontage along First Street SW has been designed to be safe, comfortable, and encourage pedestrian activity. The Project includes ground floor commercial uses with a distinct entryway along First Street SW. Outdoor seating is proposed in public space along First Street SW in front of the building. There are no blank facades facing public space. The Project includes streetscape improvements such as new sidewalk paving and landscaping, which complement the improvements that are part of the Phase I Building, even absent the plaza space. The streetscape generally complies with the Buzzard Point

Streetscape Design Guidelines. All public space improvements, including the width of the sidewalks, will comply with DDOT requirements.

78. The Property is not located along the District's major boulevards and the proposed public space improvements respect the existing urban form. The Project does not infringe on any key landscape vistas or axial views of landmarks and important places. As previously stated, the building's materials include red and ironspot brick, fiber cement, wood, and metal paneling, which are compatible with the neighborhood architecture in the surrounding Capitol Gateway Zone Districts, without imitating the architecture.
79. The Project's ground floor includes active uses with clear, inviting windows. The Project's design has minimized blank façades. The pedestrian realm along First Street SW is reinforced through the provision of outdoor seating for use by the building's residential tenants, commercial tenants, and the surrounding community. The Project's design also includes projections that help animate and enhance the building's design.
80. The Project includes access to the below-grade parking garage via a 16-foot wide public alley located to the rear of the Property, and so pedestrian movements across the frontage of the Property will be safe and enjoyable. In addition, 45 long-term bicycle parking spaces will be located in the below-grade parking garage, and a compliant number of short-term bicycle parking spaces will be provided along the front of the Project. Also, a new Capital Bikeshare station is proposed to be constructed near the corner of First Street SW and Q Street SW (as part of the zoning approval of the Phase I Building), offering convenient access for residents and patrons of the Project who wish to bike to and from the Property. The Project is not a waterfront development.
81. The Commission therefore finds, pursuant to Subtitle X § 604.8, that the Project meets the criteria of Subtitle X § 604.7 in a way that is superior to any matter-of-right development.

Variance Relief

82. Pursuant to Subtitle K § 512.7, the Commission may hear and decide additional requests for variance relief as part of an application for design review approval.
83. The Applicant requests area variances from the residential loading requirements of Subtitle C § 901.1 and the plaza requirements of Subtitle K § 504.13. Pursuant to Subtitle C § 901.1, the Applicant is required to provide one 30' loading berth, one 100 square foot loading platform, and one 20' service/delivery space for the residential portion of the Project. Pursuant to Subtitle K § 504.13, the Applicant is required to provide a plaza comprising eight percent (8%) of the lot area because the Property is more than 10,000 square feet. Due to site constraints, the Applicant is unable to provide the 30-foot loading berth or the plaza for the Project.
84. The Commission is authorized to grant an area variance where it finds that three conditions exist:

- (a) The property is affected by exceptional size, shape, or topography or other extraordinary or exceptional situation or condition;
- (b) The owner would encounter practical difficulties if the Zoning Regulations were strictly applied; and
- (c) The variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

(See *French v. District of Columbia Board of Zoning Adjustment*, 658 A.2d 1023, 1035 (D.C. 1995) (quoting *Roumel v. District of Columbia Board of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)); see also, *Capitol Hill Restoration Society, Inc. v. District of Columbia Board of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987).

85. The Commission finds that all three prongs of the area variance test are met in this application.

Exceptional Condition or Situation

86. A unique or exceptional situation or condition may arise from a confluence of factors that affect a single property. (*Gilmartin v. D.C. Board of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990)). The Commission finds that an exceptional condition arises from a confluence of factors including the location of the rear public alley on a relatively narrow lot; the Property's location on the zone boundary line with the RF-1 zone; the unique development/zoning history as the second phase of previously-approved Phase I Building; and the specific design review criteria for the Property discouraging access to parking and loading facilities directly from the street. The design review requirements of Subtitles K and X: (i) encourage development of the Property with a mixture of residential and commercial uses; (ii) encourage minimizing conflicts between vehicles and pedestrians; (iii) encourage pedestrian activity along the adjacent street frontages; (iv) and discourage direct driveway or garage access to the street.

Resulting Practical Difficulty

87. The strict application of the Zoning Regulations would result in a practical difficulty to the Applicant. As to the requested loading relief, the Applicant will provide a 21'6" service/delivery space with a 100 square foot loading platform to the rear of the Project along a public alley. The Applicant is proposing to provide a residential lobby, leasing bays, and ground-floor commercial uses. As a result, there is no additional room on the ground floor of the building to accommodate a 30-foot loading berth, a 100 square foot platform, a 20-foot service/delivery space. In order to provide a full loading berth, the Applicant would be required to install a curb cut along the Property's frontage because the required loading cannot be accommodated adjacent to the alley or in the below-grade parking garage. Given the proposed use of the Property, the lot has limited street frontage along at 75.06 feet.

88. Accordingly, the required loading berth would significantly constrain the Applicant's ability to provide ground floor, neighborhood-serving commercial uses and minimize conflicts between vehicles and pedestrians as specified in Subtitle K § 512.3. Moreover, the provision of a curb cut along First Street SW is specifically discouraged by Subtitle X § 604.7(a)(2). As a result, the Project would not meet the specific design review requirements specified in Subtitles K and X of the Zoning Regulations since the loading facilities would require an additional 22-24 feet of street frontage devoted to a loading entryway and additional interior space devoted to loading and associated vehicle maneuvering. It is unlikely DDOT would support a curb cut on First Street SW due to the alley access to the rear of the Property. The Commission also finds that compliance with the loading berth requirement would force the Applicant to remove a leasing bay.
89. As to the requested plaza relief, the narrow frontage of the lot would require a plaza to be set back approximately 14 feet into the ground floor of the building. Such a setback on the ground floor level would cause myriad practical difficulties to the residential lobby area, the retail space and the streetscape. The Commission finds that a redesign to include the plaza would severely impact vehicular garage access, compromise the design standards for general lobby uses, and/or require the removal of one of the leasing bays. The Applicant would also need to reduce and redesign the retail space in a way that limits access to direct light. Further, if the Applicant provided the required plaza, the Project would not meet the specific design review requirements specified in Subtitles K and X of the Zoning Regulations because the plaza space would likely result in a cantilevered design, creating a dark, cavernous condition along the ground floor.
90. The Commission also finds that the Phase I Building to the south does not provide any plaza, and future development to the north of the Property (in the RF-1 zone) would not be subject to a plaza requirement; therefore, a plaza at the Property would result in a jagged, odd, and uninviting streetscape experience for pedestrians. Providing a plaza in addition to the Applicant's proposed improvements to the pedestrian realm along First Street SW would be incongruent with the approved building line/public space area and the frontage provided by the abutting Phase I Building. As a result, there is no additional room in front of the ground floor of the building to accommodate an approximately 1,057 square foot plaza. As such, the Commission finds that the Applicant faces a practical difficulty with strict compliance of the plaza requirements.

No Harm to Public Good or Zone Plan

91. The Commission finds that the requested loading variance will not result in harm to the public good or zone plan. The Applicant anticipates that the proposed 20' service/delivery space to the rear of the Project will adequately serve the loading needs of the proposed residential and commercial uses. The Project's two uses will share the loading facilities with no detriment to the public good or zone plan since no loading is required for the ground floor commercial use and the loading provided is adequate to serve the residential use.
92. The Applicant revised the Project design to ensure that vehicles can access the loading area without encroaching on neighboring properties.

93. As detailed in the Comprehensive Transportation Review report, the Commission finds that the proposed loading plan will adequately serve the loading needs for the Project. Ex. 18.) The Applicant will implement a loading management plan for the Project, which will include the following elements:
- (a) A loading manager will be designated by the building management. The manager will coordinate with residents to schedule deliveries and will be on duty during delivery hours. The loading manager will oversee both the rear loading area and any loading that would need to occur on First Street.
 - (b) Trucks utilizing the loading area will be restricted to 23 feet in length. The few trucks longer than 23 feet will be required to load curbside utilizing the metered spaces on First Street.
 - (c) Residents will be required to schedule move-in and move-outs with the loading manager through leasing regulations.
 - (d) The loading manager will coordinate with trash pick-up to minimize the time trash trucks need to use the loading area. Trash services will need to be serviced by a private company that utilizes trash trucks able to be accommodated in the loading area provided on site.
 - (e) All trucks accessing the Project will not be allowed to idle and must follow all District guidelines for heavy vehicle operation including but not limited to DCMR 20 – Chapter 9, Section 900 (Engine Idling), the regulations 15 set forth in DDOT’s Freight Management and Commercial Vehicle Operations document, and the primary access routes listed in the DDOT Truck and Bus Route System.
 - (f) The loading manager will be responsible for disseminating DDOT’s Freight Management and Commercial Vehicle Operations document to drivers as needed to encourage compliance with District laws and DDOT’s truck routes. The loading manager will also post these documents in a prominent location.
94. The Applicant will also incorporate the additional loading management plan elements recommended by DDOT in their report (Ex. 22):
- (a) Schedule deliveries such that the dock's capacity is not exceeded. In the event that an unscheduled delivery vehicle arrives while the dock is full, that driver will be directed to return at a later time when a berth will be available so as to compromise safety or impede street or intersection function;
 - (b) Schedule residential loading activities so as not to conflict with retail deliveries. All residential loading will need to be scheduled with the dock manager;
 - (c) Monitor inbound and outbound truck maneuvers and will ensure that trucks accessing the loading dock do not block vehicular, bike, or pedestrian traffic except

during those times when a truck is actively entering or exiting a loading berth;

- (d) Prohibit the scheduling of residential move-in/move-outs within three (3) hours of a scheduled event at Audi Field or at least 10,000 attendees; and
 - (e) Install at least one (1) electric vehicle charging station in the parking garage.
95. The Commission finds that the requested plaza variance will not result in harm to the public good or zone plan. The Applicant proposes outdoor seating in public space along First Street SW and other improvements to the surrounding streetscape, which generally comply with the Buzzard Point Streetscape Design Guidelines. The streetscape design complements the Phase I Building as well.

Special Exception Relief

96. Pursuant to Subtitle K § 512.7, the Commission may hear and decide additional requests for special exception relief as part of an application for design review approval.
97. The Applicant requests special exception relief from the lot occupancy requirements of Subtitle K § 504.6 and the closed court requirements of Subtitle K § 504.10. As to lot occupancy, only the Project's third floor, which has a lot occupancy of 80.67%, exceeds the maximum permissible lot occupancy of 80% under Subtitle K § 504.6. There are three closed courts that do not meet the minimum requirements under Subtitle K § 504.10.¹ The North Court and the upper court of the South Courts do not meet the minimum area requirements. The lower court of the South Courts does not meet the minimum width or area requirements.
98. The Commission is authorized to grant special exception relief where it finds that the special exception:
- (a) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;
 - (b) Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and
 - (c) Subject in specific cases to special conditions specified in the Zoning Regulations.²

See 11 DCMR Subtitle X § 901.2; *see Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1085 (D.C. 2016).

¹ The minimum width of a closed court for a residential use must equal 4 inches per foot of building height, but not less than 15 feet. The minimum area of a closed court for a residential use must equal twice the square of the required court width dimension, but not less than 350 square feet. *See* Subtitle K § 504.10.

² There are no special conditions for lot occupancy or court relief in the CG-4 zone.

Harmony with Purpose and Intent of Zoning Regulations and Maps

99. The CG-4 zone specifically is intended to “permit medium- to high-density mixed use development with a balance of uses conducive to a higher quality of life and environment for residents, businesses, employees, and institutions; encourage provision of active pedestrian-oriented streets with active ground floor uses, particularly along specified primary streets; and promote pedestrian safety by separating pedestrian and vehicular circulation patterns.” *See* Subtitle K § 504.1.
100. The Project proposes an aesthetically-pleasing, mixed-use building with ground floor commercial space, as intended in the Zoning Regulations. This use of the Property will enliven the streetscape, resulting in a higher quality of life of District residents and visitors. Pedestrian enjoyment along First Street SW will be provided through proposed improvements to the public space, and pedestrian safety is preserved, as no curb cuts are proposed for the Project. In keeping with the design review standards, the relief from the lot occupancy and court requirements will also allow for greater modulation in the building’s design and articulation of the building’s facades.

No Adverse Effect

101. The Commission finds that the special exception relief from the lot occupancy and closed court requirements will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map. The minimal additional building bulk on the third floor, which is only .67% greater than the permissible lot occupancy, will present no negative impacts to neighboring property, as the building façades have been staggered through projections, bays, and recesses to vary and reduce the interplay between the Project and adjacent properties. The effect is further complemented by an elegant blend of building materials.
102. Likewise, the closed courts will not unduly affect the light and air available to residents of the Project, and will not impact the privacy or unduly increase the level of noise emanating from the Property. The Project will adjoin the Phase I Building the south, which has a comparable height and massing. The apartment building to the north is approximately 30 feet from the Project and is separated from the Project by a driveway and side yard. The rowhomes fronting on Q Street SW are separated from the Project by the approximate 45-foot rear yards of those homes.
103. Accordingly, the Commission finds that the Project meets the criteria for special exception relief pursuant to Subtitle K § 504.6 and Subtitle K § 504.10 and that the Project will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map.

Office of Planning Report

104. By report dated November 8, 2018, OP recommended approval of the application

including the requested zoning relief pending the Applicant's provision of: (i) detailed building signage plan, including residential lobby entrance and retail; (ii) revision of the First Street SW streetscape improvements to conform to the Buzzard Point Streetscape Design Guidelines, including revisions to the sidewalk treatment and brick planters and seating in public space; (iii) examination of whether the green features of the building can be enhanced, including LEED gold and rooftop solar; and (iv) a color and materials board. (Ex. 29.)

105. At the public hearing, the Applicant provided a presentation containing a detailed building signage plan and a revision of the streetscape provisions demonstrating conformance with the Buzzard Point Streetscape Design Guidelines. (Ex. 33A1-A3.) The Applicant also brought a color and materials board for the Zoning Commission's inspection. Subsequent to the public hearing, the Applicant engaged in discussions with DOEE on the viability of green building enhancements, provision of rooftop solar and funding options. (Ex. 38.)

DDOT Report

106. By report dated November 1, 2018, DDOT stated that it has no objection to the application including the requested zoning relief provided the Applicant implement the proposed Transportation Demand Management ("TDM") Plan and Loading Management Plan contained in the Applicant's Comprehensive Transportation Review (Ex. 18), subject to proposed revisions by DDOT in their report. (Ex. 22.)

ANC Report

107. The ANC submitted a resolution in support of the Project dated November 12, 2018, indicating that at its regularly scheduled and duly noticed public meeting of October 15, 2018, at which a quorum of commissioners was present, the ANC voted 7-0-0 to support the application, subject to submission of certain documents. (Ex. 30.) The ANC stated that "The ANC is extremely impressed with the Applicant's proposal for a 100% affordable housing project at 1530 1st Street SW. Affordable housing options are desperately needed in our community and throughout the city as the demand for affordable housing far exceeds the existing supply. The creation of 101 affordable housing units at this site is greatly appreciated by the ANC." The ANC requested that the Applicant submit and sign a neighbor agreement with the ANC; coordinate an agreement with 69 Q St. SW; and provide a Dust & Air Quality Plan. All three items were completed prior to the public hearing. (Ex. 31.)
108. The ANC also requested that the Applicant finalize a Parking Plan. As such, the Applicant agreed that the Project would be excluded from DDOT's RPP program. (Ex. 38.)

CONCLUSIONS OF LAW

1. The application was submitted pursuant to Subtitle K § 512 for review and approval by

the Commission, and pursuant to Subtitle K § 512.7 for area variances from the residential loading requirements of Subtitle C § 901.1 and the plaza requirements of Subtitle K § 504.13, and special exception relief from the lot occupancy requirements of Subtitle K § 504.6 and the court requirements of Subtitle K § 504.10. The Commission concludes that the Applicant has met its burden of proof in each instance.

2. The Commission provided proper and timely notice of the public hearing on the application by publication in the *D.C. Register* and by mail to ANC 6D, OP, and owners of property within 200 feet of the Property.
3. Pursuant to Subtitle K § 512.3, the Commission required the Applicant to comply with the CG zone design guidelines set forth in Subtitle K §§ 512.3(a)-(e) and the general design guidelines in Subtitle X §§ 604.5-604.7. The Commission concludes that the proposed project will further the objectives of the CG zones, as set forth in Subtitle K § 500.1, and the design of the Project meets the specific design requirements of Subtitle K §§ 512.3(a)-(e) and Subtitle X §§ 604.5-604.7 in a way that is superior to any matter-of-right develop possible on the Property.
4. The Commission concludes that the Applicant has met its burden and that the proposed development is within the applicable height, bulk, and density standards for the CG-4 zone and will not tend to affect adversely the use of neighboring properties. The overall Project is also in harmony with the general intent and purpose of the Zoning Regulations and Map.
5. The Commission also required the Applicant to meet the requirements for variance relief set forth in Subtitle X § 1002.1(a) and the requirements for special exception relief set forth in Subtitle X § 901.3. The Commission concludes that the Applicant has met its burden.
6. No person or parties appeared at the public hearing in opposition to the application.
7. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the issues and concerns raised in the written report of the affected ANC. The affected ANC in this case is ANC 6D. The Commission carefully considered ANC 6D's recommendation for approval and concurs in its recommendation, and considered the issues and concerns stated in its reports.
8. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001)), to give great weight to OP recommendations. The Commission carefully considered the OP report and, as explained in this decision, finds its recommendation to grant the application persuasive.
9. Based upon the record before the Commission, including witness testimony, the reports submitted by OP, DDOT, ANC 6D and the Applicant's submissions, the Commission

concludes that the Applicant has met the burden of satisfying the applicable standards under 11-K DCMR §§ 512.3(a)-(e) and 11-X DCMR §§ 604.5-604.7 of the Zoning Regulations and for variance under 11-X DCMR § 1002.1(a).

DECISION

In consideration of the above Findings of Fact and Conclusions of Law, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application consistent with this Order. This approval is subject to the following guidelines, standards, and conditions:

1. The approval of the proposed development shall apply to Lot 53 in Square 656.
2. The Project shall be built in accordance with the architectural drawings submitted to the Commission on December 3, 2018 (Exs. 38A1-A2), and the guidelines, conditions, and standards below.
3. The Applicant shall implement the following TDM measures for the life of the Project:
 - (a) The Applicant will identify a TDM Leader (for planning, construction, and operations) at the building, who will act as a point of contact with DDOT/Zoning Enforcement with annual updates. The TDM Leader will work with residents to distribute and market various transportation alternatives and options.
 - (b) The Applicant will provide TDM materials to new residents in the Residential Welcome Package materials.
 - (c) The Applicant will meet Zoning requirements by providing approximately 45 long-term bicycle parking spaces in the building garage.
 - (d) Eight (8) short-term bicycle parking spaces will be provided along First Street, meeting zoning requirements.
 - (e) All parking on site will be priced at market rates, at minimum, defined as the average cost for parking in a 0.25-mile radius from the site.
 - (f) The Applicant will unbundle the cost of residential parking from the cost of lease or purchase of each unit.
 - (g) The Applicant will provide each unit's incoming residents with an \$100 SmartTrip Card. A proactive marketing strategy will be provided to ensure residents are aware of this benefit.
 - (h) The Applicant will provide a bicycle repair station to be located in the secure long-term bicycle storage room.
 - (i) The Applicant will provide an on-site business center to residents with access to copier, fax, and internet services.
 - (j) The Applicant will install a Transportation Information Center Display (electronic screen) within the residential lobbies containing information related to local transportation alternative.
 - (k) The Applicant will work with DDOT and goDCgo, DDOT's TDM program to implement TDM measures at the site.
 - (l) The Applicant will share the full contact information of the TDM coordinator for the site with DDOT and goDCgo.

- (m) The Applicant will provide at least two (2) shopping carts for residential use.
 - (n) The Applicant will offer residents either an annual carshare or Capital Bikeshare membership for a period of three (3) years.
4. The Applicant shall implement the following Loading Management Plan for the life of the Project:
- (a) A loading manager will be designated by the building management. The manager will coordinate with residents to schedule deliveries and will be on duty during delivery hours. The loading manager will oversee both the rear loading area and any loading that would need to occur on First Street.
 - (b) Trucks utilizing the loading area will be restricted to 23 feet in length. The few trucks longer than 23 feet will be required to load curbside utilizing the metered spaces on First Street.
 - (c) Residents will be required to schedule move-in and move-outs with the loading manager through leasing regulations.
 - (d) The loading manager will coordinate with trash pick-up to minimize the time trash trucks need to use the loading area. Trash services will need to be serviced by a private company that utilizes trash trucks able to be accommodated in the loading area provided on site.
 - (e) All trucks accessing the will not be allowed to idle and must follow all District guidelines for heavy vehicle operation including but not limited to DCMR 20 – Chapter 9, Section 900 (Engine Idling), the regulations set forth in DDOT’s Freight Management and Commercial Vehicle Operations document, and the primary access routes listed in the DDOT Truck and Bus Route System.
 - (f) The loading manager will be responsible for disseminating DDOT’s Freight Management and Commercial Vehicle Operations document to drivers as needed to encourage compliance with District laws and DDOT’s truck routes. The loading manager will also post these documents in a prominent location.
 - (g) Schedule deliveries such that the dock's capacity is not exceeded. In the event that an unscheduled delivery vehicle arrives while the dock is full, that driver will be directed to return at a later time when a berth will be available so as to compromise safety or impede street or intersection function.
 - (h) Schedule residential loading activities so as not to conflict with retail deliveries. All residential loading will need to be scheduled with the dock manager.
 - (i) Monitor inbound and outbound truck maneuvers and ensure that trucks accessing the loading dock do not block vehicular, bike, or pedestrian traffic except during those times when a truck is actively entering or exiting a loading berth.
 - (j) Prohibit the scheduling of residential move-in/move-outs within three (3) hours of a scheduled event at Audi Field or at least 10,000 attendees.
5. The Project shall achieve LEED-Silver certification.
6. The Project will be excluded from DDOT’s Residential Parking Permit program.
7. The Applicant shall have flexibility with the design of the Project in the following areas:

- (a) To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atria and mechanical rooms, provided that the variations do not change the exterior configuration or appearance of the building;
- (b) To vary the final selection of the colors of the exterior materials based on availability at the time of construction, provided such colors are within the color ranges proposed in the final plans;
- (c) To increase the final number of residential units by no more than 10% above the total number approved to respond to program demand, or to decrease the final gross square footage, or the number of residential units within the gross floor area, in order to accommodate demand for larger units or permitting issues;
- (d) To make minor variations to the location, attributes and general design of the streetscape within public space to comply with the requirements of and the approval by the District Department of Transportation Public Space Division, without changing the overall design intent, the general location and dimensions of landscaping and hardscaping, or the quality of materials;
- (e) To make refinements to the garage configuration, including layout, parking spaces and other elements, so long as the number of parking spaces provided is at least the minimum number of spaces required by the Zoning Regulations;
- (f) To make minor refinements to the building's details and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylight, architectural embellishments and trim, window mullions and spacing, or any other changes that otherwise do not significantly alter the exterior design as shown on the final plans to comply with the District of Columbia Building Code. Any refinements may not substantially change the buildings' external configurations, appearance, proportions, or general design intent.
- (g) To locate retail entrances in accordance with the needs of the retail tenants; and to vary the façades as necessary within the general design parameters proposed for the Project; and to vary the types of uses designated as "retail" use on the Plans to include the following use categories: (i) Office (Subtitle B § 200.2(x)); (ii) Retail (Subtitle B § 200.2(cc)); (iii) Services, General (Subtitle B § 200.2(dd)); (iv) Services, Financial (Subtitle B § 200.2(ee)); and (v) Eating and Drinking Establishments (Subtitle B § 200.2(j))
- (h) To vary the font, message, logo, and color of the proposed signage, provided that the maximum overall dimensions and signage materials do not change from those shown on the approved architectural drawings;
- (i) To add solar panels to the roof, provided they comply with all applicable zoning regulations and building code requirements, and do not diminish the size of or interfere with the green roof shown on the plans; and

8. 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 § 2-1401.1 et seq. (the "Act"), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation,

genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that 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. Violations will be subject to disciplinary action.

On March 11, 2019, upon the motion of Commissioner _____ as seconded by Commissioner _____, the Zoning Commission took **FINAL ACTION** to **APPROVE** the application at its public meeting by a vote of _____ (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve).

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

BY THE ORDER OF THE D.C. ZONING COMMISSION

A majority of the Commission members approved the issuance of this Order.

ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION

SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING