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March 28, 2019

BY IZIS

Mr. Anthony Hood, Chairperson
D.C. Zoning Commission
441 4th Street NW, Suite 200-S
Washington, DC 20001

Re: **Z.C. Case No. 18-14: Application for Approval of a Consolidated Planned Unit Development and Zoning Map Amendment for Lots 77 and 810 in Square 6129 (the “Property”) - Applicant’s Chart of Conditions for Order**

Dear Chairperson Hood and Members of the Commission:

On behalf of 3840 S Capitol LLC and 3848 S Capitol LLC (collectively, the “**Applicant**”), we hereby set forth the updated draft conditions relating to the project that are both specific and enforceable, pursuant to 11-X DCMR §§ 308.8-308.10, in response to comments from the Office of the Attorney General. Changes are shown in the right column, with ~~strike through~~ to show deletions and **bold double-underlined** text to show additions.

<u>Proffered Benefit</u>	<u>Proposed Condition</u>
<u>Superior urban design and architecture</u> <u>Site Planning and efficient and economical land utilization</u> <u>Streetscape and public realm improvements</u>	A. <u>Project Development</u> 1. The Project shall be developed in accordance with the architectural plans and drawings submitted on February 15, 2019 marked as Exhibits 20D of the record, and as modified by the plans included with the Applicant’s post-hearing submission dated March 21, 2019, and marked as Exhibit 130A <u>30A</u> of the record (collectively the “ Plans ”). 2. The Applicant shall have flexibility with the design of the PUD in the following areas: a. To vary the location and design of all interior components, including but not limited to partitions, structural slabs, doors, hallways, columns, signage, stairways, <u>atria, and</u>

mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration or appearance of the building; **as shown on the plans approved by the order;**

- b. To vary the final selection of the **colors of the exterior materials within the color ranges of the material types as proposed;** based on availability at the time of construction without reducing the quality of the materials; **provided such colors are within the color ranges shown on the plans approved by the order;**
- c. To make minor refinements to exterior details, **the** locations, and dimensions, including: window mullions and spandrels, window frames, doorways, glass types, belt courses, sills, bases, cornices, railings, balconies, canopies and trim, such that the refinements **and dimensions of exterior details that** do not substantially change **alter** the external **exterior** configuration or appearance of the building; **of the building or design shown on the plans approved by the order. Examples of exterior details would include, but are not limited to, doorways, canopies, railings, and skylights;**
- d. To vary the number of residential units and the residential unit types by plus or minus 10%;
- e. To vary the number of parking spaces by plus or minus 10% provided that no additional relief is required;
- d.** f. To reconfigure the garage layout provided that no additional relief is required; **provide a range in the approved number of residential dwelling units of plus or minus ten percent (10%), except that the number of units and the square footage reserved for affordable housing shall not be reduced;**
- e.** **To make refinements to the approved parking configuration, including layout and number of parking space plus or minus ten percent (10%), so long as the number of parking spaces is at least the minimum**

	<p><u>number of spaces required by the Zoning Regulations;</u></p> <p><u>f.</u> g. To vary the roof plan as it relates to the configuration of solar panels and green roof areas, provided that the square footage of the solar panels and green roof are not reduced; and</p> <p><u>g.</u> h. To modify the <u>vary the location, attributes, and general design of the approved streetscape design and areas in public space in response to DDOT and the public space permitting process. to comply with the requirements of, and the approval by, the DDOT Public Space Division; and</u></p> <p><u>h.</u> <u>To vary the font, message, logo, and color of the approved signage, provided that the maximum overall dimensions and signage materials are consistent with the signage on the plans approved by the order and are compliant with the DC signage regulations.</u></p>
<p><u>Affordable Housing</u></p>	<p>B. <u>Public Benefits</u></p> <p>1. The Applicant shall provide affordable housing as set forth in this condition:</p> <p>a. The Applicant shall provide the affordable housing set forth in the following chart. The chart assumes that the Applicant will be granted an exemption from the Inclusionary Zoning regulations (“IZ Regulations”) set forth in Subtitle C, Chapter 10 of the Zoning Regulations, pursuant to 11-C DCMR § 1001.6 (“IZ Exemption”). However, the Commission takes no position as to whether the IZ Exemption should be granted (table follows chart);</p> <p>b. Each control period shall commence upon the issuance of the first certificate of occupancy; and</p> <p>c. Should the IZ Exemption be granted, the affordable housing requirements of this condition shall be stated in the covenant required by 11-C DCMR § 1001.6(a)(4); and</p> <p>d. Should the IZ Exemption be denied, the Applicant shall nevertheless provide</p>

	<p>affordable housing in accordance with this condition, unless the IZ Regulations impose more restrictive standards. The Applicant shall record the covenant required by the Inclusionary Zoning Act as to 10% of the residential gross floor of the building, and shall execute the monitoring and enforcement documents required by 11-X DCMR § 311.6 as to the remaining residential gross floor area.</p>
<u>Three-bedroom units</u>	2. <u>For the life of the Project</u> , at least 32 of the residential units will be three-bedroom units.
<u>Environmental and sustainable benefits</u> Enterprise Green Communities Solar Panels EV Car-Charging Stations	3. <u>Prior to the issuance of a Certificate of Occupancy for the Project</u> , the Applicant shall furnish a copy of its preliminary Enterprise Green Communities certification application to the Zoning Administrator demonstrating that the building has been designed to meet the Enterprise Green Communities standard for residential buildings, as shown on the Enterprise Green Communities Checklist on Sheet G-16 of the Plans. 4. <u>Prior to the issuance of a Certificate of Occupancy</u> , the Applicant shall demonstrate that it has designed and constructed a minimum of 10,500 square feet of solar arrays located on Project. 5. <u>Prior to the issuance of a Certificate of Occupancy</u> , the Applicant shall demonstrate that it installed at least one (1) electric vehicle charging station in the garage.
<u>Employment Agreement</u>	6. <u>Prior to the issuance of a Building Permit for the Project</u> , the Applicant shall submit to the Zoning Administrator a copy of the executed First Source Employment Agreement with DOES substantially similar to the form submitted at Exhibit 12B in the Record.
<u>Uses of Special Value</u> Relocation Plan	7. <u>Prior to the issuance of a Certificate of Occupancy</u> , the Applicant shall demonstrate compliance with the Relocation Plan submitted at Exhibit 12A in the Record, as updated by Exhibit

	<p>_____ in the Record, and provide an update to the Zoning Administrator regarding the number of residents returning to the Project.</p>
<p><u>Effective and Safe Vehicular and Pedestrian Access and Transportation Management Measures</u></p>	<p>C. <u>Transportation</u></p> <p>1. <u>Prior to the issuance of a Certificate of Occupancy</u>, the Applicant shall install signage on the northbound South Capitol Street SE approach to the site driveway indicating that there is an intersection ahead, <u>subject to DDOT approval</u>.</p> <p>2. <u>For the life of the Project</u>, the Applicant shall provide the following transportation demand management (“TDM”) measures:</p> <ol style="list-style-type: none"> 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 to provide bicycle parking facilities at the proposed development. This includes secure parking located on-site and a minimum of 5 short-term bicycle parking spaces around the perimeter of the Site. d. The Applicant will meet Zoning requirements by providing 36 long-term bicycle parking spaces in the development garage, meeting Zoning Requirements. e. The Applicant will provide a bicycle repair station to be located in the secure long-term bicycle storage room. f. The Applicant will install a Transportation Information Center Display (electronic screen) within the residential lobby containing information related to local transportation alternatives.

	<ul style="list-style-type: none"> g. Work with DDOT and goDCgo (DDOT's TDM program) to implement TDM measures at the site. h. Share the full contact information of the TDM Leaders for the site with DDOT and goDCgo (info@godcgo.com). i. Post all TDM commitments online for easy reference. j. Offer annual Capital Bikeshare memberships to each resident for the first year after the building opens.
<p><u>Loading Management</u></p>	<p>3. <u>For the life of the Project</u>, the Applicant shall provide the following loading management plan (“LMP”) measures:</p> <ul style="list-style-type: none"> 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. b. Residents will be required to schedule move-in and move-outs with the loading manager through leasing terms. c. The dock manager will coordinate with trash pick-up to help move loading expeditiously between their storage area inside the building and the curb beside the loading area to minimize the time trash trucks need to use the loading area. d. Trucks using the loading area 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. e. The loading manager will be responsible for disseminating DDOT's Freight Management and Commercial Vehicle Operations document

	<p>to drivers as needed to encourage compliance with District laws and DDOT's truck routes. The dock manager will also post these documents in a prominent location within the service area.</p>
<p><u>Requirement to Record, Timing, Human Rights Act, and Compliance with Conditions</u></p>	<p>D. <u>Miscellaneous</u></p> <p>1. No building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division, Department of Consumer and Regulatory Affairs. Such covenant shall bind the Applicant and all successors in title to construct and use the Property in accordance with this Order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.</p> <p>2. The PUD shall be valid for a period of two years from the effective date of this Order within which time an application shall be filed for a building permit. Construction must begin within three years of the effective date of this Order.</p> <p>3. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act") the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, 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</p>

	<p>tolerated. Violators will be subject to disciplinary action.</p> <p>4. The Applicant shall file with the Zoning Administrator a letter identifying how it is in compliance with the conditions of this Order at such time as the Zoning Administrator requests and shall simultaneously file that letter with the Office of Zoning.</p>
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Affordable Housing Table

Residential Unit Type	Floor Area/% of Total*	# of Units	Income Type	Affordable Control Period	Affordable Unit Type
Total	96,481/100%	106	Mixed		
Affordable Non-IZ	20,261/21%	22	Up to 30% of MFI	60 Years	Rental
Affordable Non-IZ	65,607/68%	72	Up to 50% of MFI	60 Years	Rental
Affordable Non-IZ**	10,613/11%	12	Up to 60% of MFI	Life of the Project	Rental

** Refers to the residential gross floor area, but the floor area may be adjusted to subtract the building core factor.*

*** If the IZ exemption is denied, these units shall be Inclusionary Zoning units instead of Affordable Non-IZ units.*

We look forward to the Commission taking Final Action on this case. Please feel free to contact Cary at (202) 721-1113 or Meghan at (202) 721-1138 if you have any questions regarding the enclosed.

Sincerely,

_____/s/
Cary Kadlecek
Goulston & Storrs

_____/s/
Meghan Hottel-Cox
Goulston & Storrs

CERTIFICATE OF SERVICE

The undersigned hereby certifies that copies of the foregoing document will be delivered by electronic mail, first-class mail, or hand delivery to the following addresses on March 28, 2019.

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