

**MEMORANDUM**

**TO:** District of Columbia Zoning Commission

**FROM:** <sup>JLS</sup>  
Jennifer Steingasser, Deputy Director, Development Review and Historic Preservation  
Anne Fothergill, Development Review Specialist

**DATE:** May 10, 2021

**SUBJECT:** Hearing Report for ZC #20-27, Consolidated PUD with related Zoning Map Amendment from MU-4 to MU-6

---

**I. BACKGROUND**

The Applicant, High Street District Development, Inc., filed an application for a consolidated Planned Unit Development (“PUD”) and related zoning map amendment for the properties located at 631 P Street, N.W.; 1501-1503 7<sup>th</sup> Street, N.W.; 1525 7<sup>th</sup> Street, N.W.; 1507 7<sup>th</sup> Street, N.W.; 1509 7<sup>th</sup> Street, N.W.; 1511 7<sup>th</sup> Street, N.W.; and 1513 7<sup>th</sup> Street, N.W. (Square 445, Lots 191-194, 800, 821 and 822) to construct a mixed-use building with 223 units.

The application was first reviewed by the Zoning Commission at its January 28, 2021 meeting when the Commission did not set it down for a public hearing. At its February 25, 2021 meeting, the Zoning Commission set it down for a public hearing.

**II. RECOMMENDATION**

The Office of Planning (OP) recommends the Zoning Commission approve ZC Case 20-27. As discussed in Section VII of this report, the proposed PUD would be, on balance, not inconsistent with the maps and written elements of the Comprehensive Plan and would further a number of important goals of the District including the provision of housing and affordable housing.

The proposal is for 223 new residential units on a site with no housing which is consistent with citywide planning goals to expand the housing supply. The proposal is for studios, one and two bedroom units, and the new housing would include approximately 29 units of affordable housing with units offered at 30%, 50% and 60% MFI, which is more units and at a significantly deeper affordability level than IZ regulations would require. This new housing would provide mixed-income housing in a desirable and transit accessible location.

In this case, greater density would be permissible as a PUD and would further a critical goal of the District by providing a significant amount of affordable housing through both the required covenants and the affordable housing proffer on a site that currently provides no housing.

**III. APPLICANT’S RESPONSE SINCE SETDOWN**

At the January and February meetings, the Zoning Commission expressed concern about a few elements of the project including the height of the building along Marion Street, the Future Land Use Map (FLUM) designation at the eastern end of the site, LEED certification level, solar installation, building design,

signage, and cellar location of IZ units. Since the project was set down, the Applicant filed revised plans and a statement in Exhibits 28, 28A1 and 28A2.

The building has been redesigned along the east side and the proposed massing was reduced to four stories along Marion Street with an additional height setback at floors five through seven. The Applicant provided a revised Sheet A08 of the architectural plans in Exhibit 28A1 with the proposed locations of the IZ and affordable units showing no affordable housing units in the cellar level. The penthouses were darkened to lessen visibility. As a result of the massing change at the east side, court relief is no longer needed.

The Applicant has provided a commitment to LEED Gold certification and solar installations on the rooftop. Additionally, the Applicant is considering a system where the energy generated by the building's solar panels would be used to offset the utility expenses of the IZ and affordable units, allowing those units to receive a credit on utility costs based on the amount of solar energy generated and more information will be provided at the public hearing.

The Applicant revised the signage plan in Sheet A31 of Exhibit 28A2.

#### **IV. APPLICATION IN BRIEF**

**Location:** The subject property is located on the east side of 7<sup>th</sup> Street at the corner of P Street, N.W. and extending east to Marion Street, N.W. Commercial buildings are located to the north along 7<sup>th</sup> Street and to the east are residential row dwellings on Marion Street, N.W. A park at Kennedy Recreation Center is located across P Street to the south. To the west across 7<sup>th</sup> Street is a mixed-use building, which is a PUD development (ZC 08-14).

**Ward/ANC:** Ward 6, ANC 6E

#### **Current Zoning:**

The current MU-4 zone is considered a low to moderate density commercial zone and the adopted Framework Element of the Comprehensive Plan describes the designation as being “. . . used to define shopping and service areas that are lower in scale and intensity. Retail, office, and service businesses are the predominant uses.” And their “. . . common feature is that they are comprised primarily of commercial and mixed-use buildings that range in density generally up to a FAR of 2.5, with greater density possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. (section 227.10)

#### **Proposed Zoning:**

PUD with PUD-related MU-6. The proposed MU-6 zone and PUD are consistent with the description of a medium density mixed-use zone in the adopted Framework Element of the Comprehensive Plan: “Density typically ranges between a FAR of 4.0 and 6.0, with greater density possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development.” (section 227.12) This project is both complying with Inclusionary Zoning and is a PUD.

#### **Existing Use of the Property:**

There is one commercial building, a barber shop, and a surface parking lot on the largely vacant property.

**Comprehensive Plan Future Land Use Map Designation:**

Striped Medium Density Commercial/Medium Density Residential and Moderate Density Residential at the corner of P and Marion Streets, N.W.

**Property Size:**

22,824 square feet

**Proposal:**

Together with a related map amendment to the MU-6 zone, the Applicant proposes to develop a mixed-use building with 223 units. There would be 7,442 SF of ground floor retail and 56 underground parking spaces accessed off the alley to the north off Marion Street. The height for the building would be ninety feet (90 ft.) tall and would be setback above the 4<sup>th</sup> floor along Marion Street. There would be nine (9) stories and habitable and mechanical penthouses. The total proposed gross floor area (GFA) is 163,595 SF with an FAR of 7.17.

**Relief:**

Pursuant to Subtitle Z, Chapter 3 of the DCMR 2016 Zoning Regulations, the Applicant seeks:

1. Consolidated PUD and related map amendment to the MU-6 District;
2. Lot occupancy (75% max./80% max. with IZ; 85.8% proposed for floors 2-4); and
3. Penthouse structures of different height (15 feet and 12 feet) and multiple enclosures.

**Flexibility:**

1. Vary the proposed residential unit range by 5-10%;
2. Vary the number of proposed parking spaces by 5-10%;
3. Vary the amount of retail square footage by 25%;
4. Vary the design of the retail space per the specifications of the retailer;
5. Vary the selection of public art;
6. Vary the final selection of exterior materials within the color ranges and general material types proposed, based on availability at time of construction; and
7. Vary floor to floor heights as design is refined.

**V. SITE AND AREA DESCRIPTION**

The subject property is located on the east side of 7<sup>th</sup> Street at P Street NW and extends to Marion Street on the east side. The development site consists of seven lots in Square 445 and has a total land area of 22,824 square feet.

The property has a surface parking lot along P Street and a small commercial building with a barber shop on 7<sup>th</sup> Street and the remainder is vacant property.

Bread for the City is the adjacent property to the north and commercial and residential buildings are located along 7<sup>th</sup> Street to the north. Abutting the property to the east are residential row dwellings on Marion Street, N.W. A park at Kennedy Recreation Center is located across P Street to the south. Across 7<sup>th</sup> Street to the west is a mixed-use building, which was a PUD development (ZC 08-14) that was rezoned to C-2-C (now MU-6).

The property is located two blocks south of the Shaw Metro station and there are Metrobus lines along 7<sup>th</sup> Street, N.W.

## **VI. PROJECT DESCRIPTION**

The Applicant proposes to develop a mixed-use building with 223 units. The residential unit breakdown would be approximately 45 studios, 119 one-bedroom units, 30 one-bedroom plus den units, and 29 two-bedroom units.

There would be 7,442 square feet of ground floor retail with double height windows at the street level. The total proposed GFA is approximately 164,000 SF with an FAR of 7.17 (residential FAR of 6.84 and retail FAR of .33).

The height of the building would be 90 feet with 9 stories and habitable and mechanical penthouses, and the building would be set back above the 4<sup>th</sup> floor and floors 5-7 along Marion Street. There would be exterior balconies, interior balconies, recesses, and bay projections on all façades of the building.

Loading for the building and 56 underground parking spaces would be accessed from the alley to the north parallel to P Street off Marion Street. The 11.46' wide alley would be widened by an easement on the subject property between Marion Street and the building for easier vehicular access. There would be 72 long-term bicycle spaces and 14 short term bicycle spaces. The Applicant proposes a public art installation along P Street.

The proposed building materials include brick, metal panels, architectural panels, metal balconies, metal windows, glass railings, and metal and wood trellises. A number of existing street trees would be retained and new trees and planters are proposed. The roof has a pool and landscaping and more than 8,500 SF of vegetated roof and solar panels. The Applicant intends for the project to achieve LEED Gold certification.

There are existing affordable housing covenants on Lots 191 and 821 (see plat in Exhibit 3G) that require:

- the greater of 30% of the units built on Lot 191 or 3 units be set aside as affordable; and
- the greater of 20% of the units built on Lot 821 or 7 units be set aside as affordable.

For rental projects, 25% of these affordable units must be reserved for households with an annual income no greater than 30% MFI, and the remaining affordable units must be set aside for households with an annual income at or above 30% MFI and no more than 50% MFI.

In addition to the above affordable units that are required by covenants, the Applicant proposes to provide more than 13,000 SF, or approximately 19 units, of affordable housing units at 60% AMI and one unit at 50% AMI; that would be 12% of the building's residential square footage that is not subject to the covenant restrictions. At least 25% of the affordable units would be two-bedroom units.

The Applicant provided a revised Sheet A08 of the architectural plans in Exhibit 28A1 with the proposed locations of the IZ and affordable units showing no affordable housing units in the cellar level.

Additionally, the Applicant is currently considering a system where the energy generated by the building's solar panels would be used to offset the utility expenses of the IZ and affordable units. This would allow those units to receive a credit on utility costs based on the amount of solar energy generated.

## **VII. PLANNING CONTEXT**

### **A. COMPREHENSIVE PLAN MAPS**

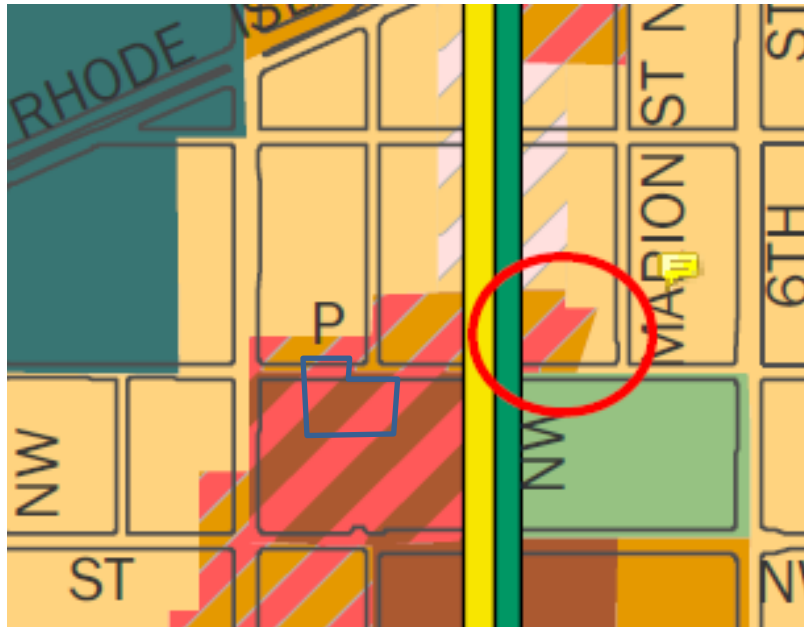
The Guidelines for Using the Generalized Policy Map and the Future Land Use Map in the Framework Element state that the "*Generalized Policy Map and Future Land Use Map are intended to provide*

*generalized guidance for development and conservation decisions, and are considered in concert with other Comprehensive Plan policies.” Additionally, “. . . the zoning of any given area should be guided by the Future Land Use Map, interpreted in conjunction with the text of the Comprehensive Plan, including the Citywide Elements and the Area Elements.”*

As described below, the proposed zoning map amendment would be not inconsistent with the map designations or the Citywide and Area Elements.

### **Future Land Use Map (FLUM)**

The Future Land Use Map designation for the Property is striped for mixed use with Medium Density Commercial/Medium Density Residential uses and a small portion of the eastern end of the site is designated for Moderate Density Residential use at the corner of P and Marion Streets. The MU-6 zone is not inconsistent with these designations.



*Mixed Use Categories: The Future Land Use Map indicates areas where the mixing of two or more land uses is especially encouraged. The particular combination of uses desired in a given area is depicted in striped patterns, with stripe colors corresponding to the categories defined on the previous pages. A Mixed Use Future Land Use Map designation should not be confused with the Mixed Use (MU) zoning districts, although they frequently apply to the same area or parcel of land. The Mixed Use Category generally applies in the following circumstances:*

- a. *Established, pedestrian-oriented commercial areas that also include substantial amounts of housing, typically on the upper stories of buildings with ground-floor retail or office uses;*
- b. *Commercial corridors or districts which may not contain substantial amounts of housing today, but where more housing is desired in the future. The pattern envisioned for such areas is typically one of pedestrian-oriented streets, with ground-floor retail or office uses and upper story housing;*
- c. *Large sites (generally greater than 10 acres in size), where opportunities for multiple uses exist, but a plan depicting the precise location of these uses has yet to be prepared; and*

- d. *Development that includes residential uses, particularly affordable housing, and residentially compatible industrial uses, typically achieved through a Planned Unit Development or in a zone district that allows such a mix of uses.*

*The general density and intensity of development within a given Mixed Use area is determined by the specific mix of uses shown. If the desired outcome is to emphasize one use over the other (for example, ground-floor retail with three stories of housing above), the Future Land Use Map may note the dominant use by showing it at a slightly higher density than the other use in the mix (in this case, Moderate Density Residential/Low Density Commercial). The Comprehensive Plan Area Elements may also provide detail on the specific mix of uses envisioned.*

*It should also be acknowledged that because of the scale of the Future Land Use Map and the fine-grained pattern of land use in older parts of the city, many of the areas shown purely as “Commercial” may also contain other uses, including housing. Likewise, some of the areas shown as purely “Residential” contain existing incidental commercial uses such as corner stores or gas stations, or established institutional uses, such as places of worship. The “Mixed Use” designation is intended primarily for larger areas where no single use predominates today, or areas where multiple uses are specifically encouraged in the future.*

*A variety of zoning designations are used in Mixed Use areas, depending on the combination of uses, densities, and intensities. All zone districts formerly identified as commercial, SP, CR and Waterfront were renamed as MU zone districts in 2016, and are considered to be mixed use. Residential uses are permitted in all of the MU zones, however, so many Mixed Use areas may have MU zoning.*

***Medium Density Commercial:***

*This designation is used to define shopping and service areas that are somewhat greater in scale and intensity than the Moderate Density Commercial areas. Retail, office, and service businesses are the predominant uses, although residential uses are common. Areas with this designation generally draw from a citywide market area. Buildings are larger and/or taller than those in Moderate Density Commercial areas. **Density typically ranges between a FAR of 4.0 and 6.0, with greater density possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The MU-8 and MU-10 Zone Districts are consistent with the Medium Density category, and other zones may also apply.***

***Medium Density Residential:***

*This designation is used to define neighborhoods or areas generally, but not exclusively, suited for mid-rise apartment buildings. The Medium Density Residential designation also may apply to taller residential buildings surrounded by large areas of permanent open space. Pockets of low and moderate density housing may exist within these areas. Density typically ranges from 1.8 to 4.0 FAR, although greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The RA-3 Zone District is consistent with the Medium Density Residential category, **and other zones may also apply.***

***Moderate Density Residential:***

*This designation is used to define neighborhoods generally, but not exclusively, suited for row houses as well as low-rise garden apartment complexes. The designation also applies to areas characterized by a mix of single-family homes, two- to four-unit buildings, row houses, and low-rise apartment buildings. In some neighborhoods with this designation, there may also be existing multi-story apartments, many built decades ago when the areas were zoned for more dense uses (or were not zoned at all). Density in Moderate Density Residential areas is typically calculated either as the number of dwelling units per minimum lot area, or an FAR up to 1.8, although **greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development.** The R- 3, RF, and RA-2*

*Zone Districts are consistent with the Moderate Density Residential category, **and other zones may also apply.** [emphasis added]*

The MU-6 zone is intended to:

- (a) Permit medium- to high-density mixed-use development with a focus on residential use; and
- (b) Provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core.

The MU-6 zone was formerly the C-2-C zone under the 1958 regulations and the abutting property directly across 7<sup>th</sup> Street is zoned MU-6. As intended by the MU-6 zone, the proposal is for mixed use development with a focus on residential use.

In this case, greater density would be possible since it would be reviewed as a PUD and would be furthering a critical goal of the District by providing a significant amount of affordable housing through both the required covenants and more Inclusionary Zoning than required on a site that currently provides no housing.

**Consistency On Balance**

While there may be a potential inconsistency in the proposed density for the small eastern portion of the site that is designated for Moderate Density Residential use, the proposed four story section of the building would qualify as a “low-rise apartment building”. Additionally and importantly, the overall project would further other Comprehensive Plan policies that would outweigh any potential inconsistencies with the FLUM designation including most significantly the critical need for new affordable housing units as well as infill development near transit, neighborhood revitalization, and others as detailed in Section VII-B below.

The building would provide a building height and design transition to buffer impacts to the residential row dwellings in the adjoining RF-1 zone to the east along Marion Street. The building height in the massing along Marion Street would be 43’8” and the allowable height in the abutting RF-1 zone is 40 feet by Special Exception. The building height would step up in floors 5-7 to the maximum building height in floors 8 and 9, which would reduce visibility from the east as seen in the sight line diagram in Sheet A15 of Exhibit 28A1.

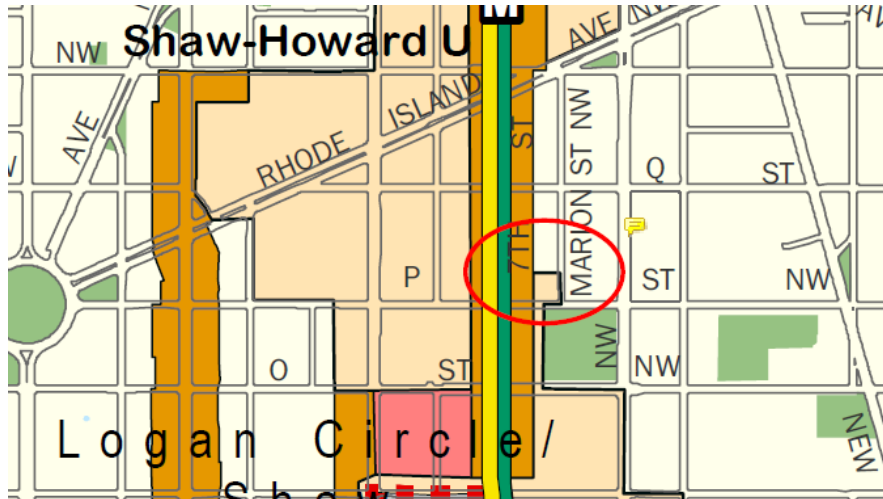
While the examples of medium density commercial zones are MU-8 and MU-10, the MU-6 zone is also consistent with the description for ***FAR of 4.0 and 6.0, with greater density possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development.***

The table below shows the development standards for the MU-6, MU-8 and MU-10 zones.

Zone	Maximum FAR		Height	Lot Occupancy
	Total Permitted	Maximum Non-Residential Use		
MU-6	6.0 7.2 (IZ)	2.0	90 100 (IZ)	75 80 (IZ)
MU-8	5.0 6.0 (IZ)	4.0	70	N/A
MU-10	6.0 7.2 (IZ)	3.0	90 100 (IZ)	75 80 (IZ)

### **Generalized Policy Map**

The Generalized Policy Map indicates that the area of the proposed rezoning is within the policy area designated as a Main Street Mixed Use Corridor and the east side of the property is designated as a Neighborhood Enhancement Area.



### ***Main Street Mixed Use Corridors***

*These are traditional commercial business corridors with a concentration of older storefronts along the street. The area served can vary from one neighborhood (e.g., 14th Street Heights or Barracks Row) to multiple neighborhoods (e.g., Dupont Circle, H Street, or Adams Morgan). Their common feature is that they have a pedestrian- oriented environment with traditional storefronts. Many have upper-story residential or office uses. Some corridors are underutilized, with capacity for redevelopment. Conservation and enhancement of these corridors is desired to foster economic and housing opportunities and serve neighborhood needs. Any development or redevelopment that occurs should support transit use and enhance the pedestrian environment.*

### ***Neighborhood Enhancement Areas***

*Neighborhood Enhancement Areas are neighborhoods with substantial amounts of vacant and underutilized land. They include areas that are primarily residential in character, as well as mixed-use and industrial areas. Many of these areas are characterized by a patchwork of existing homes and individual vacant lots, some privately owned and others owned by the public sector or non-profit developers. These areas present opportunities for compatible infill development, including new single-family homes, townhomes, other density housing types, mixed-use buildings, and, where appropriate, light industrial facilities. Land uses that reflect the historical mixture and diversity of each community and promote inclusivity should be encouraged.*

*The guiding philosophy in Neighborhood Enhancement Areas is to ensure that new development responds to the existing character, natural features, and existing/planned infrastructure capacity. New housing should be encouraged to improve the neighborhood and must be consistent with the land-use designation on the Future Land Use Map and with Comprehensive Plan policies. The unique and special qualities of each area should be maintained and conserved, and overall neighborhood character should be protected or enhanced as development takes place. Publicly owned open space within these areas should be preserved and enhanced to make these communities more attractive and desirable.*



*The main difference between Neighborhood Enhancement Areas and Neighborhood Conservation Areas is the large amount of vacant and underutilized land that exists in the Enhancement Areas. Neighborhood Enhancement Areas often contain many acres of undeveloped lots, whereas Neighborhood Conservation Areas appear to be mostly “built out.” Existing housing should be enhanced through rehabilitation assistance. New development in these areas should support neighborhood and city-wide housing needs, reduce crime and blight, and attract complementary new uses and services that better serve the needs of existing and future residents.*

The proposal is not inconsistent with both of these policy map designations. The Main Street Mixed Use Corridor envisions a pedestrian-oriented street with ground floor retail and upper-story residential, like the proposed mixed-use development. Additionally, this block of 7<sup>th</sup> Street is underutilized and has capacity for redevelopment that would benefit from proximity to transit and would improve the overall streetscape and pedestrian experience. For the eastern part of the site, the Neighborhood Enhancement Area, the proposal is also in keeping with the guidance. The eastern part of the site, currently a surface parking lot, presents an opportunity for infill development, including residential use and mixed-use buildings as proposed. Providing housing in this area would be in keeping with the goal stated for Neighborhood Enhancement Areas that new development should support city-wide housing needs, and providing affordable housing is currently a critical goal and this PUD would support that.

The FLUM identifies the majority of the site for Mixed-Use Medium Density Commercial/Medium Density Residential uses and a portion of the site at the corner of P and Marion Streets for Moderate Density Residential use.

The building responds to this moderate designation by proposing a building height and design to transition to the residential row dwellings in the adjoining RF-1 zone. The building would step down to four stories along Marion Street and has been lowered to a proposed height of 43’8”. The building height would step up from floors 5-7, which would reduce visibility from the east as seen in the sight line diagram in Sheet A15 of Exhibit 28A1. The four story section of the building would reflect a “low-rise apartment building” consistent with the moderate designation.

## **B. Comprehensive Plan Policies**

While there may be a potential inconsistency with the proposed FLUM designation of the eastern portion of the site for Moderate Density Residential use, the overall project would further other Comprehensive Plan policies that would outweigh any potential inconsistency with the FLUM including most significantly the following policies (emphasis added):

### **Framework Element**

- The critical need for new affordable housing units identified as *high-priority public benefits in the evaluation of residential PUDs* (Section 224.9)

### **Land Use Element**

- *Development Around Metrorail Stations* (Land Use Policy LU-1.3.2)
- *Housing Around Metrorail Stations* (Land Use Policy LU-1.3.3)
- *Design to Encourage Transit Use* (Land Use Policy LU-1.3.4)
- *Multi-Family Neighborhoods* (Land Use Policy LU-2.1.10)

### **Housing Element**

- *Private Sector Support* (Policy H-1.1.1)

- *Balanced Growth (Policy H-1.1.3)*
- *Mixed Use Development (Policy H-1.1.4)*
- *Housing Quality (Policy H-1.1.5)*
- *Mixed Income Housing (Policy H-1.2.3)*
- *Density Bonuses for Affordable Housing (Policy H-1.2.7)*

#### **Transportation Element**

- *Transit-Oriented Development (Policy T-1.1.4)*
- *Transportation Demand Management (TDM) Programs (Policy T-3.1.1)*

#### **Environmental Protection Element**

- *Street Tree Planting and Maintenance (Policy E-1.1.1)*
- *Landscaping (Policy E-1.1.3)*
- *Energy Efficiency (Policy E-2.2.1)*
- *Alternative Energy Sources (Policy E-2.2.4)*
- *Energy Efficient Building and Site Planning (Policy E-2.2.5)*
- *Maximizing Permeable Surfaces (Policy E-3.1.1)*
- *Using Landscaping and Green Roofs to Reduce Runoff (Policy E-3.1.2)*
- *Support for Green Building (Policy E-3.2.1)*

#### **Economic Development Element**

- *Neighborhood Commercial Vitality (Policy ED-3.1.1)*

#### **Urban Design Element**

- *Neighborhood Character and Identity (Policy UD-2.2.1)*
- *Transitions in Building Intensity (Policy UD-2.2.4)*
- *Creating Attractive Facades (Policy UD-2.2.5)*
- *Infill Development (Policy UD-2.2.7)*
- *Improving Streetscape Design (Policy UD-3.1.1)*
- *Management of Sidewalk Space (Policy UD-3.1.2)*
- *Street Lighting (Policy UD-3.1.4)*
- *Streetscape and Mobility (Policy UD-3.1.5)*
- *Improving the Street Environment (Policy UD-3.1.7)*
- *Private Sector Streetscape Improvements (Policy UD-3.1.11)*

#### **Near Northwest Area Element**

- *Residential Neighborhoods (Policy NNW-1.1.1)*
- *Directing Growth (Policy NNW-1.1.2)*
- *Neighborhood Commercial Revitalization (Policy NNW-1.1.4)*
- *Affordable Housing (Policy NNW-1.1.9)*
- *Sustainable Development (Policy NNW-1.2.10)*
- *Affordable Housing (Policy NNW-2.1.1)*
- *Reinforce Existing Development Patterns (Policy NNW-2.1.2)*
- *Shaw/Howard University and Mount Vernon Square Metro Stations (Policy NNW-2.1.3)*
- *7th and 9th Street Corridors (Policy NNW-2.1.5)*

### **Framework Element**

The proposed PUD would further the following guidance found within this element under “Managing Growth and Change: Guiding Principles”:

*(4) Diversity also means maintaining and enhancing the District's mix of housing types. Housing should be developed for households of different sizes, including growing families as well as singles and couples, and for all income levels.*

*(5) The District needs both residential and non-residential growth to survive. Nonresidential growth benefits residents by creating jobs and opportunities for less affluent households to increase their income.*

*(7) Redevelopment and infill opportunities along corridors and near transit stations will be an important component of reinvigorating and enhancing our neighborhoods. Development on such sites must be designed to respect the integrity of stable neighborhoods and the broader community context, and encourage housing and amenities for low-income households, who rely more on transit. Adequate infrastructure capacity should be ensured as growth occurs.*

*(13) The recent population boom has triggered a crisis of affordability in the city, creating a hardship for many District residents and changing the character of neighborhoods. The preservation of existing affordable housing and the production of new affordable housing, especially for low-income and workforce households, are essential to avoid a deepening of racial and economic divides in the city, and must occur city-wide to achieve fair housing objectives. Affordable renter- and owner-occupied housing production and preservation is central to the idea of growing more inclusively, as is the utilization of tools such as public housing, community land trusts, and limited equity cooperatives that help keep the costs of land affordable, particularly in areas with low homeownership rates and those at risk of cost increases due to housing speculation.*

The Framework Element also states:

*The second way is through a Planned Unit Development (PUD), often for sites that have more than one parcel or building. The goal of a PUD is to permit development flexibility greater than specified by matter-of-right zoning, such as **increased building height or density, provided that the project offers a commendable number or quality of public benefits**, and protects and advances the public health, safety, welfare, and convenience. These public benefits should be lasting and are developed through discussions between developers, District representatives, Advisory Neighborhood Commissions, civic organizations, and the community. As part of the PUD process, the Zoning Commission may include a zoning map amendment for the purpose of the PUD, which is applicable only for the duration of the PUD, and subject to PUD conditions. The PUD process is not to be used to circumvent the intent and purposes of the Zoning Regulations or result in an action inconsistent with the Comprehensive Plan. In considering whether a PUD is “not inconsistent” with the Comprehensive Plan, it is appropriate to consider the context of the entire site, such as aggregating density on one portion so as to increase open space on another portion — achieving an overall density that is consistent with the Plan.*

*In its decision-making, the Zoning Commission must make a finding of “not inconsistent with the Comprehensive Plan.” To do so, the Zoning Commission must consider the many competing, and sometimes conflicting, policies of the Comprehensive Plan, along with the various uses, development standards and requirements of the zone districts. It is the responsibility of the Zoning Commission to consider and balance those policies relevant and material to the individual case before it in its decision-making, and clearly explain its decision-making rationale.*

*Specific public benefits are determined through each PUD application and should respond to critical issues facing the District as identified in the Comprehensive Plan and through the PUD process itself. In light of the acute need to preserve and build affordable housing, described in Section 206, and to prevent displacement of on-site residents, the following should be considered as high-priority public benefits in the evaluation of residential PUDs:*

- *The production of new affordable housing units above and beyond existing legal requirements or a net increase in the number of affordable units that exist on-site;*
- *The preservation of housing units made affordable through subsidy, covenant, or rent control, or replacement of such units at the same affordability level and similar household size;*
- *The minimizing of unnecessary off-site relocation through the construction of new units before the demolition of existing occupied units; and*
- *The right of existing residents of a redevelopment site to return to new on-site units at affordability levels similar to or greater than existing units.*

[emphasis added]

### **Land Use Element**

*The Land Use Goal is: 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.(§ 302.1)*

#### ***Policy LU-1.3.2: Development Around Metrorail Stations***

*Concentrate redevelopment efforts on those Metrorail station areas which offer the greatest opportunities for infill development and growth, particularly stations in areas with weak market demand, or with large amounts of vacant or poorly utilized land in the vicinity of the station entrance. Ensure that development above and around such stations emphasizes land uses and building forms which minimize the necessity of automobile use and maximize transit ridership while reflecting the design capacity of each station and respecting the character and needs of the surrounding areas.*

#### ***Policy LU-1.3.3: Housing Around Metrorail Stations***

*Recognize the opportunity to build senior housing and more affordable “starter” housing for first-time homebuyers adjacent to Metrorail stations, given the reduced necessity of auto ownership (and related reduction in household expenses) in such locations.*

#### ***Policy LU-1.3.4: Design To Encourage Transit Use***

*Require architectural and site planning improvements around Metrorail stations that support pedestrian and bicycle access to the stations and enhance the safety, comfort and convenience of passengers walking to the station or transferring to and from local buses. These improvements should include lighting, signage, landscaping, and security measures. Discourage the development of station areas with conventional suburban building forms, such as shopping centers surrounded by surface parking lots.*

#### ***Policy LU-2.1.10: Multi-Family Neighborhoods***

*Maintain the multi-family residential character of the District’s Medium and High-Density residential areas. Limit the encroachment of large scale, incompatible commercial uses into these areas, and make these areas more attractive, pedestrian-friendly, and transit accessible.*

The proposed PUD is for a mixed use development in close proximity to the Shaw Metro station, which would bring both new residents and new businesses to an underutilized site where there is one small

business currently. The development would bring new retail uses and housing, including affordable housing, to this block of 7<sup>th</sup> Street. The Applicant would provide limited car parking for residents in the underground garage and more bicycle parking than required by zoning. The Applicant proposes improved sidewalks around the buildings.

### **Transportation Element**

*The overarching goal for transportation in the District is: 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. (§ 401.1)*

#### ***Policy T-1.1.4: Transit-Oriented Development***

*Support transit-oriented development by investing in pedestrian-oriented transportation improvements at or around transit stations, major bus corridors, and transfer points.*

#### ***Policy T-2.3.3: Bicycle Safety***

*Increase bicycle safety through traffic calming measures, provision of public bicycle parking, enforcement of regulations requiring private bicycle parking, and improving bicycle access where barriers to bicycle travel now exist.*

#### ***Policy T-2.4.1: Pedestrian Network***

*Develop, maintain, and improve pedestrian facilities. Improve the city's sidewalk system to form a network that links residents across the city.*

#### ***Policy T-3.1.1: Transportation Demand Management (TDM) Programs***

*Provide, support, and promote programs and strategies aimed at reducing the number of car trips and miles driven (for work and non-work purposes) to increase the efficiency of the transportation system.*

The proposed building would be located near a Metro stop and on Metrobus lines for transit-oriented development. The building's garage would have a bicycle parking room for 72 bicycles and there would be spaces for 14 bicycles outside. As part of the project the rear alley would be widened, assisting in vehicular access and mobility. The Applicant proposes to improve sidewalks and remove a curb cut which would assist pedestrians' mobility and safety.

The Applicant provided a TDM plan in Exhibit 25A and DDOT's report stating they have no objection to the proposed PUD is in Exhibit 30.

### **Housing Element**

*The overarching goal for housing is: Develop and maintain a safe, decent, and affordable supply of housing for all current and future residents of the District of Columbia. (§ 501.1)*

#### ***Policy H-1.1.1: Private Sector Support***

*Encourage the private sector to provide new housing to meet the needs of present and future District residents at locations consistent with District land use policies and objectives.*

#### ***Policy H-1.1.3: Balanced Growth***

*Strongly encourage the development of new housing on surplus, vacant and underutilized land in all parts of the city. Ensure that a sufficient supply of land is planned and zoned to enable the city to meet its long-term housing needs, including the need for low- and moderate-density single family homes as well as the need for higher-density housing.*

***Policy H-1.1.4: Mixed Use Development***

*Promote mixed use development, including housing, on commercially zoned land, particularly in neighborhood commercial centers, along Main Street mixed use corridors, and around appropriate Metrorail stations.*

***Policy H-1.1.5: Housing Quality***

*Require the design of affordable housing to meet the same high-quality architectural standards required of market-rate housing. Regardless of its affordability level, new or renovated housing should be indistinguishable from market rate housing in its exterior appearance and should address the need for open space and recreational amenities, and respect the design integrity of adjacent properties and the surrounding neighborhood.*

***Policy H-1.2.3: Mixed Income Housing***

*Focus investment strategies and affordable housing programs to distribute mixed income housing more equitably across the entire city, taking steps to avoid further concentration of poverty within areas of the city that already have substantial affordable housing.*

***Policy H-1.2.7: Density Bonuses for Affordable Housing***

*Provide zoning incentives to developers proposing to build low- and moderate-income housing. Affordable housing shall be considered a public benefit for the purposes of granting density bonuses when new development is proposed. Density bonuses should be granted in historic districts only when the effect of such increased density does not significantly undermine the character of the neighborhood.*

The proposal is for 223 new residential units on a site that currently has no housing, which is consistent with citywide planning goals to expand the housing supply. The proposal is for studios, one, and two bedroom units.

The new housing would include approximately 29 units of affordable housing with units offered at 30%, 50% and 60% MFI, and while some of these affordable units are required by covenants, overall the project would provide more affordable units and at a significantly deeper affordability level than zoning regulations would require. At least 25% of the IZ units will be two bedrooms.

This new housing would provide mixed-income housing in a desirable and accessible location. The Mayor has established a goal of creating 36,000 units of housing and 12,000 units of affordable housing by 2035 and by providing new housing and a significant amount of affordable housing this PUD would respond to that critical goal.

**Environmental Protection Element**

*The overarching goal for environmental protection is: Protect, restore, and enhance the natural and man-made environment in the District of Columbia, taking steps to improve environmental quality, prevent and reduce pollution, and conserve the values and functions of the District's natural resources and ecosystems.(§ 601.1)*

***Policy E-1.1.1: Street Tree Planting and Maintenance***

*Plant and maintain street trees in all parts of the city, particularly in areas where existing tree cover has been reduced over the last 30 years. Recognize the importance of trees in providing shade, reducing energy costs, improving air and water quality, providing urban habitat, absorbing noise, and creating economic and aesthetic value in the District's neighborhoods.*

***Policy E-1.1.3: Landscaping***

*Encourage the use of landscaping to beautify the city, enhance streets and public spaces, reduce stormwater runoff, and create a stronger sense of character and identity.*

***Policy E-2.2.1: Energy Efficiency***

*Promote the efficient use of energy, additional use of renewable energy and a reduction of unnecessary energy expenses. The overarching objective should be to achieve reductions in per capita energy consumption by DC residents and employees.*

***Policy E-2.2.4: Alternative Energy Sources***

*Support the development and application of renewable energy technologies such as active, passive, and photovoltaic solar energy, fuel cells, and other sustainable sources. Such technology should be used to reduce the dependence on imported energy, provide opportunities for economic and community development, and benefit environmental quality. A key goal is the continued availability and access to unobstructed, direct sunlight for distributed-energy generators and passive-solar homes relying on the sun as a primary energy source.*

***Policy E-2.2.5: Energy Efficient Building and Site Planning***

*Include provisions for energy efficiency and for the use of alternative energy sources in the District's planning, zoning, and building standards. The planning and design of new development should contribute to energy efficiency goals.*

***Policy E-3.1.1: Maximizing Permeable Surfaces***

*Encourage the use of permeable materials for parking lots, driveways, walkways, and other paved surfaces as a way to absorb stormwater and reduce urban runoff.*

***Policy E-3.1.2: Using Landscaping and Green Roofs to Reduce Runoff*** *Promote an increase in tree planting and landscaping to reduce stormwater runoff, including the expanded use of green roofs in new construction and adaptive reuse, and the application of tree and landscaping standards for parking lots and other large paved surfaces.*

***Policy E-3.2.1: Support for Green Building***

*Encourage the use of green building methods in new construction and rehabilitation projects, and develop green building methods for operation and maintenance activities.*

The Applicant has increased the commitment to achieve LEED Gold certification and the project includes solar installation, vegetative roof, landscaping, and street trees.

In Attachment A, DOEE encourages the Applicant to improve the overall energy performance of the project, increase the size of the planned solar system, and exceed the minimum stormwater retention requirements in order to meet more of the District's sustainability and energy efficiency policies.

**Economic Development Element**

*The overarching goal for economic development in the District is: Strengthen the District's economy by sustaining its core industries, attracting new and diverse industries, accommodating future job growth, fostering the success of small businesses, revitalizing neighborhood commercial centers, improving resident job skills, and helping a greater number of District residents find and keep jobs in the Washington regional economy. (§ 701.1)*

***Policy ED-3.1.1: Neighborhood Commercial Vitality***

*Promote the vitality and diversity of Washington's neighborhood commercial areas by retaining existing businesses, attracting new businesses, and improving the mix of goods and services available to residents.*

The proposed mixed-use development will provide new retail options to the neighborhood as well as new jobs in the new retail uses as well as retaining the existing barber shop business.

**Urban Design Element**

*The overarching goal for urban design in the District is: 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. (§ 901.1)*

***Policy UD-2.2.1: Neighborhood Character and Identity***

*Strengthen the defining visual qualities of Washington's neighborhoods. This should be achieved in part by relating the scale of infill development, alterations, renovations, and additions to existing neighborhood context.*

***Policy UD-2.2.4: Transitions in Building Intensity***

*Establish gradual transitions between large-scale and small-scale development. The relationship between taller, more visually prominent buildings and lower, smaller buildings (such as single family or row houses) can be made more pleasing when the transition is gradual rather than abrupt. The relationship can be further improved by designing larger buildings to reduce their apparent size and recessing the upper floors of the building to relate to the lower scale of the surrounding neighborhood.*

***Policy UD-2.2.5: Creating Attractive Facades***

*Create visual interest through well-designed building facades, storefront windows, and attractive signage and lighting. Avoid monolithic or box-like building forms, or long blank walls which detract from the human quality of the street.*

***Policy UD-2.2.7: Infill Development***

*Regardless of neighborhood identity, avoid overpowering contrasts of scale, height and density as infill development occurs.*

***Policy UD-3.1.1: Improving Streetscape Design***

*Improve the appearance and identity of the District streets through the design of street lights, paved surfaces, landscaped areas, bus shelters, street 'furniture' and adjacent building facades.*

***Policy UD-3.1.2: Management of Sidewalk Space***

*Preserve the characteristically wide sidewalks of Washington's commercial districts. Sidewalk space should be managed in a way that promotes pedestrian safety, efficiency, comfort, and provides adequate space for tree boxes. Sidewalks should enhance the visual character of streets, with landscaping and buffer planting used to reduce the impacts of vehicle traffic.*

***Policy UD-3.1.4: Street Lighting***

*Provide street lighting that improves public safety while also contributing to neighborhood character and image.*



***Policy UD-3.1.5: Streetscape and Mobility***

*Ensure that the design of public space facilitates connections between different modes of travel, including walking, public transit, bicycling and driving. Bus shelters, benches, bicycle parking, safe pedestrian connections, and clear way-finding signage should be provided to facilitate multi-modal travels.*

***Policy UD-3.1.7: Improving the Street Environment***

*Create attractive and interesting commercial streetscapes by promoting ground level retail and desirable street activities, making walking more comfortable and convenient, ensuring that sidewalks are wide enough to accommodate pedestrian traffic, minimizing curb cuts and driveways, and avoiding windowless facades and gaps in the street wall.*

***Policy UD-3.1.11: Private Sector Streetscape Improvements***

*As appropriate and necessary, require streetscape improvements by the private sector in conjunction with development or renovation of adjacent properties.*

The proposed development has a number of features that support these policies including a building height transition between 7<sup>th</sup> Street and Marion Street, balconies on the building, and streetscape improvements such as bike racks, lighting, trees, curb cut removal and alley widening. The proposal is also in keeping with the design guidance from the Small Area Plan (see Section VII-C. below).

**Area Element**

The Property is located in the Near Northwest Area Element of the Comprehensive Plan. There are policies within the Near Northwest Area Element noted below, as well as policies in the Citywide Elements above, that encourage optimal land use, transit-oriented development, housing, environmental protection, and urban design. The proposed PUD is not inconsistent with the general major policies for the property and immediate area as stated in the Area Element.

***Policy NNW-1.1.1: Residential Neighborhoods***

*Maintain and enhance the historic, architecturally distinctive mixed density character of Near Northwest residential neighborhoods, including Burleith, Georgetown, Foggy Bottom, Dupont Circle, Sheridan-Kalorama, Logan Circle, Mount Vernon Square, and Shaw. Ensure that infill development within these areas is architecturally compatible with its surroundings and positively contributes to the identity and quality of each neighborhood.*

***Policy NNW-1.1.2: Directing Growth***

*Generally direct growth within the Near Northwest Planning Area to the eastern side of the Planning Area (Logan Circle and Shaw), given the strong market demand and limited land available on the west side, and the need for reinvestment and renovation on the east side.*

***Policy NNW-1.1.4: Neighborhood Commercial Revitalization***

*Improve the neighborhood shopping areas along 7th, 9th, and 11th Streets NW. The success of the established businesses on these streets should be strongly encouraged, and new businesses that provide needed goods and services to area residents should be attracted.*

***Policy NNW-1.1.9: Affordable Housing***

*Protect the existing stock of affordable housing in the Near Northwest Planning Area, particularly in the Shaw and Logan Circle neighborhoods. Sustain measures to avoid displacement, such as tax relief and rent control, and to encourage the production of new affordable housing throughout the community.*

***Policy NNW-1.2.10: Sustainable Development***

*Encourage the use of green building practices within Near Northwest, with a particular emphasis on green roofs. Rooftop gardens should be encouraged in new construction and major rehabilitation*

*projects as a way to create additional green space, reduce stormwater runoff, and provide an amenity for residents.*

***Policy NNW-2.1.1: Affordable Housing***

*Protect existing affordable housing within the Shaw/Convention Center area, and produce new affordable housing and market rate housing on underutilized sites. Use a range of tools to retain and develop affordable housing in the study area, including tenant organization and public education, inclusionary zoning, renewing project-based Section 8 contracts, tax abatements, public-private partnerships, and including affordable housing when development on publicly owned land includes a residential component.*

***Policy NNW-2.1.2: Reinforce Existing Development Patterns***

*Stabilize and maintain existing moderate-density row house areas within the Shaw/Convention Center Area. Locate multi-unit buildings in areas already zoned for greater density, including areas near the Mount Vernon Square and Shaw/Howard University Metrorail stations, and on publicly owned land with the potential for housing. Ensure that development on infill sites scattered throughout the row house portions of the Shaw/Convention Center area is consistent with the neighborhood's character.*

***Policy NNW-2.1.3: Shaw/Howard University and Mount Vernon Square Metro Stations***

*Encourage mixed-income residential development with underground parking adjacent to the Shaw/Howard and Mount Vernon Square Metro stations, particularly on existing surface parking lots.*

***Policy NNW-2.1.5: 7th and 9th Street Corridors***

*Locate retail development within the Shaw/Convention Center Area in a manner that best serves residents, creates the best environment for businesses to succeed, and uses land already zoned for commercial uses. Continuous ground floor retail uses should be encouraged along sections of 7th and 9th Streets as designated in the 2005 Strategic Development Plan to create a traditional pedestrian-oriented Main Street pattern and establish a unified identity for the community. These corridors should attract convention-goers, residents, and visitors, and should include both new and existing businesses.*

**C. Small Area Plan**

The proposal is also not inconsistent with the guidance found in the 2006 Small Area Plan, the Convention Center Area Strategic Development Plan. The SAP includes a recommendation for additional residential and retail uses, affordable housing, and rezoning to allow mixed use developments along 7<sup>th</sup> Street.

The subject site is labeled as one of the “Potential sites for high and medium density residential” and as a “preferred location of ground floor retail” along 7<sup>th</sup> Street (page 35).

The Small Area Plan provides the specific design guidelines for Sub-Area III, which includes the subject property:

*GOAL: Encourage mixed-use development that provides a distinct setting for both neighborhood serving and destination retail.*

- Retail space should have a minimum of 14' ceiling height*
- A majority of the ground floor shall be devoted to building entrances and projecting or flat storefronts that are predominantly clear glass*
- Retail signs shall be designed to reinforce the architecture of the building and be pedestrian oriented*
- Tripartite arrangement of building elevation encouraged*
- Window and door placements should be consistent with those on surrounding buildings*

- *Material shall be of high quality, providing a sense of detail, scale and visual interest*
- *Through-wall HVAC units are not allowed on public elevations*
- *Encourage outdoor uses, such as cafes and vending*
- *Garage and service entrances should be from alleys, not front elevations*

**VIII. ZONING ANALYSIS AND FLEXIBILITY REQUEST**

The following table compares the existing matter-of-right development capacity of the MU-4, the MU-6 PUD requirements, and the proposal:

	<b>MU-4 Matter-of-Right</b>	<b>MU-6 (PUD)</b>	<b>Proposed</b>
Height	50 feet	110 feet	90 feet
FAR	2.5 or 3.0 (IZ)	8.64	7.17 (residential 6.84; retail 0.33)
Lot Occupancy – residential use	60% or 75% (IZ)	75% or 80% (IZ)	85.8% floors 2-4 <80% all other floors <b>flexibility requested</b>
Open Court	4 inches/ foot of height; 10 feet minimum	4 inches/ foot of height; 10 feet minimum	11’ and 30’
Rear Yard	15 feet	15 feet	25 feet
Side Yard	Not required, but if provided 2 inches/foot of height, but no less than 5 feet	Not required, but if provided 2 inches/foot of height, but no less than 5 feet	9’ (7’6” required) 15’10” (15’5” required)
GAR	0.3	0.3	0.3
Penthouse Height	12 feet except 15 feet for penthouse mechanical space	20 feet	12’ and 20’ (habitable/mechanical) 15’ (pool/stairs) <b>flexibility requested</b>
Inclusionary Zoning (assumes Type I construction)	8% of residential gross floor area (excluding penthouse habitable space) reserved at 60% MFI  8% of penthouse habitable space reserved at 50% MFI	8% of residential gross floor area (excluding penthouse habitable space) reserved at 60% MFI  8% of penthouse habitable space reserved at 50% MFI	12% of residential gross floor area (excluding penthouse habitable space and residential gross floor area on Lots 191 and 821) reserved at 60% MFI  12% of penthouse habitable space reserved at 50% AMI

**Relief needed:**

Pursuant to Subtitle Z, Chapter 3 of the DCMR 2016 Zoning Regulations, the Applicant seeks:

- Consolidated PUD and related map amendment to the MU-6 District;
- Lot occupancy-residential use (75% max./80% max. with IZ; 85.4% proposed for floors 2-4 only);
- Habitable penthouse structures of different height (15 feet and 12 feet) and two enclosures.

Due to the redesign at the east side of the building, the project no longer needs court relief.

### **1. Special Exception Under Subtitle G §409.1 and §1200.4 for Lot Occupancy Requirements.**

Pursuant to Subtitle G §404.1 of the Zoning Regulations, the minimum lot occupancy for residential use in the MU-6 zone is 75%, and 80% in an Inclusionary Zoning (“IZ”) development such as the Project. The proposed maximum residential lot occupancy of the Project is 85.4%. Specifically, as shown on sheet A01 of the plans, the lot occupancy on floors 2 through 4 is 85.4%, while the lot occupancy on floors 1 and 5-9 complies with the regulations.

The Zoning Commission may grant a special exception if the special exception:

- (i) Will be in harmony with the general purpose and intent of the MU zone, the Zoning Regulations, and Zoning Maps; and*
- (ii) Will not tend to affect adversely the use of neighboring property, in accordance with the Zoning Regulations and Zoning Maps.*

The zoning regulations state: *The MU-6 zone is intended to: (a) Permit medium- to high-density mixed-use development with a focus on residential use.* The mixed-use building with 223 residential units and ground floor retail would be in harmony with the general purpose and intent of the MU-6 zone, the zoning regulations, and zoning maps.

The requested lot occupancy relief should not tend to have an adverse effect on the use of neighboring properties. The proposed excess lot occupancy is limited to only 3 floors of the building at floors two, three, and four. The building has been designed to lessen impacts to neighboring properties along Marion Street with setbacks along the eastern and northern sides of the property above the 4<sup>th</sup> floor to reduce the density and the massing of the project and the overall building height would be lower than the maximum height allowed. The building to the west is located across 7<sup>th</sup> Street NW and should not be adversely impacted due to the distance between the buildings, the building to the north is Bread for the City, which is not residential and its use should not be adversely impacted, and to the south is a District park located across P Street NW.

### **2. Special Exception under Subtitle C §1504.1 for Two Penthouses and Penthouse Height**

The proposed building has two rooftop penthouses that need relief from the regulations: 1) a 12 foot tall habitable penthouse for residential units and residential amenities; and 2) a 15 foot tall staircase enclosure with space for mechanical equipment and storage space for the pool.

*1500.6 All penthouses and mechanical equipment shall be placed in one (1) enclosure, except that a rooftop egress stairwell enclosure not containing any other form of habitable or mechanical space may be contained within a separate enclosure, and shall harmonize with the main structure in architectural character, material, and color.*

Penthouses and mechanical equipment are required to be placed in one enclosure, except that a rooftop egress stairwell with no other habitable or mechanical space may have a separate penthouse. However, in this case, since the proposed pool/stair enclosure does contain storage and mechanical equipment, relief is required.

*1500.9 Enclosing walls of the penthouse shall be of equal, uniform height as measured from roof level, except that:*

- (a) Enclosing walls of penthouse habitable space may be of a single different height than walls enclosing penthouse mechanical space;*

The regulations require that penthouse walls be of equal height, except that a penthouse with habitable space can be a different height than a separate penthouse with mechanical space. However, since the staircase/pool penthouse contains habitable space and is not the same height as the residential and amenity penthouse, relief from the equal height requirement is needed.

**Subtitle C §1504.1- Special Exception criteria for penthouse relief**

- (i) *The strict application of the requirements of this chapter would result in construction that is unduly restrictive, prohibitively costly, or unreasonable, or is inconsistent with building codes;*

The inclusion of the pool mechanical equipment and storage area in the separate staircase enclosure is necessary due to the enclosure's proximity to the pool area. The equipment serving the pool should be located near the pool, and it would be unreasonable to locate the mechanical and storage areas in a different location. The height of the staircase enclosure is in response to code requirements that cause it to differ from the height of the other habitable penthouse enclosure. Lowering the height of the staircase enclosure to conform to the other penthouse habitable space would be unreasonable and negatively impact the function of the stairway.

- (ii) *The relief requested would result in a better design of the roof structure without appearing to be an extension of the building wall;*

Having both habitable and mechanical space within the staircase enclosure results in a better design of the roof structure as it consolidates several uses in one separate penthouse enclosure. It also allows the pool equipment and machinery to be located near the pool and avoids having pool-related items across the penthouse level of the building. The staircase enclosure complies with the required setbacks, is lower than the penthouse height limit, and does not appear to be an extension of the building wall.

- (iii) *The relief requested would result in a roof structure that is visually less intrusive;*

Locating the storage and mechanical space within the staircase enclosure allows the Applicant to combine several areas necessary for the function of the pool and roof access into a single enclosure, resulting in a less visually intrusive design than having separate or unenclosed mechanical or storage areas.

- (iv) *Operating difficulties such as meeting D.C. Construction Code, Title 12 DCMR requirements for roof access and stairwell separation or elevator stack location to achieve reasonable efficiencies in lower floors; size of Subtitle C-118 building lot; or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly or unreasonable;*

The height of the staircase enclosure is dictated by code requirements and in order to accommodate the building conditions and access requirements, the height differs from the other penthouse habitable enclosure. The stairwell must be connected and accessible to the pool deck to meet the egress requirements and the height of the stairwell enclosure is set to provide the minimum headroom at the pool deck elevation and to meet the setback requirements.

- (v) *Every effort has been made for the housing for mechanical equipment, stairway, and elevator penthouses to be in compliance with the required setbacks; and*

The application states that the penthouses will comply with required setbacks.

- (vi) *The intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.*

The relief requested is in keeping with the intent and purpose of the zoning regulations. While penthouse relief is needed to accommodate the proposed staircase enclosure, the penthouses will comply with required setbacks and overall height limits and as proposed should not have an adverse effect on the light and air of the adjacent buildings.

Overall the proposed relief meets the criteria for the special exception as permitted under the zoning regulations and would not adversely affect the use of neighboring properties and is consistent with with the criteria of Subtitle X §901.2.

### **Flexibility Requested**

In addition to the relief required from zoning regulations, the Applicant has requested the following flexibility:

1. Unit range: vary the proposed residential unit range by 5-10%;
2. Parking range: vary the number of proposed parking spaces by 5-10%;
3. Retail range: vary the amount of retail square footage by 25%;
4. Retail façade design: vary the design of the retail space per the specifications of the retailer;
5. Public art: vary the final selection;
6. Exterior materials: vary the final selection of exterior materials within the color ranges and general material types proposed, based on availability at time of construction; and
7. Floor height: vary floor to floor heights as design is refined.

The Applicant states that given the uncertainty in both the residential and retail markets as a result of the pandemic, the above requested minor flexibility is warranted. The flexibility would enable the Applicant to refine the design of the Project in response to impacts the pandemic may have on residential and retail design. If there are restrictions on retail operations or difficulty finding a tenant in a depressed retail market due to the pandemic, the requested flexibility in retail square footage could allow the Applicant to activate the ground floor space with residential amenities rather than leave ground floor retail space vacant.

## **IX. PUD EVALUATION STANDARDS AND PUBLIC BENEFITS AND AMENITIES**

The objectives of a PUD are to permit flexibility of development in return for the provision of superior public benefits, provided the PUD process is not used to circumvent the intent and purposes of the Zoning Regulations, or results in an action inconsistent with the Comprehensive Plan. The Applicant requests a PUD and related map amendment, which is not inconsistent with the Comprehensive Plan maps and policies as discussed in Section VII.

The purpose and standards for Planned Unit Developments are outlined in Subtitle X, Chapter 3 of the zoning regulations. The PUD process is intended to:

*...provide for higher quality development through flexibility in building controls, including building height and density, provided that a PUD:*

- (a) *Results in a project superior to what would result from the matter-of-right standards;*
- (b) *Offers a commendable number or quality of meaningful public benefits; and*
- (c) *Protects and advances the public health, safety, welfare, and convenience, and is not inconsistent with the Comprehensive Plan” (§ 300.1).*

In order to approve the Consolidated PUD, the Commission must find that it would not be inconsistent with the Comprehensive Plan, would not result in unacceptable impacts on the area or on city services,

and includes public benefits and project amenities that balance the flexibility requested and any potential adverse effects of the development (§§ 304.3 and 304.4).

Subtitle X Section 305 of the Zoning Regulations discuss the definition and evaluation of public benefits and amenities.

*“Public benefits are superior features of a proposed PUD that benefit the surrounding neighborhood or the public in general to a significantly greater extent than would likely result from development of the site under the matter-of-right provisions of this title” (§ 305.2). “A project amenity is one (1) type of public benefit, specifically a functional or aesthetic feature of the proposed development that adds to the attractiveness, convenience, or comfort of the project for occupants and immediate neighbors” (§ 305.10).*

Section 305.5 lists several potential categories of benefit proffers, and

*“A project may qualify for approval by being particularly strong in only one (1) or a few of the categories in [that] section, but must be acceptable in all proffered categories and superior in many” (§ 305.12). The Commission “shall deny a PUD application if the proffered benefits do not justify the degree of development incentives requested (including any requested map amendment)” (§ 305.11).*

The Applicant has offered the following amenities and benefits as an offset to the additional development gained through the PUD application process. The applicable regulations of Subtitle G Section 305.3 for the “public benefits of the proposed PUD” are noted under each category heading.

#### **A. Building design, open space, and site planning**

*305.5 (a) Superior urban design and architecture;*

*305.5 (b) Superior landscaping, or creation or preservation of open spaces;*

*305.5 (c) Site planning and efficient and economical land utilization;*

*305.5 (d) Commemorative works or public art;*

The Applicant proposes to take an underutilized site and provide much more efficient land utilization and effective site planning for this prominent corner site located near a Metro station. The proposed building has double height windows at the ground level and balconies and bays to articulate the facades. The building steps down in height as it approaches the lower height buildings in the RF-1 zone along Marion Street. The curb cut on P Street would be removed and the alley to the north of the building would be widened to allow vehicular access to the building. The landscape plans show existing tree retention as well as new trees and landscaping around the building. The Applicant proposes a public art installation along P Street.

#### **B. Housing and affordable housing**

*305.5 (f) Housing that:*

*(1) Exceeds the amount that would have been required through matter-of-right development under existing zoning;*

*305.5 (g) Affordable housing; except that affordable housing provided in compliance with the Inclusionary Zoning requirements of Subtitle C, Chapter 22, shall not be considered a public benefit except to the extent it exceeds what would have been required through matter-of-right development under existing zoning. In determining whether this standard has been met, the Zoning Commission shall balance any net gain in gross floor area against any loss of gross floor area that would have been set-aside for “low-income households” as defined in the Inclusionary Zoning requirements of Subtitle C, Chapter 10;*

The introduction of 223 new residential units on a site with no housing is consistent with citywide planning goals to expand the housing supply. The Applicant proposes that the largest units would have two bedrooms.

Additionally, the project would offer more affordable units than required through Inclusionary Zoning and at significantly deeper levels of affordability due to requirements from covenants on two lots and additional IZ proffers.

The existing covenants on two of the lots require:

- the greater of 30% of the units built on Lot 191 or 3 units be set aside as affordable; and
- the greater of 20% of the units built on Lot 821 or 7 units be set aside as affordable.

For rental projects, 25% of these affordable units must be reserved for households with an annual income no greater than 30% MFI, and the remaining affordable units must be set aside for households with an annual income at or above 30% MFI and no more than 50% MFI.

In addition to the above affordable units that are required by covenants and as such cannot be considered a proffer, the project would provide 13,000 SF or approximately 18 units of affordable housing units at 60% AMI and one unit at 50% AMI, which would be 12% of the building's residential square footage that is not subject to the covenant restrictions (see charts below).

DHCD provided comments in Attachment B requesting that the Applicant provide additional affordable housing equal to at least 15% of the GFA.

	SF	Unit Count	Unit Mix		
			Studio	1 Bdrm	2 Bdrm
ADU (30% AMI)	1,568	3	2	1	0
ADU (50% AMI)	5,469	7	1	5	1
IZ (60% AMI)	12,736	18	3	9	6
IZ PH (50% AMI)	429	1	1	0	0
<b>Total</b>	<b>20,202</b>	<b>29</b>	<b>7</b>	<b>15</b>	<b>7</b>
Allocation of IZ			21%	47%	32%
Allocation of Market Rate			21%	60%	11%

INCLUSIONARY ZONING on non-covenant lots 192, 193, 194, 800, 822:

Total GSF	Residential NSF	IZ Requirement (% res. GFA)	IZ Requirement (sq. ft.)	IZ Provided (% res. GFA)	IZ Provided (sq. ft.)	60% MFI Allocation (appx # of Units)
130,141	105,785	8%	8,463	12%	12,694	18

INCLUSIONARY ZONING (Penthouse) on non-covenant lots 192, 193, 194, 800, 822:

Total GSF	Residential NSF	IZ Requirement (% res. GFA)	IZ Requirement (sq. ft.)	IZ Provided (% res. GFA)	IZ Provided (sq. ft.)	50% MFI Allocation (appx # of Units)
7,070	2,969	8%	238	12%	356	1



### **C. Environmental benefits**

*305.5 (k) Environmental and sustainable benefits to the extent they exceed the standards required by zoning or other regulations including, but not limited to:*

*(5) Meeting the minimum standards for Leadership in Energy and Environmental Design (LEED) Gold certification. The project does not have to achieve actual LEED certification; however, the developer must include the LEED checklist and documentation in the application, approved by a LEED Accredited Professional (LEED-AP) that shows that the project will comply with LEED requirements;*

Since the initial application, the Applicant has added environmental benefits to the proposal and they intend to achieve LEED Gold certification and provide solar installations.

DOEE provided agency comments for the Zoning Commission's consideration in Attachment A.

### **D. Community Contributions**

*305.5 (q) Uses of special value to the neighborhood or the District of Columbia as a whole;*

*305.5 (r) Other public benefits and project amenities and other ways in which the proposed PUD substantially advances the major themes and other policies and objectives of any of the elements of the Comprehensive Plan.*

The proposal includes new ground floor retail where there is currently none and streetscape improvements which would be of value to the neighborhood.

The Applicant has committed to relocate the existing barber shop, Ordinary People Barber Shop, which is a minority-owned barber shop currently in this block of Seventh Street, into the new development while providing relocation assistance during the project construction and subsequently offering reduced rent for 10 years and lease renewal options.

The Applicant has developed a Community Benefit Agreement with the ANC, which are not typically considered a proffer\*, including financial contributions to:

- Shaw Main Streets to support the Clean & Safe Team;
- Shaw Main Streets to support public art along P Street;
- City Blossoms to fund a new youth-led community art installation at the Marion Street Intergenerational Garden;
- Friends of Kennedy Playground, Inc. for senior programming and service enhancement for a year;
- New Endeavors by Women to replace the outdoor decks and interior hallway tile in common areas in their transitional housing; and
- Citizens Organized Patrol Efforts to purchase computers and audio/visual equipment to assist with crime prevention activities.

\*

*(d) Monetary contributions shall only be permitted if made to a District of Columbia government program or if the applicant agrees that no certificate of occupancy for the PUD may be issued unless the applicant provides proof to the Zoning Administrator that the items or services funded have been or are being provided. (11DCMR X-305.3(d))*

## **X. COMMENTS FROM OTHER DISTRICT AGENCIES**

OP hosted an inter-agency meeting with the Applicant's team on April 26, 2021 and staff from the following agencies were in attendance:

- OP Design Division
- Department of Energy and the Environment (DOEE)
- Department of Housing & Community Development (DHCD)
- District Department of Transportation (DDOT)
- Department of Parks and Recreation (DPR)
- DC Public Library (DCPL)
- Department of Public Works (DPW)
- DC Water
- Fire and Emergency Medical Services Department (FEMS)

DOEE provided written comments included in Attachment A.

DCHD provided written comments included in Attachment B.

DDOT filed a report stating they have no objection to the PUD in Exhibit 30.

DC Public Schools (DCPS) and Metropolitan Police Department (MPD) declined to attend the meeting and did not provide comments.

## **XI. COMMENTS FROM ANC**

ANC 6E filed a letter of support in Exhibit 10.

ANC SMD 6E02 filed a letter of support in Exhibit 14.

## **XII. COMMENTS FROM COMMUNITY**

At the time of this report, there were no comments from the community in the record.

## Attachment A

### Comments from DOEE

#### **Green Building:**

- DOEE applauds the project's enhanced commitment to achieving LEED Gold certification.
- DOEE encourages all projects to improve the energy performance of the project, specifically by earning more points in the optimized energy performance section of the LEED scorecard.
- Maximizing energy efficiency at the time of construction can more cost effectively assist in meeting the Building Energy Performance Standards in the future (described in more detail below). Furthermore, as building energy codes are continuously update, planning for higher levels of energy performance now will help to ensure that adjustments are not needed to meet future building codes in place at time of permitting. Many energy efficiency strategies have minimal upfront construction costs, such as improvements to the building envelope, and will decrease utility costs. Some efficient heating and cooling systems can also save valuable rooftop space. Many strategies -including additional insulation, LED lighting and controls, high efficiency mechanical systems, and envelope commissioning and air sealing- have a return on investment within five years and can be financed with no upfront cost through the DC PACE Program. The DC Green Bank is also available to project teams who wish to pursue green financing. All projects are also encouraged to contact the DC Sustainable Energy Utility to explore rebates and incentives to help offset the cost of above-code energy saving measures.
- In order to meet the goals of the Sustainable DC 2.0 and Clean Energy DC plans to reduce greenhouse gas emissions, DOEE encourages the project to consider eliminating the onsite combustion of fossil fuels. Incorporating efficient electric systems, for example, can reduce indoor air pollution and save on operating costs, especially when coupled with solar energy. All-electric buildings can also save on construction costs by avoiding the need to install gas piping.

#### **Renewable Energy Production:**

- DOEE commends the project on its inclusion of solar, particularly solar integrated above the green roof. DOEE has issued guidance on how to successfully incorporate solar and green roof that should be reviewed if it hasn't already. That can be found on pages 41 & 42 of the 2020 Stormwater Management Guidebook: <https://doee.dc.gov/swguidebook>.
- DOEE commends the project for its desire to direct the energy generated by the solar PV system to the affordable housing occupants. We would be happy to discuss our experience with community solar and any resources that may be available to assist in your planning for this structure. If interested in discussing further, please contact Casey Studhalter at [casey.studhalter@dc.gov](mailto:casey.studhalter@dc.gov).
- DOEE encourages all projects to expand their solar energy systems, or plan ahead for solar-ready spaces wherever possible. Solar canopies could be an option for above mechanical equipment and/or amenity space. Solar canopies are permitted in the District and are often treated similarly to rooftop equipment, meaning that they require a 1:1 setback. The project team will need to explore building height requirements and penthouse height requirements as they pertain to solar canopies. The project team can set up a Preliminary Design Review Meeting (PDRM) with Zoning to explore these issues once the design is further along.
- Maximizing solar energy production will contribute to achieving the District's goal to increase the use of renewable energy to 50% by 2032. As a result of the requirement for 10% of the District's electricity supply to come from locally generated solar by 2040, there are many financial incentives to install solar.

- DOEE encourages the project to consider providing electric vehicle chargers, or installing make-ready infrastructure so that charge points can be added at a later date for significantly lower cost and disruption. The 2017 DC Green Construction Code provides some suggested thresholds for the provision of supply equipment and make-ready infrastructure.

#### **Agency Meetings:**

- A more substantial, full regulatory compliance review by DOEE and other appropriate agencies, including the Environmental Impact Statement Form process, Stormwater Management Permit review, and Green Building Act and DC Green Construction Code compliance, will occur during the permit application process. Many regulatory bodies, including DOEE and DCRA, offer pre-design review meetings, which can help complicated or high-performance projects refine their designs early on. Casey Studhalter with the Department of Energy and Environment ([casey.studhalter@dc.gov](mailto:casey.studhalter@dc.gov)) to request a meeting.

#### **Stormwater:**

- DOEE encourages the project to consider exceeding the minimum stormwater retention requirements. Any additional retention onsite can earn the project Stormwater Retention Credits (SRCs) which can be sold through DOEE's Credit Trading Program. SRCs can be sold directly to DOEE through the SRC Price Lock Program (for projects located in the [MS4 Sewer System](#) only) or sold on the open market. For more information please visit <https://doee.dc.gov/src> or email Matt Johnson at [src.trading@dc.gov](mailto:src.trading@dc.gov).

#### **Policy Updates**

- Building Energy Performance Standards (BEPS) were established in Title III of the Clean Energy DC Omnibus Act of 2018. The Act states that starting in 2021, owners of buildings over 50,000 square feet that are below a specific energy performance threshold will be required to improve their energy efficiency over the next 5 years. Projects below the performance threshold will be able to choose between a performance pathway, which requires that they document a 20% reduction in energy usage over the 5-year compliance period, or a prescriptive list of required energy efficiency measures. A new standard will be established in 2027 that will apply to buildings constructed during the first compliance period. New projects are encouraged to maximize energy efficiency during the initial design and construction in order to remain above the compliance threshold. For more information on the BEPS program please visit: <https://doee.dc.gov/service/building-energy-performance-standards>.
- On May 29, 2020 DC adopted the new 2017 DC Construction Codes, which include advancements in both the energy conservation and green construction codes. Projects with permits or a signed design contract prior to the effective date will be grandfathered under the previous code for a period of one year. DOEE encourages project teams to consider the updated 2017 DC Energy Conservation and Green Construction Codes when designing projects regardless of whether the project is grandfathered. For more information on the 2017 DC Construction codes please visit: <https://dcra.dc.gov/page/dc-construction-codes>.
- [DOEE is](#) supportive of balconies, but we want to make the project team aware of changes in the 2017 DC Energy Conservation Code that require greater attention to thermal bridging, particularly with regards to balconies [and projections](#). Please reference the 2017 DC Energy Conservation Code at <https://dcra.dc.gov/page/dc-construction-codes> for greater details.

Attachment B

Comments from DHCD

DHCD has no objection to the proposed PUD and related zoning map amendment. However, DHCD has the following comments:

1. The affordable units required by the pre-existing Affordable Housing Covenants were previously agreed to and should not be considered a proffer or public benefit. These units are intended to be treated as IZ units, though for administration purposes, including the lottery requirement;
2. While the development has offered 12% of the non-covenanted square footage as IZ at the required 60% MFI, with 1 unit at 50% MFI due to the habitable penthouse space, DHCD would like to see more IZ square footage based on the increased density sought – perhaps 15%;
3. DHCD requests that the IZ units have identical finishes and fixtures as the market-rate units;
4. DHCD requests that the % of IZ ANSI type A units be the same % as the market-rate ANSI type A units.