

# Tab B



August 22, 2022

**Meridith H. Moldenhauer**

Direct Phone 202-747-0763  
Direct Fax 202-683-9389  
mmoldenhauer@cozen.com

**VIA IZIS**

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

**RE: ZC Case No. 21-26  
Applicant's Proffers and Conditions for Order**

Chairperson Hood and Honorable Members of the Commission:

On behalf of Applicant NRP Properties LLC (the "Applicant"), the following constitutes draft public benefits and conditions that are specific and enforceable as required under Subtitle X § 308.8 *et seq.*

Proffered Benefit	Proposed Condition
<p><u>Superior Urban Design and Architecture (Subtitle X § 305.5(a))</u></p> <p><u>Site planning and efficient and economical land utilization (Subtitle X § 305.5(c))</u></p> <p><u>Streetscape Plans (Subtitle X § 305.5(l))</u></p> <p><u>Other Public Benefits Advancing Policy Objectives (Subtitle X § 305.5(r))</u></p> <p>The Project will improve a relatively small, triangular-shaped lot in an active, mixed-use neighborhood with 115 affordable dwelling units and ground-floor commercial space. The Project will dedicate square footage on the second level to amenity spaces including a toddler play area, gym and computer lab/library for residents. The Project will</p>	<p><b>A. <u>Project Development</u></b></p> <p>1. The Project shall be developed substantially in accordance with the architectural plans and drawings submitted on June 29, 2022 at Exhibits 22A1-22A8, as modified in the Applicant's Post-Hearing Submission dated August 22, 2022, and marked as Exhibit _____ in the case record (collectively, the "Architectural Plans").</p> <p>2. The Applicant shall have flexibility with the design of the PUD in the following areas:</p> <p>a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided such</p>

LEGAL\59257055\1

incorporate attractive architecture with a flatiron design emphasizing the triangular lot. The Project creates a more walkable and accessible site by enlarging the public sidewalk along Florida Avenue and improving the public space around the site with new streetscape elements and landscaping.

variations do not change the exterior configuration of the building;

- b. To vary the final selection of the colors of the exterior materials, based on availability at the time of construction, provided such colors are within the color ranges shown on the Architectural Plans approved by the Commission;
- c. To make minor refinements to exterior façade details and dimensions, including curtain wall mullions and spandrels, window frames, glass types, belt courses, sills, bases, cornices, balcony railings and trim, or any other changes, providing such minor refinements do not substantially alter the Architectural Plans approved by the Commission and are necessary to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit;
- d. To vary the number of residential dwelling units by an amount equal to plus or minus 10% from the number depicted on the Architectural Plans approved by the Zoning Commission or as dictated by the D.C. Department of Housing and Community Development's financing requirements; and
- e. To vary the location, attributes and general design of the streetscape incorporated in the project to comply with the requirements of and the approval by the D.C. Department of Transportation's Public Space Division.
- f. To vary the font, message, logo and color of the approved signage for the Project, subject to full compliance with applicable signage restrictions under the D.C. Building Code and consistent with the indicated dimensions and materials; and

	<p>g. To vary the features, means and methods of achieving the required GAR and Enterprise Green Communities PLUS Certification.</p> <p>3. The Applicant shall have flexibility from the zoning requirements for vehicular parking, loading berth and service-delivery space, and minimum land area for a planned unit development.</p>
<p><u>Affordable Housing (Subtitle X § 305.5(g))</u></p> <p><u>Housing (Subtitle X § 305.5(f))</u></p> <p>The Project will provide 115 all-affordable units. 57 of the units will be reserved for individuals and families at or below 50% Area Median Income (“AMI”) and 58 of the units will be reserved for individuals and families at or below 30% AMI.</p> <p>The Project will achieve an extra 33,252 sq. ft. over what is permitted as a matter-of-right. Additionally, the Project will have 24 three-bedroom units.</p>	<p><b>B. <u>Public Benefits</u></b></p> <p>1. The Applicant shall provide affordable housing as set forth in this condition:</p> <ul style="list-style-type: none"> <li>a. The Applicant shall provide affordable housing as set forth in the chart titled “Affordable Housing Chart” on the final page of this document (the “Affordable Chart”). The Affordable Chart assumes that the Applicant will be granted an exemption from the Inclusionary Zoning Regulations (“IZ”) set forth in Subtitle C, Chapter 10 of the Zoning Regulations, pursuant to 11 DCMR Subtitle C § 1001.6. However, the Commissioner takes no position as to whether an exemption from the IZ Regulations should be granted;</li> <li>b. Each control period shall commence upon the issuance of the first certificate of occupancy;</li> <li>c. Should the exemption from the IZ Regulations be granted, the affordable housing requirements of this condition shall be stated in the covenant required under 11 DCMR Subtitle C § 1001.6(a)(4); and</li> <li>d. Should the exemption from the IZ Regulations be denied, the Applicant shall provide affordable housing in accordance with this condition, unless the IZ Regulations impose more restrictive standards. The Applicant shall</li> </ul>

	<p>record the covenant required by the Inclusionary Zoning Act as to 10% of the residential gross floor of the Project, and shall execute the monitoring and enforcement documents required by 11 DCMR Subtitle X § 311.6 as to the remaining residential gross floor area.</p> <p>3. <b><u>For the Life of the Project</u></b>, at least 24 of the dwelling units will be three-bedroom units.</p>
<p><u>Environmental and Sustainable Benefits (Subtitle X § 305.5(k))</u></p> <p>The Project will achieve Enterprise Green Communities Plus certification and will include a large green roof and solar panels.</p>	<p>5. <b><u>Prior to the issuance of a Certificate of Occupancy for the Project</u></b>, the Applicant shall furnish a copy of its preliminary Enterprise Green Communities Plus certification application to the Zoning Administrator demonstrating that the building has been designed to meet the Enterprise Green Communities Plus standard for residential buildings.</p>
<p>Transportation Demand Management Measures</p>	<p><b><u>C. Transportation</u></b></p> <p>1. <b><u>For the Life of the Project</u></b>, the Applicant shall implement the following Transportation Demand Management (“TDM”) measures:</p> <ul style="list-style-type: none"> <li>a. Identify a TDM Leader (for planning, construction, and operations) at the building, who will act as a point of contact with DDOT, goDCgo, and Zoning Enforcement and will provide their contact information to goDCgo.</li> <li>b. Develop, distribute, and market various transportation alternatives and options to residents, including promoting transportation events (e.g., Bike to Work Day, National Walking Day, Car Free Day) on the property website and in any internal building newsletters or communications;</li> <li>c. Direct the Transportation Coordinator to subscribe to goDCgo’s residential newsletter and receive TDM training from goDCgo to learn about the transportation conditions for this project</li> </ul>

	<p>and available options for implementing the TDM Plan;</p> <ul style="list-style-type: none"><li>d. Provide welcome packets to all new residents that will, at a minimum, include the Metrorail pocket guide, brochures of local bus lines (Circulator and Metrobus), carpool and vanpool information, CaBi coupon or rack card, Guaranteed Ride Home (GRH) brochure, and the most recent DC Bike Map;</li><li>e. Post all transportation and TDM commitments on the building website, publicize availability, and allow the public to see what has been promised;</li><li>f. Provide every new resident with a free SmarTrip Card or a free CaBi membership, as a way to reduce the adverse impacts of providing no parking. The Applicant will assist every new tenant with the sign up process unless tenant chooses to opt out at lease signing. The Applicant will be prohibited from providing any incentive or inducement that might discourage tenant from accepting membership;</li><li>g. Provide at least 26 short- and 51 long-term bicycle parking spaces, exceeding ZR-16 minimum requirements for at least six (6) short- and 38 long-term bicycle parking spaces;</li><li>h. Accommodate non-traditional sized bicycles including cargo, tandem, and kids bicycles in the long-term bicycle storage room, with two (2) spaces that will be designed for longer cargo/tandem bicycles, six (6) spaces that will be designed with electrical outlets for the charging of electric bicycles and scooters, and dual electrical outlets installed at 6-foot intervals throughout the storage room to accommodate additional electrical bicycles and scooters in the future. There will be no</li></ul>
--	--

	<p>fee to building employees or residents for the usage of the bicycle storage room, and strollers will also be permitted to be stored in the bicycle storage room.</p>
<p>Loading Management Measures</p>	<p><b>2. <u>For the Life of the Project</u></b>, the Applicant shall provide the following loading management measures:</p> <ul style="list-style-type: none"> <li>a. Residential and retail loading managers will be on duty during delivery hours. Each loading manager will be responsible for coordinating and scheduling loading activities with tenants and will work with its counterpart loading manager (retail or residential) as well as the community and neighbors to resolve any conflicts should they arise;</li> <li>b. Lease provisions will require all residential tenants to use only the designated loading zone for all move-in and move-out activities through coordination with the loading zone;</li> <li>c. All tenants and retail vendors will be required to schedule deliveries that utilize the loading zone (any loading operation conducted using a truck 20-feet in length or larger);</li> <li>d. The residential and retail loading managers will schedule deliveries using the loading zone such that the zone's capacity is not exceeded. In the event that an unscheduled delivery vehicle arrives while the loading zone is full, that driver will be directed to return at a later time when the loading zone will be available so as to not compromise safety or impede N Street functionality;</li> <li>e. The residential and retail loading managers will coordinate with its counterpart loading manager (residential or retail) to ensure that double-parking does not occur adjacent to the loading zone and that trucks accessing the</li> </ul>

	<p>loading zone do not block vehicular or bicycle traffic along N Street;</p> <ul style="list-style-type: none"><li data-bbox="846 306 1422 632">f. Trucks using the loading zone 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 goDCgo Motorcoach Operators Guide, and the primary access routes shown on the DDOT Truck and Bus Route Map (<a href="http://godcgo.com/freight">godcgo.com/freight</a>);</li><li data-bbox="846 674 1422 1325">g. The residential and retail loading managers will be responsible for providing suggested truck routing maps to the building’s tenants and to drivers from delivery services that frequently utilize the development’s loading zone as well as notifying all drivers of any access or egress restrictions. The residential and retail loading managers will also distribute flyer materials, such as the MWCOG Turn Your Engine Off brochure, to drivers as needed to encourage compliance with idling laws. The residential and retail loading managers will coordinate to post these materials and other relevant notices in a prominent location adjacent to the loading zone;</li><li data-bbox="846 1367 1422 1650">h. The residential and retail loading managers will coordinate with building staff to roll trash receptacles from the building to the curb along N Street for collection. Trash bins will be rolled to the curb at the time of collection and will be expeditiously returned to the building trash room;</li><li data-bbox="846 1692 1422 1948">i. The proposed signage for the 75-foot loading zone on N Street and the 62-foot no parking zone on 3<sup>rd</sup> Street shall be as reflected in the curbside management plan in <u>Exhibit 22B</u> of the case record. However, the restrictions and placards will be determined by DDOT’s Curbside</li></ul>
--	--



	<p>Management Division (CMD) during public space permitting;</p> <ul style="list-style-type: none"> <li>j. The loading zone along N Street will be approximately 75 feet in length and solely dedicated to residential and retail loading for the building. The pick-up/drop-off zone along 3rd Street will be approximately 62 feet in length and is intended for vehicular pick-up/drop-off. The loading zone on N Street shall be designed with striping and stamping as reflected in the curbside management plan in <u>Exhibit 22B</u> of the case record. However, the exact design and dimensions will be determined by CMD during public space permitting;</li> <li>k. Delivery trucks over 50 feet in length will be prohibited from serving the site;</li> <li>l. The residential and retail loading managers will use traffic cones to block off the loading zone and actively manage deliveries and move-ins/outs;</li> <li>m. The residential and retail loading managers will call 311 to obtain DPW enforcement of the parking restriction in the loading zone and pick-up/drop-off zone as needed;</li> <li>n. The Applicant will provide a curbside management and signage plan, as well as a copy of this LMP, in the public space construction permit application.</li> </ul>
<p>Additional Mitigation Measures for Advisory Neighborhood Commission Comments</p>	<p><b>D. <u>ANC Mitigation</u></b></p> <ul style="list-style-type: none"> <li>1. <b><u>For the Life of the Project</u></b>, the Applicant shall provide that all Commercial Leases for the Property will include language that shall require any commercial tenant to provide trash collection services for the commercial space at least six days per week and restricts tenant from storing or placing trash in public space, and that such lease shall permit Landlord to determine if tenant is in compliance, and if Landlord</li> </ul>

	<p>determines that trash services do not satisfy these obligations then Landlord shall have the right, but not the obligation, to contract for such services on tenant's behalf.</p> <p>2. <b><u>For the Life of the Project</u></b>, the Applicant shall provide that all Commercial Leases for the Property will include language that shall require any commercial tenant to actively discourage its visitors, customers, or employees from unlawfully stopping or parking automobiles in front of the Property or elsewhere in the neighborhood in connection with visits to the premises.</p> <p>3. <b><u>For the Life of the Project</u></b>, the Applicant will incorporate a provision in each residential lease notifying the tenant that the building is not qualified for a residential parking permit and that the tenant acknowledges that they are not eligible to apply for a residential parking permit.</p>
<p>Requirement to Record, Timing, Human Rights Act, and Compliance with Conditions</p>	<p><b><u>E. Miscellaneous</u></b></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. (the “Act”), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. 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>
--	--

**Affordable Housing Chart**

<b>Residential Unit Type</b>	<b>Percentage of Total</b>	<b>Unit Count</b>	<b>Income Type</b>	<b>Affordable Control Period</b>	<b>Affordable Unit Type</b>
Total	100%	115			
DHCD Affordable Units	50%	57	Up to 50% MFI	Perpetual	Rental
DHCD Affordable Units	50%	58	Up to 30% MFI	Perpetual	Rental

Thank you for your attention to this matter and we look forward to the Commission taking final action on this case.

Sincerely,  
COZEN O'CONNOR

A handwritten signature in blue ink, appearing to read 'MM', written over a horizontal line.

Meridith Moldenhauer

A handwritten signature in blue ink, appearing to read 'ED', written over a horizontal line.

Eric J. DeBear