

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 08-07

Z.C. Case No. 08-07

Four Points, LLC

(First-Stage PUD & Related Map Amendment @ Square 5772, Lots 827, 829, 831, 880, 984, 1017, 1019; Square 5783, Lots 829, 1018; Square 5784, Lots 898, 899, 900; and Square 5785, Lots 839, 906)

September 9, 2013

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on July 1, 2013 to consider applications from Four Points, LLC ("Applicant"), on behalf of Curtis Properties, Inc., 2200 Railroad, LLC, JCX-Right Realty Inc., HS White, and Anacostia Professional Building Revocable Trust, the current owners of the property, for review and approval of a first-stage planned unit development ("PUD") and related map amendment to rezone (i) Lots 984 and 1019 in Square 5772 from C-3-A/C-M-1 to C-3-A; (ii) Lots 829 and 1018 in Square 5783 from C-2-A to C-3-A; (iii) Lots 898, 899, and 900 in Square 5784 from C-2-A to C-3-A; and (iv) Lot 906 in Square 5785 from C-2-A/C-3-A to C-3-A (collectively the "PUD Site"). The Commission considered the applications pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the applications.

FINDINGS OF FACT

The Application, Parties, and Hearing

1. On March 31, 2008, the Applicant filed applications and supporting materials with the Commission requesting approval of a first-stage PUD for a portion of the PUD Site, consolidated approval for portions of the PUD Site, and a related map amendment to rezone the entire PUD Site to the C-3-A Zone District.
2. At the public meetings to consider whether these applications should be set down for a public hearing, the Commission determined that the consolidated portions of the application were not sufficiently clear and detailed to be considered at one proceeding. The Commission therefore directed the Applicant to revise the application to request first-stage approval for the entire project.

3. On June 9, 2008, the Commission voted to set down the revised application as a first-stage PUD.
4. In a letter dated June 11, 2008, the Applicant requested that the Commission exercise its discretion to set the case down as a preliminary and consolidated PUD and related map amendment, subject to the Commission's reservation of its right pursuant to § 2402.6 of the Zoning Regulations to determine ultimately which portions of the project will be approved on a preliminary basis and which portions will be approved on a consolidated basis.
5. The Commission considered the Applicant's request as a correspondence item at a special public meeting held June 16, 2008 and determined that there was no basis for it to change its earlier determination. The Commission therefore directed the Applicant to revise its application as a preliminary PUD.
6. On June 24, 2008, the Applicant submitted a letter requesting that the initial application forms filed on March 31, 2008 requesting consolidated approval for portions of the PUD Site be withdrawn. The Applicant also submitted revised application forms requesting first-stage approval for the portion of the property for which consolidated approval had been originally requested.
7. By report dated May 30, 2008, the Office of Planning ("OP") recommended that the Commission schedule a public hearing on the applications. (Exhibit [Ex.] 19.)
8. On April 19, 2013, the Applicant submitted a Prehearing Statement. (Ex. 23.) The Prehearing Statement included the information required pursuant to § 3013 of the Zoning Regulations. The submission also included revised Architectural Plans and Elevations that include the information required pursuant to § 2406.11 of the Zoning Regulations.
9. On June 11, 2013, the Applicant submitted a Supplemental Prehearing Statement. (Ex. 31.) The Supplemental Prehearing Statement included a set of Revised Architectural Plans and Elevations. (Ex. 32.)
10. After proper notice, the Commission held a public hearing on the applications on July 1, 2013.
11. The parties to the case were the Applicant and the Advisory Neighborhood Commission ("ANC") 8A. ANC 8A did not attend the public hearing or submit a report in this case.
12. OP testified in support of the project. In its testimony and report, OP identified issues that needed further clarification or information. The District Department of Transportation ("DDOT") submitted a report generally in support of the project, but requested that additional information be included in the second-stage applications.

13. Charles Lindsay, Special Assistant for Economic Development for Ward 8 Councilmember Marion Barry, testified at the public hearing on behalf of Councilmember Barry in support of the project and submitted a written copy of the testimony. (Ex. 39.)
14. At the hearing, the Applicant submitted a copy of its PowerPoint presentation, a report prepared by Mr. Steven E. Sher, and supplemental transportation information. (Ex. 37, 38, 40).
15. Three principal witnesses testified on behalf of the Applicant at the public hearing, including Stan Voudrie, on behalf of the Applicant; Alan Mountjoy, AIA on behalf of NBBJ, as an expert in architecture; and Robert B. Schiesel, P.E., an expert in transportation planning and analysis, on behalf of Gorove/Slade Associates, Inc. Based on their professional experience, as evidenced by the resumes submitted for the record, Mr. Mountjoy and Mr. Schiesel were qualified by the Commission as experts in their respective fields.
16. On July 15, 2013, the Applicant submitted a Post-Hearing Submission. (Ex. 45-45D.) The Post-Hearing Submission included more information regarding the proposed massing of the buildings, a more detailed phasing plan, a listing of the public benefits and amenities of the project, and a copy of the Supplemental Transportation Memorandum, dated June 14, 2013, prepared by Gorove/Slade Associates, Inc. and submitted to DDOT.
17. At its public meeting held on July 29, 2013, the Commission took proposed action to approve the applications and the plans that were submitted to the record.
18. The applications were referred to the National Capital Planning Commission ("NCPC") for review of any impacts on the federal interest under the Comprehensive Plan. By a report dated September 17, 2013, NCPC found that the proposed project would not be inconsistent with the Federal Elements of the Comprehensive Plan. (Ex. 49.)
19. On August 2, 2013, the Applicant submitted its list of the public benefits of the PUD, and the draft conditions the Applicant proposed to ensure that the benefits will actually result for the grant of the PUD. The Applicant submitted a revised list of benefits and conditions on August 19, 2013.
20. The Commission took final action to approve the applications on September 9, 2013.

The PUD Site and Proposed Development

21. The PUD Site consists of Square 5772, Lots 827, 829, 831, 880, 984, 1017, 1019; Square 5783, Lots 829, 1018; Square 5784, Lots 898, 899, 900; and Square 5785, Lots 839, 906.

The total site area is approximately 348,000 square feet (8.0 acres). The PUD Site is located in the southeast quadrant of the city and has frontage on Martin Luther King, Jr. Avenue ("MLK Avenue"), Shannon Place, Railroad Avenue and U, V, W, and Chicago Streets.

22. The PUD Site currently includes vacant lots; surface parking lots; a mix of commercial buildings devoted to office, warehouse and other commercial purposes; and the "Big Chair" at the southwest corner of the intersection of MLK Avenue, S.E. and V Street, S.E.
23. Subsequent to the setdown of the proposal, renovations of two of the existing buildings were approved by the Board of Zoning Adjustment. The building at 2235 Shannon Avenue, S.E. (Square 5784, Lot 898) was approved to allow the conversion of the building from a warehouse to offices with off-site parking on Square 5785, Lot 906. Secondly, a portion of the building at 2020 Shannon Place, S.E. (Square 5722, Lot 984) was renovated to accommodate the Anacostia Playhouse with a variance from the parking requirements. Both buildings and uses will remain within the PUD, and are subject to the density, height, parking, loading, and other development constraints set forth in this Order.
24. The District of Columbia Comprehensive Plan Future Land Use Map designates the PUD Site in the following three mixed use categories: (1) medium-density residential/medium-density commercial; (2) medium-density residential/moderate-density commercial; and (3) moderate-density commercial/production, distribution, and repair. The Generalized Policy Map designates the PUD Site within a Main Street Mixed-Use Corridor area, and a small portion is designated within a Neighborhood Conservation Area.
25. The Applicant proposes to redevelop the PUD Site into a neighborhood center with a mix of office, retail, service, and residential uses. Most of the existing buildings on the PUD Site will be demolished. The project will include the construction of seven new buildings and the renovations and retention of two existing buildings. The majority of the buildings will have retail on the ground floor, and one of the buildings has been designed to accommodate a grocery store. The existing buildings to remain on the PUD Site are two stories and four stories, and the proposed new buildings range from 50 feet to 90 feet.
26. The project will have an overall floor area ratio ("FAR") of 4.5, and will include approximately 144,000 square feet of gross floor area devoted to retail and service uses, approximately 945,000 square feet of gross floor area devoted to office uses, and approximately 481,000 square feet of gross floor area devoted to residential use. A total of 1,486 parking spaces will be provided. The project also includes multiple loading facilities, including a total of two loading berths at 12 x 55 feet; 14 loading berths at 12 x 30 feet; and 2,300 square feet of loading platforms.

Zoning Flexibility Requested

27. The Applicant requested flexibility from several provisions of the Zoning Regulations, including the roof structure requirements; the off-street parking requirements; the loading requirements; and the non-residential FAR requirements.
28. **Roof Structures.** The roof structure provisions of the Zoning Regulations require that all roof structures must be set back from all exterior walls a distance at least equal to their height above the roof (§ 411.2 and § 770.6(b)); all mechanical equipment must be placed in a single enclosure (§ 411.3 and § 770.6(a)); and enclosing walls must be of equal height (§ 411.5). Although the final design of the buildings included in the project have not been designed yet, the Applicant has requested flexibility to have multiple enclosures with setback relief and walls of unequal height in order to reduce the bulk of the penthouses. The Commission finds that roof structure relief is generally appropriate when the proposed roof structure designs will not adversely impact the light and air of adjacent buildings, and the roof elements have been located to minimize their visibility, and the Commission will apply such standard for reviewing the specific roof structures for each building at the time of second-stage review.
29. **Off-street parking.** The off-street parking requirements in the C-3-A Zone District are based upon the proposed uses of the PUD Site. Pursuant to § 2101.1 of the Zoning Regulations, an office use in the C-3-A Zone District in excess of 2,000 square feet requires one parking space for each additional 600 square feet of gross floor area and cellar floor area. A retail or service establishment in the C-3-A Zone District in excess of 3,000 square feet requires one parking space for each additional 300 square feet of gross floor area. Finally, an apartment or multiple dwelling building in the C-3-A Zone District requires one parking space for each two dwelling units. The project includes a total of approximately 144,000 square feet of gross floor area devoted to retail and service uses, approximately 945,000 square feet of gross floor area devoted to office uses, and approximately 481,000 square feet of gross floor area devoted to residential use. The project is therefore required to provide 2,218 off-street parking spaces. However, the Applicant is requesting relief to provide a total of 1,486 off-street parking spaces. All of the proposed parking spaces would be located in parking garages, with some serving multiple uses. The Applicant's traffic expert and DDOT found that the proposed number of parking spaces would be adequate to serve the project. The Applicant will also include a specific list of transportation demand management measures for each building during the second-stage application process. The Commission finds that the amount of proposed parking will be adequate for the project, and that this requested flexibility is in accordance with the Comprehensive Plan's recommendations to encourage shared-use parking and to reduce the parking requirements where transportation demand management measurements are implemented.

30. **Loading.** The Applicant requested relief from the off-street loading requirements for the project. The loading requirements in § 2201.1 of the Zoning Regulations are based upon the proposed uses of the PUD Site. Based upon the proposed gross square footages, the project is required to provide the following: six loading berths at 55 feet; 13 loading berths at 12 x 30 feet; nine service delivery loading spaces at 10 x 20 feet; six loading platforms at 200 square feet; and 13 loading platforms at 100 square feet. However, the Applicant is proposing to provide: two loading berths at 12 x 55 feet; 14 loading berths at 12 x 30 feet; no service/delivery loading spaces; eight loading platforms at 200 square feet; and five loading platforms at 100 square feet. Thus, the Applicant is seeking flexibility for four loading berths at 12 x 55 feet; nine service/delivery loading spaces; and four loading platforms at 100 square feet. The Commission finds that this requested flexibility is in accordance with the Comprehensive Plan's recommendations to consolidate loading areas within new developments and to minimize curb cuts and pedestrian conflicts to the greatest extent possible. Given the nature of the residential use, it is unlikely that the buildings will be served by 55-foot tractor-trailer trucks. In addition, the loading areas are likely to be used by the residents primarily when they move in or out of the building, and any subsequent use by residents is generally infrequent and can be coordinated to ensure that the loading facilities are well-managed. Likewise, the use of the office, retail, and service loading facilities will be coordinated in a manner that causes the least amount of conflict. Therefore, the Commission finds that the loading facilities provided will be able to accommodate the proposed uses.
31. **Non-Residential FAR.** Subsection 2405.2 of the Zoning Regulations provides that the maximum non-residential density that can be approved through a PUD in the C-3-A Zone District is 3.0 FAR. The proposed overall non-residential FAR is 3.15. Subsection 2405.3 of the Zoning Regulations authorizes an increase of up to five percent of the maximum density if the increase is essential to the successful functioning of the project and consistent with the purpose and evaluation standards of this chapter. The Applicant stated that the additional nonresidential density is necessary to help attract additional retail uses, including a potential grocery store, to an area of the city in need of increased retail development. As noted in the OP report, the provision of new retail space would improve the urban fabric and increase pedestrian activity to create a livelier and inviting streetscape experience for residents and visitors to the PUD Site. Moreover, the proposals to provide new retail opportunities, particularly along MLK Avenue, S.E., and to improve the pedestrian experience along that important neighborhood street, would be consistent with plans to improve MLK Avenue, S.E. as an important neighborhood retail corridor, and the provision of new retail uses would be of benefit to the new residents and the surrounding neighborhood. Accordingly, the Commission finds that the additional 0.15 nonresidential density is necessary for the successful functioning of the project and is consistent with the purpose and evaluation standards of Chapter 24 of the Zoning Regulations.

Proposed Phasing of Project

32. The Applicant intends to move forward with the project in multiple phases due to market conditions. The Applicant would like to move forward with as many of the project components as quickly as possible. The project will be developed in three stages. Phase I includes Buildings 1, 3, and 8. Phase II includes Buildings 2, 4, and 5. Phase III includes Buildings 6 and 7. The Commission finds that the following phasing plan provides flexibility to address market conditions and is appropriate for the project:
- a) A second-stage application must be filed for the buildings included in Phase I of the development within two years from the effective date of the Order approving this application;
 - b) A second-stage application must be filed for the buildings included in Phase II of the development within four years from the effective date of the Order granting second-stage approval for Phase I; and
 - c) A second-stage application must be filed for the buildings included in Phase III of the development within four years from the effective date of the Order granting second-stage approval for Phase II.

Public Benefits and Project Amenities

33. The Commission finds that the project incorporates a variety of public benefits and project amenities that include the following:
- a) **Urban Design, Site Planning, and Comprehensive Plan Elements (11 DCMR § 2403.9(a),(b), and (j))** - Redevelopment of underutilized sites, which include a number of surface parking lots, with a new mixed-used development with siting, massing, and layout features designed to further the goals of high-quality urban design and architecture, as well as to provide adequate landscaping, open spaces and streetscape improvements;
 - b) **Public space improvements (11 DCMR § 2403.9(a))** - The PUD includes a significant investment in improving the sidewalks and street grid in the neighborhood. The project includes the construction of new sidewalks, the widening of W Street through the establishment of building restriction lines or other means from 50 feet to 70 feet, and the inclusion of building setbacks along U Street, V Street, and MLK Avenue so as to significantly increase the viability of the retail spaces, and to improve the pedestrian experience on these streets. The construction of these new and widened sidewalks and the widening of W Street constitute significant infrastructure upgrades that will benefit both the immediate neighborhood and the District;

- c) **Transportation Benefits (11 DCMR § 2403.9(c))** - As part of the application process the Applicant's traffic consultant, Gorove Slade, coordinated with DDOT to review the transportation site elements of the application. The study focused on master plan level transportation elements of the site plan, such as internal roadways, sidewalks, and site circulation. The project will include car parking spaces and bicycle parking spaces to meet the needs of the users of the development, and to minimize any adverse impacts of the project on surrounding uses. Bicycle parking will be provided throughout the project. Although details on each specific building's internal bicycle parking will be determined for each building during the second stage application process, the Applicant has designated 17 locations for external bike racks throughout the site plan. Moreover, the Applicant will be developing a robust Transportation Management Plan for each new building in the project;
- d) **Employment and Training Opportunities (11 DCMR § 2403.9(e))** - Expanding employment opportunities for residents and local businesses is a priority of the Applicant. Therefore, the Applicant will be entering into a First Source Employment Agreement with the Department of Employment Services and a Certified Business Enterprise Utilization Agreement with the Department of Small and Local Business Development prior to the issuance of a certificate of occupancy for the first building to be completed in Phase I;¹
- e) **Housing and Affordable Housing (11 DCMR § 2403.9(f))** - The single greatest benefit to the area, and the city as a whole, is the creation of new housing consistent with the goals of the Zoning Regulations, the Comprehensive Plan, and the Mayor's housing initiative. The overall project will contain approximately 481,000 square feet of gross floor area dedicated to residential uses. Moreover, eight percent of the gross residential floor area will be devoted to affordable units. The affordable units will be dispersed throughout the building, but consistent with prior decisions of the Commission, not including the top floor of the building. The Applicant also notes that Lots 984 and 1019 in Square 5772 are currently zoned C-3-A/C-M-1, which prohibits the development of any new housing or affordable housing on those sites. In addition, there is no housing on the PUD Site presently;

¹ Subsequent to setdown of the applications, the Board of Zoning Adjustment ("BZA") granted Application No. 18224 for a special exception to allow the off-street parking required for the office building to be located on a lot other than the office building lot at 2235 Shannon Place, S.E. (i.e., Building 3). The BZA also granted Application No. 18224 for a variance from the off-street parking requirements to allow the occupancy of an existing warehouse by the Anacostia Playhouse at 2020 Shannon Place, S.E. (Square 5772, Lot 984). The office building is near completion of construction, and the Anacostia Playhouse is currently in operation. Thus, the office building at 2235 Shannon Place, S.E. (i.e., Building 3) and the Anacostia Playhouse use at 2020 Shannon Place, S.E. (Square 5772, Lot 984) are exempt from the First Source Employment Agreement and the Certified Business Enterprise Utilization Agreement requirements.

However, the Applicant is providing only the amount of affordable housing required by § 2603. Pursuant to § 2404.9 (f) of the PUD regulations:

[A]ffordable housing provided in compliance with § 2603 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 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 § 2601.1.

There is not sufficient information in the record to determine whether the affordable housing proffered by the Applicant can be considered a public benefit under this standard. In order for the Commission to make this determination, each second-stage PUD application must identify the amount of affordable housing that is being provided, and the amount of affordable housing that would be required under the existing matter of right zoning for the site prior to the PUD-related rezoning granted as a result of this Order. To the extent applicable, the Applicant should identify the number of units that would have been required to be set-aside for low-income households under the existing matter of right zoning;

- f) **Environmental Benefits (11 DCMR § 2403.9(h))** - The project will provide a number of environmental benefits including street tree planting and maintenance, landscaping, energy efficiency and alternative energy sources, methods to reduce stormwater runoff, and green engineering practices. In addition, each building in the project will meet the applicable D.C. Green Building Act requirements, and will be designed to reach at least the LEED-certification level. For example, the first office building to be delivered under the PUD (i.e., Building 3) will meet a LEED Gold equivalent;

The Commission finds that this level of specificity suffices for this first stage approval, but expects a far greater degree of detail for each second stage application. In addition to indicating that Building 3 will achieve a LEED Gold Equivalent, the Commission expects each second stage application to indicate the LEED equivalent to be met for each building. For a second stage environmental proffer to be considered strong, each building should meet the equivalent of LEED Silver; and

- g) *Uses of Special Value to the Neighborhood and the District of Columbia as a Whole (11 DCMR § 2403.9(i))*
- i. Retail. As was discussed at the public hearing, the market at this area would support approximately 40,000 to 50,000 square feet of retail along the MLK Avenue, S.E. frontage. The Applicant is proffering 144,000 square feet of retail, service, arts, and limited types of office space. With respect to the limited office space, the Applicant has committed that the office space would be limited to doctor's offices, opticians, dentist offices and other similar high foot traffic and visitor traffic uses. Moreover, the Applicant anticipates U Street and V Street retail frontages will be highly active with uses that are helpful to the community, including spaces that would be available for a grocery store or drug store uses;
 - ii. Business Improvement District. The Applicant proffered as a public benefit its prior agreement, made at the request of the Ward Councilmember, to participate in and to establish a Business Improvement District ("BID") for the area. The Applicant also proffered its previous annual contributions of \$68,000. The Commission does not consider the Applicant's establishment of the BID or its prior contributions public benefits of the PUD. The Applicant's future BID contributions may qualify as public benefits, if the Applicant can show in a future second-stage application that (a) its BID contributions to be made after the issuance of the second-stage order exceed the amount required of it for the BID District; (b) the services that the excess contribution will fund, and (c) the Applicant's agreement that no Certificate of Occupancy for the buildings approved in the second-stage order will issue unless it shows that the services funded by the excess contribution have been or are being provided;
 - iii. Provision of Below-Market Rents and Support of Local Initiatives. The Applicant has provided, at below-market rent, space for a number of tenants, including the Anacostia Playhouse which relocated from H Street, N.E.; The Hive, which is a small business incubator, located at 2027 MLK Avenue, S.E.; Big Chair Café located at 2122 MLK Avenue, S.E.; Uniontown Bar & Grill located at 2200 MLK Avenue, S.E.; and Martha's Outfitters located at 2204 MLK Avenue, S.E.. The Applicant's objective in providing below-market rents for these uses is to help foster an active mix of uses in the vicinity of the PUD Site in order to help improve the quality of life and uses for existing residents and business owners in the neighborhood. In addition, the Applicant provides funding and/or free space to a number of other community initiatives, such as funding for LUMEN8 (an annual art and music festival co-sponsored by D.C. Office

of Planning); Cherry Blast (an art and music festival in cooperation with the National Cherry Blossom Fest and Pink Line); the Annual Anacostia Book Fair; the Big Chair Flea Market (every Saturday); *We Feed Our People* annual day of service luncheon on Martin Luther King, Jr. Day; and the provision of free parking on the Applicant's property by neighborhood church congregations, such as Union Temple Baptist Church and Bethel Christian Church, to alleviate on-street parking pressure on Sundays. Thus, the Applicant has been, and will continue to be, committed to the success of the neighborhood; and

- iv. Construction Management Plan. The Applicant has prepared a proposed Construction Management Plan, the final version of which will be submitted into the record prior to final action in the second-stage PUD application for Phase I.

Compliance with PUD Standards

34. The Commission finds that the project advances the purposes of the Comprehensive Plan, is consistent with the Future Land Use Map, complies with the guiding principles in the Comprehensive Plan, and furthers a number of the major elements of the Comprehensive Plan.
35. The purposes of the Comprehensive Plan are six-fold: (1) to define the requirements and aspirations of District residents, and accordingly influence social, economic and physical development; (2) to guide executive and legislative decisions on matters affecting the District and its citizens; (3) to promote economic growth and jobs for District residents; (4) to guide private and public development in order to achieve District and community goals; (5) to maintain and enhance the natural and architectural assets of the District; and (6) to assist in conservation, stabilization, and improvement of each neighborhood and community in the District. (D.C. Official Code §1-245(b) (§ 1-301.62).)
36. The Commission finds that the project significantly advances these purposes by promoting the social, physical, and economic development of the District through the provision of a high-quality mixed-use development that will increase the housing supply, add new retail uses, create additional employment opportunities, and generate significant tax revenues for the District.
37. The Commission also finds that the project is consistent with many guiding principles in the Comprehensive Plan for managing growth and change, creating successful neighborhoods, increasing access to education and employment, connecting the city, and building green and healthy communities.

38. The Commission finds that the project is also consistent with many guiding principles in the Comprehensive Plan for managing growth and change, creating successful neighborhoods, increasing access to education and employment, connecting the city, and building green and healthy communities, as follows:

- a) *Managing Growth and Change.* The guiding principles of this element are focused on ensuring that the benefits and opportunities of living in the District are equally available to everyone in the city. The project is fully consistent with a number of the goals set-forth in this element. Specifically, the project will help to sustain and promote the Historic Anacostia neighborhood by attracting a diverse population with the inclusion of a mix of housing types for households of different sizes and incomes. (§ 217.2 and 217.3.) The Applicant's proposal to develop a significant amount of both residential and nonresidential uses is also consistent with the Comprehensive Plan's acknowledgement that the growth of both residential and non-residential uses is critical, particularly since non-residential growth benefits residents by creating jobs and opportunities for less affluent households to increase their income. (§ 217.4.) In addition, the project also helps connect the PUD Site to the rest of the neighborhood and the overall urban fabric by continuing and improving the existing street patterns, and by developing a vibrant mixed-use development on MLK Avenue, S.E. and within walking distance of the Anacostia Metrorail station. (§ 217.5 and 217.6.);
- b) *Creating Successful Neighborhoods.* The guiding principles for creating successful neighborhoods include both improving the residential character of neighborhoods and encouraging commercial uses that contribute to the neighborhood's character and make communities more livable. (§ 218.1 and 218.2.) In addition, the production of new affordable housing is essential to the success of neighborhoods. (§ 218.3.) Another guiding principle for creating successful neighborhoods is getting public input in decisions about land use and development, from development of the Comprehensive Plan to implementation of the plan's elements. (§ 218.8.) The project furthers each of these guiding principles with the construction of market-rate and affordable housing, as well as commercial uses that will create additional housing, retail and employment opportunities;
- c) *Increasing Access to Education and Employment.* The Increasing Access to Education and Employment element includes a number of policy goals focused on increasing economic activity in the District, including increasing access to jobs by District residents (§ 219.1.); encouraging a broad spectrum of private and public growth (§ 219.2.); supporting land development policies that create job opportunities for District residents with varied job skills (§ 219.6.); and increasing the amount of shopping and services for many District neighborhoods (§ 219.9.) The project is fully consistent with these goals and includes a significant amount

of retail and office space which will help to attract new jobs to the District, as well as to this specific neighborhood;

- d) *Connecting the City.* The project will help to implement a number of the guiding principles of this element. The project includes alley, street, and sidewalk improvements to provide improved mobility and circulation through the project, as well as the overall neighborhood. (§ 220.2.) In addition, the access points for the required parking and loading facilities have been designed to appropriately balance the needs of pedestrians, bicyclists, transit users, autos and delivery trucks as well as the needs of residents and others to move around and through the city. The proposed reorientation of V Street will align the original trajectory of this street and improve its intersection with MLK Avenue. The new V Street extension will be predominantly pedestrian, lined with pavers and pedestrian lighting. Moreover, the proposed redevelopment and streetscape improvements along MLK Avenue, S.E. will also help to reinforce and improve one of the “great streets” of the city. (§ 220.3.); and
 - e) *Building Green and Healthy Communities.* The project is consistent with the guiding principles of the building green and healthy communities element since the project will include landscaping and will minimize the use of non-renewable resources, promote energy and water conservation, and reduce harmful effects on the natural environment. (§ 221.2 and 221.3.) In addition, the project, which will include LEED elements, will also help to facilitate pedestrian and bicycle travel. The existing site consists of significant areas of surface parking lots the removal of which will be of significant benefit from an environmental standpoint.
39. The Commission also finds that the project furthers the objectives and policies of many of the Comprehensive Plan's major elements as follows:
- a) *Land Use Element.* For the reasons discussed above, the project supports the following policies of the Land Use Element:
 - i. Policy LU-1.2.2: Mix of Uses on Large Sites. The project, which includes residential, retail and office uses on a large site, is consistent and compatible with adjacent uses and will provide a number of benefits to the immediate neighborhood and to the city as a whole. In addition, as discussed above, the proposed mix of uses on the PUD Site is consistent with the Comprehensive Plan Future Land Use Map's designation of the PUD Site;
 - ii. Policy LU-1.3.2: Development Around Metrorail Stations. The project is consistent with the policy goal of concentrating redevelopment efforts near 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. In addition, due to its location, the project minimizes the necessity of automobile use and will help to maximize transit ridership while also respecting the character and needs of the surrounding area;

- iii. Policy LU-1.3.4: Design to Encourage Transit Use. The project has been designed to encourage transit use and helps to enhance the safety, comfort and convenience of passengers walking to the Anacostia Metrorail Station or transferring to and from local buses since the project incorporates streetscape improvements, including lighting and landscaping, and includes ground floor retail uses that will activate and animate the street frontages;
- iv. Policy LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods. In designing the project, and consistent with this policy element, the project architect has sought to balance the housing supply in the area and expand neighborhood commerce with the parallel goals of protecting the neighborhood character, preserving historic resources, and restoring the environment;
- v. Policy LU-2.2.3: Restoration or Removal of Vacant and Abandoned Buildings. This policy encourages a reduction in the number of vacant and abandoned buildings and land in the city through renovation, rehabilitation, and where necessary, demolition. Consistent with this policy objective, the Applicant proposes to replace a number of vacant buildings and surface parking lots with a new development that will be an asset to the immediate neighborhood and the District;
- vi. Policy LU-2.2.4: Neighborhood Beautification. Policy LU-2.2.4 encourages projects to improve the visual quality of the District's neighborhoods. The project includes a number of neighborhood beautification elements, such as landscaping and tree planting. Detailed landscaping plans will be included with each second-stage application. Moreover, development of the PUD Site will be an improvement to the current condition with the addition of new, well-designed buildings. In addition, the proposed retail uses will help activate the street level of the project and, importantly, remove several large surface parking areas;
- vii. Policy LU-2.3.2: Mitigation of Commercial Development Impacts. The project has been designed so that it does not result in unreasonable or

unexpected traffic, parking, litter, view obstruction, odor, noise, or vibration impacts on surrounding residential areas; and

viii. Policy LU-2.3.3: Buffering Requirements. This policy encourages the use of buffers to ensure that new commercial development adjacent to lower density residential areas provides effective physical buffers to avoid adverse effects. The project includes a number of elements designed to serve as buffers, including landscaping, height stepdowns and setbacks, and other architectural and site planning measures that avoid potential conflicts;

b) *Transportation Element.* The PUD Site is located on MLK Avenue, S.E., which, as shown on Map 4.2 of the Comprehensive Plan, is identified as a major transit corridor able to support premium transit service. (§ 407.13.) In addition, MLK Avenue, S.E. has been identified as one of the locations for new transit infrastructure, including bus rapid transit and streetcar lines to provide travel options, better connect the city, and improve surface-level public transportation. (§ 407.23.) Thus, in light of its location, the project is uniquely situated to help further several policies and actions of the Transportation Element of the Comprehensive Plan, including:

- i. Policy T-1.1.4: Transit-Oriented Development. The project is an example of transit-oriented development and includes various transportation improvements, including the construction of new mixed-uses within walking distance of the metrorail station, the proposed realignment of V Street, bike storage areas, and sidewalk improvements. In addition, the Applicant's request for flexibility from the parking requirements is consistent with the Comprehensive Plan's recommendations to reduce the parking requirements where transportation demand management measurements are implemented and to encourage shared-use parking;
- ii. Policy T-2.2.2: Connecting District Neighborhoods. The project will help to encourage improved connections between District neighborhoods due to its location and convenient access to metrorail and bus routes;
- iii. Policy T-2.3.1: Better Integration of Bicycle and Pedestrian Planning. The project architect has carefully considered and integrated bicycle and pedestrian planning and safety considerations in the development of the project;
- iv. Policy T-2.4.1: Pedestrian Network. The project will help to improve the city's sidewalk system to form a network that links residents across the

city since the project includes the construction of new sidewalks as well as upgrading existing sidewalks;

- v. Action T-2.3-A: Bicycle Facilities. This element encourages new developments to include bicycle facilities. The Applicant proposes to include secure bicycle parking and bike racks as amenities within the project that accommodate and encourage bicycle use; and
 - vi. Policy T3.1.3: Car-Sharing. This element encourages the expansion of car-sharing services as an alternative to private vehicle ownership. The Applicant proposes to incorporate car-sharing spaces at various points throughout the project;
- c) *Housing Element.* The overarching goal of the Housing Element is to "[d]evelop and maintain a safe, decent, and affordable supply of housing for all current and future residents of the District of Columbia." (10 DCMR § 501.1.) The Commission finds that the project will help achieve this goal by advancing the following policies:
- i. Policy H-1.1.1: Private Sector Support. The project helps to meet the needs of present and future District residents at locations consistent with District land use policies and objectives. Specifically, the project will contain approximately 451,070 square feet of gross floor area devoted to residential uses, which represents a substantial contribution to the District's housing supply. The provision of new housing at this particular location, moreover, is fully consistent with the District's land use policies. *See, e.g.,* 10 DCMR § 306.12 (directing the District to encourage the construction of housing near Metrorail stations);
 - ii. Policy H-1.1.4: Mixed Use Development. The project is consistent with the goals of promoting 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. The project will contain retail, residential, and office uses on commercially zoned land along a Main Street Mixed-Use Corridor in close proximity to a Metrorail station. This project represents exactly the type of mixed-use development contemplated by Policy H-1.1.4;
 - iii. Policy H-1.1.5: Housing Quality. Eight percent of the residential uses will be devoted to affordable housing. Consistent with this policy goal, the affordable units will meet the same high-quality architectural standards provided for the market-rate housing and will be indistinguishable from market rate housing in their exterior appearance;

- iv. Policy H-1.2.3: Mixed Income Housing. The project is mixed-income and includes both market-rate and affordable housing units. Thus, the project will further the District's policy of dispersing affordable housing throughout the city in mixed-income communities, rather than concentrating such units in economically depressed neighborhoods; and
 - v. Policy H-1.2.5: Workforce Housing. The Applicant has agreed to set aside eight percent of the residential FAR for households earning no more than 80% of AMI. The pricing for these housing units will be set at a level that is affordable to teachers, firefighters, police officers, nurses, and members of the other occupational categories listed in Policy H-1.2.5. The project will further the District's policy of leveraging private development to create new affordable housing within the city;
- d) *Environmental Protection Element*. The Environmental Protection Element addresses the protection, restoration, and management of the District's land, air, water, energy, and biologic resources. This element provides policies and actions on important issues such as energy conservation and air quality, and specific policies include the following:
- i. Policy E-1.1.1: Street Tree Planting and Maintenance - encourages the planting and maintenance of street trees in all parts of the city;
 - ii. Policy E-1.1.3: Landscaping - encourages 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;
 - iii. Policy E-2.2.1: Energy Efficiency - promotes the efficient use of energy, additional use of renewable energy, and a reduction of unnecessary energy expenses through mixed-use and shared parking strategies to reduce unnecessary construction of parking facilities;
 - iv. Policy E-3.1.2: Using Landscaping and Green Roofs to Reduce Runoff - calls for the promotion of tree planting and landscaping to reduce stormwater runoff, including the expanded use of green roofs in new construction; and
 - v. Policy E-3.1.3: Green Engineering - has a stated goal of promoting green engineering practices for water and wastewater systems.

As discussed in both the Environmental Benefits and Building Green and Healthy Communities sections of this statement, the Commission finds that the project will include street tree planting and maintenance, landscaping, energy efficiency,

methods to reduce stormwater runoff, and green engineering practices, and is therefore fully consistent with the Environmental Protection Element. Specific details of these features will be provided for each building during the second-stage review applications.

- e) *Economic Development Element.* The Economic Development Element of the Comprehensive Plan indicates that the addition of 125,000 jobs during the next 20 years will create the demand for a number of uses, including real use, in a variety of settings with a variety of building types. (§ 706.1.) The Economic Development Element also includes a number of policy recommendations regarding the promotion of retail development, including the following:
 - i. Policy ED-2.2.3: Neighborhood Shopping. The project is consistent with this principle since the development includes the creation of additional shopping opportunities in a neighborhood commercial district that will help to better meet the demand for basic goods and services. In addition, the development of appropriately scaled retail development on the PUD Site will help to create new and unique shopping experiences. (§ 708.7.); and
 - ii. Policy ED-2.2.5: Business Mix. The Applicant intends to market the proposed retail areas to a mix of nationally recognized chains as well as locally based chains and smaller specialty stores, which will help to reinforce existing and encourage new retail districts in the immediate neighborhood and help to improve the mix of goods and services available to residents. (§ 708.9.);
- f) *Urban Design Element.* The goal of the Comprehensive Plan's Urban Design Element is to "[e]nhance the beauty and livability of the city by protecting its historic design legacy, reinforcing the identify of its neighborhoods, harmoniously integrating new construction with existing buildings and the natural environment, and improving the vitality, appearance, and security of streets and public spaces." (10 DCMR § 901.1.) In keeping with this objective, the Applicant has gone to great lengths to integrate the proposed construction with the character of the surrounding neighborhood. For example, consistent with Policy UD-2.1.3, the project incorporates variations in height and massing to ensure that the project respects the scale of adjacent residential neighborhoods. (§ 909.10.) During the second-stage applications, the architects will incorporate greater architectural detailing at the ground floor retail levels to help improve the visual image of the streetscape. (§ 909.12.) The project design is also consistent with Policy UD-2.2.4 since the project incorporates gradual height transitions between the buildings, and the larger buildings have been designed to reduce their apparent size by recessing the upper floors of the buildings to the greatest extent possible.

(§ 910.11.) The project is also consistent with the improved streetscape design and sidewalk management goals of Policy UD-3.1.1 and Policy UD-3.1.2 since the Applicant proposes to install street trees and the sidewalks and plantings adjacent to the PUD Site will enhance the visual character of these streets and provide a buffer to reduce the impacts of vehicle traffic; and

- g) *Far Southeast/Southwest Area Element.* The project is consistent with and will help to implement a number of the policy goals identified in the Far Southeast/Southwest Area Element. Policy FSS-1.1.7 calls for the development of additional retail uses within the Far Southeast/Southwest, especially in Historic Anacostia, and particularly encourages projects that combine upper story housing or office and ground floor retail. (§ 1808.8.) The project is consistent with this objective since it will include 451,070 square feet of residential uses, 166,200 square feet of retail uses, and 917,560 square feet of office uses. The project is also consistent with Policy FSS-2.1.1 since it will contribute to the continued revitalization of Historic Anacostia and will help to promote the creation of a safe, walkable and attractive neighborhood with the construction of a well-designed mixed use project that will provide retail and residential uses that will serve a variety of income groups and household types. (§ 1811.4.) Moreover, the project will help to implement Policy FSS-2.1.2 by concentrating a new development that includes diverse new housing opportunities, ground floor retail, residential and office uses on existing parking lots and underutilized sites at the intersection of W Street and MLK Avenue, S.E. (§ 1811.5.)

Zoning Map Amendment Application

40. The PUD Site is currently included in multiple zone districts, including C-3-A/C-M-1, C-2-A, and C-2-A/C-3-A. The Applicant proposes to rezone the entire PUD Site to the C-3-A Zone District.
41. The District of Columbia Comprehensive Plan Future Land Use Map designates the PUD Site in the following three mixed-use categories: (1) medium-density residential/medium-density commercial; (2) medium-density residential/moderate-density commercial; and (3) moderate-density commercial/production, distribution and repair. The Generalized Policy Map designates the PUD Site within a Main Street Mixed-Use Corridor area, and a small portion is designated within a Neighborhood Conservation Area.
42. The Commission finds that the Applicant's proposal to rezone the PUD Site to C-3-A and to redevelop the PUD Site into a neighborhood center with a mix of office, retail, service, and residential uses is fully consistent with the Future Land Use Map and Generalized Policy Map designations for the PUD Site. The C-3-A Zone District is a medium density commercial zone designed to provide a density incentive for residential

development within a general pattern of mixed-use development. (11 DCMR §740.4.) C-3-A Zone Districts are located in arterial streets, in uptown centers, and at rapid transit stops, and is thus an appropriate designation for the PUD Site. Based upon the testimony and evidence presented, as well as the OP reports, the Commission finds that the proposed rezoning is consistent with numerous elements of the Comprehensive Plan Amendment Act of 2006 (D.C. Law 16-300, March 8, 2007), as amended by the Comprehensive Plan Amendment Act of 2010 (D.C. Law 18-361, April 8, 2011), as described above in this order. The Commission also finds that the proposed map amendment would create favorable conditions for the District and satisfies each of the statutory standards applicable to map amendments.

Office of Planning Reports

43. By report dated May 30, 2008, OP recommended that the Commission schedule a public hearing on the application. (Ex. 19.)
44. By report dated June 21, 2013, OP recommended that the applications be approved, subject to the Applicant providing information regarding: (1) justification pursuant to § 2405.3 for the five percent increase in non-residential development; (2) the addition of ground floor retail in Building 1; (3) additional detail of the phasing plan, including approximate scheduling and development priorities; and (4) additional details regarding proposed green building initiatives. (Ex. 34.) OP indicated in its report that the redevelopment proposal for the site would be of benefit to the District and the immediate neighborhood as it would further economic development in revitalizing Anacostia and the MLK Avenue corridor. OP further indicated that the project includes elements that would be an improvement over what could be achieved as a matter-of-right, including the placement of all parking below ground; the relocation of the “Big Chair” in a more appropriate setting; the provision of new retail, including space for a possible grocery store; the dedication of land for the widening of W Street and the creation of multiple active street frontages; and the possibility of achieving the Main Street retail corridor anticipated by various plans. OP also indicated that the proposal is not inconsistent with the Comprehensive Plan Future Land Use and Policy maps; furthers many important policies for the Anacostia area; and would further the Anacostia Transit Area, Strategic Investment and Development Plan. OP also recommended that the Applicant provide a description of the following at the second-stage review: (1) how the zoning requirements for each lot are met, with detailed analysis of all zoning relief requested; (2) all environmental/green building initiatives proposed; (3) the level of affordability for the proposed affordable units and their location on the floor plans; and (4) details of the shared parking and loading programs.
45. The Applicant indicated that the additional nonresidential density is necessary to help attract additional retail uses, including a potential grocery store, to an area of the city in need of increased retail development. As noted in the OP report, the provision of new

retail space would improve the urban fabric and increase pedestrian activity to create a livelier and inviting streetscape experience for residents and visitors to the PUD Site. The Applicant also indicated that Building 1 does not include retail or service uses since Building 1 is adjacent to rowhomes, and the Applicant agreed to not include retail or service uses at this location in order to minimize potential loading, service, and noise impacts on the adjacent residential uses. The Applicant also testified at the public hearing regarding how it determined which building to include in each phase of the project, and the Applicant submitted a proposed phasing schedule as part of its post-hearing submission. Finally, the Applicant testified at the public hearing that each building will be designed to incorporate sustainability features and will meet all applicable storm water management, Green Building Act, and Green Area Ratio requirements, with specific elements to be identified as part of the second-stage application process. Therefore, the Commission finds that the Applicant has provided the information requested by OP.

DDOT Report

46. By report dated June 20, 2013, DDOT indicated that DDOT is not opposed to the project given that potential transportation impacts and all anticipated infrastructure needs are further addressed in the second-stage application process. Specifically, DDOT recommended that the Applicant: (1) submit an updated Traffic Impact Study to DDOT with documentation on existing conditions, phase conditions, full PUD build-out conditions of each phase submitted, and out-year projections; (2) provide an updated loading and curbside management plan that is consistent with DDOT plans for streetcar implementation; (3) redesign loading access to eliminate or minimize back-in truck maneuvers, particularly for the proposed grocery store site; (4) provide long-term and short-term bicycle parking spaces, including details of the locations relative to entrances; (5) collaborate with DDOT to develop a comprehensive Travel Demand Management program; (6) collaborate with DDOT to reach an agreement concerning the proposed street closings and realignments prior to second stage filing; and (7) identify new infrastructure needs such as new or updated signal hardware.
47. The Applicant agreed to work with DDOT and to provide the requested information, to the extent feasible, for each second-stage application.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project “offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience.” (11 DCMR § 2400.2.)

2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, parking and loading, or for yards and courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.
3. Development of the property included in this application carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments, which will offer a project with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
4. The PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations.
5. The PUD, as approved by the Commission, complies with the applicable height, bulk and density standards of the Zoning Regulations. The mix of office, retail, service, and residential uses for this project are appropriate for the PUD Site. The impact of the project on the surrounding area is not unacceptable. Accordingly, the project should be approved.
6. The application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
7. The Applicant's request for flexibility from the Zoning Regulations is consistent with the Comprehensive Plan. Moreover, the project benefits and amenities are reasonable trade-offs for the requested development flexibility.
8. Approval of this PUD and map amendment is appropriate because the proposed development is consistent with the present character of the area, and is not inconsistent with the Comprehensive Plan. In addition, the proposed development will promote the orderly development of the site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
9. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to issues and concerns expressed in the affected ANC's written recommendation. In this case, ANC 8A did not submit a report.
10. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to

give great weight to OP recommendations. The Commission concurs with the OP's recommendation for approval, and has given the recommendation the great weight to which it is entitled.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the applications for a first-stage Planned Unit Development ("PUD") and related map amendment to rezone (i) Lots 984 and 1019 in Square 5772 from C-3-A/C-M-1 to C-3-A; (ii) Lots 829 and 1018 in Square 5783 from C-2-A to C-3-A; (iii) Lots 898, 899, and 900 in Square 5784 from C-2-A to C-3-A; and (iv) Lot 906 in Square 5785 from C-2-A/C-3-A to C-3-A (collectively the "PUD Site"). For the purposes of these conditions, the term "Applicant" shall mean the person or entity then holding title to the PUD Site. If there is more than one owner, the obligations under this Order shall be joint and several. If a person or entity no longer holds title to the PUD Site, that party shall have no further obligations under this Order; however, that party remains liable for any violation of these conditions that occurred while an Owner. The approval of this PUD is subject to the guidelines, conditions, and standards set forth below:

A. Project Development

1. The project and subsequent second-stage Applicant(s) shall be in accordance with the First-Stage PUD Plans and development data, dated June 2013 (Exhibit. 32), as supplemented by the updated First-Stage PUD Plans and development data sheets, dated July 15, 2013 (Exhibit 45), and as modified by the guidelines, conditions, and standards of this Order.
2. In accordance with the plans, the PUD shall be a mixed-used project consisting of a maximum of 1,570,000 square feet of gross floor area. Approximately 481,000 square feet of gross floor area will be devoted to residential use. Approximately 144,000 square feet of gross floor area shall be devoted to retail, service, arts, and limited types of office space. With respect to the limited office space, the office space shall be limited to doctor's offices, opticians, dentist offices, and other similar high foot traffic and visitor traffic uses. Approximately 945,000 square feet of gross floor area shall be devoted to office use. The Applicant shall construct new sidewalks as shown on the location's First-Stage Plans in accordance with D.C. Department of Transportation standards and subject to D.C. Department of Transportation approval.
3. The PUD shall have an overall maximum density of 4.5 FAR and an overall maximum lot occupancy of 83%.

4. The buildings in the PUD shall be designed to the following maximum building heights, not including roof structures:
 - a) Building 1, 60 feet;
 - b) Building 2, 90 feet;
 - c) Building 3, 50 feet;
 - d) Building 4, 90 feet
 - e) Building 5, 90 feet
 - f) Building 6, 90 feet
 - g) Building 7, 80 feet
 - h) Building 8, 70 feet; and
 - i) Building 9, existing 45 feet.
5. The overall PUD shall provide a minimum of 1,486 off-street parking spaces. The parking spaces for each building shall be allocated as shown on Exhibit 45 in the record of this case.

B. Second-Stage Applications

1. The Applicant shall include the following information with each second-stage application:
 - a) Detailed architectural plans and elevations that include the information required pursuant to § 2406.12 of the Zoning Regulations;
 - b) A detailed description of how the zoning requirements for each lot are met, with detailed analysis of all zoning relief requested for each building included in the application;
 - c) A detailed description of all environmental/green building initiatives proposed for each building included in the application, including the level of LEED certification that each building will be designed to achieve, with the understanding that the Applicant has already committed to a LEED Gold equivalent for Building 3;
 - d) A detailed description of the level of affordability for the proposed affordable units and their location on the floor plans in any building including residential use in the application. The applications shall also include for each residential building a calculation of the amount of gross floor area of affordable housing that is being provided within each building, and a comparison to the amount that would be required by Chapter 26 of the Zoning Regulations under the matter of right zoning that existed on the site prior to the PUD-related map amendment. In addition,

the application shall indicate the number of dwelling units that would have been required to be set aside for low-income families. If that number cannot be identified, the application may use the equivalent amount of gross floor area;

- e) A detailed description of any shared parking and loading programs for the buildings included in the application;
- f) An updated Traffic Impact Study with documentation on existing conditions, phase conditions, full PUD build-out conditions of each phase submitted, and out-year projections
- g) An updated loading and curbside management plan that is consistent with DDOT plans for streetcar implementation;
- h) Any necessary updates to the proposed loading access points for the buildings;
- i) Provide long-term and short-term bicycle parking spaces, including details of the locations relative to entrances;
- j) A comprehensive Transportation Demand Management program for each building specifically indicating the number of vehicle and bicycle parking spaces to be included in each building included in each second stage application, provided that the overall total number of vehicle parking spaces is a minimum of 1,486 spaces or the then-applicable zoning requirement, whichever is less;
- k) An update regarding the status of the proposed street closings and realignments;
- l) An identification of any new transportation-related infrastructure needs such as new or updated signal hardware;
- m) A detailed description of the specific public benefits and project amenities provided with the Stage 2 application, the benefits and amenities identified in finding of fact 33 that are being provided with that particular Stage 2 application, the benefits and amenities that have already been implemented, the benefits and amenities yet to be implemented, and an overall status update and timetable for implementation of the benefits and amenities; and
- n) A final Construction Management Plan for the overall project.

C. Public Benefits and Project Amenities

1. The Applicant shall provide the public benefits and project amenities enumerated in finding of fact 33 above. The final description of the benefits and amenities and the timeframe for their delivery shall be a part of the Applicant's submission for each Stage 2 application, and shall be part of the Commission's review of each Stage 2 application.
2. Prior to the issuance of a Certificate of Occupancy for Building 2, the Applicant shall submit to the Department of Consumer and Regulatory Affairs confirmation that W Street has been widened from 50 feet to 70 feet through the establishment of building restriction lines or other means.
3. Prior to the issuance of a Certificate of Occupancy for Buildings 1, 2, 4, 5, 6, 7, and 8, the Applicant shall submit to Department of Consumer and Regulatory Affairs a LEED checklist indicating that such building has been designed to meet at least the LEED-certified rating required in any order approving the second-stage application for the building. The Applicant shall design the buildings in the PUD so that it may satisfy such LEED-certified standard but the Applicant shall not be required to obtain the certification from the United States Green Building Council.
4. Prior to the issuance of a Certificate of Occupancy for the first building completed in Phase I of the project, the Applicant shall submit to the Department of Consumer and Regulatory Affairs a fully executed First Source Employment Agreement between the Applicant and the D.C. Department of Employment Services and a Certified Business Enterprise Utilization Agreement with the Department of Small and Local Business Development. The office building at 2235 Shannon Place, S.E. (i.e., Building 3) and the Anacostia Playhouse use at 2020 Shannon Place, S.E. (Square 5772, Lot 984) are exempt from the First Source Employment Agreement and the Certified Business Enterprise Utilization Agreement requirements.
5. Prior to the issuance of a Certificate of Occupancy for the first building completed in Phase I of the project, the Applicant shall submit to the Department of Consumer and Regulatory Affairs a letter identifying any funding and/or free space provided to community initiatives in Ward 8, provided that the total amount of funding and/or free space provided for community initiatives shall amount to the equivalent of a minimum of \$10,000 per year. The Applicant's obligation to provide funding and/or free space to community initiatives in Ward 8 shall commence one year after the issuance of a Certificate of Occupancy for the office

building at 2235 Shannon Place, S.E. (i.e., Building 3) and shall expire six years from the date of issuance of the Certificate of Occupancy for the office building at 2235 Shannon Place, S.E. (i.e., Building 3). The office building at 2235 Shannon Place, S.E. (i.e., Building 3) and the Anacostia Playhouse use at 2020 Shannon Place, S.E. (Square 5772, Lot 984) are exempt from this requirement.

6. During the life of the project, the Applicant shall implement Transportation Demand Management ("TDM") measures for each building, the scope of which shall be determined during each second-stage application.

D. Miscellaneous

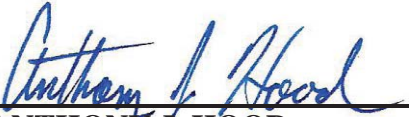
1. No building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs ("DCRA"). 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.
2. Pursuant to § 2407.10 of the Zoning Regulations the Commission is specifying the following periods within which time second stage applications must be filed to prevent this first stage approval from expiring:
 - a) A second-stage application must be filed for the buildings included in Phase I of the development (Buildings 1, 3, and 8) within two years after the effective date of this Order;
 - b) A second-stage application must be filed for the buildings included in Phase II of the development (Buildings 2, 4, and 5) within four years after the effective date of the Order granting second-stage approval for Phase I; and
 - c) A second-stage application must be filed for the buildings included in Phase III of the development (Buildings 6 and 7) within four years from the effective date of the Order granting second-stage approval for Phase II.
3. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act") the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin,

sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On July 29, 2013, upon the motion of Chairman Hood, as seconded by Commissioner Turnbull, the Zoning Commission **APPROVED** the applications at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

On September 9, 2013, upon the motion of Commissioner Miller, as seconded by Commissioner Turnbull, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on October 25, 2013.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING