

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 12-21

Z.C. Case No. 12-21

**Covenant Baptist United Church of Christ & Covenant Full Potential Development
(Consolidated Planned Unit Development and Related Zoning Map Amendment @
Square 6129, Lot 825)
March 31, 2014**

Pursuant to proper notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on October 17, 2013 to consider an application by Covenant Baptist United Church of Christ and Covenant Full Potential Development (“Applicants”) for consolidated review and approval of a planned unit development (“PUD”) and related amendment of the Zoning Map of the District of Columbia from R-2 to R-5-A for Square 6129, Lot 825 (“Application”). The Commission considered the Application pursuant to Chapters 1, 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. The Commission approves the Application, subject to the conditions below.

FINDINGS OF FACT

Application, Parties, and Hearing

1. The project site consists of Square 6129, Lot 825 (“Property”) and is located at 3845 South Capitol Street, S.W.
2. On November 26, 2012, the Applicants filed the Application for consolidated review and approval of a PUD and related Zoning Map Amendment from R-2 to R-5-A. (Exhibit [“Ex.”] 2.)
3. During its public meeting on April 8, 2013, the Commission voted to set down the Application for a public hearing. Notice of the public hearing was published in the *D.C. Register* on July 19, 2013 and was mailed to Advisory Neighborhood Commission (“ANC”) 8C and 8D and to owners of property within 200 feet of the Property. (Ex. 10, 17.)
4. The Application was further updated by pre-hearing submissions filed on May 28, 2013 and October 2, 2013. (Ex. 15, 22.)
5. A public hearing was conducted on October 17, 2013. The Commission accepted Sean Pichon as an expert in the field of architecture and Nicole White as an expert in the field of transportation planning and engineering. The Applicants provided testimony from these experts as well as from Pastors Dennis W. Wiley and Christine Y. Wiley of the Covenant Baptist United Church of Christ (“Covenant Baptist Church” or “Church”) and Raymond Nix of Urban Matters Development Partners.

6. In addition to the Applicants, ANC 8C and 8D were parties in this proceeding.
7. At the hearing, the Commission heard testimony and received evidence from the Office of Planning (“OP”), the District Department of Transportation (“DDOT”), and received written evidence from ANC 8D in support of the Application. (Ex. 26, 29, 39.) The Commission also heard testimony from persons in support of and in opposition to the Application and from members of ANC 8C and ANC 8D.
8. At the close of the hearing, the Commission asked the Applicants to address certain design issues and concerns. The Applicants addressed these issues and concerns in a post-hearing submission dated November 18, 2013. (Ex. 44.)
9. At its public meeting on January 13, 2014, the Commission took proposed action to approve the Application and plans that were submitted into the record.
10. On January 22, 2014, the Applicant submitted its list of proffers and draft conditions pursuant to 11 DCMR § 2403.16. (Ex. 51.)
11. The proposed action of the Commission was referred to the National Capital Planning Commission (“NCPC”) pursuant to § 492 of the Home Rule Act. NCPC’s Executive Director, by delegated action dated January 30, 2014, found that the proposed PUD would not be inconsistent with the Comprehensive Plan for the National Capital, nor would it adversely affect any other identified federal interests. (Ex. 52.)
12. On March 10, 2014, the Applicant submitted its final list of proffers and draft conditions pursuant to 11 DCMR § 2403.20. (Ex. 54.)
13. The Commission took final action to approve the Application on March 31, 2014.

THE MERITS OF THE APPLICATION

Overview of the Property

14. The Property consists of approximately 44,966 square feet of land area at the northwest corner of the intersection of South Capitol Street, S.W. and Xenia Street, S.W. The Property is currently improved with a red brick, three-story church and annex building and a surface parking lot. (Ex. 2.)
15. The Property is located in the Bellevue neighborhood of Ward 8 and is within the boundaries of Advisory Neighborhood Commission (“ANC”) 8C. (Ex. 2.) The property is directly adjacent to the boundary of ANC 8D.
16. Immediately to the north of the PUD Site is a large single family house and accessory structure on a three-acre lot for which the BZA has approved nonprofit use and a youth rehabilitation home (Application Nos. 15560 and 15892). Immediately to the west of the PUD Site on Xenia Street is a church use located in a one-story building. Further west is Federal parkland and then the Anacostia Freeway. To the east across South Capitol Street

are several three- to four-story apartment buildings. Further east is a mix of multifamily and single family detached and semi-detached structures. The area south of Xenia Street and west of South Capitol Street and Martin Luther King Avenue is primarily developed with single family detached houses. (Ex. 2.)

17. To the southeast, beginning at the intersection of South Capitol Street and Martin Luther King Avenue, is a strip of low density retail uses. The 3900 block of South Capitol Street at Atlantic Avenue is soon to be developed with a new mixed-use project called Trinity Plaza to include office, retail, and residential uses. The project is being developed at the behest of the Far SW-SE Community Development Corporation. Also near the intersection of South Capitol Street and Atlantic Avenue, the Community of Hope has plans to break ground soon on a new 50,000-square-foot Health and Resource Center at 4 Atlantic Avenue, S.W. Further south, along the 4000 block of South Capitol Street, a larger mixed-use project is slated for development by District Interests. (Ex. 2.)
18. The PUD Site is located within an R-2 Zone District which encompasses the area west of South Capitol Street and Martin Luther King Avenue. Immediately to the east of the PUD Site beginning on the east side of South Capitol Street is an area of R-5-A zoning which is developed with the aforementioned three- and four-story apartment buildings. Further east is R-3 zoning and predominately single family development. To the southeast of the PUD Site, along South Capitol Street S.W., is C-2-A zoning. (Ex. 2.)

The Project

19. The Applicants requested approval to engage in the retention and limited renovation of the existing Covenant Baptist Church on the Site, demolition of a church annex building, and construction of a new three-story apartment building to be devoted to subsidized senior housing and support space. In total, 47,252 square feet or 1.05 total floor area ratio ("FAR") of development are proposed on the PUD Site to include 31,564 square feet of gross floor area of new residential development and support space and 15,688 square feet of gross floor area of church uses ("Project"). (Ex. 2.)
20. The Project's affordable senior rental apartment building will consist of 30 independent, senior rental units (27 one-bedroom and three two-bedrooms) anchored by educational and wellness programming space. Except for those units that must be set-aside to satisfy the requirements of § 2603.1 and 2603.3 of the Inclusionary Zoning Regulations for so long as the project exists, all of the units will be reserved for and made affordable to households earning no more than 60% of area median income ("AMI") with a long-term affordability period of 30 years. (Ex. 2.)
21. The proposed Project will be constructed as an addition to the existing Church building on the PUD Site. It is a three-story building over one level of parking structure. The overall height of the addition is 40'-0" with three stories above grade. The existing Church annex building will be fully demolished to make way for the proposed addition, which will also occupy the existing surface parking lot on the Site and cut into the existing hillside at the rear of the Site. A planted stepped retaining wall system will

transition the approximately 15 feet of grade change to allow for the new landscaped plaza. (Ex. 2.)

22. A one-level underground parking garage with 23 vehicular and 21 bicycle spaces will be included in the Project. Currently, the Church's surface parking lot provides 18 parking spaces – this allocation will be substantially maintained with the new garage – 18 spaces will be primarily allocated to Church use and five spaces for the new senior apartment building. Church members will also utilize the available on-street parking (subject to the restrictions contained herein), walk, or use public transit as is currently the case. (Ex. 2.)
23. The total gross floor area for the Project is approximately 47,252 square feet for a total density of approximately 1.05 floor area ratio ("FAR") and a lot occupancy of approximately 48%. The building will reach a maximum height of approximately 40 feet. (Ex. 2.)

Zoning Map Amendment

24. The Property is located in the R-2 Zone District. The maximum height allowed in the R-2 Zone District is 40 feet, three inches, and the maximum density is 0.4 FAR. The only residential uses permitted are one family detached and semi-detached dwellings.
25. Immediately to the east of the PUD Site beginning on the east side of South Capitol Street is an area of R-5-A zoning. Further east is R-3 zoning. To the southeast of the PUD Site, along South Capitol Street S.W., is C-2-A zoning.
26. The Applicants requested a PUD-related Zoning Map amendment to the R-5-A Zone District to permit the structures to achieve the requested density and to permit a multiple dwelling. The maximum density permitted in the R-5-A Zone District under the PUD guidelines is 0.9 FAR as a matter of right. With a PUD, the maximum permitted density is 1.0 FAR. Further, the Commission may approve an additional five percent increase in FAR "provided that the increase is essential to the successful functioning of the project and consistent with the purpose and evaluation standards of Chapter 24." A new multiple dwelling is permitted by special exception.

PUD Flexibility Requested

27. The Applicants requested approval to construct a building to a maximum height of 40 feet and density of 1.05 FAR, as well as a PUD-related Zoning Map amendment for the Property to the R-5-A Zone District and a five percent increase for a total of 1.05 FAR on the PUD Site.
28. Subsection 2401.1 of the Zoning Regulations provides for a minimum area of two acres for a PUD to be located in an R-5-A Zone District. The Commission may waive no more than 50% of this minimum area provided that the Commission finds, after public hearing, that the development is of exceptional merit and in the best interest of the city or country; and that if the development is to be located outside the Central Employment Area, at least 80% of the gross floor area of the development shall be used exclusively for

dwelling units and uses accessory thereto. The Applicants request that the Commission waive approximately 48% of the minimum area requirement based on the fact that the much needed affordable housing and accessory social services for seniors provided with the Project are of exceptional merit and in the best interest of the District. Further, 100% of the gross floor area of the new development included in the Project will be devoted to housing.

29. Subsection 353.1 of the Zoning Regulations requires that all new residential developments in the R-5-A Zone District, except detached and semi-detached single-family dwellings, shall be reviewed as special exceptions under § 3104 and in accordance with the standards set forth in § 353. The Applicants request approval of a new multiple dwelling.
30. No other flexibility from the Zoning Regulations was sought or granted.

Project Amenities and Public Benefits

31. As detailed in the Applicants' testimony and written submissions, the proposed Project will implement the following project amenities and public benefits:
 - (a) Stabilization and improvement of neighborhood. The Project will provide community services, affordable senior housing for low- to moderate-income households, and stimulate neighborhood revitalization in the Bellevue neighborhood while implementing the stated neighborhood planning goals. The new building will provide additional “eyes on the street” which will help deter crime. The ultimate impacts of the redevelopment are consistent with the vision of community stakeholders and, therefore, will help guide the Bellevue neighborhood into the future; (Ex. 2.)
 - (b) An aesthetic and functional improvement to the neighborhood. The handsome design will complement the neighborhood. The PUD Site is within walking distance of several Metrobus lines so that the proposed apartment use is an efficient and transit-oriented development at this location. The proposed landscape plan will further enhance the Site for the residents as well as residents of the surrounding neighborhood; (Ex. 2.)
 - (c) Housing and affordable housing, in the form of apartments devoted to subsidized senior housing. Except for those units that must be set-aside to satisfy the requirements of § 2603.1 and 2603.3 of the Inclusionary Zoning Regulations for so long as the project exists, all of the units will be reserved for and made affordable to households earning no more than 60% of area median income (“AMI”) with a long-term affordability period of 30 years. Subsection 2403.9(f) of the PUD Evaluation Standards indicates that development of “housing and affordable housing” is a high-priority public benefit, or policy objective, that justifies approval of a Planned Unit Development. The proposed PUD is obviously such a project; (Ex. 2.)

- (d) Critical community services. Members of the community will have the opportunity to participate in activities, programs, and events designed to enhance their quality of life. A wealth of health, social service, cultural, and social resources will be available to the residents and other area elderly on an on-going basis. Covenant Full Potential Development provides services that engage the entire community as a part of its core mission. Therefore, vocational job training, life skills, career training, and inter-generational activities will be included as a part of Site programming; (Ex. 2.)
- (e) Effective and safe vehicular and pedestrian access and transportation management measures. The Project will generate very low vehicular trip generation and in-and-out traffic, and the subject property is within walking distance of several bus lines operating along South Capitol Street. The proposed apartment house for the elderly has a parking requirement of only one space for each six dwelling units. This low requirement, which was adopted in 1985 after careful research by Department of Public Works staff, reflects the reality that automobile ownership and automobile trips entering and leaving the Site will be minimal because of the advanced age and low-income status of the residents. Overall, the Project will contain 23 vehicular and 22 bicycle parking spaces; and (Ex. 2, 29.)
- (f) Environmental benefits, including storm water management, native landscaping with non-invasive species, water-conserving low-flow appliances and plumbing fixtures, efficient energy use, and a reflective Energy Star compliant membrane roofing system. (Ex. 2.)

Transportation Issues

- 33. The Project is located near several modes of transportation, including several Metrobus lines operating along South Capitol Street and the Congress Heights and Anacostia stops on the Metrorail's Green Line. (Ex. 2, Tab D.)
- 34. The Applicants' traffic expert submitted a detailed transportation impact analysis that concluded that the proposed Project would not generate an adverse traffic impact on the surrounding roadway network or cause objectionable impacts in the surrounding neighborhood due to traffic or parking impacts. The Applicants' traffic consultant also concluded that the number of parking spaces as well as the location of the parking entrances would accommodate the parking needs for the Project and not generate adverse or objectionable impacts on neighboring property. (Ex. 2, Tab D.; Ex. 24.) In addition, the Applicants' traffic expert submitted a parking study and parking management plan prepared in response to the neighbors' concerns raised at the hearing. (Ex. 44B1, 44B2.)
- 35. DDOT submitted a report recommending approval of the Project. DDOT concurred that, given the nature of the Project, it would have minimal impact on the surrounding roadway network. DDOT also supported the Project's proposed plans for vehicles and bicycles. (Ex. 29.)

36. The Project will not cause unacceptable impacts on vehicular or pedestrian traffic, as demonstrated by the testimony and reports provided by the Applicants' traffic expert and DDOT:
- (a) The Commission finds that the Project will not impose adverse impacts on the surrounding transportation network. The Commission credits the findings of the Applicants' traffic expert that the Project will not create any adverse impacts when compared with future background conditions;
 - (b) The Commission finds that the number of vehicular parking spaces will not result in adverse conditions and is appropriate given the transit-oriented location;
 - (c) The Commission finds that the location of the parking and trash pickup entrances will not generate adverse conditions;
 - (d) The Commission finds that the Project will not impose adverse impacts on the surrounding pedestrian network. The Commission also credits DDOT's acknowledgement that the proposed site-access configuration of the Project minimizes pedestrian/vehicle conflicts while providing efficient access to the Property;
 - (e) The Commission credits DDOT's acceptance of the pedestrian and related streetscape measures proffered by the Applicants subject to final approval by DDOT. The Commission recognizes that DDOT will determine the final measures to be installed through the public space approval process; and
 - (f) The Commission finds that the Applicant's proposed parking mitigation measures are adequate to mitigate any potential adverse impacts of the Project related to parking.

Notice of the Proposed PUD

37. Notice of filing of the proposed Project was published in the *D.C. Register* on December 14, 2012. (Ex. 11.) Notice of the public hearing was published in the *D.C. Register* on July 19, 2013 and was mailed to ANC 8C and 8D and to owners of all property located within 200 feet of the Property. (Ex. 10, 17.)
38. Notice of the public hearing was also provided by posting of the Property pursuant to § 3015.4 of the Zoning Regulations. By affidavit, the Applicants submitted evidence that the Property was posted on September 6, 2013 in accordance with the Regulations. (Ex. 21.)
39. For these reasons, the Commission concludes that sufficient notice was provided in accordance with the Regulations.

Compliance with PUD Standards

40. In evaluating a PUD application, the Commission must “judge, balance, and reconcile the relative value of project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects.” The Commission finds that the development incentives for the height, density, flexibility and related rezoning to R-5-A are appropriate and fully justified by the additional public benefits and project amenities proffered by the Applicants. The Commission finds that the Applicants have satisfied their burden of proof under the Zoning Regulations regarding the requested flexibility from the Zoning Regulations and satisfaction of the PUD standards and guidelines as set forth in the Applicants' statement and the OP report. (Ex. 2, 26.)
41. The Commission credits the testimony of the Applicants and their architectural experts as well as OP and DDOT, and finds that the superior design, site planning, streetscape, sustainable design features, transportation infrastructure improvements, and housing and affordable housing features of the Project all constitute acceptable project amenities and public benefits.
42. The Commission finds that the Project is acceptable in all proffered categories of public benefits and project amenities, and is superior in public benefits and project amenities relating to urban design, landscaping and open space, housing and affordable housing, site planning, transportation measures, environmental benefits, and uses of special value to the neighborhood and District as a whole.
43. The Commission disagrees with the testimony of persons in opposition that the proposed amenities and benefits are insufficient for the Project. The Commission credits the testimony of the Applicants regarding the community-based planning effort that guided the development of the Project, and finds that the process resulted in amenities that reflect community preferences and priorities. The Commission credits the testimony of persons in support as well as OP that the PUD provides significant and sufficient public benefits and project amenities.
44. The Commission finds that the character, scale, mix of uses, and design of the Project are appropriate, and finds that the site plan is consistent with the intent and purposes of the PUD process to encourage high quality developments that provide public benefits. Specifically, the Commission credits the testimony of the Applicants and the Applicants' architectural and transportation planning experts that the PUD represents a strategic use of a transit-oriented parcel where affordable senior housing is sorely needed.
45. The Commission credits the testimony of OP that the Project will provide benefits and amenities of substantial value to the community and the District commensurate with the additional density sought through the PUD. Further, the Commission credits OP's testimony that the impact of the PUD on the level of services will not be unacceptable.
46. For the reasons detailed in this Order, the Commission credits the testimony of the Applicants' traffic consultant and DDOT and finds that the traffic, parking, and other transportation impacts of the Project on the surrounding area are capable of being

mitigated through the measures proposed by the Applicants and are acceptable given the quality of the public benefits of the PUD.

47. The Commission finds that the proposed map amendment to the R-5-A Zone District is not inconsistent with the Comprehensive Plan or the character of the surrounding area. The Site itself is designated low density but it is located adjacent to a large medium density area across South Capitol Street. “Low Density” is defined as generally single-family neighborhoods with single family detached and semi-detached housing units as the predominant uses. “Moderate density residential” is defined as “row house neighborhoods” with “low-rise garden apartment complexes.” Given the soft-edge nature of the map, and the directive that it is to be interpreted broadly, the requested R-5-A zoning with a PUD is “not inconsistent” with these land classifications.
48. The Commission credits the testimony of the Applicants and OP regarding the compliance of the Project with the District of Columbia Comprehensive Plan. The development is fully consistent with and furthers the goals and policies in the map, citywide and area elements of the Plan, including:
 - (a) Designation of the Property as Low-Density Residential use on the Future Land Use Map as well as provisions of the Framework Element that explicitly state that density gained through the PUD process are bonuses that may exceed the typical ranges listed in the Plan;
 - (b) Housing Element policies promoting the even distribution of mixed-income housing across the District; and
 - (c) Other policies in the Economic Development, Transportation, and Urban Design Elements related to the Land Use policies and goals stated above.

Compliance with Special Exception Standards

49. The Zoning Regulations require that all new residential development within the R-5-A Zone District, except those comprising all one-family detached and semi-detached dwellings, be reviewed as a special exception under § 3104 in accordance with the standards of § 353. The Applicants’ requested approval of a multiple dwelling, thus requires PUD-related flexibility from this requirement.
50. The Commission finds that the Project meets the general special exception standard set forth at 11 DCMR § 3104.1, in accordance with the standards of § 353:
 - (a) Special Exception Standards, § 3104.1
 - (i) Is the proposal in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps?

The Project is in harmony with the purpose and intent of the R-5-A Zone District, which is to permit “all types of urban residential development if

they conform to the height, density, and area requirements established for the district, and to permit the construction of those institutional and semi-public buildings that would be compatible with adjoining residential uses and that are excluded from the more restrictive Residence Districts.” 11 DCMR § 350.1. The Project meets a majority of the R-5-A height, density, and area requirements. The Applicants have demonstrated that the relatively small amount of FAR relief necessary for the proposal would not adversely affect neighboring properties. The multi-family residential use is compatible with adjoining residential uses.

- (ii) Would the proposal appear to tend to affect adversely, the use of neighboring property?

The Project would not adversely affect the use of neighboring properties. Traffic to and from the property is not likely to increase to a level that would affect neighboring properties. The height and intensity of the building is restrained, and it does not tower above the neighboring properties, nor affect the light and air.

- (b) Special Exception Standards, § 353

- (i) The Board shall refer the application to the D.C. Board of Education for comment and recommendation as to the adequacy of existing and planned area schools to accommodate the numbers of students that can be expected to reside in the project.

OP referred the Application to the D.C. Board of Education on September 3, 2013 but received no response. As the development is intended to serve seniors, it is not anticipated to impact school planning.

- (ii) The Board shall refer the application to the D.C. Departments of Transportation and Housing and Community Development for comment and recommendation as to the adequacy of public streets, recreation, and other services to accommodate the residents of the project and the relationship of the proposed project to public plans and projects.

The Application was submitted to DDOT and the Department of Housing and Community Development (“DHCD”). No response has been provided from DHCD. The DDOT report was favorable.

- (iii) The Board shall refer the application to the D.C. Office of Planning for comment and recommendation on the site plan, arrangement of buildings and structures, and provisions of light, air, parking, recreation, landscaping, and grading as they relate to the future residents of the project and the surrounding neighborhood.

OP's report addresses all the above issues, and recommended approval.

Agency Reports

51. By report dated October 7, 2013 and by testimony at the public hearing, OP recommended approval of the Application. (Ex. 26.) OP noted that affordable housing for seniors is at a deficit in the District and stated that therefore OP is very supportive of the provision of affordable senior housing in this development. It also stated that the Comprehensive Plan recommends low-density residential and the need to carefully manage the development of vacant land and the alteration of existing structures in and adjacent to single family neighborhoods in order to protect low-density character, preserve open space, and maintain neighborhood scale. OP concluded that the Project is not inconsistent with these standards. OP requested that the Applicants provide a detailed Landscape Plan and updated and signed First Source and CBE Agreements prior to final action.
52. OP submitted a supplemental report dated November 18, 2013. (Ex. 45.) The report stated that in response to the Commission's request, the Zoning Administrator evaluated the statement by the Applicants that the proposed wellness center would not generate any additional parking spaces over that required for the church because the wellness center is accessory to the church. According to the Zoning Administrator, the parking is grandfathered as the church's Certificate of Occupancy (C of O B12692) was issued on August 19, 1958 for a new building that appears to have had a building permit that was issued before the grandfathering date under § 2100.2, which was May 12, 1958. Therefore, the Zoning Administrator stated that the key issue would be to determine whether the wellness center is accessory to the church or a principal use, using parameters such as: would the floor area of the space occupied by the wellness center be less than 25% of the overall space; would the number of persons being served be less than 20% of the occupancy of the church; or would the wellness programs provided be mainly for persons who attend the church.
53. OP concluded that the wellness center meets some of the parameters in that it has always been considered a part of the church, the number of persons being served does not exceed 20% of the occupancy of the church and the persons served are both members of the church and the wider community. It further stated that if the Applicants demonstrated that the wellness center occupies less than 25% of the overall space, then the wellness center could be considered an accessory use and would therefore not require any additional parking spaces above the 18 spaces grandfathered for the church. (Ex. 45.) The Applicants' submissions indicate that it meets this standard. The overall square footage of the church and wellness center will be 33,342 square feet. The wellness center will have a square footage of 5,474, or 16% of the overall space. (Ex. 15, 22.)
54. By report dated October 9, 2013 and by testimony at the public hearing, DDOT recommended approval of the PUD. Among its specific findings, DDOT concluded that: because of the minimal number of site-generated trips that would use the roadway network, the project would not create an adverse condition on the local roadway network; the 23 vehicular and 22 bicycle parking spaces are adequate for the proposed

development, and the Project would not create an on-street parking shortage in the neighborhood; the Applicants had documented the sight distances at the proposed garage entrance and S. Capitol Street/Xenia Street intersection to be adequate based on the field-measured geometry and DDOT requirements. (Ex. 29.)

Advisory Neighborhood Commissions

55. As noted, the project is within the boundary of ANC 8C, and therefore the Commission must give great weight to any written report it submits. In addition, even though the Project is not located within ANC 8D's boundary, the Project is located directly across the street from its boundary line. Therefore, any written report from ANC 8D is also entitled to great weight. *Neighbors United for a Safer Community v. District of Columbia Bd. of Zoning Adjustment*, 647 A.2d 793, 798 (D.C. 1994).

ANC 8C Report

56. On October 7, 2013, ANC 8C Chair Mary J. Cuthbert submitted a letter on behalf of ANC 8C. (Ex. 27.) However, the letter also includes Ms. Cuthbert's personal views and observations. First, the letter indicates that at its regularly scheduled and properly noticed monthly meeting held October 2, 2014, and with a quorum present, the ANC met with the Pastor of the Church. Although the project was discussed during the meeting, no mention of the proposed map amendment was made. The ANC then voted to support the project. According to Ms. Cuthbert, once the commissioners became aware that a map amendment was also being requested, they wanted to know why it was not mentioned at the meeting. However, the letter does not indicate that any subsequent vote was taken. Ms. Cuthbert further indicated that she had a problem with the map amendment because there was already too much land in Ward 8 mapped R-5, a zone in which all residential uses are permitted.
57. At the public hearing, the counsel for the Applicant explained that the Zoning Regulations treat a PUD-related Zoning Map amendment differently from stand-alone rezoning. PUD-related Zoning Map amendments do not become effective until after the filing of a covenant that binds the current and future owners to use the Property only as approved and conditioned by the Commission. Thus a PUD-related map amendment permits no other use and no other building than approved by the Commission. During her testimony that followed, Ms. Cuthbert stated that she now understood the unique attributes of the PUD-related map amendment requested and no longer opposed it.

ANC 8D Report

58. An undated letter from ANC 8D Chairperson Theresa Jones stated the ANC's support for the Project. (Ex. 39.) The letter did not identify whether or when a vote was taken, whether a quorum was present, or whether notice was given for the meeting at which such a vote occurred. At the October 17, 2013 public hearing before the Commission, another commissioner from ANC 8D, Absalom Jordan, stated that the ANC had validly voted to support the Project. (Tr. at pp. 134-36.)

Testimony in Support

59. At the hearing, the Commission heard testimony from nearby residents and leaders of local nonprofits and community groups in support of the Application. Supporters lauded the much-needed affordable senior housing and community services that would be provided as part of the Project. The Applicants also submitted several letters in support of the Project from community leaders, including District of Columbia Councilmember Marion Barry, Jr. (Ex. 40-42.)

Testimony in Opposition

60. At the hearing, the Commission heard testimony from six nearby residents. The individuals raised concerns about the possible traffic congestion and shortage of parking that they believed would result from the Project. The individuals also submitted a petition signed by other individuals opposing the Project. (Ex. 36.) In response to these concerns, the Commission requested that the Applicants make further outreach efforts to the community and submit a parking study and proposed parking management plan. (Ex. 44.)
61. On November 18, 2013, the Applicants updated the Commission regarding: the outreach efforts it had made since the hearing and the concerns it was incorporating into the Project, including parking and traffic concerns (Ex. 44A); and a parking study and proposed Parking Management Plan (“PMP”) to minimize on-street parking impacts to neighboring residents (Ex. 44B1-B2.) Key features of the PMP include on-street parking restrictions for church members, stacked parking in the Project’s parking garage to increase capacity, the appointment of a church transportation coordinator to organize carpooling, and off-site parking locations for parishioners serviced by a shuttle. (Ex. 44B1.) The Commission finds that these parking mitigation measures are adequate to mitigate any potential adverse effects of the project related to parking.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process provides a means for creating a “well-planned development.” The objectives of the PUD process are to promote “sound project planning, efficient and economical land utilization, attractive urban design and the provision of desired public spaces and other amenities.” (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, the Commission has the authority to consider this Application as a consolidated PUD. (11 DCMR § 2402.5.) The Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking, loading, 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. (11 DCMR § 2405.)

3. The minimum area requirements of 11 DCMR § 2401.1 provide for a minimum area of two acres for a PUD to be located in an R-5-A Zone District. However, the Commission may waive up to 50% of this minimum area requirement provided that the Commission finds, after public hearing, that the development is of exceptional merit and in the best interest of the city or country; and that if the development is to be located outside the Central Employment Area, at least 80% of the gross floor area of the development shall be used exclusively for dwelling units and uses accessory thereto. The Applicants have requested that the Commission waive 48% of the minimum area requirement. Having evaluated the Application in light of the foregoing standards, and noting that the much-needed affordable housing and accessory social services for seniors provided with the Project are of exceptional merit and in the best interest of the District, and that 100% of the gross floor area of the new development included in the Project will be devoted to housing, the Commission finds that the site area requirement waiver requested by the Applicants is appropriate for this Project.
4. Proper notice of the proposed PUD and related rezoning was provided in accordance with the requirements of the Zoning Regulations.
5. The development of the Project will implement the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter-of-right standards. Here, the height, character, scale, mix of uses, and design of the proposed PUD are appropriate, and the proposed construction of an attractive low-density residential building that provides much-needed affordable senior housing is compatible with the citywide and area plans of the District of Columbia.
6. The Applicants seek a PUD-related zoning map amendment to the R-5-A Zone District. The Commission has judged, balanced, and reconciled the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects, and concludes approval is warranted for the reasons detailed below.
7. The PUD is within the applicable height and bulk standards of the Zoning Regulations if a five percent increase to a FAR of 1.05 is granted pursuant to § 2405.3(b). The Commission may grant that increase “provided that the increase is essential to the successful functioning of the project and consistent with the purpose and evaluation standards of Chapter 24.” The proposed density is essential to the financial feasibility of the Project and is not incompatible with the densities of the existing apartment house development located immediately across South Capitol Street to the east of the PUD Site. Further, the proposed height and density will not cause an adverse effect on nearby properties and are consistent with the height and density of surrounding and nearby properties.

8. The Project provides superior features that benefit the surrounding neighborhood to a significantly greater extent than a matter-of-right development on the Property would provide. The Commission finds that the site planning, sustainable features, affordable senior housing, and provided community services are all significant public benefits. The impact of the project is acceptable given the quality of the public benefits of the Project.
9. The impact of the Project on the surrounding area and the operation of District services is not unacceptable. The Commission agrees with the conclusions of the Applicants' traffic expert and DDOT that the proposed Project will not create adverse traffic, parking, or pedestrian impacts on the surrounding community. The Application will be approved with conditions to ensure that any potential adverse effects on the surrounding area for the Project will be mitigated.
10. Approval of the PUD and rezoning is not inconsistent with the Comprehensive Plan. The Commission agrees with the determination of OP and finds that the proposed Project is consistent with the Property's Designation as Low-Density Residential use on the Future Land Use Map and furthers numerous goals and policies of the Comprehensive Plan in the Land Use Element, Housing Element, and other District-wide elements and policies as well as policies in the Mid-City Area Element as delineated in the OP Report.
11. The Commission concludes that the proposed PUD-related Zoning Map Amendment for the Property from the R-2 to the R-5-A Zone District is not inconsistent with the Comprehensive Plan, including the Property's designation as Low-Density Residential on the Future Land Use Map, and is appropriate given the superior features of the PUD, the benefits and amenities provided through the PUD, the goals and policies of the Comprehensive Plan, and other District of Columbia policies and objectives.
12. The PUD and rezoning for the Property will promote orderly development of the Property in conformance with the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
13. 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. OP recommended approval, provided that the Applicants furnish a detailed Landscape Plan and updated and signed First Source and CBE Agreements prior to final action. The Commission concludes that the Applicants have addressed this condition. Through a supplemental report dated November 18, 2013, OP stated that the Project would not require any additional vehicular parking spaces beyond those currently planned if the Applicants demonstrated that the wellness center occupies less than 25% of the overall space. The Commission concludes that the Applicants have so demonstrated.
14. In accordance with § 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)), the Commission must give great weight to the written issues and concerns of the affected ANC, as stated in its written report. As noted, in this case there are two affected ANCs.

15. The Commission accorded the issues and concerns raised by ANC 8C and 8D the “great weight” to which they are entitled, and in so doing fully credited the unique vantage point that ANC 8C and 8D hold with respect to the impact of the proposed Application on the their respective constituents. The Commission recognizes that both ANCs recommended approval. In the case of ANC 8C, the Commission notes Ms. Cuthbert’s initial concern that the ANC vote was taken without knowledge that a PUD-related map amendment was also being requested. Nevertheless, the ANC did not take a subsequent vote to reverse its position and the Commission must therefore accept the vote as being in favor of the Project, which cannot be built without the map amendment. The Commission further notes that Ms. Cuthbert withdrew her personal objection to the PUD-related map amendment once she understood its unique attributes.
16. At the public hearing, the Commission, in response to concerns from affected residents, requested that the Applicants make further outreach efforts to the community and submit a parking study and proposed parking management plan. Recognizing the Applicants’ submission on November 18, 2013 of a detailed description of its outreach efforts and of its parking study and Parking Management Plan, the Commission concludes that the Applicants have satisfied these concerns, provided that implementation of a plan substantially similar to the Parking Management Plan is a condition of this order.
17. The Applicants are subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the Application for consolidated approval of a PUD and related rezoning from the R-2 Zone District to the R-5-A Zone District for property consisting of Square 6129, Lot 825 (“Property”). This approval is subject to the following guidelines, conditions, and standards of this Order.

A. Project Development

1. This Project shall be developed in accordance with the plans marked as Exhibits 2E1-2E4, Exhibits 23A1-23A3, and Exhibits 46A-46C of the Record, as modified by guidelines, conditions, and standards herein.
2. The building may be constructed to a maximum height of 40 feet and a maximum density of 1.05 FAR.
3. The Property shall be used for residential, community and religious uses as shown on the approved plans.
4. The project shall provide 23 vehicular parking spaces as shown on the approved plans.
5. The Project shall provide a total of approximately 22 bicycle parking spaces as

shown on the approved plans.

6. The Project shall provide loading consistent with the approved plans.
7. The Applicants shall have flexibility with the design of the PUD in the following areas:
 - (a) To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration or appearance of the structure;
 - (b) To vary final selection of the exterior materials within the color ranges and materials types as proposed based on availability at the time of construction;
 - (c) To vary the final streetscape design and materials subject to review and approval by the appropriate District permitting authorities; and
 - (d) To make minor refinements to exterior details and dimensions, including balcony enclosures, belt courses, sills, bases, cornices, railings, and trim, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit, or to address the structural, mechanical, or operational needs of the building uses or systems.

B. Public Benefits

1. Prior to the issuance of a certificate of occupancy, the Applicants shall implement the following sustainable design features:
 - (a) Storm Water Management;
 - (b) EPA Best Management Practices for Erosion & Sediment Control during construction;
 - (c) Native Landscaping and non-invasive species;
 - (d) Compact Development – increased density exceeding 20 apartment units/acre;
 - (e) Drip irrigation or no irrigation;
 - (f) Water-conserving Low Flow Appliances and plumbing fixtures;
 - (g) Efficient Energy Use – HVAC sizing and high SEER mech. units (15 SEER);

- (h) Efficient Interior and Exterior lighting – Energy Star-rated appliances and light fixtures, daylight sensor for exterior lights, and high efficiency commercial grade fixtures in all common areas and outdoors;
 - (i) “State of the Art” Building Envelope and garage insulation;
 - (j) Reflective roofing: Energy Star-compliant membrane roofing system – (TPO) fully adhered membrane roof;
 - (k) Recycled content materials, including cementitious panel or siding, green label carpet, bamboo flooring; Low VOC paints, primers, adhesives, and sealants;
 - (l) Mold prevention measures: ventilated areas and kitchen and bathroom exhaust to exterior; and
 - (m) Construction Waste Management.
2. Except for those units that must be set-aside to satisfy the requirements of § 2603.1 and 2603.3 of the Inclusionary Zoning Regulations for so long as the project exists, all of the units shall be reserved for and made affordable for households earning no more than 60% of AMI, with a long-term affordability period of 30 years, with tenants restricted to persons age 55 or over to the extent permitted by law.

C. Mitigation Measures

1. For the life of the Project, the Applicants shall implement a parking management plan that contains the following:
- (a) On-street parking restrictions for church members. The Church shall prohibit members from parking on the 3900 block of 1st Street and the east side of the 3900 block of 2nd Street (“Prohibited Streets”). The prohibition shall be announced during the first worship service of each month together with an explanation of the benefits of car pooling. The importance of the transportation and parking policies will also be stressed and communicated;
 - (b) A trustee or volunteer shall be responsible for management of parking before and during service and special events. The trustee or volunteer shall patrol adjacent streets and encourage church members and visitors to park in preferred locations as shown in Exhibit 44B2. Announcements shall be made during service if any cars are observed parking illegally, including those parked on the Prohibited Streets. The trustee or volunteer shall patrol the adjacent streets 30 minutes prior to the start of each service and will continue their patrol until 30 minutes after the start of each service or an event. One additional person will manage and monitor the occupancy levels within the Project’s parking garage. Signage shall

- be used to help notify members when garage parking is full;
- (c) The church shall stack five additional vehicles along the north side of the Project's garage during any morning when a worship service is held. The onsite parking staff shall be available to manage double parking for vehicles in the garage;
 - (d) Off-site parking spaces:
 - (i) Pursuant to an agreement with the Court Services and Offender Supervision Agency, the church shall utilize 10 reserved parking spaces located at the front of 3850 South Capitol Street, S.W. on Sundays when the center is not in operation;
 - (ii) Pursuant to an agreement with the Community of Hope, the church shall utilize 123 reserved parking spaces located at the Community of Hope Parking Garage (to be completed Fall, 2014) located at 4 Atlantic Street, S.W. The church van shall be used to transport to/from church from this location at 15 minute intervals beginning 30 minutes prior to each worship service and ending 30 minutes thereafter;
 - (iii) In the event that one or both of these locations become unavailable, the church shall enter into agreement(s) with substitute lots to reserve at least the number of spaces lost; and
 - (iv) No certificate of occupancy shall be issued for the Project unless the Zoning Administrator is provided proof that the church has agreements in place to reserve at least 133 off-street parking spaces for the use of church members and visitors on Sunday mornings that are located within a two-block radius of the church; and
 - (e) The church shall establish a Transportation Coordinator to promote the church's parking policies and transportation demand management measures. The coordinator shall assist church members to identify carpool opportunities in their residential area. The church shall develop a carpooling and ridesharing map to assist persons in getting to church.

D. Miscellaneous

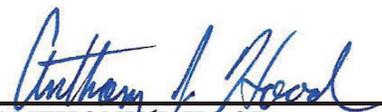
1. No building permit shall be issued for this Project until the owner of the Property has recorded a covenant among the land records of the District of Columbia between the owners and the District of Columbia that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs. Such covenant shall bind the owner of the Property and all successors in title to construct on or use the Property in accordance with this Order and any amendment thereof by the Commission.

2. The Application approved by this Commission shall be valid for a period of two years from the effective date of this Order. Within such time, an application must be filed for the building permit as specified in 11 DCMR § 2409.1. Construction must commence within three years of the effective date of this Order.
3. The Applicants are required to comply fully with the provisions of the Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01, et seq. (“Act”) and this Order is conditioned upon full compliance with those provisions. In accordance with 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, 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, which 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 January 13, 2014, upon the motion of Commissioner Miller, as seconded by Chairman Hood, the Zoning Commission **APPROVED** the Application 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 March 24, 2014, upon the motion of Commissioner Miller, as seconded by Chairman Hood, 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, and Peter G. May to adopt; Michael G. Turnbull to adopt by absentee ballot).

In accordance with the provisions of 11 DCMR § 3028.8, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on April 18, 2014.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING