

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 15-24/15-24A
Z.C. Case Nos. 15-24 and 15-24A
Gallaudet University and The JBG Companies
(First-Stage PUD @ Square 3591, Lot 4 and Parcels 129/70, 129/103, 129/106, and 129/112)
May 8, 2017

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on June 23, 2016 to consider an application from Gallaudet University and The JBG Companies (together, the “Applicant”) for review and approval of a first-stage planned unit development (“PUD”) for Square 3591, Lot 4 and Parcels 129/70, 129/103, 129/106, and 129/112 (“Property”). The application proposes a mixed-use development consisting of retail, office, and residential uses (“Project”). The Commission considered the application pursuant to Chapter 24 and § 102 of the D.C. Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”)¹. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application with conditions.

FINDINGS OF FACT

Application, Parties, Hearing, and Post-Hearing Submissions

1. The Property consists of four parcels of land in the Union Market/Gallaudet University neighborhood and is comprised of 273,514 square feet of land area (Square 3591, Lot 4 and Parcels 129/70, 129/103, 129/106, and 129/112). The parcels are located in the Northeast quadrant of the District of Columbia and are bounded by Penn Street to the north, Florida Avenue to the south, 5th Street to the west, and the Gallaudet University campus to the east (“Property”). (Exhibit [“Ex.”] 2.)
2. On October 15, 2015, the Applicant submitted an application to the Commission for the review and approval of a first-stage planned unit development (“PUD”) for the Property

¹ Chapter 24 and § 102 and all other provisions of Title 11 DCMR were repealed on September 6, 2016, and replaced with a Chapter 3 of Subtitle 11-X of the 2016 Zoning Regulations. However, because this application was set down for a hearing prior to that date, the Commission’s approval was based upon the standards set forth in Chapter 24 and § 102 of the 1958 Zoning Regulations. (11-A DCMR § 102.3(c).)

and a PUD-related map amendment to rezone the Property from the C-M-1 Zone District to the C-3-A Zone District for Parcels 1 and 2 and to the C-3-C Zone District for Parcels 3 and 4, as the Parcels are defined herein. (Ex. 2-2H.)

3. On November 24, 2016, the Applicant filed a separate application for Parcel 4 (Parcel 129/112) since the parcel was not contiguous with the other three parcels, as required pursuant to § 2401.1. The application was designated as Z.C. Case No. 15-24A. The Applicant submitted a request that Z.C. Case Nos. 15-24 and 15-24A be reviewed and considered together for ease of review and evaluated simultaneously. (Ex. 11.)
4. On January 14, 2016, the Office of Planning (“OP”) submitted a setdown report recommending that a public hearing be held on the application. OP noted its opposition to the use of Neal Place for vehicular traffic and encouraged the Applicant to reconsider its proposal. OP also requested that additional information be submitted into the record prior to the public hearing: (Ex. 12.)
 - More detailed renderings of the proposed Stage 1 massing;
 - Clarification of the relief and flexibility requested;
 - A design for Neal Place consistent with both the Small Area Plan and the plans approved for the PUD located to the north;
 - Coordination of with adjacent property owner for design of private alley for Parcel 3;
 - Continued coordination with DC Water to upgrade utilities as necessary;
 - Coordination with DOEE regarding stormwater management and LEED certification;
 - Coordination with Historic Preservation Office to confirm development does not adversely affect Gallaudet’s campus;
 - Demonstrate how development furthers goals and objectives of the Ward 5 Industrial Land Transformation Study;
 - A signed First Source and CBE Agreement;
 - Contracting goals for small and local business; and
 - Updated and improved benefits and amenities package.

OP referred the application to the Department of Transportation (“DDOT”); Department of Energy and Environment (“DDOE”); Fire and Emergency Medical Services

Department (“FEMS”); DC Water; DC Public Schools (“DCPS”); Department of Housing and Community Development (“DHCD”); Department of Public Works (“DPW”); Department of Employment Services (“DOES”); and Department of Health (“DOH”) for review and consideration. (Ex. 12.)

5. On February 8, 2016, the Commission set the application down for a public hearing, supporting OP’s request for additional information prior to the public hearing. The Commission requested additional information regarding the use of Neal Place for the public hearing. The Commission approved the Applicant’s request that Z.C. Case Nos. 15-24 and 15-24A be heard simultaneously and noted that the records for both cases would be consolidated into Z.C. Case No. 15-24. (February 8, 2016 Transcript [“Tr.”], p. 54.)
6. On March 9, 2016, OP held an interagency meeting and invited DDOT, DOEE, DHCD, Department of Parks and Recreation, FEMS, Metropolitan Police Department, and DC Water to attend to review the application. (Ex. 28.)
7. The Applicant filed its pre-hearing statement on April 11, 2016, including responses to OP’s and the Commission’s comments above. (Ex. 15-15B10.)
8. Notice of the public hearing was published in the *D.C. Register* on April 21, 2016, and was mailed to Advisory Neighborhood Commissions (“ANC”) 5D and 6C as well as to owners within 200 feet of the Property on April 21, 2016. (Ex. 18-20.)
9. Union Market Neighbors (“UMN”) in Opposition filed for party status in opposition to the application on June 8, 2016. The UMN cited concerns regarding the destabilization of land values; impacts from construction; and impacts on light, air, public services and utilities, traffic, and parking supply. The organization purported to be made up of residents and commercial interests in the area; however, the organization did not attend the hearing or make itself available for cross-examination. Because the organization did not attend the hearing, the Commission denied its request for party status. (Ex. 27.)
10. A public hearing was held on June 23, 2016, during which the Applicant gave its presentation and responded to cross-examination. Both OP and DDOT gave presentations at the hearing. The ANC submitted a letter in support of the application but did not participate in the hearing. (Ex. 30.)
11. UMN, which was not present at the hearing, electronically submitted questions and comments to the Commission on the day of the hearing. UMN’s questions and comments concerned the following matters: (Ex. 27C, 34.)
 - The application’s consistency with the Comprehensive Plan Future Land Use Map;

- What analysis was undertaken to review the Project’s impacts on utilities, emissions, noise, and air quality;
 - How many jobs the Project would provide;
 - Whether a gentrification analysis was undertaken; and
 - Whether the transportation infrastructure can accommodate the impacts of the Project.
12. The parties to the application, not having been served, did not have an opportunity to review and respond to UMN prior to the closing of the record. (Ex. 27.)
 13. The Applicant proffered, and the Commission accepted, Erwin Andres as an expert in transportation engineering and Morris Adjmi, as an expert in architecture. (June 23, 2016 Tr., p. 16.)
 14. At the public hearing, the Commission heard testimony and received evidence in support of the Project from OP and DDOT, although both agencies also cited outstanding items that still needed to be addressed. (*Id.*, pp. 68-73, 74-82.)
 15. At the conclusion of the public hearing, the Commission closed the record except for the Applicant’s post-hearing submission and proposed order, as well as responses to the Applicant’s post-hearing submissions from OP, DDOT, ANC 5D, and ANC 6C. The Commission requested additional information regarding the benefits and amenities package, specifically details regarding the administration of the affordable housing units being proffered at the 60% area median income (“AMI”) level, more details regarding the proffered employment program and rationale for not participating in the First Source program, and an explanation for why the project will not be certified at the LEED-Gold level. The Commission also requested an annotated chart responding to each of the items listed in DDOT’s report. (*Id.*)
 16. The Applicant filed its post-hearing submission and draft order on August 22, 2016. Its submission provided responses to each item requested by the Commission. (Ex. 36-36E7, 37.)
 17. At its public meeting on September 12, 2016, the Commission evaluated the Applicant’s proposed benefits and amenities package and determined it was not commensurate with the level of flexibility afforded by the PUD process. Accordingly, it deferred action on the application to its public meeting on October 17, 2016. It asked the Applicant and OP to continue to work to resolve outstanding concerns with respect to the benefits and amenities package, specifically with respect to the affordable housing component. (September 12, 2016 Tr., pp. 71-74.)

18. The Applicant filed a second post-hearing submission on September 30 outlining an updated benefits and amenities proposal. (Ex. 40.)
19. OP testified at the public meeting on October 17, 2016 that it did not believe the proposed benefits and amenities were commensurate with the level of zoning flexibility requested. OP clarified to say that it believed that the proposed benefits and amenities were appropriate, with the exception of the amount of affordable housing and the inclusion of the design competition as a proffer. It specifically requested that the Applicant consider improving its affordable housing proffer. (Ex. 41; October 17, 2016 Tr., pp. 49-50.)
20. The Commission once again found that the proposed benefits and amenities were not commensurate with the flexibility afforded by the PUD process and deferred action on the application to its November public meeting. It asked the Applicant to reevaluate its affordable housing proffer. (October 17, 2016 Tr., pp. 50-52.)
21. The Applicant filed requests to defer consideration of the application in November, December, January, and February to afford it additional time to discuss its proposed benefits and amenities with OP. (Ex. 42-45.)
22. The Applicant filed an updated benefits and amenities package on March 13, 2017, which included an enhanced affordable housing proffer. (Ex. 46-46B.)
23. The Commission ultimately took proposed action to approve the application at its March 27, 2017 public meeting.
24. The proposed action of the Commission was referred to the National Capital Planning Commission (“NCPC”) as required by the District of Columbia Home Rule Act on March 27, 2017. NCPC, by delegated action dated April 27, 2017, found that the proposed PUD-related map amendment would not adversely affect the federal establishment or other identified federal interests in the National Capital and would not be inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital. (Ex. 52.)
25. On April 11, 2017², OP submitted a supplemental report. (Ex. 50.)
26. On April 17, 2017, the Applicant submitted its list of final proffered public benefits of the PUD and draft conditions, pursuant to 11 DCMR §§ 2403.16-2403.18. (Ex. 51.)
27. On May 8, 2017, the Commission voted to take final action to approve the application subject to the conditions enumerated in this Order.

² The document was incorrectly dated March 13, 2017.

THE MERITS OF THE APPLICATION

Description of Property and Surrounding Areas

28. The Property consists of four parcels of land in the Union Market/Gallaudet University neighborhood and is comprised of 273,514 square feet of land area. The parcels are located in the Northeast quadrant of the District of Columbia and are bounded by Penn Street to the north, Florida Avenue to the south, 5th Street to the west, and the Gallaudet University campus to the east. (Ex. 2.)
29. The Property is located in the C-M-1 Zone District. The C-M-1 Zone District does not allow residential uses; no residential uses are currently located on the Property. As such, no residents are displaced by the Project. (Ex. 2.)
30. Parcel 1 is located in the northeast corner of the intersection of 6th Street and Florida Avenue and at the western edge of the Gallaudet campus. Florida Avenue is located to its south, 6th Street to its west, Parcel 2 to its north, and the Gallaudet University campus to its east. It consists of 61,500 square feet of land and is located in the C-M-1 Zone District. Parcel 1 is improved with the Appleby Building, which houses the transportation facilities for the University. The Applicant requested a map amendment to the C-3-A Zone District, which will enable the construction of residential, office, retail, and university-support uses. (Ex. 2.)
31. Parcel 2 is bounded by 6th Street to the west, Parcel 1 to the south, and the Gallaudet University campus to the east and north. It consists of 45,440 square feet of land and is located in the C-M-1 Zone District. It is improved with an approximately 290-space, above-grade parking garage used by the University. The Applicant requested a PUD-related map amendment to the C-3-A Zone District to facilitate the construction of residential, retail, and university-related uses. The land areas of both Parcels 1 and 2 were referenced in the University's Campus Plan in Z.C. Case No. 12-15 but they were not included within the boundaries of the Campus Plan. (Ex. 2.)
32. Parcel 3 is bounded by 5th Street to the west, Morse Street to the south, 6th Street to the east, and Neal Place to the north. It consists of 87,638 square feet of area and is located in the C-M-1 Zone District. The property is used as a surface-parking lot that supports retail uses in the Market. The Applicant requested a PUD-related map amendment to the C-3-C Zone District to allow the construction of residential, office, and retail uses. (Ex. 2.)
33. Parcel 4 is bounded by 5th Street to the west, a private alley to the south, 6th Street to the east, and Penn Street to the north. It consists of 78,936 square feet of land area and is located in the C-M-1 Zone District. The Property is primarily vacant with a portion being improved with a series of low-scale industrial warehouses and various temporary uses.

The Applicant requested a PUD-related map amendment to the C-3-C Zone District in order to allow a mixed-use residential, office, and retail building. (Ex. 2.)

34. The west portion of the Property is located in a neighborhood historically known as the Capital City Market or Florida Avenue Market and is better known today as the Union Market area (“Market”). The east portion of the Property, located on the opposite side of 6th Street, N.E. is within the boundaries of Gallaudet’s campus. Though the eastern parcels are located within the boundaries of Gallaudet’s campus, they are not located within the Gallaudet Campus Plan as they are located in the C-M-1 Zone District; the Campus Plan applies to only those parcels located in the R-4 Zone District. (Ex. 2.)
35. The Project is approximately 1,500 feet away from the New York Avenue Metrorail Station on the Red line and is located along the 90/92 Metrobus lines. It is located within the boundaries of ANC 5D01 in Ward 5 but is located just north of Ward 6, as Florida Avenue marks the boundary between Ward 5 and Ward 6. (Ex. 2.)

The Project

36. The Project consists of four phases of development. The massing of each phase varies as each has been thoughtfully developed in relation to its context, recognizing that each parcel has different needs and serves a distinct purpose. The Applicant seeks first-stage approval for each parcel; it only seeks approval for the proposed site plan and massing. The Applicant will return to the Commission in the future for approval of the design of each phase. (Ex. 2.)
37. Parcels 1 and 2 include lower-scale buildings with heights that are as low as 45 feet but step up to a maximum height of 70 feet as the buildings move north. The massing proposed for these phases respects the lower scale of the existing residential community to the south of Florida and the lower-scale structures on Gallaudet’s campus while also taking advantage of its location along a major transit corridor that includes both a Metrorail Station and several Metrobus lines. (Ex. 2.)
38. The mix of uses for these parcels is intended to serve the University, its students, faculty, and staff as well as future market residents and visitors. Retail uses frame 6th Street at the ground floor while university-support uses face the University. A mix of residential, office, and university uses are located above the ground floor. (Ex. 2.)
39. Parcel 1 will establish a presence along 6th Street with a mix of university-support, retail, and office uses. The southern portion of the parcel serves as a gateway to Gallaudet’s campus and a primary connection between the University’s campus and the community. This Gateway Plaza serves as a new iconic point of arrival to the campus, expressive of the unique deaf ways of being as well as Gallaudet’s heritage and spirit of innovation. This area establishes an iconic gateway to the University through architectural and landscape elements and will create an urban space that is inviting and activated. It is

flexible space that can be used to accommodate temporary programs such as markets, festival, exhibitions, and performances. The programming will lend itself to welcome visitors and guests to the University; however, the precise location and parameters of this building will be informed by the demands and needs of Gallaudet University. (Ex. 2)

40. Parcels 1 and 2 include a series of “green fingers” that will provide passive recreation areas between the buildings abutting 6th Street. The southern finger, located on Parcel 1, focuses on providing social gathering spaces and as such, will include a greater proportion of hardscape features. (Ex. 2.)
41. Parcel 1 frontage on 6th Street is lined with retail uses on the ground-floor plane. Above the retail are residential and office uses with leasing focus on local boutique office users, including makerspace, co-working, and business incubator space. The eastern-facing portion of the building is dedicated to university-support and retail uses. (Ex. 2.)
42. The buildings on Parcel 1 have a maximum height of 70 feet along 6th Street and step down to 45 feet along the campus edge on Florida Avenue. In all, the buildings consist of approximately 163,450 square feet of gross floor area: approximately 67,400 square feet of residential use, 11,490 square feet of retail use, 61,440 square feet of office use, and 23,120 square feet of university-related uses. (Ex. 2, 46.)
43. Parcel 1 includes approximately 140 parking spaces and two loading berths at 30 feet deep. Access to the garage will be via a private drive aligned with Morse Street. The garage will be located entirely below grade and parking will be compartmentalized according to the use that it is serving. (Ex. 2, 46.)
44. Parcel 2 is located to the north of Parcel 1. Like Parcel 1, one of the defining features of Parcel 2 is its landscaped public spaces. Parcel 2 includes the northern finger of the series of “green fingers” that will provide passive recreation areas. The northern finger will provide more opportunities for quiet gathering spaces and will provide more true green spaces to create an intimacy for pedestrians traversing between the buildings. (Ex. 2, 46.)
45. The campus promenade is incorporated into Parcel 2, which utilizes a mix of hardscape features and plantings to establish a communication between the retail strip along 6th Street and the Gallaudet campus. The promenade is an active through connection for pedestrian traffic but it also encourages passive recreation and communal gathering. The eastern end of the promenade opens onto a larger plaza that will be hardscaped with functional features that double as gathering spaces for students on their way to and from class. (Ex. 2, 46.)
46. Two separate buildings are proposed for this parcel, both of which will include residential units. The southern building will be approximately 45 feet in height and will include retail uses facing 6th Street and university-support uses facing the campus. In total, it

includes approximately 48,920 square feet of residential uses, 6,830 square feet of university support uses and 8,300 square feet of retail uses. The northern building has a maximum height of 70 feet and will include approximately 54,000 square feet of residential uses, 2,440 square feet of university-support uses, and 3,900 square feet of retail uses. Again, the retail uses focus on 6th Street while the university-support uses face the Gallaudet Campus. The narrow gap between the two buildings in Parcel 2 is filled with a small retail kiosk so that there is no interruption in the retail uses along 6th Street. (Ex. 2, 46.)

47. Parcel 2 will include approximately 105 parking spaces and one loading berth. Parcel 2 will share a garage with Parcel 2 and access will be provided via a private drive aligned with Morse Street. (Ex. 2, 46.)
48. The Applicant is studying the feasibility of modifying the location of Tapscott Drive, which currently intersects with 6th Street just to the north of Parcel 2. The site plan for Parcels 1 and 2 may be modified in the Stage 2 application to reflect the realignment of Tapscott Drive with the alley in Parcel 3 (“Parcel 3 Alley”). In the event this realignment is feasible, the Applicant may study the feasibility of providing access to parking for Parcels 1 and 2 from Tapscott Drive in connection with its Stage 2 application for Parcels 1 or 2. (Ex. 2, 46.)
49. Parcels 3 and 4 provide greater mass on the west side of 6th Street. These buildings acknowledge the scale, proportions, and material character of the 1920s market buildings and create a sense of continuity and rhythm between the buildings, as opposed to establishing stand-alone structures. (Ex. 2, 46.)
50. Parcel 3 will include approximately 50,620 square feet of retail space on the ground floor that will have frontage on 6th Street, Neal Place, and 5th Street. The retail will not only focus outwardly to each of these streets, but it will line the east-west alley running through Parcel 3. Vehicular traffic will be permitted through this market area, although it may be closed periodically for special events. This alley will provide much needed east-west access through the Market. (Ex. 2, 46.)
51. Neal Place, to the north of Parcel 3, will be utilized as a pedestrian thoroughfare. It will be an outdoor and vehicle-free counterpart to the retail alley through Parcel 2. The design of Neal Place will be finalized during the Stage 2 application for Parcel 3 and in coordination with the adjacent property owner to the north. (Ex. 2, 46.)
52. Parcel 3 will include approximately 600,660 square feet of residential use, or approximately 850-900 residential units. The building will be approximately 120 feet tall with a density of 7.43 floor area ratio (“FAR”). In order to realize this massing, the Applicant is proposing a simultaneous PUD-related map amendment to the C-3-C Zone District. Ten percent of the residential gross floor area will be dedicated to affordable housing. The parcel will include 403 parking spaces and two loading berths. (Ex. 2, 46.)

53. Parcel 4 is the northernmost parcel with frontage on 5th and 6th Streets as well as Penn Street. This parcel will have a maximum height of 120 feet and a density of 7.92 FAR. Approximately 563,900 square feet of area will be dedicated to residential uses and 61,080 square feet of area will be dedicated to retail uses. The proposed building will include approximately 725-775 residential units. Ten percent of the residential gross floor area will be dedicated to affordable housing. The building will include approximately 395 below-grade parking spaces, two 55-foot loading berths, and one 30-foot loading berth. (Ex. 2, 46.)
54. The Applicant seeks flexibility to reduce the level of residential uses approved for Parcels 1, 3, and 4 in the event there is demand for additional office uses. This flexibility allows the Applicant to eliminate residential uses on Parcel 1 and increase office use to total 113,730 square feet. The level of retail and university uses would remain unchanged on Parcel 1. On Parcel 3, residential uses would be reduced to 401,055 square feet, retail uses would be reduced to 48,550 square feet, and office uses would be increased to 186,160 square feet. On Parcel 4, residential uses would be reduced to 350,710 square feet, retail uses would be reduced to 58,200 square feet, and office use would be increased to 192,200 square feet. (Ex. 2, 46.)
55. Extensive landscaping is incorporated throughout the Project. Each of the public spaces introduce varying wayfinding strategies that are consistent with DeafSpace guidelines and Human Centered Design concepts. DeafSpace principles encourage multiple means for communicating wayfinding and cautionary signals to the pedestrian that appeal to senses other than hearing. Other notification devices include the use of texture, lights, landscaping, or colors to signal a pedestrian path. Reliance on alternative signals is important given the high number of deaf students, faculty, and visitors in the vicinity. (Ex. 2, 46.)
56. Parcels 1 and 2 will include a series of open spaces. The primary landscaping features included in Parcels 1 and 2 are the public plaza located at the 6th Street and Florida Avenue, the finger parks, and the Campus Promenade. (Ex. 2, 46.)

PUD Flexibility Requested

57. *Section 2516:* Parcels 1 and 2 will provide more than one structure on a single lot and require relief from § 2516. (Exhibits 2, 15, 26, 36, 46.)
58. *Parking:* Additional parking is required for Parcels 1 and 2 than is being provided. Flexibility was granted to provide an additional level of parking for each phase of the development. (Ex. 2, 15, 26, 36, 46.)
59. *Loading:* Loading relief is required for Phases 1, 2, 3, and 4 for the requisite number of berths and the depth of the berths. (Ex. 2, 15, 26, 36, 46.)

60. *Side Yard:* Side yard relief is required for Parcels 1, 2, 3, and 4. Side yards are not required; however, if one is provided, a minimum depth is required and the minimum depth is not provided on these parcels. (Ex. 2, 15, 26, 36, 46.)
61. *Inclusionary Zoning:* The Applicant initially sought relief from the requirements of § 2603; however, it subsequently modified its proffer and no longer requires relief from the inclusionary zoning requirements. (Ex. 2, 15, 26, 36, 46.)
62. *Use:* Flexibility was granted to convert a portion of the space reserved for residential and retail uses to office use if an office market is established at this location. The Applicant would like to retain the flexibility to convert a portion of the structures on Parcels 1, 3, and 4 to office use if market demand can be established, as noted in paragraph 41. (Ex. 2, 15, 26, 36, 46.)
63. *Streetscape and Landscape:* Flexibility was granted to allow the Applicant to coordinate with other stakeholders and relevant District agencies in finalizing the details of the streetscape and the park area on the private section of Neal Place. The landscaping plan will be finalized during the Stage 2 applications. (Ex. 2, 15, 26, 36, 46.)
64. *Private Alleys:* The Applicant is working with adjacent property owners to Parcels 3 and 4 to establish private alley systems for each parcel; the final site plan for these parcels may be modified in order to accommodate such private alleys. The final configuration of the alley systems in Parcels 3 and 4 will be finalized during the Stage 2 PUD application process. (Ex. 2, 15, 26, 36, 46.)
65. *Site Plan:* Parcels 1 and 2 are included in the Design Competition and the site plan for these parcels may be modified in the Stage 2 application based on the results of the competition. The site plan for Parcels 1 and 2 may be modified in the Stage 2 application to accommodate a realignment of Tapscott Drive with the proposed private alley in Parcel 3. The Applicant will continue to work with DDOT regarding the final configuration for Tapscott Drive.

The site plan for Parcel 3 may be modified in the Stage 2 application to accommodate the site plan ultimately approved in Z.C. Case No. 16-05, which is currently pending before the Commission. Z.C. Case No. 16-05 proposes a private alley in Parcel 3 and it reflects the transfer of the southeastern corner of Parcel 3 into the PUD that is the subject of Z.C. Case No. 16-05. The Applicant will modify the site plan for Parcel 3 in its Stage 2 application to reflect approvals granted by the Commission in Z.C. Case No. 16-05.

Finally, the site plan for Parcel 4 may be modified in the Stage 2 application to accommodate a private alley that serves both Parcel 4 and the property to its south. (Ex. 2, 15, 26, 36, 46.)

66. *Interim Uses:* Flexibility was granted to allow interim “pop-up” uses on Parcels 3 and 4. These parcels will be used for neighborhood serving retail and entertainment that will utilize temporary structures and may provide parking on either parcel. The interim uses are only permitted for the life of the first-stage PUD. (Ex. 2, 15, 26, 36, 46.)

Project Amenities and Public Benefits

67. As detailed in the Applicant’s testimony and written submissions, the proposed PUD will provide the following project amenities and public benefits: (Ex. 2, 36, 46,)

- a. Exemplary Urban Design, Architecture, and Open Spaces. The design of the Project fulfills multiple Urban Design Elements of the Comprehensive Plan. The Project features a Gateway Plaza which will help to “create more distinctive and memorable gateways at points of entry to the city, and points of entry to individual neighborhoods and neighborhood centers,” in compliance with the Comprehensive Plan. Additionally, the Gateway Plaza’s architectural and landscape elements are integrated with its surroundings to complement the historic architecture of the Gallaudet University Faculty Row. The Gateway Plaza design incorporates DeafSpace architectural principles, which focus on open sightlines, texture and light. The integration of DeafSpace architectural principles will “reinforce community identity,” as contemplated by the Urban Design Elements.

A Campus Promenade and Green Fingers extending into the campus area also safeguard open and green space, in compliance with the Urban Design Elements. The Gateway Plaza will “provide [. . .] public plazas, and similar areas that stimulate vibrant pedestrian street life and provide a focus for community activities,” by including flexible space that can be used for community activities, such as markets and festivals. Parcels 3 and 4 of the Project strengthen “neighborhood character and identity” by utilizing building materials that are consistent with those of the historic Florida Avenue Market. The massing of the improvements on Parcels 3 and 4 integrate effectively with the historic market buildings.

The Project’s Streetscape design also satisfies the Urban Design Elements. The Streetscape includes wide pedestrian paths and sidewalks, flexible spaces, which may include a variety of landscaping or seating areas, bioswale, and bike lanes. The “characteristically wide sidewalks of Washington’s commercial districts” are preserved, and the variety of landscaped areas, pedestrian paths, and bike lanes improve both the appearance and utility of the Streetscape. Furthermore, the Project will include “ground level retail” as contemplated by the Urban Design Elements;

- b. Site Planning and Efficient Land Utilization. This development reflects this benefit by replacing an underutilized site with a mixed-use development. The Project provides vehicular, pedestrian, and bicycle connections that do not currently exist. These connections integrate the site with the existing community in a way that the existing parcels do not;
- c. Housing and Affordable Housing. The Project will provide a substantial amount of multi-family housing, totaling approximately 1,334,880 square feet and substantially “expanding the housing supply” in the neighborhood. The Project will serve the Housing Element policies by directly creating “mixed use development, including housing, [. . .] particularly in neighborhood commercial centers, [. . .] and around appropriate Metrorail stations.” The project will also create approximately 133,488 square feet of affordable housing, 70% of which will be reserved for low-income households with an annual income no greater than 50% AMI and 30% will be reserved for moderate-income households with an annual income no greater than 80% AMI. The housing component of the Project will be located along 5th and 6th Streets, which are becoming commercial centers spurred by the development of the Market. The Project’s proximity to the Metrorail Station also promotes the objective of locating housing nearby to Metrorail stations;
- d. Land Use Element. The Project will meet a number of the Land Use Element objectives. The Project is located less than one-half mile from the NoMa-Gallaudet U Metrorail Station (“Metrorail Station”) and will contain a mix of residential, retail, office, and university uses. The Project’s location and mix of residential, retail, office, university, and outdoor components will “reduce automobile congestion, [. . .] provide a range of retail goods and services, reduce reliance on the automobile, enhance neighborhood stability, create a stronger sense of place, provide civic gathering places, and capitalize on the development and public transportation opportunities which the stations provide,” as contemplated by the Comprehensive Plan. The Project will be constructed on parcels that are currently underutilized or unimproved, and fills the “gaps in the urban fabric,” while maintaining continuity with the design aesthetic of the area.

Additionally, the Project contains extensive landscape, open space, and pedestrian improvements (discussed in further detail below), which will beautify and enhance the surrounding neighborhood. Furthermore, by including Gallaudet University uses in the Parcel 1 and Parcel 2 developments, creating a Gateway Plaza, and developing multiple public plazas, paths, and green spaces within Gallaudet University, the Project contributes to the integration of the University with the surrounding neighborhood, and ensures that “objectionable impacts” on the surrounding community are minimized;

- e. Transportation Element. The Project fulfills a number of the Transportation Element objectives. The Streetscape component of the Project will include wide pedestrian paths, a dedicated bicycle lane on 6th Street, and automobile lanes, and will clearly delineate these various uses to promote efficient movement. The site plan also incorporates a private alley to break up what would otherwise be a superblock on 6th Street. Additionally, pedestrian areas will be designed to promote safety, with shortened road crossings, clear signage, and appropriate lighting. Bicycle safety will also be bolstered, through the provision of a dedicated bicycle lane on 6th Street, as well as bicycle racks. The Streetscape component will provide a safe, well-organized, and convenient means for pedestrians, bicyclists, and motorists to move through the Project area and navigate the surrounding neighborhood;
- f. Environmental Protection Element. The Project supports several of the Environmental Element policies. The Project's Streetscape component promotes pedestrian and bicycle travel by establishing bicycle lanes alongside wide sidewalks. The Project's proximity to the Metrorail Station further reduces the need for automobile travel to and from the Project area for residents, shoppers, tourists, and students.

Additionally, the Project will advance the creation and maintenance of a "healthy urban forest" through the installation of runoff mitigation devices, such as stormwater infrastructure and bioswales, as well as the planting of resilient vegetation and trees. The Green Fingers, which will extend throughout the campus open space will prove an immersive natural experience, shielded from noise and sun glare. These elements enhance the aesthetic appeal of the Project and create a comfortable atmosphere for pedestrians and others to enjoy. The Project will also be certified at the LEED-Gold (v.2009) level;

- g. Economic Development Element. The Project fulfills the Economic Development Elements above by introducing approximately 140,000 square feet of ground floor retail space along 5th and 6th Streets. Underutilized buildings and unimproved sites along these streets will be repurposed for retail uses that serve the surrounding community, directly furthering the objectives of the above Economic Development Elements. The proposed retail space continues the economic revitalization of the neighborhood energized by the redevelopment of the Market and adds variety to the goods and services available to residents. The Project's retail additions to the neighborhood contribute to the vitality of the neighborhood and help to attract further beneficial development of the neighborhood by elevating its profile as a robust retail center;
- h. Educational Development Element. The Project advances the Educational Element of the Comprehensive Plan by integrating Gallaudet University with the

surrounding neighborhood. The development of the Streetscape, Gateway Plaza, Green Fingers extensions, and Campus Promenade better integrates the University with the community and fosters the flow of pedestrians between the surrounding neighborhood and the open spaces of the University. The Applicant will also provide training sessions for vendors in the market and members of the community with respect to interacting with the deaf and hard of hearing community;

i. Uses of Special Value. The Applicant is offering the following benefits and amenities as uses of special value, in addition to those items referenced above:

(A) Affordable Residential Units: The Applicant initially proposed setting aside eight percent of the residential gross floor area for households with an annual income no greater than 60% AMI; however, OP noted concerns that the units would be administered outside of the inclusionary zoning program. Accordingly, the Applicant modified its proffer to be consistent with the AMI levels included in the inclusionary zoning program: 10% of the residential gross floor area will be reserved as affordable housing, of which 70% of the 10% set aside will be available to households with an annual income no greater than 50% AMI and the remaining 30% of the 10% set aside will be available to households with an annual income no greater than 80% AMI;

(B) LEED. All four parcels will be certified at the LEED-Gold (v.2009) level;

(C) Public Open Space. The improvements outlined below will not utilize any funds that may be awarded to Union Market developments through the tax increment financing (“TIF”) program. The Applicant commits that none of the benefits and amenities proposed herein will be financed with TIF funds:

- Creation of over one acre of open space and park space for public use;
- Incorporation of DeafSpace principles in design of streetscape. Including but not limited to:
 - Pedestrian circulation zone - Wider sidewalks that provide an uninterrupted circulation zone which allows simultaneous signing and walking without interrupting the flow of traffic;

- Improved lighting that supports clear visual communication by adequately illuminating signers and interpreters and reduces eye strain;
- Material differentiation to signal to the deaf/blind when zones change uses and that enable vibration as a means for occupants to sense movement of others;
- Public areas with gathering areas designed for dynamic interaction and placement of personal belongings within eyesight;
- Wayfinding elements that utilize the latest technological advancements and can be navigated by people of all abilities; and
- Comprehensive and coordinate wayfinding package to guide pedestrians, bicycles, and vehicles through the project; and
- Improved streetscape, sidewalks, and landscaping, adjacent to the baseball field owned by the National Park Service and located immediately north of Parcel 2;

(D) Retail.

- Ground-floor retail in all phases of the project featuring retailers, including soft goods, similar to the retailers historically located in the Market;
- The Applicant will set aside a minimum of 10,000 square feet of retail space, to be reduced upon execution of each lease, for maker shops within the Project. The Applicant will make this space available to qualified retail tenants at a rate that is 10% below then market-rate rents, for the life of the Project;
- The Applicant will set aside at least 5,000 square feet of retail space, to be reduced upon execution of each lease, to a vendor from the deaf and hard-of-hearing community. This proffer promotes the goal of better integrating Gallaudet University with the Market. The spaces are not reserved specifically for Gallaudet students or alumni but are available to any deaf or hard of hearing entrepreneur and are a means to promoting interaction between cultures as well as support the deaf and hard of hearing

community, a mainstay of the Market community and the District of Columbia; and

- Train interested commercial tenants (retail and office) on deaf space culture and becoming responsible members of the deaf community;

(E) Employment. The Applicant has executed a First Source agreement with the Department of Employment Services.

The Applicant seeks to create a deaf-friendly environment and promote education of the real estate development process during the redevelopment of the 6th Street project. This will be done in part by hiring Gallaudet students as interns and employees throughout the project to work with the Applicant from entitlement through completion; and

(F) Florida Avenue Market.

- Contribute \$50,000 towards the study and implementation of an additional entrance for the NoMa-Gallaudet U station; and
- Sponsorship of at least two community events per year for at least five years, up to a total cost of \$20,000.

Compliance with the Comprehensive Plan

68. The Project furthers the following Guiding Principles of the Comprehensive Plan, as outlined and detailed in Chapter 2, the Framework Element: (Ex. 12.)
- a. Change in the District of Columbia is both inevitable and desirable. The key is to manage change in ways that protect the positive aspects of life in the city and reduce negatives such as poverty, crime, and homelessness; (217.1)
 - b. Redevelopment and infill opportunities along corridors and near transit stations will be an important component of reinvigorating and enhancing our neighborhoods. Development on such sites must not compromise the integrity of stable neighborhoods and must be designed to respect the broader community context. Adequate infrastructure capacity should be ensured as growth occurs; (217.6)
 - c. Enhanced public safety is one of the District's highest priorities and is vital to the health of our neighborhoods....; and (218.6)
 - d. Residents are connected by places of "common ground," such as Union Station and Eastern Market. Such public gathering places should be protected, and should be created in all parts of the city as development and change occurs. (220.6)

69. The PUD process is an avenue to transform the Property to a higher and better use that contributes to the surrounding community. Whereas the Property is either vacant or underutilized, the Project will integrate the Property with the neighborhood and will facilitate connections with the broader community that do not currently exist. The PUD is aligned with many goals and objectives of the District of Columbia Comprehensive Plan, namely providing affordable, transit-oriented housing, and transit-oriented employment opportunities. (Ex. 2.)
70. Parcels 1 and 2 are shown as suitable for Institutional uses on the Future Land Use Map of the Comprehensive Plan. Institutional uses include land and facilities occupied and used by colleges and universities, large private schools, hospitals, religious organizations, and similar institutions. The zoning designations of these properties depends on the zoning of surrounding parcels. Given that Parcels 1 and 2 will provide university support services, including offices, residential, and a visitor's center, the proposed project is not inconsistent with this designation. Furthermore, the proposed C-3-A Zone District is consistent with surrounding zoning designations. (Ex. 12, Comprehensive Plan Framework Element 225.16.)
71. Parcels 3 and 4 are shown as suitable for a mix of Production, Distribution, and Repair ("PDR"), High-Density Commercial, and Medium-Density Residential uses on the Future Land Use Map. This striping indicates that a mix of two or more land uses is encouraged. PDR areas are those characterized by manufacturing, warehousing, wholesale and distribution centers, transportation services and food services, among other uses. High-Density Commercial areas are characterized by office and mixed office/retail buildings greater than eight stories in height though the commercial designation may include other uses, including housing. The mix of uses, including office, maker, and residential is not inconsistent with this designation. (Ex. 12, Framework Elements 225.18 and 225.19.)
72. The Project will reserve at least 10,000 square feet of area for makerspace, which is consistent with the PDR designation of the site. (Ex. 46.)
73. The Generalized Policy Map ("GPM") describes the subject site as Institutional. Institutional Uses include colleges and universities, large private schools, hospitals, religious organizations, and similar institution, which is appropriate given that Gallaudet University owns the Property. Nevertheless, Parcels 1 and 2 will serve as a gateway to Gallaudet University, and portions will be used to provide a Visitor's Center and university support services. Gallaudet University, as the current owner of Parcels 3 and 4, will continue to have a stake in their development, and will use these properties to improve visual and physical connections between DC and the University's campus. The proposal is not inconsistent with these designations. (Ex. 12.)
74. The Commission credits the testimony of the Applicant and OP regarding the compliance of the PUD 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 as follows: (Ex. 2, 12, 28, 46.)

- a. This project is not inconsistent with the Housing element of the Comprehensive Plan. This PUD does not displace any residents but in fact, provides the mechanism by which to allow residential use on the Property. The existing zoning of the Property prohibits residential use; no housing, including affordable housing, would be permitted on the Property without first rezoning it. Given that the Property is adjacent to a Metrorail Station, it is a prime location for housing. The PUD will not only expand the housing supply, but more specifically, it will expand the affordable housing supply within the District.

The Project is providing more affordable housing on-site than is required and it is providing it at deeper affordability levels than is required. This PUD will reserve 10% of the residential gross floor area for affordable housing, which currently equates to 133,488 square feet of affordable housing, which would exceed the inclusionary zoning requirements by 26,700 square feet. The Applicant will reserve 70% of the total set aside (approximately 93,442 square feet based on the current residential proposal) for households with an annual income no greater than 50% AMI, and it will reserve the remaining 30% of the set aside (approximately 40,046 square feet based on current density) for households with an annual income no greater than 80% AMI. Under the inclusionary zoning requirements, the entirety of the affordable set aside can be reserved for households with an annual income no greater than 80%; accordingly, the PUD is providing a significant benefit by reserving more affordable housing and making the units accessible for low-income households. By making units available at the 50% and 80% AMI levels, the Applicant is making housing available on-site to a diverse number of income levels. These low- and moderate-income households will have access to the same neighborhood recreational amenities, resources, and conveniences as the market-rate units. Moreover, the units themselves will be constructed at the same high quality as the market-rate units and will be indistinguishable from the market-rate units on their exterior. These units will be protected at the proffered affordable levels for the life of the Project through the recordation of an inclusionary zoning covenant in the land records.

As noted in Policy H-1.2.7, this PUD is granted additional height and density in exchange, in part, for providing more affordable housing than is required. Providing additional height and density on the Property is appropriate given its transit-oriented character. The height and density proposed for Parcels 3 and 4 is consistent with the C-3-C Zone District, a high-density zone district; whereas, the height and density proposed for Parcels 1 and 2 is consistent with the C-3-A Zone District, a medium-density designation. These designations are appropriate given the Property's context next to Gallaudet University, along major transportation corridors serving major bus routes, near a Metrorail Station, and the other uses in the Market. This also makes it an appropriate location from a noise and land use compatibility perspective as its isolation mitigates any adverse noise effects on an existing community; (Ex. 46-46B.)

- b. The PUD is not inconsistent with the Economic Development element of the Comprehensive Plan in numerous regards. One of the proffered benefits of this PUD is the Applicant's commitment to the First Source program. The First Source program is the District's preferred mechanism for ensuring that District residents are given priority in job placement. This program also outlines requirements for apprenticeship programs and coordinates with job training programs. This is a critical tool in ensuring that development projects benefit District residents and that residents are trained for available job openings. This program provides an opportunity for District residents to make a living wage through the construction of this development.

The PUD also reserves 10,000 square feet of space for maker uses. These spaces will be made available at below-market rents in an effort to keep retail spaces affordable. Maker spaces are designed for goods to be made on-site, ensuring that they are made locally, thus increasing the District's opportunity for creative production. It also recalls the Market's industrial heritage by continuing the dedication to onsite production. The definition of maker spaces was crafted with an eye toward encouraging incubator space. These spaces will attract local retailers given the focus on production and the below-market rents will help ensure that the retailers can remain on-site into the future. The commitment to keep maker space rents at below-market rates will remain in place for the life of the project to help ensure these retailers will not be displaced. They also provide an opportunity for these retailers to make a living wage through the production of local goods.

The PUD also reserves 5,000 square feet to deaf or hard of hearing entrepreneurs. Again, this space will encourage small and local entrepreneurs to locate onsite and operate out of the market. This further encourages local retail and it serves to support a marginalized community within the District.

The Applicant also proffers to train members of the community and vendors within the market on how to interact with the deaf community. This training will provide life skills to those living in and around Gallaudet University and will help businesses more effectively and appropriately interact with the deaf community. This training will help market vendors create a more comfortable space for the deaf and hard of hearing community and will likewise, expand their marketability to the community.

The Applicant commits to instituting an internship program, which helps to partner education with employment opportunities. It is providing students with the training they require to seek employment upon graduation. This proffer specifically targets students in the District of Columbia to position them for success in the business world upon graduating from college.

Finally, one of the benefits of the PUD is that it will include the construction of the 6th Street cycle track. By improving the bike network, the Applicant helps facilitate access to other areas of the District where nearby residents may be employed. This proffer provides a convenience for residents in getting to their job and it encourages residents to use alternative modes of transportation; (Ex. 46-46B.)

- c. The Project is not inconsistent with the Environmental element of the Comprehensive Plan. It furthers many environmental protection objectives through its environmentally sensitive design and operation. Each of the buildings is designed to be certifiable at the LEED-Gold level. LEED is “Leadership in Energy and Environmental Design” and the program encourages “best in class” building practices. To meet the LEED-Gold requirements, the buildings’ designs must be resource efficient, meaning they use less water and energy and reduce greenhouse gas emissions. In addition to pursuing a building design that will improve air quality, the Applicant has proffered more street trees along 6th Street than required. These trees will not only beautify the street but will simultaneously provide environmental benefits. Finally, the Applicant is developing sites near a Metrorail Station, constructing a cycle track, and providing a significant amount of bicycle parking and notably more street trees than the remainder of Union Market and typical streetscape standards, all of which provide environmental benefits by encouraging alternative modes of transportation that are more environmentally friendly than driving and serve to improve air quality; (Ex. 46-46B.)
- d. The Project is not inconsistent with the Transportation element of the Comprehensive Plan. Several aspects of the benefits and amenities package promote transportation related components of the Comprehensive Plan. The Applicant is making a monetary contribution to the NOMA BID to study providing an entrance to the Metrorail Station east of the railroad tracks. Providing such a connection to Metro, helps to create transit-accessible employment, it reduces vehicular trips, and helps to connect District neighborhoods. Similarly, constructing the cycle track on 6th Street achieves the same objectives as well as improving the bicycle network within the District;

The Applicant will incorporate DeafSpace guidelines into the design of the streetscape, which is consistent with many of these policies. These guidelines will address the needs of the deaf and hard of hearing community as well as benefit those without hearing challenges. These guidelines better integrate bicycle and pedestrian circulation within the site plan and improve the safety of both the bicycle and pedestrian networks; (Ex. 46-46B.)

- e. The Project is not inconsistent with the Parks and Recreation element of the Comprehensive Plan. The Project reserves over one acre of open space for public

enjoyment. The open space is not centralized on one single parcel but is split among the parcels, diversifying the character, purpose and use of the spaces. These open spaces provide an opportunity for active and passive recreation but they also provide aesthetic balance amid the new development in the market. The open spaces break down the scale of the buildings and provide light and air to the units. They also help activate the streetscape and create a more human scale for the development. In addition to the open spaces provided by the development, the improvements to pedestrian and bicycle circulation also ease residents' ability to access the open spaces; and (Ex. 46-46B.)

- f. The project is located in the "Northeast Gateway" section of the Upper Northeast Area Element of the Comprehensive Plan and advances several policies of this Element. Establishing ground-floor retail spaces along 5th and 6th Streets will enhance shopping options for neighborhood residents, contribute to the development of the Market, and encourage economic activity in the area. Additionally, the development of the Gateway Plaza, Green Fingers, pedestrian amenities, and public spaces will directly advance the Upper Northeast Elements by improving "the image and appearance of the Northeast Gateway area by creating landscaped gateways into the community, creating new parks and open spaces, and improving conditions for pedestrians along Florida Avenue." The Project will promote economic and residential development in the area, while preserving the historic University and Market and enhancing outdoor spaces for the enjoyment of residents and visitors to the neighborhood. (Ex. 2, 12.)

- 75. The proposed project is not inconsistent with the goals and objectives of the Small Area Plan ("SAP"). As detailed in the SAP, the vision for the Market focuses on (1) creating a mix of uses, (2) providing a mix of densities, (3) establishing a sense of place, (4) retaining unique attributes of the area, (5) creating a vibrant public realm, (6) improving connectivity via improved streetscapes, and (7) establishing sustainable practices as follows: (Ex. 2.)

- a. **Mix of Uses:** As detailed above, the Project will incorporate a wide array of uses such as office space, retail space, university-support space, and residential space. Apart from the variety among the proposed uses, there will be variation within each use type. The proposed office use will range from incubator space for entrepreneurial Gallaudet students to boutique office users looking for Class A space in a less traditional commercial office location; the retail space will vary from local D.C. vendors to creative makerspace that will pay homage to the roots of the Market; the university support space will vary from classes that are open to the greater community to communal spaces for the Gallaudet community; and the residential uses will include both market-rate and affordable housing; (Ex. 2.)
- b. **Mix of Densities:** The SAP notes that Parcels 3 and 4 are appropriate for Medium-High Density. Accordingly, these parcels include maximum heights of

120 feet and densities ranging between 6.5 and 8 FAR for these parcels. Though not included within the boundaries of the SAP, Parcels 1 and 2 step down in both height and density as they abut the University and are located just north of an established rowhouse community located south of Florida Avenue. Parcels 1 and 2 will include heights ranging between 45 and 70 feet and densities ranging between 2.5 and 3.0 FAR. All four parcels will integrate seamlessly with the existing and approved densities in this community;

- c. Establishing a Sense of Place: The Applicant is establishing a sense of place at the Market. The variation in uses, the focus on public spaces, and the integration of varying massings all support the mutual goal of establishing a sense of place at the market. The Market has a unique history that the Applicant intends to respect and incorporate into each phase of the development; (Ex. 2.)
- d. Retaining Unique Attributes of the Area: Since this is a first-stage application, which does not address the design of the buildings, the Applicant addresses this objective through the mix of uses. Though not a traditional office location, office uses will be incorporated into the project. The office space will be dedicated to boutique office users and will include incubator space to promote creative thinking and the entrepreneurial spirit. Similarly, the retail relates to the history of the Market when local vendors sold produce and meats from the very same location and the inclusion of makerspace will ensure that the proposed retail is unique and unlike any other retail found elsewhere in the District; (Ex. 2.)
- e. Creating a Vibrant Public Realm: The outdoor spaces are critically important as a framework for the structures on the proposed site plan. The site plan is ordered upon establishing an organic flow among the green areas: effective use of these spaces will in turn, mean maximizing visibility of the structures and their uses. Establishing a series of passive recreation spaces throughout the site will create a cohesiveness through the Market that ties the interior and exterior spaces in such a way that encourages full exploration and participation in the established community; (Ex. 2.)
- f. Improving Connectivity through Improved Streetscape: The Project will improve connectivity between the Market and the University through the use of pedestrian spaces. The proposed green space will tie the eastern and western edges of the Market together by creating areas that attract pedestrians and encourage them to meander through the site.

While pedestrian circulation is prioritized, vehicular circulation will also be improved. The existing street grid is in poor repair and does not take advantage of any wayfinding tools to promote circulation through the Market. The proposed modifications will establish a visually intuitive circulation pattern that is cognizant of its surroundings, particularly pedestrians. The primary focus of the

proposed wayfinding tools will be incorporation of DeafSpace principles to alert drivers and pedestrians alike of potential conflicts while traversing the market's public spaces; and (Ex. 2.)

- g. Establishing Sustainable Practices: The Applicant will investigate ways to incorporate sustainable practices that promote water efficiency, reclamation and reuse in agreement with the District's stormwater requirements during the Stage 2 application and it commits to designing each building to be certified at the LEED-Gold v. 2009 level. (Ex. 2, 46-46B.)

- 76. In addition to the Comprehensive Plan, this site is identified in the Ward 5 Industrial Land Transformation Study as an area for retention of the existing industrial fabric. This study encourages: the preservation of production uses; environmental stewardship and performance; workforce development; nuisance uses and buffering; long-term affordability of industrial space; development of new multi-tenant space; providing space for arts uses and makers; and the development of additional community amenities. "Maker" spaces are defined as small scale, local businesses devoted to the creation and production of goods and services. The Study is not a Council-adopted policy document, but provides guidance regarding the opportunities that can be found in industrial development. The Vision of this study is to adapt industrial land to develop a cutting-edge and sustainable production, distribution, and repair industry that diversifies the District's economy, serves as a hub for low-barrier employment, complements and enhances the integrity of neighborhoods, and provides opportunities for arts, recreation and other community amenities. In an effort to ensure that industrial lands are used as anticipated, the Applicant is reserving at least 10,000 square feet for maker spaces and will subsidize those uses in an effort to keep them affordable in the long term. (Exhibits 12, 46-46B.)

Agency Reports

- 77. OP referred the application to DDOT, DOEE, FEMS, DC Water, DC Public Schools (DCPS), (DHCD), (DPW), and DOH for review and consideration. OP also held an interagency meeting and invited DDOT, DOEE, DHCD, Department of Parks and Recreation, FEMS, Metropolitan Police Department, and DC Water to attend to review the application. (Ex. 12.)
- 78. By report dated June 13, 2016 and by testimony provided at the public hearing on June 23, 2016, OP recommended approval of the application conditioned on an improved benefits and amenities package. OP confirmed that the Project supports the written elements of the Comprehensive Plan and is not inconsistent with the Future Land Use and Generalized Policy maps of the Comprehensive Plan. (Ex. 28.)
- 79. OP noted in its report and during its testimony at the public hearing that the proffered benefits and amenities were not commensurate with the level of flexibility provided in the PUD. It requested that the Applicant commit to participating in the First Source

program, certify the project at the LEED-Gold level, and provide affordable housing consistent with the inclusionary zoning requirements.

80. The Applicant modified each of the items that OP requested in its benefits and amenities package: it committed to LEED-Gold and entered into a First Source agreement with DOES. It also modified its affordable set aside so that it was consistent with the affordability levels designated in the inclusionary zoning program. It first proposed to set aside eight percent of the residential gross floor for affordable housing, with 100% of the set aside reserved for households with an annual income no greater than 60% AMI. The Commission and OP noted concerns with providing affordable units that were not consistent with the affordability levels designated in the IZ program. Accordingly, in its posthearing submission, the Applicant modified its proffer to dedicate 70% of the set aside reserved for households with an annual income no greater than 50% AMI and 30% of the set aside reserved for households with an annual income no greater than 80% AMI. Both the Commission and OP did not find this level of affordability commensurate with the additional height and density afforded by the PUD process and asked the Applicant to increase the affordability proffer. In response, the Applicant submitted a revised benefits and amenities package and increased its affordability proffer to set aside 10% of the residential gross floor area for affordable housing, with half of it being reserved for households with an annual income no greater than 50% AMI and the other half reserved for households with an annual income no greater than 80% AMI. OP submitted a second post-hearing report to the Commission stating it still did not find the Applicant's affordable housing proffer commensurate with the flexibility afforded by the PUD process and the Commission agreed. The Applicant ultimately revised its affordable housing proffer to set aside 10% of the residential gross floor area for affordable housing, with 70% of the set aside reserved for households with an annual income no greater than 50% AMI and 30% of the set aside reserved for households with an annual income no greater than 80% AMI. (Ex. 36, 39-41, 46-46B; September 12, 2016 and October 17, 2016 Tr.)
81. OP strongly supported the Applicant's modification of its site plan to shift east-west vehicular access from Neal Place to an alley located in Parcel 3. OP noted that it preferred reserving Neal Place for pedestrian traffic but supported vehicular traffic on the Parcel 3 alley. It found the proposal to be consistent with the SAP. (Ex. 28.)
82. OP supported the Applicant's requests for flexibility and for relief from the Zoning Regulations, particularly with regard to those areas where coordination with neighboring property owners was required. It agreed that the final site plans for Parcels 2, 3, and 4 would be provided during the Stage 2 applications. (Ex. 28.)
83. OP concluded that the development furthered the goals and objectives of the Florida Avenue Market Small Area Plan, through the provision of a variety of complimentary uses, improved public realm, and enhanced open space that connects the Market to the University. (Ex. 12.)

84. By its testimony at the public meeting on March 27, 2017, OP noted that it supported the updated benefits and amenities package, including the affordable housing proffer, and found it to be commensurate with the level of height and density afforded by the PUD process. (March 27, 2017 Tr., pp. 28-29.)
85. By report dated June 13, 2016 and by testimony at the public hearing on June 23, 2016, DDOT noted that it did not have any objections to the project based on the following conditions: (Ex. 29.)
- a. The Applicant pursue shared site access with neighboring property owners for Parcels 3 and 4;
 - b. Align Tapscott Drive with the Parcel 3 alley;
 - c. Relocate the access to parking for Parcels 1 and 2 to a private drive aligned with Morse Street and provide a light at the intersection of Morse Street and 6th Street;
 - d. Installation of traffic signals at 4th and Penn Streets and 6th and Morse Streets;
 - e. Implement 6th Street right of way improvements; and
 - f. Install traffic cameras at five intersections.
86. The Applicant agreed to analyze the feasibility of providing shared access with neighboring property owners for Parcels 3 and 4, as well as the feasibility of aligning Tapscott Drive with the Parcel 3 alley. It relocated access to the parking for Parcels 1 and 2 prior to the public hearing and committed to providing a light at the intersection of 6th and Morse Streets. The Applicant agreed to construct a light at the intersection of 4th and Penn Streets with funds pooled from other development projects and to provide traffic cameras at three of the five requested intersections. Finally, it committed to work with DDOT on the 6th Street right-of-way improvements in connection with its Stage 2 PUD application. (Ex. 36, 38.)
87. DDOT stated in its report that it did not support turn lanes at the intersection of 5th and Penn Streets as they limit the opportunities to treat 5th Street as a street capable of being closed to vehicular traffic for special events. The Applicant withdrew its proposal for turn lanes at 5th and Penn Streets as a result of DDOT's comments. (Ex. 29, 36, 38.)
88. At the public hearing, DDOT testified that it wanted a commitment from the Applicant to contribute to the cost of a light at 4th and Penn Streets. The Applicant agreed to contribute \$150,000 to the construction of the light in its post-hearing submission upon the development of Parcel 4. (Ex. 36, 38.)
89. DDOT submitted a posthearing report into the record confirming that the Applicant had addressed its concerns and it did not object to the PUD. (Ex. 38.)

90. OP submitted a posthearing report on April 11, 2017. The report confirmed in writing that OP believes the proposed benefits and amenities of the project, as revised, are sufficient to justify approval. (Ex. 50.)

Advisory Neighborhood Commission 5D Report

91. ANC 5D submitted a resolution dated June 13, 2016, in support of the project by a vote of 5-0-1. The ANC specifically stated its support for the affordable housing being provided as a part of the application, as well as the inclusion of neighborhood-serving retail. (Ex. 30.)

Parties in Support and Parties in Opposition

92. There were no parties in support or in opposition to the application.
93. A request for party status was submitted by Union Market Neighbors in Opposition on June 8, 2016. The Commission denied the request as they neither provided evidence of how they were uniquely affected nor were present at the public hearing. (Ex. 27; June 23, 2016 Tr., pp. 6-9.)

Persons and Organizations in Support or Opposition

94. UMN submitted a letter in opposition to the application. It noted that the development would destabilize land values and utilize on-street parking currently serving the community. It further stated that construction would be disruptive to the community. The issues raised by UMN are detailed in the “Contested Issues” section below. UMN did not submit any support for its allegations into the record. (Ex. 27.)³

Contested Issues

95. Outlined below are the contested items raised by UMN in its submissions to the Commission. The Commission notes, however, that UMN was not granted party status, it did not attend the hearing and did not make itself available for cross-examination. It also notes that many of UMN’s submissions were submitted on the evening of the hearing and were not served on the Applicant. Finally, the Commission notes that the submissions appear to refer to a different project inasmuch as they refer to proposed hotel use, which is not a part of the instant project.
96. Comprehensive Plan Maps. The UMN questioned the lack of PDR uses on-site and the appropriateness of rezoning the Property to the C-3-C Zone District. (Ex. 27, 34.) Parcels 3 and 4 are designated as appropriate for high-density commercial,

³ Though each of UMN’s submissions are consolidated as Exhibit 27, they were not filed simultaneously; 27A, B, and C were all filed on the day of the hearing and were not served upon the Applicant.

medium-density residential, and PDR uses under the Future Land Use Map. UMN argued that given the triple striping of the parcels, it stood to reason that one-third of the development on Parcels 3 and 4 should be dedicated to each use. This, however, misinterprets the Future Land Use Map. The “Mixed Use” designation is designated by a striped pattern and is intended primarily for larger areas where no single use predominates today, or areas where multiple uses are specifically encouraged in the future. This striping does not prescribe a requirement for how much of a certain use should be provided but only that a mix of the specified uses should be incorporated on-site. The Future Land Use Map is not a zoning map. Whereas zoning maps are parcel-specific, and establish detailed requirements for setbacks, height, use, parking, and other attributes, the Future Land Use Map does not follow parcel boundaries and its categories do not specify allowable uses or dimensional standards. By definition, the Map is to be interpreted broadly. (Framework Element, 225.20.)

Nevertheless, the 10,000-square-foot set aside is consistent with the PDR designation for the site. The PDR designation is appropriate for manufacturing uses; maker uses, as defined herein, focus on on-site production, similar to manufacturing but are compatible with residential uses, unlike true industrial uses. The provision of makerspace is consistent with the PDR designation on the FLUM. Similarly, the high-density mix of office and residential uses is consistent with the high-density commercial and medium-density residential designation. The commercial designation on the FLUM is not restricted solely to commercial uses. In fact, the framework element specifically states, “it should also be acknowledged that because of the scale of the Future Land Use Map and the fine-grained pattern of land use in older parts of the city, many of the areas shown purely as “Commercial” may also contain other uses, including housing.” (225.20.) Accordingly, the emphasis on residential uses in Scheme A is appropriate and not inconsistent with the FLUM designation.

97. Proposed Use. UMN argues that the Applicant’s first stage submission does not clearly designate what is designated as “office” use and does not provide the required square footage of the proposed use. The Commission finds this to be without basis as Sheets 12-21 include clear massing diagrams designating the uses on each parcel and include clear tabulations of each use. (Ex. 36-36E.)

UMN also argues that the impact of the high-density office use on nearby low-density residential districts has not been analyzed. Again, the Commission finds this to be without basis as it was thoroughly analyzed during the development of the Florida Avenue Small Area Plan as well as in the instant project. The SAP concluded that the market’s proximity to the Metro station made it a desirable location for residential and office uses because it exemplified true transit-oriented development. It also noted that adjacent neighborhoods were dealing with the challenge of rising housing costs so the District was undertaking a program to ensure that some residential uses would be retained that were affordable for households earning no more than 30% of the Area Median Income. (SAP, p. 29.) Similarly, OP and the Commission deferred action on the instant

application to encourage the Applicant to incorporate additional affordable housing, which it ultimately did. (Ex. 46-46B)

98. Affordable Housing. UMN took issue with the level of affordable housing being provided in the Project, stating that the Applicant was essentially meeting the minimum requirement. The Commission notes that while it appreciates that the Applicant initially proposed a set aside at deeper affordability levels than is otherwise required, it agrees that the initial affordable housing proposal was not commensurate with the height and density afforded by the PUD process. As such, it did not accept the Applicant's initial affordable housing proposal, nor did it accept two subsequent revisions of the affordable housing proffer. The Applicant submitted an updated proposal eight months after the hearing that the Commission found to be commensurate with the height and density sought in the PUD process. The final affordable proposal set aside 10% of the residential gross floor area for affordable housing. Seventy percent of the set aside would be reserved for households with an annual income no greater than 50% AMI, while the remaining 30% would be reserved for households with an annual income no greater than 80% AMI. The Commission notes that this exceeds both the required set aside amount and the required level of affordability and marks a significant contribution to affordable housing. Prior to the hearing on this application, only two other PUDs in the market (Z.C. Case Nos. 14-07 and 14-12) agreed to include residential units affordable to households with an annual income no greater than 50% AMI. Those cases committed to setting aside 1.6% of the residential gross floor area for 50% AMI units; whereas, the instant project is reserving seven percent of the residential gross floor area for 50% AMI units. Accordingly, the Commission finds that the Project's commitment to affordable housing is significant and strong and well exceeds the base requirements of the inclusionary zoning program. (Ex. 40, 46-46B.)

The Commission also notes that OP considered the impact that higher density developments would have on the surrounding communities when it developed its recommendations in the Small Area Plan. It specifically noted that the District would contribute a development subsidy in order to retain housing in the community that would be available to households with an annual income no greater than 30% AMI. (SAP, p. 29.)

99. Quality of Life. UMN questioned whether OP considered the impact a hotel would have on air quality, waste, and emissions, which is irrelevant given that this project does not propose a hotel. Nevertheless, the Applicant's civil drawings indicate that the Project will generate a water and sewer demand of 529,536 gallons per day. (Ex. 36E, Sheet 78.) Moreover, OP solicited comments from the various public services, including MPD, FEMS, DC Water, DOEE, and DPW and invited these agencies to an interagency meeting to discuss the Project and evaluate its impacts. OP noted in its set down report that the Property is otherwise zoned for industrial use and the Commission notes that those uses that are permitted as a matter of right in the C-M-1 Zone District could have a greater impact on the community and quality of life than the proposed mix of uses. (Ex. 12.) The Project will meet all DOEE requirements, including stormwater management requirements, and will be certified as a LEED-Gold project, which is a vast improvement

from existing conditions. To meet the LEED-Gold requirements, the buildings' designs must be resource efficient, meaning they use less water and energy and reduce greenhouse gas emissions. In addition to pursuing a building design that will improve air quality, the Applicant has proffered more street trees along 6th Street than required. These trees will not only beautify the street but will simultaneously provide environmental benefits. Finally, the Applicant is developing sites near a Metrorail Station, constructing a cycle track, and providing a significant amount of bicycle parking, all of which provide environmental benefits by encouraging alternative modes of transportation that are more environmentally friendly than driving and serve to improve air quality. (Ex. 36-36E.)

UMN argued that no analysis was undertaken to consider the impacts on existing services such as access for emergency vehicles. The Applicant, however, undertook a comprehensive transportation analysis of the impact of the site, which concluded that the Project would not have a detrimental impact on the community, and that impacts could and would be mitigated by incorporating specific measures recommended by DDOT in its hearing report and updated in its posthearing report. (Ex. 29, 38.) Given that the Project will not have a detrimental impact on the transportation network, it will not affect the ability of emergency vehicles to access the Property or adjacent communities.

UMN also notes that the Applicant has not committed to upgrading the municipal water, electric, and gas systems that will serve the Project. As OP noted at the public meeting on March 27, 2017, the Project currently has access to utilities along 6th Street and it will have to make any required upgrades to the utilities in order to secure its building permits. (March 27, 2017 Tr., pp. 28-29.)

UMN stated that its members will be adversely affected by the noise and dust created during the construction of the Project. The Applicant, however, set forth a dust control plan to minimize the creation and dispersion of dust and it set forth its phasing and construction sequence to address these concerns. UMN did not provide comments on either plan and the Commission finds that they adequately addressed UMN's concerns. (Ex. 36.)

UMN claimed that the light and air of its residents would be affected by the construction of this Project; however, the Commission notes that the closest resident lives on the south side of Florida Avenue and is sufficiently removed from the location of the Project that its light and air will not be adversely affected. (Ex. 27.)

UMN also claimed that the Project would destabilize land values in the community. The Commission notes that such an effect was considered by both OP and the District Council during the development and adoption of the Small Area Plan, as noted above. The Small Area Plan sets forth the appropriate levels of height and density in the Market and it is appropriate that this analysis was undertaken at the time it set forth the parameters for future development. The Commission also notes that it deferred action on the application and instructed the Applicant on four separate occasions to increase its affordable housing proffer, which the Applicant ultimately did. The affordable housing proffer is significant

and will create a significant amount of affordable housing where none exists today. (Ex. 46-46E.)

100. Jobs and Existing Small Businesses. UMN argued that no analysis was performed to determine how many jobs would be created by the Project. The Applicant, however, entered into a First Source Agreement with DOES. The DOES created the First Source program as a means for addressing unemployment in the District and the purpose of the program is to give preference to District residents for new positions in a project. DOES and the District have prioritized this program as an effective means for creating jobs for District residents. By entering into this agreement, the Applicant has agreed to abide by the terms of the agreement when hiring new hires. (Ex. 46.)

In addition to entering into a First Source Agreement, the PUD also reserves 10,000 square feet of space for maker uses. These spaces will be made available at below-market rents in an effort to keep retail spaces affordable. Maker spaces are designed for goods to be made on-site, ensuring that they are made locally, thus increasing the District's opportunity for creative production. It also recalls the Market's industrial heritage by continuing the dedication to onsite production. The definition of maker spaces was crafted with an eye toward encouraging incubator space. These spaces will attract local retailers given the focus on production and the below-market rents will help ensure that the retailers can remain on-site into the future. The commitment to keep maker space rents at below-market rates will remain in place for the life of the project to help ensure these retailers will not be displaced. They also provide an opportunity for these retailers to make a living wage through the production of local goods. (Exhibit 46)

The PUD reserves 5,000 square feet to deaf or hard of hearing entrepreneurs. Again, this space will encourage small and local entrepreneurs to locate onsite and operate out of the market. This further encourages local retail and it serves to support a marginalized community within the District. (Ex. 46.)

The Applicant will also train members of the community and vendors within the market on how to interact with the deaf community. This training will provide life skills to those living in and around Gallaudet University and will help businesses more effectively and appropriately interact with the deaf community. This training will help market vendors create a more comfortable space for the deaf and hard of hearing community and will likewise, expand their marketability to the community. (Ex. 46.)

The Applicant commits to instituting an internship program, which helps to partner education with employment opportunities. It is providing students with the training they require to seek employment upon graduation. This proffer specifically targets students in the District of Columbia to position them for success in the business world upon graduating from college. (Ex. 46.)

101. Transportation. UMN argues that the transportation analysis for this project was considered in isolation and did not take into consideration the other PUDs in the area.

This is plainly contradicted by the record, as the Applicant's CTR included nine other PUDs in its future impact analysis and still concluded the Project will not have a detrimental impact on the transportation network. (Ex. 26, 26B.)

UMN also argues that the new transit trips predicted for this project have not yet been projected and no analysis has been undertaken to determine if Metro can accommodate the additional capacity. Again, this is directly contradicted by the record. The Applicant's CTR specifies that the Project is projected to generate 518 trips during the peak morning hour and 735 trips during the peak evening hour. Sixty-nine percent of these trips will be on Metro. WMATA studied the capacity of its metrorail stations in the Station Access and Capacity Study (2008). The study analyzed existing station capacity for vertical transportation and its capacity to process riders at the farecard gate and its projected capacity in 2030. The report concluded that the NoMA-Gallaudet U Station could accommodate future growth at all access points. Accordingly, Metro can absorb the additional ridership. (Ex. 26B.)

UMN claims that the development will usurp parking that is currently used by residents. DDOT, however, found that the parking proposal for the project was appropriate. The Project is providing over 1,000 parking spaces and DDOT found its parking plan consistent with recent trends in the District given the Property's proximity to Metro and multimodal networks. DDOT found the parking provisions for the retail, residential, and office components of the Project to be "appropriate." (Ex. 29.)

Compliance with PUD Standards

102. 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 and flexibility are appropriate and fully justified by the additional public benefits and project amenities proffered by the Applicant. The Commission finds that the Applicant has satisfied its burden of proof under the Zoning Regulations regarding the requested flexibility from the Zoning Regulations and satisfaction of the PUD standards and guidelines set forth in the Applicant's statement and the OP report.
103. The Commission credits the testimony of the Applicant and its experts as well as OP and DDOT, and finds that the superior site planning, streetscape and open space improvements, housing and affordable housing, uses of special value, LEED-Gold, and First Source commitments all constitute acceptable project amenities and public benefits.
104. The Commission finds that the PUD as a whole is acceptable in all proffered categories of public benefits and project amenities. The proposed benefits and amenities are superior as they relate to urban design, landscaping, and open space, housing and affordable housing, effective and safe transportation access, and uses of special value to

the neighborhood and the District as a whole. These benefits and amenities, including the affordable housing proffer, shall serve as the benefits and amenities for the second-stage applications for each phase. No additional benefits and amenities shall be expected when the second-stage applications are processed.

105. The Commission believes the final benefits and amenities package addresses the comments and concerns noted by OP at the public hearing.
106. The Commission finds that the character, scale, massing, and mix of uses of the PUD 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 Applicant and the Applicant's architectural and transportation planning witnesses that the PUD represents an efficient and economical redevelopment of a strategic and transit-oriented parcel located near a Metrorail Station.
107. The Commission credits the testimony of OP and DDOT, and accepts the ANC's resolution in support, noting that the PUD will provide benefits and amenities of substantial value to the community and the District commensurate with the flexibility sought through the PUD process. The Commission agrees with the Applicant that given the Property's location in the Market and its proximity to the Metrorail Station, a maximum height of 120 feet for Parcels 3 and 4 is appropriate and consistent with the Florida Avenue Small Area Plan.
108. The Commission credits the testimony of the Applicant's traffic consultant, who submitted a comprehensive transportation review that concluded that the PUD would not have adverse effects due to traffic or parking impacts. The Applicant is providing transportation mitigations, including traffic signals and cameras. The Applicant is also providing improvements to pedestrian, cycling and vehicular circulation through the Market.
109. The Commission acknowledges that the affordable housing proffer approved in this PUD supersedes any future amendment to the inclusionary zoning program.⁴
110. The Commission credits the testimony of OP that the Project will provide benefits and amenities of value to the community and the District commensurate with the flexibility and additional height and density sought through the PUD.
111. For the reasons detailed in this Order, the Commission credits the testimony of the Applicant's traffic consultant and DDOT and finds that the traffic, parking, and other

⁴ Because this project is considered a "vested project" under 11-A DCMR § 102.3(c), it is subject only to the provisions of the 1958 Regulations, unless the Applicant subsequently seeks a modification by the regulating authority. (11-A DCMR § 102.6.)

transportation impacts of the Project on the surrounding area will not be unacceptable and are capable of being mitigated through the measures proposed by the Applicant and DDOT and are acceptable given the quality of the public benefits of the PUD. For these reasons, it also finds that the Project will not have adverse effects on emergency vehicle access to the community. For the reasons detailed in this Order, the Commission also agrees with the Applicant's consultants that Metro has the capacity to accommodate the projected additional ridership.

112. For the reasons detailed in this Order, the Commission credits the testimony of the Applicant's consultants and finds that the environmental impacts of the Project, including noise, dust and air quality, on the surrounding area will not be unacceptable and are acceptable given the quality of the public benefits of the PUD.
113. For the reasons detailed in this Order, the Commission credits the testimony of the Applicant's consultants in confirming that the Project has access to existing utilities in the 6th Street right-of-way.
114. For the reasons detailed in this Order, the Commission credits OP for determining that the affordable housing proffer is appropriate for this community and is a significant value for the existing community and District residents. It also acknowledges that the proffer well exceeds what is otherwise required by the inclusionary zoning program.
115. For the reasons detailed in this Order, the Commission credits the Applicant's efforts to participate in an established job program promoted by the District in an effort to improve the rate of employment in the District and finds that this is a valuable proffer.
116. For the reasons detailed in this Order, the Commission credits OP's and the Applicant's submissions and agree that the proposed rezoning of the Property is not inconsistent with its designation on the Future Land Use Map and is not inconsistent with the Comprehensive Plan generally.
117. For the reasons detailed in this Order, the Commission finds that the materials submitted by the Applicant satisfied the requirements of a first-stage PUD.

CONCLUSIONS OF LAW

1. Pursuant to 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, welfare, and convenience." (11 DCMR § 2400.2.)
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider the application as a first-stage PUD for all four parcels. The Commission may

impose development guidelines, conditions, and standards that may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, parking, loading, yards, or courts.

3. The Property meets the minimum area requirements of §§ 1326.2 and 2401.1 of the Zoning Regulations. Three of the four parcels are separated by a street; however, Parcel 4 is farther removed. A separate application was filed for Parcel 4, which is consistent with the requirements of the Zoning Regulations.
4. Proper notice of the proposed PUD was provided in accordance with the requirements of the Zoning Regulations and as approved by the Commission.
5. The development of the PUD 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, massing, mix of uses, and design of the proposed PUD are appropriate. The proposed redevelopment of the Property, with a mix of residential and commercial uses, capitalizes on the Property's transit-oriented location and is compatible with citywide and area plans of the District of Columbia, including strategic development plans such as Florida Avenue Market Small Area Plan.
6. The Commission finds that the Project advances the goals and policies in the citywide and area elements of the Comprehensive Plan, including:
 - a. Land Use Element policies promoting redevelopment around Metrorail stations, design to encourage transit use, transit-oriented employment and housing, infill development, neighborhood revitalization, and redevelopment of obsolete industrial land;
 - b. Transportation Element policies promoting transit-oriented development and employment, discouraging automobile-oriented uses, and improving the bicycle and pedestrian networks;
 - c. Economic Development Element policies to increase the retail base, link residents with jobs, promote small and local businesses, hire District residents, provide job training and job creation;
 - d. Housing Element policies to provide housing in mixed-use developments, expanding the housing supply, and providing quality affordable housing;
 - e. Parks, Recreation, and Open Space and Arts and Culture Elements related to creation of plazas in higher-density developments, improving access to open space, providing a diversity of open space; and

- f. Environmental Element policies encouraging street tree planting, designing for energy efficiency, improving air quality through transportation efficiency.
7. 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.
8. The PUD complies with the applicable height and bulk standards of the Zoning Regulations and will not cause a significant adverse effect on any nearby properties. The residential, retail, university, and office uses for this PUD are appropriate for the Property's location. The PUD's height, bulk, and uses are consistent with the District's planning goals for the surrounding neighborhood.
9. The PUD provides superior features that benefit the surrounding neighborhood to a significantly greater extent than the matter-of-right development on the Property provides. The Commission finds that the urban design, site planning, creation of the bicycling and pedestrian networks, efficient and safe transportation features and measures, housing and affordable housing, ground-floor retail uses, and uses of special value are all significant public benefits. The impact of the PUD is acceptable given the quality of the public benefits of the PUD.
10. Based on the Applicant's expert testimony, proposed mitigation measures, DDOT's reports and testimony, and the Findings of Fact described above, the Commission finds that the Project will not cause unacceptable impacts on vehicular, bicycle, or pedestrian traffic; roadways and sidewalks; public transit infrastructure; neighborhood parking; or other transportation-related facilities and conditions. The Commission finds that the Applicant will sufficiently mitigate potentially adverse traffic and transportation impacts resulting from the Project so that traffic and other transportation-related conditions resulting from the Project will not be unacceptable.
11. The Commission finds that the Project will not have adverse impacts on quality of life for nearby or District residents. The Commission acknowledges the letter submitted by UMN arguing that nearby residents will be threatened by the Project and have been overlooked in its planning, but the Commission disagrees. The public benefits of the Project as well as its many transportation impact mitigation strategies and construction dust mitigation strategies will ensure the quality of life does not decline for nearby residents. Furthermore, the planning for the Project involved extensive public outreach and involvement, and the ANC was in support of the Project.
12. The impact of the PUD on the surrounding area and the operation of city services is not unacceptable. The Commission agrees with the conclusions of the Applicant's traffic expert and DDOT that the proposed PUD 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 from the development will be mitigated.

13. The Commission finds that the Project will create a significant amount of affordable housing, where none currently exists. By increasing the affordable housing stock in the District, the Project is helping to address the need for housing available to a mix of income levels. The Commission also finds that the Applicant's efforts to increase employment of District residents is commendable and it finds that both of these efforts help to stabilize the community.
14. Approval of the PUD is not inconsistent with the Comprehensive Plan. The Commission agrees with the determination of OP and finds that the proposed PUD is consistent with Parcel 3 and 4's High-Density Commercial and Medium-Density Residential and Production, Distribution, and Repair designation on the Future Land Use Map and Parcels 1 and 2's Institutional designation on the Future Land Use Map. The Commission agrees that the PUD furthers numerous goals and policies of the written elements of the Comprehensive Plan as well as other District planning goals for the immediate area.
15. The Commission concludes that the proposed PUD 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.
16. The PUD 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 Zoning Map of the District of Columbia.
17. The Applicant proposed improvements for the public space immediately abutting its property and while the Commission does not have jurisdiction over the development of public space, it supports the proposed improvements. It understands the Applicant will work with DDOT regarding the specific improvements to the public space.
18. 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 the recommendations of OP in all zoning cases. The Commission carefully considered the OP reports and found OP's reasoning persuasive in recommending approval of the application.
19. 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 the issues and concerns raised in the written report of the affected ANC. ANC 5D's report expressed no issues or concerns. Because the ANC expressed no issues or concerns, there is nothing for the Commission to give great weight to. (*See Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141

A.3d 1079, 1087 (D.C. 2016).) The Commission carefully considered the ANC 5D position supporting approval of the application and concurred in its recommendation of approval.

20. The Applicant is 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 the review and approval of a first-stage planned unit development and PUD-related Map Amendment for the Property from the C-M-1 Zone District to the C-3-A Zone District for Parcels 1 and 2 and to the C-3-C Zone District for Parcels 3 and 4 for the mixed-use development described herein, subject to the following conditions:

A. Project Development

1. The second-stage design of the PUD shall be based on further development and refinement of the plans marked as Exhibits 36E1-36E7 of the record, as modified by the guidelines, conditions, and standards of this Order.
2. The Applicant shall submit, as part of the Stage 2 applications, landscape plans, detailed architectural plans, and elevations indicating the design treatment of each building.
3. The Project will have flexibility in the Stage 2 application from the parking, loading, lot requirements, and side yard requirements as noted herein.
4. The Applicant will have flexibility with the design of the Stage 2 application in the following areas:
 - a. To vary the number of parking levels in the garages for Parcels 1, 2, 3, and 4 so long as the final number of parking spaces is within the range reflected in Exhibit 36E;
 - b. To modify the site plan on Parcel 3 to accommodate the private alley approved by the Z.C. Order No. 16-05;
 - c. To modify the site plan on Parcel 4 to accommodate a private alley developed in coordination with the property owner to the south and DDOT;
 - d. To modify the site plan on Parcels 1 and 2 to accommodate the realignment of Tapscott Drive with the Parcel 3 alley;
 - e. To modify the site plan on Parcels 1 and 2 to reflect the outcome of the Design Competition; and

- f. To vary the size and location of the retail spaces to accommodate the needs of specific retail tenants.
5. The Applicant will have flexibility with the programming of the PUD in the following areas:
 - a. To modify the mix of uses on Parcels 1, 3, and 4 to accommodate additional office use, as depicted in the “Scheme B” plans submitted into the record as Exhibit 36, should market conditions allow;
 - b. To allow the Applicant to coordinate with other stakeholders and relevant District agencies in finalizing the details of the streetscape and the park area on the private section of Neal Place. The landscaping plan will be finalized during the Stage 2 applications; and
 - c. To provide interim uses on Parcels 3 and 4 that are consistent with the underlying zoning of C-M-1 and will be permitted for the life of the first-stage PUD approval, including use of Parcel 4 to locate Gallaudet’s bus and automobile fleet.

B. Transportation Mitigation

1. The Applicant shall make a good faith effort to align Tapscott Drive with the Parcel 3 Alley. In the event the alignment is deemed infeasible, the Applicant will coordinate with DDOT during the Stage 2 application for the earlier of Parcels 1, 2, or 3 to determine the appropriate design and controls for the intersection of Tapscott Drive and 6th Street, including signalization and pedestrian circulation. The Applicant commits to provide the required signalization, either full signal or pedestrian-oriented signal, at the intersection of Tapscott Drive and 6th Street. The site plan for the Stage 2 application of Parcels 1 and 2 may include a modified site plan to reflect this alignment.

The Applicant commits to best faith efforts to implement site design improvements for Parcels 3 and 4 by reaching out to neighboring landowners in an effort to create a shared private alley network to minimize curb cuts and better distribute site traffic. The site plans for the Stage 2 applications for Parcels 3 and 4 may be modified to reflect shared access with neighboring properties for these parcels.

2. The Applicant will perform an updated traffic study as part of the Stage 2 PUD application for the earlier of Parcels 3 or 4 to determine if a new traffic signal at 4th Street and Penn Street is warranted. In the event a signal is warranted, the Applicant shall contribute \$150,000 to the construction of the signal, to be pooled with contributions provided by future developments in the Market. The Applicant shall construct the signal at the earlier date of: a) all required funds having been pooled from other developments, together with the \$150,000 contribution from

the Applicant to fund construction of the signal; or b) prior to issuance of a certificate of occupancy for Parcel 4, regardless of whether additional funds have been pooled from other developments. If the signal is installed by others prior to the Stage 2 PUD application for the earlier of Parcels 3 or 4, the \$150,000 should go toward other improvements to be determined during the Stage 2 review.

3. The Applicant shall provide a light at the intersection of Morse and 6th Streets. The timing of this signal will be determined during the Stage 2 application for the earlier of Parcels 1, 2, or 3.
4. The Applicant shall coordinate with DDOT during the Stage 2 application process regarding all streetscape improvements for areas abutting the Property. The Applicant shall upgrade the streetscape, sidewalks, and landscaping, not to include underground utilities, on the east side of 6th Street, between Neal Place and Penn Street, N.E., which is approximately 580 feet long and does not abut the Property, which will be included in the Stage 2 application for Parcel 2.
5. The Applicant shall install traffic management cameras for integration into the DDOT traffic management program to provide real-time traffic signal updates in coordination with other signals in the District at the following intersections:
 - a. Penn Street and 6th Street, N.E.;
 - b. Florida Avenue and 6th Street, N.E.; and
 - c. Mt. Olivet Road and New York Avenue Ramp, N.E.

The timing of installing these cameras will be determined during the Stage 2 application for Parcel 4.

6. Each subsequent Stage 2 application shall include the following quantities of 240-volt electric car charging stations:
 - a. Parcel 1: one station;
 - b. Parcel 2: one station;
 - c. Parcel 3: four stations (two for residential uses, one for retail uses, and one for office use); and
 - d. Parcel 4: four stations (two for residential uses, one for retail uses, and one for office use).
7. The Applicant shall reexamine the proposed parking supply for each subsequent Stage 2 PUD application to take into account parking supplies associated with

other planned developments within vicinity and potential shared parking arrangements.

8. The Stage 2 PUD application for Parcel 3 shall include an analysis on the need for an all-way stop at Morse Street and 5th Street.
9. The Applicant shall provide with each second-stage PUD application:
 - a. An analysis to determine impacts by each respective development phase and to assess phasing of identified mitigation measures, where not otherwise specified above;
 - b. A loading management plan; and
 - c. A report regarding the satisfaction of all relevant transportation mitigations listed in Exhibit 36C.

C. Benefits and Amenities

1. Affordable Residential Units: Each second-stage PUD application shall include plans demonstrating that the Applicant reserves no less than 10% of the residential gross floor area (“GFA”) for affordable housing, with seven percent of the residential GFA reserved for households earning no more than 50% of the Area Median Income for the Washington DC metropolitan statistical area (“AMI”) and three percent of residential GFA reserved for households earning no more than 80% AMI. More specifically, as reflected in the approved plans, the Applicant shall:
 - a. Parcel 1
 - i. For the life of the project on Parcel 1, the Applicant shall set aside no less than 10% of the residential GFA as affordable housing. The Applicant shall:
 - (A) Devote approximately 67,400 square feet of residential GFA to housing;
 - (B) Set aside of no less than 10% of the residential GFA, currently equaling approximately 6,740 square feet, as inclusionary units pursuant to 11 DCMR, Chapter 26;
 - (C) Set aside no less than seven percent of the residential GFA, currently equaling approximately 4,718 square feet as inclusionary units for households earning no more than 50% of the AMI; and

- (D) Set aside of no less than three percent of the residential GFA, currently equaling approximately 2,022 square feet as inclusionary units for households earning no more than 80% of the AMI;

b. Parcel 2

- i. **For the life of the project on Parcel 2**, the Applicant shall set aside no less than 10% of the residential GFA as affordable housing. The Applicant shall:

- (A) Devote approximately 102,920 square feet of residential GFA to housing;
- (B) Set aside no less than 10% of the residential GFA, currently equaling approximately 10,292 square feet, as inclusionary units pursuant to 11 DCMR, Chapter 26;
- (C) Set aside no less than seven percent of the residential GFA, currently equaling approximately 7,204 square feet as inclusionary units for households earning no more than 50% AMI; and
- (D) Set aside no less than three percent of the residential GFA, currently equaling approximately 3,088 square feet as inclusionary units for households earning no more than 80% AMI;

c. Parcel 3

- i. **For the life of the project on Parcel 3**, the Applicant shall set aside no less than 10% of the residential GFA as affordable housing. The Applicant shall:

- (A) Devote approximately 600,660 square feet of residential GFA to housing;
- (B) Set aside no less than 10% of the residential GFA, currently equaling approximately 60,066 square feet, as inclusionary units pursuant to 11 DCMR, Chapter 26;
- (C) Set aside no less than seven percent of the residential GFA, currently equaling approximately 42,046 square feet as inclusionary units for households earning no more than 50% AMI; and

- (D) Set aside no less than three percent of the residential GFA, currently equaling approximately 18,020 square feet as inclusionary units for households earning no more than 80% AMI;

d. Parcel 4

- i. **For the life of the project on Parcel 4**, the Applicant shall set aside no less than 10% of the residential GFA as affordable housing. The Applicant shall:

- (A) Devote approximately 563,900 square feet of residential GFA to housing;
- (B) Set aside of no less than 10% of the residential GFA, currently equaling approximately 56,390 square feet, as inclusionary units pursuant to 11 DCMR, Chapter 26; and
- (C) Devote no less than seven percent of the residential GFA, currently equaling approximately 39,473sq. ft. as inclusionary units for households earning no more than 50% AMI.
- (D) Devote no less than three percent of the residential GFA, currently equaling approximately 16,917 square feet as inclusionary units for households earning no more than 80% AMI;

e. The set-aside requirements are set forth in the following charts:

Block 1 (Scheme A)					
Residential Unit Type	Residential GFA / Percentage of Total	Income Type	Affordable Control Period	Affordable Unit Type*	Notes
Total	67,400 sf/100%		Life of project	TBD	NA
Market Rate	60,660 sf/90%	Market	Life of project	TBD	NA
IZ	2,022 sf/3%	80% AMI	Life of project	TBD	NA
IZ	4,718 sf/7%	50% AMI	Life of project	TBD	NA

Block 2 (Scheme A)					
Residential Unit Type	Residential GFA / Percentage of Total	Income Type	Affordable Control Period	Affordable Unit Type*	Notes
Total	102,920 sf/100%		Life of project	TBD	NA
Market Rate	92,628 sf/90%	Market	Life of project	TBD	NA
IZ	3,088 sf/3%	80% AMI	Life of project	TBD	NA
IZ	7,204 sf/7%	50% AMI	Life of project	TBD	NA

Block 3 (Scheme A)					
Residential Unit Type	Residential GFA / Percentage of Total	Income Type	Affordable Control Period	Affordable Unit Type*	Notes
Total	600,660 sf/100%		Life of project	TBD	NA
Market Rate	540,594 sf/90%	Market	Life of project	TBD	NA
IZ	18,020 sf/3%	80% AMI	Life of project	TBD	NA
IZ	42,046 sf/7%	50% AMI	Life of project	TBD	NA

Block 4 (Scheme A)					
Residential Unit Type	Residential GFA / Percentage of Total	Income Type	Affordable Control Period	Affordable Unit Type*	Notes
Total	563,900 sf/100%		Life of project	TBD	NA
Market Rate	507,510 sf/90%	Market	Life of project	TBD	NA
IZ	16,917 sf/3%	80% AMI	Life of project	TBD	NA
IZ	39,473 sf/7%	50% AMI	Life of project	TBD	NA

- f. The plans for each second-stage application shall reflect the distribution of the respective inclusionary housing units in accordance with the requirements of § 2605.6;
- g. The allocations reflected herein shall be modified in the event the Applicant pursues “Scheme B” as defined in the Plans. If the Applicant

pursues Scheme B, the Applicant shall set aside no less than 10% of the residential gross floor area as affordable housing: seven percent of residential gross floor area shall be set aside for inclusionary units for households earning no more than 50% AMI; three percent of the residential gross floor area shall be set aside as inclusionary units for households earning no more than 80% AMI; and

- h. The Inclusionary Zoning Covenant required by D.C. Official Code § 6-1041.05(a)(2)(2012 Repl.) shall include a provision or provisions requiring compliance with all the terms of this Condition.
2. LEED: The second-stage PUD application for each parcel shall include a LEED (v. 2009) scorecard, demonstrating that the respective parcel will achieve a minimum rating of LEED-Gold. Prior to the issuance of a building permit, the Applicant shall register each Building with the USGBC to commence the LEED certification process under the USGBC's LEED for New Construction v. 2009 rating standards.
 3. Public Open Space.
 - a. Applicant shall provide approximately 55,000 square feet of open space in the PUD;
 - b. The second-stage PUD application(s) for Parcel 1 shall include the Gateway Plaza consistent with the architectural guidelines shown on Sheets 26 and 30 of Exhibit 36E. The Gateway Plaza shall contain approximately 23,200 square feet of publicly accessible open space. The Gateway Plaza shall integrate the DeafSpace guidelines shown on Sheets 47-49 of Exhibit 36E. The Applicant shall not include permanent gates or barriers to preclude entrance to the Plaza, but may include signage indicating that the space is closed from dusk until dawn. **For the life of the project**, the Applicant shall be responsible for the maintenance of the space, including but not limited to, landscaping, trash collection, and snow removal;
 - c. The second-stage PUD application(s) for Parcel 2 shall include the Campus Promenade and Green Finger Parks consistent with the Landscape & Open Spaces plan, Public Realm, – Green Finer Concept, and Public Realm Guidelines shown on Sheets, 30, 33, 34, and 40 of Exhibit 36E. The Campus Promenade and Finger Parks shall contain approximately 13,700 square feet of publicly accessible open space. The Green Finger parks shall integrate the DeafSpace guidelines shown on Sheets 47-49 of Exhibit 36E. The Applicant shall not include permanent gates or barriers to preclude entrance to the Green Finger Parks, but may include signage indicating that the space is closed from dusk until dawn.

For the life of the project, the Applicant shall be responsible for the maintenance of the space, including but not limited to, landscaping, trash collection, and snow removal; and

- d. The second-stage PUD application(s) for Parcel 3 shall include the Neal Place and Parcel 3 Alley features consistent with Landscape & Open Spaces plan, Public Realm Street Section and Public Realm Guidelines – Parcel 3 Alley and Deafspace Guidelines shown on Sheets 30, 36, 44, and 47-49 of Exhibit 36E. The Neal Place and Parcel 3 Alley features shall contain approximately 18,600 square feet of publicly accessible open space. The Applicant shall not include permanent gates or barriers to preclude entrance to the Neal Place and Parcel 3 Alley features, but may include signage indicating that the space is closed from dusk until dawn. **For the life of the project**, the Applicant shall be responsible for the maintenance of the space, including but not limited to, landscaping, trash collection, and snow removal.
4. Each second-stage application shall include the Public Realm: Streetscape and DeafSpace features described in Sheets 35-49 of Exhibit 36E. The Applicant shall work with DDOT during the public space process to finalize the details of the public space features. The second-stage application for each parcel shall specify the streetscape elements associated with each respective parcel, to include:
 - a. The minimum dimension of sidewalk widths;
 - b. The minimum dimension of treebox depth;
 - c. A lighting plan that includes architectural lighting, indirect lighting, and reflected lighting;
 - d. Proposed materials used to signal to the deaf/blind when zones change uses;
 - e. Proposed landscaping, including a higher concentration of street trees on 6th Street than typical DC standards;
 - f. A bike lane along the east side of 6th Street; and
 - g. Bike racks.
 5. The second-stage application(s) for Parcel 2 shall include the public space improvements adjacent to the ballpark to the north of Parcel 2, as depicted in Exhibit 40, p. 7. These improvements shall include the Streetscape and

Deafspace features described in Sheets 35-49 of Exhibit 36E. The Applicant shall work with DDOT during the public space permitting process to finalize the details of the public space features. These public space improvements shall comply with DDOT standards.

6. Retail. The Applicant shall reserve approximately 40,000 square feet of ground-floor retail space along 5th and 6th Streets. The Applicant shall provide an update on how much ground-floor retail space is included in each second-stage application.
7. The Applicant shall reserve a total of 10,000 square feet of retail space for maker uses. The second-stage applications for the four parcels shall reflect a total of 10,000 square feet of retail space reserved for maker uses, to be reduced upon execution of each lease. If the commitment has not yet been fulfilled at the time a second-stage application is filed, the Applicant shall demonstrate where the balance of the commitment may be accommodated within the Project. Maker Uses are defined as follows:
 - a. Production, distribution, or repair of goods, including accessory sale of related product;
 - b. Uses encompassed within the Arts, Design, and Creation Use Category as currently defined in 11-B DCMR § 200.2, including an Art Incubator, as currently defined in 11-B DCMR § 100.2, but not including a museum, theatre, or gallery as a principal use;
 - c. Production and/or distribution of food or beverages and the accessory sale or on-site consumption of the related food and beverage; and
 - d. Design-related uses, including Media/Communications, Computer system and software design; Fashion design; Graphic design; or Product and industrial design.
8. The Applicant shall make the space reserved for Maker Uses available to qualified retail tenants at a rate that is 10% below then market-rate rents, **for the life of the Project**.
9. The Applicant shall reserve a total of 5,000 square feet of retail space for deaf or hard of hearing entrepreneurs. The second-stage applications for the four parcels shall reflect a total of 5,000 square feet of retail area for deaf or hard of hearing entrepreneurs. If the commitment has not yet been fulfilled at the time a Second Stage application is filed, the Applicant shall demonstrate where the balance of the commitment may be accommodated within the remainder of the Project.

10. Employment: The Applicant shall:
- a. Execute a First Source agreement with the Department of Employment Services **prior to issuance of a building permit for the first phase of development**; and
 - b. Hire at least two Gallaudet students per year as interns or employees **throughout active construction of the project until completion of all four parcels**. Evidence confirming fulfillment of this commitment shall be provided to the Zoning Administrator prior to issuance of a certificate of occupancy for Parcel 4.
11. Florida Avenue Market: The Applicant shall:
- a. **Prior to the issuance of a building permit for the first building on Parcel 1**, the Applicant shall contribute \$50,000 to the NOMA BID for the study and implementation of an additional entrance for the Noma/Gallaudet metro station. **Prior to the issuance of a Certificate of Occupancy for the last residential component on Parcel 4**, the Applicant shall provide evidence to the Zoning Administrator that the contribution has been initiated, deemed no longer necessary, or that implementation of an additional entrance for the NoMa /Gallaudet U. Metro Station has been or is being provided;
 - b. **Fund and host at least one training session per year, for five years**, for the benefit of market vendors and members of the community regarding how to interact effectively with the deaf and hard-of-hearing community. These training sessions shall be free of charge for attendees and shall be made available on a first-come, first-served basis. Evidence of having provided the required training sessions must be provided to the Zoning Administrator **prior to issuance of a certificate of occupancy for the building on Parcel 4**; and
 - c. **Sponsor two community events per year for at least five years after the issuance of the Stage 2 order for Parcel 1**, up to a total cost of \$20,000. The events will be open to the public and free of charge on a first-come, first-served basis. Evidence of having fulfilled this commitment must be provided to the Zoning Administrator **prior to issuance of a certificate of occupancy for the last building on Parcel 4**.
12. A description of the benefits and amenities and the timeframe for their delivery shall be a part of the Applicant's submission for each second-stage application, and shall be part of the Commission's review of each second-stage application.

D. Miscellaneous

1. The Applicant shall file a Stage 2 application for the first phase of development within two years of the effective date of this Order. The Applicant shall file its second-stage application within four years of the effective date of this Order. The Applicant shall file the Stage 2 application for the final phase of development within eight years of the effective date of this Order.
2. In accordance with the DC Human Rights Act of 1977, as amended, DC Official Code § 2-1401 01 et al (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, familial 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 prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

For the reasons stated above, the Commission concludes that the Applicant has met its burden, and it is **HEREBY ORDERED** that the first-stage PUD and PUD-related map amendment be **GRANTED**.

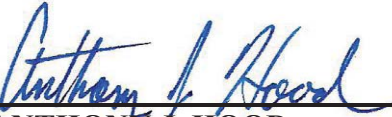
On March 27, 2017, upon the motion of Vice Chairman Miller, as seconded by Chairman Hood, the Zoning Commission took proposed action to **APPROVE** the application at the conclusion of its public hearing by a vote of **4-0-1** (Anthony J. Hood, Michael G. Turnbull, Robert E. Miller, and Peter G. May to approve; Peter A. Shapiro, not having participated, not voting).

On May 8, 2017, upon the motion of Chairman Hood, as seconded by Commissioner Turnbull, the Zoning Commission took final action to **APPROVE** the application at its public meeting by a vote of **3-0-2** (Anthony J. Hood, Michael G. Turnbull, and Peter G. May to approve; Peter A. Shapiro, not having participated, not voting; Robert E. Miller, not present, not voting).


In accordance with the provisions of 11-Z DCMR § 604.9 of the Zoning Regulations, this Order shall become final and effective upon publication in the *D.C. Register* on June 23, 2017.

BY THE ORDER OF THE D.C. ZONING COMMISSION

A majority of the Commission members approved the issuance of this Order.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BAROIN
DIRECTOR
OFFICE OF ZONING