GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 15-28
Z.C. Case No. 15-28
Foulger-Pratt Development, LLC
(Consolidated Planned Unit Development and Related Zoning Map Amendment @ Square 772, Lots 20-23 & 800)
September 12, 2016

Pursuant to proper notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on June 20, 2016 to consider an application by Foulger-Pratt Development, LLC ("Applicant") for consolidated review and approval of a planned unit development ("PUD") and related Zoning Map amendment from the C-M-1 Zone District to the C-3-C Zone District for Square 772, Lots 20-23 and 800 ("Application"). The Commission considered the Application pursuant to Chapters 1, 24, and Chapter 30 of the District of Columbia 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. The Commission approves the Application, subject to the conditions below.

FINDINGS OF FACT

Application, Parties, and Hearing

1. The project site consists of Square 772, Lots 20-23 and 800 ("Property") with the addresses of 301-331 N Street, N.E.

2. On October 30, 2015, the Applicant filed an application for consolidated review and approval of a PUD and related Zoning Map Amendment from the C-M-1 Zone District to the C-3-C Zone District. (Exhibit ("Ex.") 1-1H.)

3. On January 29, 2016, the Office of Planning ("OP") filed a report recommending that the Application be set down for a public hearing. (Ex. 11.)

4. During its public meeting on February 8, 2016, the Commission voted to set down the Application for a public hearing. Notice of the public hearing was published in the *D.C. Register* on April 29, 2016 and was mailed to Advisory Neighborhood Commission

[1] Chapter 24 and all other provisions of Title 11 DCMR were repealed September 6, 2016. Chapter 24 was replaced by Chapter 3 of Subtitle II-X. However, because this application was setdown for hearing prior to that date, the Commission's approval was based upon the standards set forth in Chapter 24.

ZONING COMMISSION
District of Columbia
CASE NO.15-28
EXHIBIT NO.41

("ANC") 6C and to owners of property within 200 feet of the Property. (Ex.15, 16; 2/8/2016 Transcript ["Tr."] at p. 89.)

5. The Application was further updated by pre-hearing submissions that the Applicant filed on March 29, 2016 and May 31, 2016. (Ex. 13-13D6, 21-21C.)

6. The Commission held a public hearing on the Application on June 20, 2016. The Commission accepted Aldo Andreoli as an expert in the field of architecture and Erwin Andres as an expert in the field of traffic engineering. (Ex. 21B, 26A.) The Applicant provided testimony from these experts as well as from Adam Davis, who is a representative of the Applicant. (6/20/2016 Tr. at pp. 9-10.)

7. In addition to the Applicant, ANC 6C was automatically a party in this proceeding and submitted a report in support of the Application. (Ex. 27.)

8. Union Market Neighbors ("UMN") submitted a request for party status in opposition and a statement in opposition. (Ex. 22, 30.) At the public hearing, the Commission denied UMN's party status request because they failed to satisfy the criteria for party status, including how UMN would be more significantly, distinctively, or uniquely affected by the proposed project. (6/20/2016 Tr. at pp. 6-8.).

9. At the public hearing, the Commission heard testimony and received reports from OP and the District Department of Transportation ("DDOT") in support of the Application. (Ex. 23, 24.) No one testified in either support of or opposition to the Application. (6/20/2016 Tr. at p. 86.)

10. At the close of the public hearing, the Commission requested that the Applicant respond to some outstanding comments and questions. (6/20/2016 Tr. at pp. 91-92.)

11. The Applicant responded to the Commission's comments and questions in a post-hearing filing that it submitted on July 5, 2016. (Ex. 33-33A.)

12. On July 18, 2016, ANC 6C submitted a written report, the contents of which are described below. (Ex. 35.)

13. On July 19, 2016, the Applicant submitted a response to ANC 6C's report, the contents of which are also described below. (Ex. 36.)

14. The Commission took proposed action to approve the Application at a public meeting on July 25, 2016.

15. On August 1, 2016, the Applicant submitted its list of proffers and proposed conditions. (Ex. 38.)

16. On August 31, 2016, The Applicant submitted its final list of proffers and proposed conditions. (Ex. 39.)

17. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the Home Rule Act. NCPC did not submit any comments within 30 days after the Commission's referral, and the Commission proceeded to approve the application, as authorized by § 492 of the Home Rule Act.

18. The Commission took final action to approve the Application at a public meeting on September 12, 2016.

THE MERITS OF THE APPLICATION

Overview of the Property

19. The Property contains approximately 69,240 square feet of land area. It is bound by N Street, N.E. and Florida Avenue, N.E. to the north, a public alley to the south, 4th Street, N.E. to the east, and 3rd Street, N.E. to the west. The Property is rectangular in shape. (Ex. 1.)

20. The northwest portion of the Property is improved with a three-story self-storage building. This structure was built in 1931 for National Capital Press. The front of the three-story concrete and brick building faces N Street. The 3rd Street elevation is defined by loading docks at the first floor and generally regular industrial windows and brick infill within the concrete structure of the building. Both elevations are defined by brick piers with some decorative brickwork. The building has five monitors that are unusual within the city's stock of industrial buildings. Additions to the building were constructed in 1947, 1949, and around 1963. The Applicant will file an application with the Historic Preservation Review Board to designate the original building as a landmark. (Ex. 1, 1A.)

21. The eastern portion of the Property is improved with a one story retail building and associated large surface parking lot in front of the building. Four curb cuts serve the Property from N Street, and three curb cuts serve the Property from 4th Street. (Ex 1, 1A.)

22. The surrounding area is mostly a mix of industrial, commercial, and institutional uses. To the north across Florida Avenue is the Florida Avenue Market, which is largely industrial, but multiple mixed-use residential projects are planned and/or approved for the area. Directly north across N Street, a mixed-use residential and retail building is planned. Across 3rd Street to the west is an industrial building, but a mixed-use development is planned for its replacement. To the east across 4th Street is the Two Rivers Public Charter School. To the south across the alley is a parcel used for parking but slated for redevelopment as a mixed-use residential project and another building for the Two Rivers School. (Ex. 1, 1A.)

23. The immediately surrounding blocks contain primarily a mix of industrial and commercial uses, but new developments are planned throughout, particularly in the Florida Avenue Market area, where at least five new projects are planned. To the west across the train tracks are high-rise office buildings, high-rise apartment buildings, a hotel, and the NoMA-Gallaudet Metro station. Further to the east, the neighborhood is

primarily residential with two- and three-story townhouses and flats, with Gallaudet University across Florida Avenue. Another large project is planned for the area just west of Gallaudet University near the Florida Avenue Market. Further to the south and southeast of the Property, the neighborhood is primarily residential with two- and three-story townhouses and flats. Further to the southwest, the properties are used primarily for industrial purposes, although the Uline Arena is being redeveloped for commercial use. Further to the south, properties were recently redeveloped for residential buildings. (Ex. 1, 1A.)

24. The Property is zoned C-M-1. Most properties immediately surrounding the Property are zoned C-M-1 or C-M-3, though most of the new projects have been rezoned to C-3-C as parts of PUD applications. Also, most of the NoMA area west of the train tracks is zoned C-3-C. Residential properties further from the Property are zoned primarily R-4. (Ex. 1A, 1B.)

25. The Future Land Use Map ("FLUM") of the Comprehensive Plan designates most of the Property for mixed-use Medium-Density Commercial/Medium-Density Residential/Production, Distribution and Repair use. A smaller portion of the Property is designated for mixed-use Medium-Density Commercial/Medium-Density Residential use on the FLUM. The Generalized Policy Map ("GPM") includes the Property in the Land Use Change Area category. (Ex. 1C1, 1C2).

The Project

26. The Applicant proposes to redevelop the Property as a mixed-use residential and commercial project with underground parking and ground-floor retail ("Project"). The Project will contain two residential components, a hotel, office/retail space, and ground floor retail. The Project will contain a density of approximately 6.67 floor area ratio ("FAR"), or approximately 461,721 gross square feet, and it will have maximum heights of approximately 110 and 120 feet. (Ex. 1, 13D, 21C.)

27. The Project will consist of four buildings even though they will all be integrated as one project. The easternmost building (331 N Street) will be an 11-story residential building with approximately 276 residential units and ground-floor retail. The three-story historic National Capital Press building at the northwest corner of the Property will be retained and rehabilitated to contain ground-floor retail and two floors of office and/or retail above. At the southeast corner of the site, an 11-story hotel with approximately 175 rooms (or residential condominium) will be adjacent to the alley. Finally, a smaller 11-story residential building with approximately 96 residential units and ground-floor retail will front on N Street and will be located between the historic building and the other residential building at 331 N Street. The historic building, the hotel, and the smaller residential building will comprise 301 N Street. (Ex 1, 13D, 21C.)

28. The Project will be comprised of two buildings for zoning purposes, but the entire Project will be integrated as if it were one. The west building (301 N Street) will have a maximum gross floor area of approximately 201,629 square feet (6.09 FAR) and a maximum height of 110 feet. The east building (331 N Street) will have a maximum

gross floor area of approximately 260,092 square feet (7.2 FAR) and a maximum height of 120 feet. Combined, the Project will contain approximately 137,787 square feet (1.99 FAR) of commercial use and approximately 323,748 square feet (4.68 FAR) of residential use. The west building (301 N Street) will have a maximum lot occupancy of 83%, and the east building (331 N Street) will have a maximum lot occupancy of 74%. (Ex. 1, 13D, 21C.)

29. The Project will be oriented around two large courts. One court will be in the center of the 301 N building, and a second larger court will be surrounded on the north, east, and south by the 331 N building. To the west, the second court will be bounded by the 301 N residential building. These courts will be extensively landscaped and will provide areas for passive and active recreation. (Ex. 1, 13D, 21C.)

30. The Project will eliminate the all of the many existing curb cuts on 3rd, 4th, and N Streets, which will reduce automobile-pedestrian conflicts in the neighborhood. All vehicular traffic entering the Project will be directed to the rear alley accessible from 3rd and 4th Streets. Access to the underground parking from the alley will be via a ramp at the rear center of the Property. Loading will also be accessed from the alley at the rear of the Property. (Ex. 1, 13D, 21C.)

31. The underground parking garage will span across the entire Property to serve all of the buildings, and it will contain approximately 240 parking spaces. In addition, the Project will provide ample bike parking. Approximately 230 secure bike parking spaces will be available, with approximately 50% of those in a dedicated bike storage room at grade accessed directly from the alley, and the remainder will be located in the below-grade garage. Additionally, two 30-foot loading berths and one 20-foot delivery space will be located at grade at the center rear of the Project off the alley. These loading facilities will be shared by the entire Project. (Ex. 1, 13D, 21C.)

32. The Project will be designed so as to satisfy the standards for at least LEED-Gold certification.

33. The ground-floor retail will be located primarily at the corners of 3rd and N Streets and 4th and N Streets. In addition, the retail will extend down 3rd and 4th Streets. The upper two stories of the National Capital Press building will offer office space and/or more retail space, depending on the market demand. (Ex. 1).

34. The upper stories of the Project, except for the hotel and the office, will be residential. Both residential buildings will share one lobby at the ground floor entered from N Street. Residential amenities will be located on the ground floor of the 331 N building and the ground floor of the 301 N building and in the penthouse. A pool will be on the roof of the 331 N building. (Ex. 1, 13D.)

35. Open space and green features will be incorporated throughout the Project. In addition to the two at-grade courts, two upper terraces and the roofs (hotel and 331 N) will include landscaped green space and outdoor recreation space. Further, the southeast corner of the Project will include green wall extending from ground to the top story, plus plantings

will be incorporated on the south elevation of the 331 N building. Approximately 20,000 square feet of green space will be provided in the Project. (Ex. 1, 13D, 33A.)

36. The Project will include significant public space enhancements on N Street. Subject to approval from the District Department of Transportation ("DDOT"), the Applicant will alter and beautify N Street to make it more pedestrian-friendly and oriented toward recreation and gathering. Changes will include landscaping, outdoor furniture, and installation of a playable art feature. (Ex. 33, 33A.)

Zoning Map Amendment

37. The Property is located in the C-M-1 Zone District. As a matter of right, the maximum height allowed in the C-M-1 Zone District is 40 feet, and the maximum density is 3.0 FAR.

38. The Applicant requested a PUD-related Zoning Map amendment to the C-3-C Zone District to permit the Project to achieve the requested mix of uses, height, and density. The maximum height permitted in the C-3-C Zone District under the PUD guidelines is 130 feet, and the maximum density permitted is 8.0 FAR.

PUD Flexibility Requested

39. The Applicant requested flexibility from the penthouse setback, rear yard, court width and area, and loading requirements in order to accommodate the proposed design of the Project, as detailed in the Applicant's written submission and the OP final report. The penthouse setback flexibility is necessary because of the design considerations for the Project and because the penthouse mostly will not be seen from the public rights-of-way. The rear yard flexibility is necessary and justified because of the reoriented density on the site and the wide alley to the rear. The court flexibility is necessary and justified to accommodate the design of the multiple buildings in the Project and to provide ample open space. The loading flexibility is justified by the fact that the provided berths will accommodate the demand for loading in the Project. (Ex. 1, 13D, 21C.)

40. With respect to the design of the Project, the Applicant requested flexibility to make minor adjustments to the court-facing façades of the residential buildings to accommodate final unit layout. (Ex. 21.)

41. With respect to the uses in the Project, the Applicant requested flexibility for the upper two floors of the National Capital Press building to be either office or retail. The Applicant also requested flexibility to change the hotel building to a residential condominium. (Ex. 1, 21.)

42. With respect to construction of the Project, the Applicant requested flexibility to phase construction of the Project. Phase one would be the rehabilitation of the National Capital Press building, phase two would be the two residential buildings, and phase three would be the hotel building. (Ex. 1.)

Project Amenities and Public Benefits

43. As detailed in the Applicant's testimony and written submissions, the proposed Project will implement the following project amenities and public benefits:

a. Exemplary urban design, architecture, and landscaping, including high-quality materials, superior architecture, streetscape improvements, and sustainable features; (Ex. 1, 13D, 21, 33.)

b. Site planning and efficient land utilization, through the redevelopment of an underutilized parcel into a mixed-use development on an underutilized site in a transit-oriented location specifically targeted for such uses; (Ex. 1, 13D, 21, 33.)

c. Historic preservation, through the retention and rehabilitation of the National Capital Press building. This includes an Applicant-filed historic landmark application; (Ex. 1, 13D, 21, 33.)

d. Effective and safe vehicular and pedestrian access and transportation management measures. Specific features include:

i. A transportation demand management ("TDM") plan as set forth in the Applicant's Comprehensive Transportation Review ("CTR"); (Ex. 21A.)

ii. Approximately 230 bicycle parking spaces, and shower and changing facilities as well as a 2,000 square foot dedicated bike storage room at grade accessed directly from the alley; and (Ex. 13D, 21C.)

iii. Reduction in Curb Cuts: Elimination of curb cuts on 3rd, 4th, and N Streets to reduce pedestrian-automobile conflicts; (Ex. 1, 13D, 21C.)

e. Transportation and streetscape infrastructure improvements, including:

i. Improved Alley System: The Applicant will devote a 10-foot-wide strip of the Property along the rear alley to effectively widen the alley; (Ex. 13D, 21C.)

ii. Installation of signs to prohibit trucks servicing the Project from using 4th Street; and (Ex. 13D, 21C.)

iii. Improvements to the N Street streetscape, including a playable art piece; (Ex. 33, 33A.)

(6/20/2016 Tr. at pp. 22, 24, 60.)

f. Housing and affordable housing, through the creation of approximately 372 residential units, including approximately 26,361 square feet of gross floor area set aside for affordable units. The Applicant shall set aside a minimum of eight percent of the floor area of the penthouse habitable space devoted to dwelling

units (approximately 461 square feet) for Inclusionary Units ("IZ") reserved for households with incomes not exceeding 50% of the area median income ("AMI"). The Applicant shall set aside a minimum of eight percent of the residential gross floor area as IZ units for the life of the project. Of the affordable units, a minimum of 13,411 square feet shall be reserved for households with incomes not exceeding 50% of the AMI. A minimum of 12,950 square feet shall be reserved for households with incomes not exceeding 80% of the AMI. All of the units reserved for households with incomes not exceeding 50% of the AMI shall be two-bedroom units, except for the IZ floor area resulting from the habitable penthouse, which may be other unit types. This represents a significant increase in amount of affordable housing over both a matter-of-right project in the underlying C-M-1 Zone District and over the base requirements of the C-3-C Zone District sought through the PUD; (Ex. 39.)

g. Environmental benefits, including a commitment to design the Project to achieve sufficient points to attain at least LEED-Gold certification. The Project will also include specific sustainable design features such as extensive green roof and courtyard and two electric car-charging stations; and (Ex. 39.)

h. Uses of special value, including:

i. The design and installation, at a minimum cost of approximately $100,000, a piece of interactive art in the public space adjacent to the Project along N Street;

ii. Contribution of $100,000 to Two Rivers Public Charter School for improvements to its building and/or property, as determined by the school;

iii. Contribution of $50,000 to the NoMA BID for the study of a new eastern entrance to the NoMA – Gallaudet Metrorail station; and

iv. Reservation of 3000 square feet of the Project's retail space (more than 10% of the total retail space) for "maker" uses.

(Ex. 39.)

Transportation

44. The Applicant's traffic expert submitted a detailed CTR that concluded that the proposed Project would not have a detrimental impact on the surrounding transportation network. The CTR also concluded that additional delay at five nearby intersections can be successfully mitigated. The CTR further concluded that the public transportation network has sufficient capacity to accommodate the additional trips from the Project and that the provided parking and loading will be sufficient for demand. The CTR included a TDM plan to mitigate any potential adverse impacts on the transportation infrastructure. (Ex. 21A.)

45. DDOT submitted a report stating that it had no objection to the Project, with conditions. DDOT concurred with the scope, methodology, and findings of the Applicant's transportation study, and agreed that the Project would have minimal impact on the surrounding roadway network. (Ex. 24.)

46. The Applicant agreed to all of DDOT's conditions, including installing traffic management cameras, providing showers and changing facilities to commercial tenant employees, and an enhanced TDM plan. (Ex. 28A3; 6/20/2016 Tr. at p. 22.)

47. The Commission finds that the Project will not cause unacceptable impacts on vehicular or pedestrian traffic, as demonstrated by the testimony and reports provided by the Applicant's traffic expert and DDOT:

    a. The Commission finds that the Project will not impose adverse impacts on the surrounding transportation network, with the Applicant's adoption of DDOT's conditions. The Commission credits the findings of the Applicant's traffic expert as verified by DDOT that the Project will not create any adverse impacts when compared with future background conditions;

    b. The Commission finds that the loading management plan and the enhanced TDM plan will sufficiently minimize any potential for adverse impacts from loading or vehicular traffic at the Project; and

    c. The Commission finds that the Project will not impose adverse impacts on the surrounding pedestrian and bicycle network, and will in fact create significant public benefits as described above. The Commission also credits DDOT's acceptance of the Applicant's proffered streetscape improvements, subject to final public space approval. The Commission recognizes that the Applicant will coordinate with DDOT to determine the final improvements to be installed in public space through the public space approval process.

<u>Project Height and Relationship to Other Buildings</u>

48. Although supportive of the overall Project, the ANC stated some concern about the relationship of the Project's southeast corner to the lower-scale buildings on 4th Street, N.E. The ANC requested that the Applicant "soften" the Project to transition to lower-scale buildings. In response, the Applicant changed the design of the southeast corner of the Project. (Ex. 27, 33, 33A; 6/20/2016 Tr. at p. 75.)

49. The Commission finds that the PUD's height, bulk, and relationship to the other buildings on 4th Street are appropriate given the Project's surrounding context, which includes many approved and planned high-density developments. In particular, the Commission finds that the chamfer at the top southeast corner of the Project and the installation of a green wall plus additional greenery along the south elevation will soften its transition to the lower buildings along 4th Street and will therefore will be appropriate for the context. The greenery on the southeast corner of the Project will sufficiently

moderate the height difference between the Project and other buildings on 4th Street so that there will not be an adverse aesthetic impact from the Project.

Project Impact on City Services

50. The Applicant's consultants determined that the neighborhood infrastructure is sufficient to accommodate the Project. The Applicant stated that it met with DC Water, which indicated that capacity is adequate to serve the Project. In addition, the Applicant filed a letter from Pepco (addressed to the Applicant) confirming that it will provide new service to the Project. (Ex. 1, 13, 13A.)

Agency Reports

51. By report dated June 10, 2016 and by testimony at the public hearing, OP recommended approval of the application with recommendations for additions to the benefits and amenities package. OP also noted a few items to be addressed at the hearing: more information about the interactive art and more explanation of the roof plan. The Applicant addressed these items and enhanced its benefits and amenities package at the hearing and in its post-hearing submission. OP concluded that the PUD and related rezoning was not inconsistent with the Comprehensive Plan. OP evaluated the PUD and related rezoning under the evaluation standards set forth in Chapter 24 of the Zoning Regulations and concluded that the Project's benefits and amenities was appropriate given the size and nature of the PUD and related requests for rezoning and flexibility. (Ex. 23; 6/20/2016 Tr. at pp. 69-70.)

52. By report dated June 10, 2016 and by testimony at the public hearing, DDOT expressed no objection to the PUD, with conditions. DDOT concurred with the scope, methodology, and findings of the Applicant's transportation study, and agreed that the Project would have minimal impact on the surrounding roadway network. DDOT supported the Project's proposed vehicle parking, bicycle parking, and loading. DDOT also stated that continued coordination is necessary for the Application's proposed public space improvements. (Ex. 24; 6/20/2016 Tr. at pp. 70-72.)

53. OP referred the Application to other District agencies for assessment and comment regarding the Project's impact. No other agencies provided written or oral testimony about the Project. (Ex. 11, 23.)

ANC 6B Report

54. At a regularly scheduled and duly noted public meeting on June 8, 2016, with a quorum present, ANC 6C voted to support the proposed PUD and related rezoning, with some recommendations. (Ex. 27.)

55. At the June 20, 2016 public hearing, a representative of the ANC testified in support of the application and reiterated the recommendations, particularly the softening of the southeast corner of the building to transition to lower buildings on 4th Street. (6/20/2016 Tr. at pp.74-75.)

56. On July 18, 2016, ANC 6C submitted a report in support of the project. ANC 6C expressed the following issues and concerns: (a) it "would prefer a step down in height along 4th Street, but does agree the 'green screen' is an improvement over the previous plans for the Southeast corner of the [P]roperty"; (b) it supported the increases in affordability and LEED rating and the other enhancements the Applicant made to the amenities package after the hearing; (c) it believes the amenities package is "meager" and requested that the developer include $100,000 for an expanded Bikeshare station near the project; and (d) it requested that the ground-floor retail spaces be visible a minimum of 15 feet into the spaces along 50% of the street façades to ensure an active streetscape. (Ex. 35.) The Applicant submitted a response on July 19, 2016. (Ex. 36.)

57. In response to the issues and concerns expressed by ANC 6C, the Commission finds as follows:

    a. Step down and green screen. In response to ANC 6C's concern about the relationship of the project's southeast corner to the buildings along 4th Street, the Applicant revised its design so that it includes a green wall and additional greenery along the south elevation, which softens its transition to the lower buildings along 4th Street. The Commission finds this is adequate to address the ANC's concern;

    b. Enhancements to amenities package, including affordable housing and LEED. In response to ANC 6C's concern, the Applicant enhanced its amenities package to: increase the amount and depth of affordable housing; make a greater commitment to achieve LEED-Gold; increase the funding for the study of a new entrance to the NoMA-Gallaudet Metrorail station; reserve a larger amount of "maker" retail space; and dedicate two electric car-charging spaces. The Commission finds this is adequate to address the ANC's concern;

    c. "Meager" amenities package and Bikeshare. ANC 6C stated that it believed the amenities package was still "meager" and stated that it believed the Applicant should enhance the amenities package by including approximately $100,000 for a new Capital Bikeshare station to be located nearby. The Commission must judge the amenities package as it is proffered by the Applicant, and believes in this case that it is adequate; and

    d. Ground-floor retail street façades. The Applicant agreed to this recommendation, and the plans reflect ground-level retail spaces with sufficient glazing to address this concern.

Testimony in Opposition

58. The Commission received one statement in opposition to the Application. The statement asserted that the Project is inconsistent with the Comprehensive Plan and that OP, DDOT, and other District agencies did not adequately assess the impacts of the Project. No one testified in opposition at the public hearing. (Ex. 30.)

Compliance with the Comprehensive Plan

59. The Commission finds that the PUD advances the goals and policies in the Land Use, Transportation, Housing, Urban Design, Historic Preservation, and Central Washington Area (NoMA and Northwest One Policy Focus Area) Elements of the District of Columbia Comprehensive Plan ("Plan").

60. The Land Use Element of the Plan includes the following policies advanced by the Project:

- **Policy LU-1.1.6: Central Employment Area Historic Resources** – Preserve the scale and character of the Central Employment Area's historic resources, including the streets, vistas, and public spaces of the L'Enfant and McMillan Plans as well as individual historic structures and sites. Future development must be sensitive to the area's historic character and should enhance important reminders of the city's past;

- **Policy LU-1.3.1: Station Areas as Neighborhood Centers** – Encourage the development of Metro stations as anchors for economic and civic development in locations that currently lack adequate neighborhood shopping opportunities and employment. The establishment and growth of mixed use centers at Metrorail stations should be supported as a way to reduce automobile congestion, improve air quality, increase jobs, 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. This policy should not be interpreted to outweigh other land use policies which call for neighborhood conservation. Each Metro station area is unique and must be treated as such in planning and development decisions. The Future Land Use Map expresses the desired intensity and mix of uses around each station, and the Area Elements (and in some cases Small Area Plans) provide more detailed direction for each station area;

- **Policy LU-1.3.2: Development Around Metrorail Stations** – Concentrate redevelopment efforts on those Metrorail station areas which offer the greatest opportunities for infill development and growth, particularly stations in areas with weak market demand, or with large amounts of vacant or poorly utilized land in the vicinity of the station entrance. Ensure that development above and around such stations emphasizes land uses and building forms which minimize the necessity of automobile use and maximize transit ridership while reflecting the design capacity of each station and respecting the character and needs of the surrounding areas;

- **Policy LU-1.3.3: Housing Around Metrorail Stations** – Recognize the opportunity to build senior housing and more affordable "starter" housing for first-time homebuyers adjacent to Metrorail stations, given the reduced necessity

of auto ownership (and related reduction in household expenses) in such locations;

- **Policy LU-1.4.1: Infill Development** – Encourage infill development on vacant land within the city, particularly in areas where there are vacant lots that create "gaps" in the urban fabric and detract from the character of a commercial or residential street. Such development should complement the established character of the area and should not create sharp changes in the physical development pattern;

- **Policy LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods** – Recognize the importance of balancing goals to increase the housing supply and expand neighborhood commerce with parallel goals to protect neighborhood character, preserve historic resources, and restore the environment. The overarching goal to "create successful neighborhoods" in all parts of the city requires an emphasis on conservation in some neighborhoods and revitalization in others;

- **Policy LU-2.1.4: Rehabilitation Before Demolition** – In redeveloping areas characterized by vacant, abandoned, and underutilized older buildings, generally encourage rehabilitation and adaptive reuse of existing buildings rather than demolition;

- **Policy LU-2.2.4: Neighborhood Beautification** – Encourage projects which improve the visual quality of the District's neighborhoods, including landscaping and tree planting, facade improvement, anti-litter campaigns, graffiti removal, improvement or removal of abandoned buildings, street and sidewalk repair, and park improvements;

- **Policy LU-2.4.1: Promotion of Commercial Centers** – Promote the vitality of the District's commercial centers and provide for the continued growth of commercial land uses to meet the needs of District residents, expand employment opportunities for District residents, and sustain the city's role as the center of the metropolitan area. Commercial centers should be inviting and attractive places, and should support social interaction and ease of access for nearby residents;

- **Policy LU-2.4.5: Encouraging Nodal Development** – Discourage auto-oriented commercial "strip" development and instead encourage pedestrian-oriented "nodes" of commercial development at key locations along major corridors. Zoning and design standards should ensure that the height, mass, and scale of development within nodes respects the integrity and character of surrounding residential areas and does not unreasonably impact them; and

- **Policy LU-3.1.4: Rezoning of Industrial Areas –** Allow the rezoning of industrial land for non-industrial purposes only when the land can no longer viably support

industrial or PDR activities or is located such that industry cannot co-exist adequately with adjacent existing uses. Examples include land in the immediate vicinity of Metrorail stations, sites within historic districts, and small sites in the midst of stable residential neighborhoods. In the event such rezoning results in the displacement of active uses, assist these uses in relocating to designated PDR areas.

The Commission finds that the PUD will advance the Land Use element of the Comprehensive Plan. The Project will advance the above referenced land use policies by creating a mix of uses while preserving and rehabilitating a historic building and rezoning the industrial land where such uses are no longer viable. The Project will support transit-oriented development and provide more housing near a Metro station. The Project will promote the policy of infill development by concentrating more density, including residences, on a largely underutilized site. This Property's location, in particular, will allow the Project to balance the goals of conserving and revitalizing the neighborhood through beautification and the promotion of nodal commercial development. (Ex. 1, 11, 13A, 13D, 21, 21C.)

61. The Project will advance the following policies of the Transportation Element of the Plan:

- **Policy T-1.1.4: Transit-Oriented Development** – Support transit-oriented development by investing in pedestrian-oriented transportation improvements at or around transit stations, major bus corridors, and transfer points; and

- **Policy T-1.2.3: Discouraging Auto-Oriented Uses** – Discourage certain uses, like "drive-through" businesses or stores with large surface parking lots, along key boulevards and pedestrian streets, and minimize the number of curb cuts in new developments. Curb cuts and multiple vehicle access points break-up the sidewalk, reduce pedestrian safety, and detract from pedestrian-oriented retail and residential areas.

The Commission finds that the Project will promote the Transportation element of the Comprehensive Plan. The Project will embody transit-oriented development since it will contribute multiple new housing units, new retail, a new hotel, and a possible new office in a central part of the city close to a Metrorail station. The Property's central location and proximity to transit and bicycle facilities makes it a prime location for additional density and new uses. Also, in support of the applicable policies, the Project will eliminate the auto-oriented retail uses, surface parking, and multiple curb cuts currently on the Property and replace them with street-facing, pedestrian-focused uses. (Ex. 1, 11, 13A, 13D, 21, 21C.)

62. The Urban Design Element of the Plan includes the following policies that the Project will advance:

- **Policy UD-2.2.1: Neighborhood Character and Identity** – Strengthen the defining visual qualities of Washington's neighborhoods. This should be achieved in part by relating the scale of infill development, alterations, renovations, and additions to existing neighborhood context;

- **Policy UD-2.2.3: Neighborhood Centers** – Undertake strategic and coordinated efforts to create neighborhood centers, civic buildings, and shopping places that reinforce community identity;

- **Policy UD-2.2.5: Creating Attractive Facades** – Create visual interest through well-designed building facades, storefront windows, and attractive signage and lighting. Avoid monolithic or box-like building forms, or long blank walls which detract from the human quality of the street; and

- **Policy UD-3.1.7: Improving the Street Environment** – Create attractive and interesting commercial streetscapes by promoting ground level retail and desirable street activities, making walking more comfortable and convenient, ensuring that sidewalks are wide enough to accommodate pedestrian traffic, minimizing curb cuts and driveways, and avoiding windowless facades and gaps in the street wall.

The Commission finds that the Project will have a unique urban design that will create a pedestrian-friendly experience through the use of materials and design. The innovative and appealing façade design will make the Project one that draws pedestrians because of the large glass display windows, retail entrances, and streetscape improvements. The Project will help define the neighborhood as a mixed-use center with a distinct architectural style. (Ex. 1, 11, 13A, 13D, 21, 21C.)

63. The PUD will advance the following goals and policies from the Housing Element of the Plan:

- **H-1.1 Expanding Housing Supply –** Expanding the housing supply is a key part of the District's vision to create successful neighborhoods. Along with improved transportation and shopping, better neighborhood schools and parks, preservation of historic resources, and improved design and identity, the production of housing is essential to the future of our neighborhoods. It is also a key to improving the city's fiscal health. The District will work to facilitate housing construction and rehabilitation through its planning, building, and housing programs, recognizing and responding to the needs of all segments of the community. The first step toward meeting this goal is to ensure that an adequate supply of appropriately zoned land is available to meet expected housing needs;

- **Policy H-1.1.1: Private Sector Support –** Encourage the private sector to provide new housing to meet the needs of present and future District residents at locations consistent with District land use policies and objectives;

- **Policy H-1.1.3: Balanced Growth** – Strongly encourage the development of new housing on surplus, vacant and underutilized land in all parts of the city. Ensure that a sufficient supply of land is planned and zoned to enable the city to meet its long-term housing needs, including the need for low- and moderate-density single family homes as well as the need for higher-density housing;

- **Policy H-1.1.4: Mixed Use Development** – Promote mixed use development, including housing, on commercially zoned land, particularly in neighborhood commercial centers, along Main Street mixed use corridors, and around appropriate Metrorail stations; and

- **Policy H-1.1.6: Housing in the Central City** – Absorb a substantial component of the demand for new high-density housing in Central Washington and along the Anacostia River. Absorbing the demand for higher density units within these areas is an effective way to meet housing demands, create mixed-use areas, and conserve single-family residential neighborhoods throughout the city. Mixed income, higher density downtown housing also provides the opportunity to create vibrant street life, and to support the restaurants, retail, entertainment, and other amenities that are desired and needed in the heart of the city.

The Commission finds that the Project will expand the District's housing supply in a neighborhood well-suited to accommodate significantly more housing. The Project will embody the policy of mixed-use development by providing four new use types with the residents to support the commercial uses. By providing approximately 372 new housing units, with a significant affordability component, the Project will promote housing, working, and shopping in the Central Employment Area. (Ex. 1, 11, 13A, 13D, 21, 21C.)

64. The PUD will advance the following policies from the Historic Preservation Element of the Plan:

- **Policy HP-1.3.1: Designation of Historic Properties** – Recognize and protect significant historic properties through official designation as historic landmarks and districts under both District and federal law, maintaining consistency between District and federal listings whenever possible;

- **Policy HP-2.4.2: Adaptation of Historic Properties for Current Use** – Maintain historic properties in their original use to the greatest extent possible. If this is no longer feasible, encourage appropriate adaptive uses consistent with the character of the property;

- **Policy HP-2.4.3: Compatible Development –** Preserve the important historic features of the District while permitting compatible new infill development. Within historic districts, preserve the established form of development as evidenced by lot coverage limitations, yard requirements open space, and other

standards that contribute to the character and attractiveness of those areas. Ensure that new construction, repair, maintenance, and improvements are in scale with and respect historic context through sensitive siting and design and the appropriate use of materials and architectural detail; and

- **Policy HP-2.4.5: Protecting Historic Building Integrity –** Protect historic buildings from demolition whenever possible, and protect the integrity of whole buildings. Discourage treatments like facadism or relocation of historic buildings, allowing them only when there is no feasible alternative for preservation, and only after a finding that the treatment is necessary in the public interest. Waivers or administrative flexibility should be provided in the application of building and related codes to permit maximum preservation and protection of historic resources while ensuring the health and safety of the public

The Commission finds that by preserving and adaptively reusing a historic industrial building, the Project will retain some of the industrial character of the neighborhood and will generally promote historic preservation. The Applicant will apply to the HPRB to designate the National Capital Press building as a historic landmark, and it designed the eastern residential building and hotel, in particular to be compatible with the historic building. The Project design will not only be compatible with the historic building, but it will also protect the integrity of the entire original building. (Ex. 1, 11, 13A, 13D, 21, 21C.)

65. The PUD will promote the following policies from the Central Washington Area Element (NoMA and Northwest One Policy Focus Area) of the Plan:

- **Policy CW-1.1.1: Promoting Mixed Use Development –** Expand the mix of land uses in Central Washington to attract a broader variety of activities and sustain the area as the hub of the metropolitan area. Central Washington should be strengthened as a dynamic employment center, a high-quality regional retail center, an internationally-renowned cultural center, a world-class visitor and convention destination, a vibrant urban neighborhood, and the focus of the regional transportation network. New office and retail space, hotels, arts and entertainment uses, housing, and open space should be encouraged through strategic incentives so that the area remains attractive, exciting, and economically productive;

- **Policy CW-1.1.4: New Housing Development in Central Washington** – Encourage the development of new high-density housing in Central Washington, particularly in the area north of Massachusetts Avenue and east of Mount Vernon Square, and the L'Enfant Plaza/Near Southwest. This area includes Mount Vernon Triangle, Northwest One, and NoMA, and the L'Enfant Plaza/Near Southwest. Ground floor retail space and similar uses should be strongly encouraged within these areas to create street-life and provide neighborhood services for residents. A strong Downtown residential community can create

pedestrian traffic, meet local housing needs, support local businesses in the evenings and on weekends, and increase neighborhood safety and security;

- **Policy CW-1.1.10: Central Washington Hotels and Hospitality Services –** Encourage the development of additional hotels in Central Washington, especially in the areas around the new Convention Center and Gallery Place, along Pennsylvania Avenue NW and Massachusetts Avenue NW, in the Thomas Circle area, and in the area east of Third Street NW. A range of hotel types, including moderately priced hotels, and hotels oriented to family travelers as well as business travelers, should be encouraged. Hotels generate jobs for District residents and revenues for the general fund and should be granted incentives when necessary. Retain existing hotel uses by allowing and encouraging the expansion of those uses, including the addition of one floor, approximately 16 feet in height subject to coordination with federal security needs, to the Hay-Adams Hotel;

- **Policy CW-1.2.2: Preservation of Central Washington's Historic Resources –** Protect and enhance Central Washington's historic resources by continuing the current practices of: a. Preserving the area's historic buildings and districts; b. Requiring that renovation and new construction is sensitive to the character of historic buildings and districts; c. Applying design incentives and requirements to encourage preservation, adaptive reuse, and appropriate relationships between historic development and new construction; d. Encouraging the adaptive reuse of historic and architecturally significant buildings; and e. Preserving the original L'Enfant Plan pattern of streets and alleys, especially alleys that provide for off-street loading, deliveries, and garage access. Historic resources should be recognized as essential to Downtown's economic vitality and competitive edge, particularly for retail, tourist, and entertainment activities;

- **Policy CW-2.8.1: NoMA Land Use Mix** – Promote NoMA's development as an active mixed use neighborhood that includes residential, office, hotel, commercial, and ground floor retail uses. A diverse mix of housing, serving a range of household types and incomes, should be accommodated;

- **Policy CW-2.8.2: East of the Tracks and Eckington Place Transition Areas –** Create a production/arts and live-work, mixed-use area east of the CSX railroad tracks between H Street NE and Florida Avenue NE, and in the area east of Eckington Place and north of New York Avenue. Some of this area is shown as "Mixed Use Production Distribution Repair/Residential" areas on the Future Land Use Map. The intent of this designation is not to blend industrial uses with housing, but rather to retain viable industrial activities until market conditions support their conversion to live-/work space, housing, artists' studios, and similar uses. Mixed use squares in the NoMA area have unique characteristics that allow for a balance of industrial, residential, and office uses. The industrial striping on the Future Land Use Map anticipates some office use. These two areas should generally not be developed as large-scale commercial office buildings areas.

Mixed use development, including housing, should be encouraged in both locations; and

- **Policy CW-2.8.5: NoMA Architectural Design –** Establish a unique architectural and design identity for NoMA, based in part on the area's heritage as an industrial area. This identity should preserve, renovate, and adaptively reuse NoMA's important historic buildings.

The Commission finds that the Project will advance seven important policies of the Central Washington Area Element by creating a mixed-use project with new housing and hotel that will preserve a historically important building. The Project will balance multiple uses, including housing, hotel and "maker" uses, which are goals for this location. The Project's design will reflect the industrial character of the area and will contribute new retail options. (Ex. 1, 11, 13A, 13D, 21, 21C.)

66. The Commission also finds that the Project will advance numerous policies and objectives of the NoMA Vision Plan and Development Strategy ("NoMA Plan"), which the Comprehensive Plan identifies for implementation:

- **Provide a diverse mix of uses that creates a variety of options for living, working, shopping, recreation, and culture** – For NoMA to become a mixed-use, active neighborhood, this plan aims for a 50-50 mix of commercial and residential uses west of the railroad tracks, and primarily residential uses east of the tracks. It envisions a lively work environment; a distinctive "Creative Industries, Mixed-Use" area, focused on Uline Arena; hotel development that takes advantage of NoMA's proximity to the New York Avenue Metrorail Station and Union Station, major transportation corridors, and the Capitol complex; a coordinated retail strategy with ground floor retail in key locations; and a diversity of housing products and household types;

- **Design to a new standard of architecture and urban design to create a lasting, competitive identity** – Identity and market strength can be created through innovative contemporary architecture and distinct product types. The Plan calls for highlighting NoMA's historic resources through a combination of preservation, renovation, adaptive re-use, and taking advantage of the area's warehouse and transportation-related history. Emphasis is placed on the ground-floors and sidewalk-level pedestrian experience, ensuring a high-quality public realm; and

- **Mixed Use District with Creative Industries** – By building on the area's unique character, comprised of existing alleys and industrial buildings, and adding new infill construction; a distinctive, creative enclave can be created. New mixed-use buildings that change the area to a live-work district with residents and workers in flexible arrangements is envisioned. Through the use of Planned Unit Developments (PUDs), this area could include diverse uses such as residences, non-profit offices, studios, arts, technology, production, media, film, graphics,

etc., and community and recreation uses, to achieve the density that takes advantage of proximity to the Metrorail Station. Building form can reinforce the goal for transit-oriented development by locating higher density near the rail tracks and Florida Avenue, then stepping down and limiting office uses closer to nearby rowhouse blocks.

The Commission finds that, in addition to the goals and recommendations identified above, the Project will advance or fulfill many other specific goals and recommendations. The NoMA Plan recommends a mix of uses near the Uline Arena and for some hotel and integrated office uses near the railroad tracks, with density and height concentrated closer to the tracks and Florida Avenue. In addition, the NoMA Plan recommends accessible, integrated office buildings/uses and hotels close to Metro stations. The Project will satisfy these recommendations. Further, the NoMA Plan identifies innovative and contemporary architecture as a goal for creating neighborhood identity, including responding to the industrial past and preserving historic resources. The architecture of the Project embodies the unique and modern style that reflects the industrial past while incorporating a historic building that will mark the identity of the Project and the NoMA neighborhood. (Ex. 1, 11, 13A, 13D, 21, 21C.)

Compliance with PUD Standards

67. In evaluating a PUD application, the Commission must "judge, balance, and reconcile the relative value of project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects." The Commission finds that the development incentives for the height, density, flexibility and related rezoning to C-3-C are appropriate and fully justified by the 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 as set forth in the Applicant's evidence and testimony and the OP report. (Ex. 1, 13, 13D, 21, 21C, 33, 33A.)

68. The Commission credits the testimony of the Applicant and its architectural expert as well as OP, DDOT, and ANC 6C, and finds that the superior design, site planning, streetscape improvements, sustainable design features, historic preservation, housing and affordable housing, mix of uses, and uses of special value of the Project all constitute acceptable project amenities and public benefits.

69. The Commission finds that the Project is acceptable in all proffered categories of public benefits and project amenities, and is superior in public benefits and project amenities relating to housing and affordable housing, historic preservation, urban design and architecture, site planning, effective and safe vehicular and pedestrian access, environmental benefits, and uses of special value to the neighborhood and the District as a whole.

70. The Commission credits the testimony of the Applicant regarding the community-based planning effort that guided the development of the Project, and finds that the process resulted in amenities that reflect community preferences and priorities. The Commission credits the testimony of OP and ANC 6C that the PUD provides significant and sufficient public benefits and project amenities.

71. The Commission finds that the character, scale, mix of uses, and design of the Project are appropriate, and finds that the Project is consistent with the intent and purposes of the PUD process to encourage high quality developments that provide public benefits.

72. The Commission credits the testimony of OP and ANC 6C that the Project will provide benefits and amenities of value to the community and the District commensurate with the additional density and height sought through the PUD.

73. 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 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 are acceptable given the quality of the public benefits of the PUD.

74. The Commission credits the testimony of OP and the Applicant that the Project is not inconsistent with the Plan and promotes multiple policies and goals in the citywide and area elements of the Plan.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process provides a means for creating a "well-planned development." The objectives of the PUD process are to promote "sound project planning, efficient and economical land utilization, attractive urban design and the provision of desired public spaces and other amenities." (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." (11 DCMR § 2400.2.)

2. Under the PUD process, the Commission has the authority to consider this Application as a consolidated PUD. (11 DCMR § 2402.5.) The Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, parking, loading, yards, or courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment. (11 DCMR § 2405.)

3. The proposed PUD meets the minimum area requirements of 11 DCMR § 2401.1.

4. Proper notice of the proposed PUD and related rezoning was provided in accordance with the requirements of the Zoning Regulations.

5. The development of the Project will implement the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter-of-right standards. Here, the height, character, scale, mix of uses, and design of the proposed PUD are appropriate, and the proposed construction of an attractive mixed-use building that capitalizes on the Property's transit-oriented and redevelopment-appropriate location is compatible with the citywide and area plans of the District of Columbia.

6. The Applicant seeks a PUD-related zoning map amendment to the C-3-C Zone District, and flexibility from the penthouse, rear yard, courts, and loading requirements in the Zoning Regulations. The Commission has judged, balanced, and reconciled the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects, and concludes approval is warranted for the reasons detailed below.

7. The Commission finds that the Project is not inconsistent with and 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, strengthening of residential neighborhoods, nodal development, neighborhood beautification, and rezoning of industrial land when appropriate;

    b. Housing Element policies promoting the construction of new housing across the city and the provision of dedicated new affordable housing;

    c. Historic Preservation Element policies promoting the retention and rehabilitation of historically-important buildings;

    d. Policies in the Transportation and Urban Design Elements related to transit-oriented development, the creation of neighborhood character, and streetscape improvements;

    e. Central Washington Area Element policies for mixed-use projects, particularly residential and hotel; and

    f. NoMA Plan policies and goals for innovative architecture responding to the industrial past as well as height and density concentrated near the train/Metro tracks.

8. The Commission concludes that approval of the PUD and related rezoning is not inconsistent with the Comprehensive Plan. The Commission agrees with the determination of OP and finds that the Project is not inconsistent with the Property's Medium-Density Commercial/Medium-Density Residential/Production, Distribution and Repair ("PDR") designation on the FLUM and with the Property's designation as a Land Use Change Area on the GPM as follows:

a. The Interpretation Guidelines for the FLUM state that it is not a zoning map and is not parcel specific; it does not specify allowable uses or dimensional standards. The Guidelines also indicate that the typical building heights and densities included in the land use category simply describe the "general character" of the area, and state that the "granting of density bonuses [through PUDs] may result in heights that exceed the typical ranges [for the FLUM designation]." Thus, the height and density of the Project is allowable under the Property's FLUM designation since it is a PUD;

b. Furthermore, the Interpretation Guidelines for the FLUM indicate that it should be considered in conjunction with the policies, goals, and guidelines in the text of the Comprehensive Plan. The location and uses of the PUD will advance many policies in the text of the Comprehensive Plan, such as transit-oriented development and redevelopment of underutilized land in an immediate area largely characterized by mixed-use projects with greater height and density. Within this context, the height, density, and mix of uses in the Project are not inconsistent with medium-density commercial (and medium-density residential and PDR) development;

c. Furthermore, the design of the Project incorporates multiple elements to minimize the appearance of height and massing with respect to the lower-scale buildings along 4th Street. The green wall at the southeast corner, the plantings on the south elevation, and the chamfer at the upper northeast corner soften the Project's transition to lower-scale buildings on 4th Street in such a manner that that it is not inconsistent with medium-density development;

d. The Project incorporates multiple design and use elements such that it is not inconsistent with the Property's partial PDR designation on the FLUM. The Project will retain and rehabilitate the industrial National Capital Press building, and it will reserve a portion of its retail space for "maker" uses; and

e. The rezoning from the C-M-1 Zone District to the C-3-C Zone District is not inconsistent with the Comprehensive Plan or the character of the surrounding area. The Commission notes that the proposed zoning is consistent with the Property's location near a Metrorail station and in an area identified by the District for medium- and high-density development, much of which has already been constructed or approved. The rezoning is necessary to permit the mix of uses and density appropriate for this prominent, underutilized, and transit-oriented site. Further, the rezoning is part of a PUD application, which allows the Commission to review the design, site planning, and provision of public benefits and amenities against the requested rezoning. In this case, the C-3-C zone is not inconsistent with the FLUM since the Comprehensive Plan states that "other districts may apply" to medium-density commercial development. Thus, the C-3-C zone applies given the neighborhood context, 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.

9. The PUD will be within the applicable height and bulk standards of the Zoning Regulations. The proposed height and density will not cause an adverse effect on nearby properties, are consistent with the height and density of surrounding and nearby properties, and will create a more appropriate and efficient utilization of a prominent, transit-oriented site. The mix of uses also will be appropriate for the Project's location.

10. The Project will provide superior features that benefit the surrounding neighborhood to a significantly greater extent than a matter-of-right development on the Property would provide. The Commission finds that the urban design, site planning, efficient and safe traffic circulation, improved streetscape, environmental sustainability, historic preservation, housing and affordable housing, mix of uses, and uses of special value all are significant public benefits. The impact of the Project will be acceptable given the quality of the public benefits of the Project.

11. The impact of the Project on the surrounding area and the operation of city services will not be unacceptable. The Commission agrees with the conclusions of the Applicant's traffic expert and DDOT that the proposed project will not create adverse traffic, parking, or pedestrian impacts on the surrounding community, and that any potential for such impacts can be successfully mitigated. The Commission agrees with the Applicant that water and electric service to the Project can be provided without adverse impact on such infrastructure and that there are unlikely to be any adverse impacts on other city services from the Project. In addition, the absence of comments from other District agencies concerning the impact of the Project on city services implies an absence of concern about the Project's impacts on other such city services and infrastructure. Furthermore, the Application will be approved with conditions to ensure that any potential adverse effects on the surrounding area for the Project will be mitigated.

12. The PUD and rezoning for the Property will promote orderly development of the Property in conformance with the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.

13. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code §6-623.04) to give great weight to OP recommendations. OP recommended approval with conditions to which the Applicant sufficiently agreed. Accordingly, the Commission concludes that approval of the consolidated PUD and related rezoning should be granted in accordance with OP's recommendation.

14. In accordance with § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)), the Commission must give great weight to the written issues and concerns of the affected ANC. The Commission accorded the issues and concerns raised by ANC 6C the "great weight" to which they are entitled, and in so doing fully credited the unique vantage point that ANC 6C holds with respect to the impact of the proposed application on the ANC's constituents. ANC 6C recommended approval, provided that the Applicant adequately respond to certain concerns. The Commission concludes that the Applicant has

addressed these concerns and, accordingly, the PUD and related rezoning should be approved.

15. 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 of the District of Columbia **ORDERS APPROVAL** of the Application for a consolidated PUD and related rezoning to the C-3-C Zone District for the Property. This approval is subject to the following guidelines, conditions, and standards of this Order:

PROJECT DEVELOPMENT

1. The Project shall be developed in accordance with the plans marked as Exhibits 13D, 21C, and 33A of the record, as modified by guidelines, conditions, and standards herein (collectively, the "Plans").

2. The Property shall be rezoned from the C-M-1 to the C-3-C Zone District. Pursuant to 11 DCMR § 3028.9, the change of zoning shall be effective upon the recordation of the covenant discussed in Condition No. 12.

3. The Applicant shall have flexibility with the design of the PUD in the following areas:

    a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration or appearance of the structure;

    b. To vary final selection of the exterior materials within the color ranges and materials types as proposed based on availability at the time of construction;

    c. To vary the final selection of landscaping materials utilized, based on availability and suitability at the time of construction;

    d. To vary the final streetscape design and materials, including the final design and materials, in response to direction received from District public space permitting authorities;

    e. To make minor refinements to exterior details and dimensions, including balcony enclosures, belt courses, sills, bases, cornices, railings, trim, louvers, or any other changes to comply with Construction Codes or that are otherwise necessary to

obtain a final building permit, or to address the structural, mechanical, or operational needs of the building uses or systems;

f. To make minor adjustments to the court-facing façades of the residential buildings to accommodate final unit layout;

g. To vary the number of residential units between 354-391 and to accordingly adjust the final unit type mix of the Project;

h. To use the second and third stories of the National Capital Press building for retail or office; and

i. To change the use of the hotel building to a residential condominium.

PUBLIC BENEFITS

4. **For the life of the Project**, the Applicant shall provide the following housing and affordable housing:

a. The Project shall provide a total of approximately 329,509 square feet of residential Gross Floor Area ("GFA") of housing, including approximately 5,761 square feet of residential gross floor area of habitable penthouse space. Approximately 297,858 square feet of GFA of this total will be market rate housing, and approximately 26,361 square feet will be affordable housing as described in (b);

b. The Applicant shall set aside a minimum of eight percent of 329,509 square feet of residential gross floor area as Inclusionary Zoning ("IZ") units for the life of the project. Of the IZ units, a minimum of 13,411 square feet shall be reserved for households with incomes not exceeding 50% of the AMI. A minimum of 12,950 square feet shall be reserved for households with incomes not exceeding 80% of the AMI. All of the units reserved for households with incomes not exceeding 50% of the AMI shall be two-bedroom units except for the IZ Unit(s) resulting from the 461 square feet of gross floor area required to be set aside as a result of the habitable penthouse, which may be other unit types; and

c. The distribution of the affordable housing units shall be in substantial accordance with the matrix and plans marked as Exhibit 33A of the record, and substantially in accordance with the following chart:

Residential Unit Type	GFA/Percentage of Total	Units	Income Type	Affordable Control Period	Affordable Unit Type
Total	329,509 sf/100%	372	NA	NA	NA
Market Rate	303,148 sf/92%	TBD	Market Rate	NA	NA
50% AMI	13,411 sf/4% (includes PH)	TBD	50% AMI	For the life of the project	2 bedrooms, except IZ floor area resulting from PH may be any type
80% AMI	12,950 sf/4%	TBD	80% AMI	For the life of the project	All

5. The Project shall be designed to attain LEED-Gold certification. The Applicant shall not be required to obtain LEED certification from the U.S. Green Building Council. **Prior to the issuance of a certificate of occupancy**, the Applicant shall submit to the Zoning Administrator a LEED scorecard showing that the Project will receive a sufficient amount of points to achieve LEED-Gold.

6. **Prior to the issuance of an above-grade building permit for the Project**, the Applicant shall contribute $100,000 to Two Rivers Public Charter School for improvements to its building and/or property, as determined by the school. **The Applicant shall provide evidence to the Zoning Administrator that the improvements for which the funds have been provided have been designed prior to the issuance of a certificate of occupancy**.

7. **Prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall complete or provide the following:

   a. The Applicant shall design and install, to a minimum cost of approximately $100,000, a piece of interactive art in the public space adjacent to the Project. The art piece and its location shall be subject to all applicable public space approvals and permits;

   b. In conjunction with the developer of the property to the north across N Street, the Applicant shall install improvements to the south side of the N Street streetscape, between 3rd and 4th Streets, consistent with the plan in Exhibit 33A. The final design of the streetscape improvements shall be subject to all applicable public space approvals and permits; and

c. The Applicant shall contribute $50,000 to the NoMA BID for the study of a new eastern entrance to the NoMA – Gallaudet Metrorail station. **The Applicant shall provide evidence to the Zoning Administrator that the study for which the funds have been provided have been completed prior to the issuance of a certificate of occupancy**.

8. **For the life of the project**, the Applicant shall reserve 3,000 square feet of the Project's retail space for "maker" uses. Maker uses shall be defined as the following:

- Production, distribution, or repair of goods, including accessory sale of related product;
- Uses encompassed within the Arts, Design, and Creation Use Category as currently defined in 11 DCMR Subtitle B § 200.2, including an Art Incubator, as currently defined in 11 DCMR Subtitle B § 100.2, but not including a museum, theatre, or gallery as a principal use;
- Production and/or distribution of food or beverages and the accessory sale or on-site consumption of the related food and beverage; and
- Design related uses, including Media/Communications, Computer system and software design; Fashion design; Graphic design; or Product and industrial design.

The reserved retail space shall receive a certificate of occupancy only for uses that satisfy this definition.

9. **For the life of the project**, the Applicant shall devote two parking spaces for electric car-charging spaces in the Project's parking garage.

MITIGATION

10. The Applicant shall implement the following transportation demand management ("TDM") measures **for the life of the project, unless otherwise specified**:

a. The Applicant will exceed Zoning requirements to provide bicycle parking/storage facilities at the proposed development. This includes secure parking located onsite, short-term bicycle parking around the perimeter of the site, as well as a bike service area;

b. The Applicant will unbundle the cost of residential parking from the cost of lease or purchase;

c. The Applicant will price the residential parking at no less than the rate of the least expensive parking garage within one-quarter mile of the Property;

d. The Applicant will identify TDM Leaders (for planning, construction, and operations). The TDM Leaders will work with residents in the building to distribute and market various transportation alternatives and options;

e. The Applicant will provide TDM materials to new residents in the Residential Welcome Package materials;

f. The Applicant will install Transportation Information Center Displays (electronic screens) within the residential, hotel, and office lobbies, containing real-time information related to local transportation alternatives;

g. The Applicant will offer each resident of the Project an annual car-share or bike-share membership for the first three years that the residential portion of the Project is open;

h. The Applicant will install traffic management cameras at the following intersections: North Capitol Street, N.E./M Street, N.E. and Florida Avenue, N.E./3rd Street, N.E.;

i. The Applicant will provide showers and changing facilities for hotel, office, and retail employees;

j. The Project will offer a direct connection between the long-term bicycle parking and each land use component in the Project; and

k. The Applicant will dedicate two parking spaces in the Project's parking garage for use by a car-sharing service, provided that a car-sharing service is interested in the spaces.

11. The Applicant will implement the following measures to prohibit trucks that service the Project from using 4th Street:

a. The Applicant will install signage on private property for the widened alley area that states, "All retail truck traffic is prohibited from using 4th Street." One sign will be placed in the private property alley widening (rear yard of Project) near 3rd Street such that it can be viewed when entering the site. Another sign will be placed in the private property alley widening (rear yard of Project) near 4th Street such that it can be viewed by trucks exiting the Property; and

b. The Applicant will include in all retail leases language that prohibits the retail tenants' delivery trucks from using 4th Street to enter or exit the alley system at the rear of the Project.

MISCELLANEOUS

12. No building permit shall be issued for this project until the owner of the Property has recorded a covenant among the land records of the District of Columbia between the

owners and the District of Columbia that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs. Such covenant shall bind the owner of the Property and all successors in title to construct on or use the Property in accordance with this Order and any amendment thereof by the Zoning Commission.

13. The Application approved by this Commission shall be valid for a period of two years from the effective date of this Order. Within such time, an application must be filed for a building permit as specified in 11 DCMR § 2409.1.

14. The Project may be constructed in up to three phases, such that (1) the renovation of the National Capital Press building may be completed before (2) construction of the two residential buildings begins, and construction of the two residential buildings may be completed before (3) construction of the hotel building begins.

15. The Applicant shall file with the Zoning Administrator a letter identifying how it is in compliance with the conditions of this Order at such time as the Zoning Administrator requests and shall simultaneously file that letter with the Office of Zoning.

16. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act") the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On July 25, 2016, upon the motion of Chairman Hood, as seconded by Commissioner Turnbull, the Zoning Commission took **PROPOSED ACTION** to **APPROVE** the Application at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, and Michael G. Turnbull to approve; Peter G. May to approve by absentee ballot).

On September 12, 2016, upon the motion of Vice Chairman Miller, as seconded by Commissioner Turnbull, the Zoning Commission took **FINAL ACTION** to **APPROVE** the Application at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve; Third Mayoral Appointee position vacant, not voting).

In accordance with the provisions of 11 DCMR § 2038, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on December 23, 2016.

ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION

SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING