

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 15-29
Z.C. Case No. 15-29
Jemal's Gateway DC, LLC
(Consolidated PUD and Related Map Amendment
@ Square 2960, Lot 17)
September 12, 2016

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on June 16, 2016, to consider applications for a consolidated planned unit development ("PUD") and a related zoning map amendment filed by Jemal's Gateway DC, LLC ("Applicant"). The Commission considered the applications pursuant to Chapters 1, 24, and 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. For the reasons stated below, the Commission **HEREBY APPROVES** the applications.

FINDINGS OF FACT

The Applications, Parties, Hearings, and Post-Hearing Filings

1. On November 4, 2015, the Applicant filed applications with the Commission for consolidated review of a PUD and a related Zoning Map amendment from the C-2-A and R-1-B Zone Districts to the C-2-B Zone District for Lot 17 and a portion of a public alley to be closed in Square 2960 ("PUD Site").
2. On January 11, 2015, Advisory Neighborhood Commission ("ANC") 4A submitted a resolution to the record (Exhibit ["Ex."] 11), the contents of which are discussed below.
3. By report dated January 15, 2016 (Ex. 12), the District of Columbia Office of Planning ("OP") recommended that the application be set down for a public hearing. At its public meeting on February 8, 2016, the Commission voted to schedule a public hearing on the application.

¹ Chapter 24 and all other provisions of Title 11 DCMR were repealed on September 6, 2016.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

4. The Applicant filed a prehearing submission on March 24, 2016 and a public hearing was timely scheduled for the matter. (Ex. 14.) On April 21, 2016, the notice of public hearing was mailed to all owners of property located within 200 feet of the PUD Site; ANC 4A, the ANC in which the PUD Site is located; ANC 4B, the ANC located adjacent to the PUD Site; Commissioner Dwayne Toliver, the Single Member District Commissioner for 4A02, and to Councilmember Brandon Todd. A description of the proposed development and the notice of the public hearing in this matter were published in the *DC Register* on April 29, 2016.
5. On May 27, 2016, the Applicant filed a supplemental prehearing submission. (Ex. 22-22B.) The supplemental prehearing submission included revised architectural plans and elevations and a comprehensive transportation review (“CTR”) report dated March 11, 2016 prepared by Gorove/Slade Associates and submitted to the District Department of Transportation (“DDOT”) on March 23, 2016. (Ex. 22B.)
6. On June 6, 2016, OP and DDOT each submitted a report on the application. The OP report recommended approval of the application subject to the conditions set forth in Finding of Fact (“FF”) No. 89 of this Order. (Ex. 24.) The DDOT report indicated no objection to the application subject to the conditions set forth in FF No. 94 of this Order. (Ex. 23.) The contents of these reports are discussed below.
7. On June 9, 2016, ANC 4A submitted a second submission dated June 8, 2016, the contents of which are discussed below. (Ex. 26.)
8. ANC 4B, the ANC located adjacent to the PUD Site, submitted a letter dated June 15, 2016 (Ex. 28), stating that it was unable to vote on the project and requesting that the Commission hold the record open after the public hearing to permit ANC 4B to submit a resolution no later than the close of business on June 29, 2016.
9. ANC 4B submitted three separate resolutions (dated June 27, 2016, July 15, 2016, and August 12, 2016) in this case. (Ex. 36, 44, 54.) The final resolution (dated August 12, 2016) requested that the Commission “treat this resolution as its original submission,” and conditioned ANC 4B’s support of the project on the Applicant agreeing to include certain conditions in the Zoning Commission Order approving the application. The contents of these resolutions are discussed below.
10. The parties to the case were the Applicant and ANC 4A.
11. The Commission convened a public hearing on June 16, 2016, which concluded that same evening. At the hearing, the Applicant presented three witnesses in support of the applications: Paul Millstein on behalf of the Applicant; Lawrence Caudle of Hickok Cole Architects, architect for the project; and Erwin Andres of Gorove/Slade Associates, Inc., transportation consultant for the project. Based upon their professional experience and qualifications, the Commission qualified Mr. Caudle as an expert in architecture and Mr. Andres as an expert in transportation planning and engineering.

12. At the conclusion of the public hearing, the Commission closed the record except for the limited purposes of allowing: (a) the Applicant to submit the specific items filed in Exhibits 37-39, including a report regarding the Applicant's further meetings after the public hearing with Mrs. Naima Jefferson and Rev. David Jefferson (residents of 1121 Kalmia Road), who testified as individuals at the public hearing ("Jeffersons"); (b) the Jeffersons to submit a report regarding the outcome of its further meetings with the Applicant; and (c) specific items from ANC 4A, ANC 4B, and DDOT.
13. On July 5, 2016, the Applicant submitted its post-hearing submission, which included the following materials and information requested by the Commission at the public hearing: (a) revised Architectural Plan and Elevation Sheets (the "Revised Plan Sheets") showing revised façade materials, an updated elevator tower, and an updated landscape plan; (b) a plan and corresponding chart showing the location, size, and subsidy of the project's affordable dwelling units; (c) new street level renderings from Kalmia Street, 12th Street, and Eastern Avenue; (d) an analysis demonstrating that the project is consistent with the Comprehensive Plan and the Georgia Avenue Small Area Plan; (e) an update on the Applicant's community outreach and a report on the Applicant's meetings with the Jeffersons; and (f) the Applicant's response to ANC 4B's first resolution. (Ex. 37-37C.)
14. On July 11, 2016, the Applicant submitted its proposed findings of fact and conclusions of law. (Ex. 39.)
15. On July 11, 2016, DDOT submitted a memorandum providing additional information about the landscaping on Georgia Avenue. (Ex. 41.)
16. On July 11, 2016, the Jeffersons submitted a post-hearing submission, which set forth a number of claims against the project and the Applicant. (Ex. 40, 40A.)
17. On July 18, 2016, the Applicant submitted a motion to strike the Jefferson's July 11, 2016 submission, since it exceeded the limited scope of what the Commission asked the Jeffersons to submit. (Ex. 42.) The Applicant also filed a response to the Jeffersons' submission, which responded to the allegations contained therein and further addressed the substance of the Jeffersons' concerns. (Ex. 43, 43A.) The Commission denied the Applicant's request to strike the Jefferson's July 11, 2016 submission and granted the Applicant's request to submit a response to the Jeffersons' submission.
18. On July 22, 2016, the Jeffersons submitted a request to reopen the record to respond to the Applicant's July 18, 2016 submission, which the Commission approved. (Ex. 47-48.)
19. At the public meeting of July 25, 2016, the Commission reviewed the additional materials submitted to the record and took proposed action to approve the application. The Commission also requested that prior to final action on the application, the Applicant

and the Jeffersons continue to work together, and for each to submit another letter to the record updating the Commission on their further communications following proposed action.

20. The proposed action was referred to the National Capital Planning Commission (“NCPC”) on July 26, 2016 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.
21. On August 8, 2016, the Applicant submitted a letter updating the Commission on its further communications with the Jeffersons. (Ex. 52.) In that letter, the Applicant set forth two options that it offered to the Jeffersons to address their concerns: (a) entering into a proposed agreement that included significant benefits for the Jeffersons, or (b) purchasing the Jeffersons’ property for its appraised value plus a reasonable premium over the appraised value. The Applicant indicated in the letter that the Jeffersons were unwilling to accept either option. The Applicant’s August 8, 2016 letter also addressed the Jeffersons’ concerns related to noise, respiratory health, parking and traffic, and compliance with the PUD requirements of the Zoning Regulations.
22. On August 8, 2016, the Jeffersons submitted a letter updating the Commission on their further communications with the Applicant. (Ex. 53.) In their letter, the Jeffersons raised the following issues: (a) doubt as to whether the Applicant has a valid Basic Business License; (b) the “increased” community interest in the project through ANC 4A and ANC 4B; and (c) the need for a new traffic study.
23. On August 31, 2016, the Applicant submitted a request to reopen the record to respond to ANC 4B’s final resolution, and to agree to each of the conditions set forth in ANC 4B’s August 12th resolution. (Ex. 56-57.) Later that day, the Commission’s Chairman reopened the record to accept the Applicant’s submission.
24. The Applicant’s August 31, 2016 submission also stated that the Applicant had attended a public meeting hosted by the Single Member District Commissioner for ANC 4A02 and that in response to questions relating to the construction of the PUD that were raised by some community members at that meeting, the Applicant was submitting a Construction Management Plan, and that the Applicant would comply with the plan during the construction of the project. (Ex. 58.) The Construction Management Plan includes provisions regarding construction traffic, community updates, surveying of adjacent properties, and other provisions to ensure that all construction-related activities for the project will be consistent with the Building Code and other applicable laws and regulations.
25. During its deliberations at the public meeting on September 12, 2016, the Commission requested that the Applicant submit additional information regarding the color palette

proposed for the project's fiber cement panels. The Applicant submitted plan sheets showing the requested information. (Ex. 59.)

26. The Commission took final action to approve the PUD on September 12, 2016.
27. On October 31, 2016, the Applicant submitted a request to re-open the record to accept an updated CTR report prepared by Gorove/Slade Associates dated May 31, 2016 that was submitted to and reviewed by DDOT. (Ex. 60.) At a public meeting held on November 14, 2016, the Commission denied the request.²

The PUD Site and Surrounding Area

28. The PUD Site consists of Lot 17 and a portion of a public alley to be closed in Square 2960. The PUD Site has a land area of approximately 87,522 square feet and is bounded to the northeast by Eastern Avenue, N.W., to the east by Georgia Avenue, N.W. and Alaska Avenue, N.W., to the south by Kalmia Road, N.W., and to the west by an alley and private property. The PUD Site is located in a context that varies in use and scale, and is situated on Georgia Avenue, which is designated as a Great Street by the District and serves as a major commuter gateway into the city.
29. The Applicant requested to rezone the PUD Site from the C-2-A and R-1-B Zone Districts to the C-2-B Zone District. As detailed in FF Nos. 62-82, the Commission finds that the requested map amendment is consistent with the Comprehensive Plan's Future Land Use Map designation of the PUD Site as mixed-use Low-Density Commercial and Moderate-Density Residential, and is also consistent with the Comprehensive Plan's Generalized Policy Map designation of the PUD Site as a Main Street Mixed-Use Corridor and a Neighborhood Conservation Area. Further, the map amendment is consistent with the Upper Georgia Avenue Great Streets Redevelopment Plan ("Georgia Avenue Plan"), which recommends developing the PUD Site with "moderate to medium density development, incorporating street level retail with residential or office uses above." (See Georgia Avenue Plan, p. 45.)

Existing and Proposed Zoning

30. The PUD Site is currently zoned C-2-A and R-1-B. Approximately 46,858 square feet (56%) of the PUD Site is currently zoned C-2-A, and this portion is primarily located along Georgia and Eastern Avenues. Approximately 36,908 square feet (44%) of the

² The Commission denied the request because its findings and conclusions about the transportation related impacts of the project were based on DDOT's analysis of those impacts, and the data included in DDOT's report. DDOT's report included the information contained in the Applicant's updated May 31, 2016 CTR report. DDOT's report was submitted into the record, and presented by DDOT's representative at the hearing. The parties had an opportunity to cross-examine the DDOT representative and the Applicant's traffic representative at the hearing.

PUD Site is currently zoned R-1-B, and this portion is primarily internal to the PUD Site, abutting private property, the adjacent public alley, and a small portion of Kalmia Road.

31. The C-2-A Zone District is designed to provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core. The C-2-A Zone Districts are located in low- and medium-density residential areas with access to main highways or rapid transit stops. The C-2-A Zone Districts permit development to medium proportions and accommodate commercial strip developments. (11 DCMR §§ 720.2-720.5.) As a matter of right, property in C-2-A Zone Districts can be developed with a maximum density of 2.5 floor area ratio (“FAR”); to a maximum building height of 50 feet; and with a maximum lot occupancy of 60%. (11 DCMR §§ 771.2, 770.1, and 772.1.)
32. The R-1 Zone Districts are designed to protect quiet residential areas now developed with one-family detached dwellings and adjoining vacant areas likely to be developed for those purposes. They are intended to stabilize the residential areas and to promote a suitable environment for family life. (11 DCMR §§ 200.1 and 200.2.) As a matter of right, property in the R-1-B Zone Districts may be developed with a maximum lot occupancy of 60% and to a maximum height of 40 feet (three stories). (11 DCMR §§ 400.1 and 403.2.)
33. The Applicant proposes to rezone the PUD Site to C-2-B. The C-2-B Zone District is designed to serve commercial and residential functions similar to the C-2-A Zone District, but with high-density residential and mixed uses. The C-2-B Zone Districts shall be compact and located on arterial streets, in uptown centers, and at rapid transit stops. In the C-2-B Zone Districts, building use may be entirely residential or a mixture of commercial and residential uses. (11 DCMR §§ 720.6-720.8.) As a matter of right, property in the C-2-B Zone Districts can be developed with a maximum density of 3.5 FAR; to a maximum building height of 65 feet; and with a maximum lot occupancy of 80%. (11 DCMR §§ 771.2, 770.1, and 772.1.) A PUD in the C-2-B Zone District may be developed with a maximum density of 6.0 FAR and to a maximum building height of 90 feet. (11 DCMR §§ 2405.1 and 2405.2.)
34. Rear yards in the C-2-B Zone District must have a minimum depth of 15 feet. (11 DCMR § 774.1.) In the case of a through lot or a corner lot abutting three or more streets, the depth of rear yard may be measured from the centerline of the street abutting the lot at the rear of the building or other structure. (11 DCMR § 774.11.) A side yard is generally not required in the C-2-B Zone District; however, when a side yard is provided, it must have a minimum width of two inches per foot of height of building, but not less than six feet. (11 DCMR § 775.5.)
35. The parking and loading requirements for buildings are based upon the proposed use of the property. For example, an apartment house or multiple dwelling in the C-2-B Zone District requires one parking space for each three dwelling units. (11 DCMR § 2101.1.) Retail or service establishments in excess of 3,000 square feet are required to provide one

parking space for each additional 750 square feet of gross floor area. (*Id.*) An apartment house or multiple dwelling with 50 or more units in all zone districts is required to provide one loading berth at 55 feet deep, one loading platform at 200 square feet, and one service/delivery space at 20 feet deep. (11 DCMR § 2201.1.) A retail or service establishment with 5,000 to 20,000 square feet of gross floor area must provide one loading berth at 30 feet in depth and one loading platform at 100 square feet. (*Id.*)

36. Consistent with the C-2-B development parameters, the Applicant will develop the PUD Site with a mix of residential and retail uses. A tabulation of the PUD's development data is included on Sheet A-01 of the Architectural Plans and Elevations dated May 27, 2016. (Ex. 22A1.)

Description of the PUD Project

37. The Applicant is seeking consolidated PUD approval and a zoning map amendment to redevelop the PUD Site with a mixed-use residential and retail building. The building will contain approximately 273,308 square feet of gross floor area (3.12 FAR) and a maximum building height of 74 feet, three inches. Approximately 189,099 square feet of gross floor area will be devoted to residential use (approximately 199 units, plus or minus 10%) and approximately 58,400 square feet of gross floor area will be devoted to retail use. Approximately 271 off-street parking spaces will be located in a below-grade parking garage.
38. The project is sensitive to its varied context and responds in size, form, and in its use of materials. The building's massing represents an unusual yet unique footprint. The majority of the building will sit at the intersection of Georgia and Eastern Avenues, and will follow the PUD Site's irregular shape to the west and north, such that the building will also have frontage on Eastern Avenue. The building's ground floor will be activated by a full-service grocery store, plus a small retail and residential lobby space serving the five-story residential tower over the ground-floor retail. The primary residential lobby entrance is located on Kalmia Road, which is a quieter residential street, and the grocery store entrance is located along the active commercial portion of Eastern Avenue. The grocery store will engage the community with active storefront facades and an outdoor café along the Alaska Avenue façade.
39. The project's massing addresses the residential neighborhood to the west and the commercial uses along the major thoroughfares of Georgia and Eastern Avenues. The height of the building steps down from east to west as follows: The maximum building height is located at the intersection of the commercial corridors of Georgia/Eastern/Alaska Avenues and is 73 feet, four inches tall. The building then steps down in height to 41 feet, four inches for the western-most north-south leg of the residential tower and for the ancillary building on Eastern Avenue; it then steps down again to 20 feet along the western perimeter of the residential tower above the grocery store, directly adjacent to the row dwellings on Kalmia Road; and steps down a final time to 16 feet for the one-story portion of the building that connects the residential tower to

the ancillary building, directly adjacent to and behind the row dwellings on Kalmia Road. The project also provides a private residential courtyard, located above the ground-floor retail storefronts, opens towards the single-family dwellings on Kalmia Road and is surrounded by the building's residential units with views to the west. A landscaped buffer is also provided along the property line between the subject property and the adjacent residential dwelling at 1121 Kalmia Road.

40. Given the architectural prominence of the PUD Site, namely the visibility when approached from the north and south, the proposed building will effectively become a new landmark at the edge of the District. To create an architecture that can “hold” this location, the design accentuates the north and south corners of the Georgia Avenue façade with a prominent corner of projecting bays and window wall glazing. The architectural language is otherwise a blend of traditional brick and stone materials and detailing with transitional elements such as entry canopies, storefront glazing bays, and punches of metal panel at projecting bays and at the upper residential floor.
41. The building will be designed to meet the LEED-Gold standard under the LEED v.4 for Building Design and Construction (“BD+C”) rating system, and will integrate a host of sustainable features, including green roofs, street-level stormwater collection, bioretention planting areas, sustainable materials, street and interior bike parking, two 240-volt electric car-charging stations in the parking garage, and energy-efficient building systems. The project will also include extensive and intensive green roofs and a residential courtyard. The green roofs will provide visual interest to residents and neighboring properties while concealing required mechanical equipment. The residential courtyard will have amenities for users including lounge areas, a fire pit, and grilling areas.
42. The proposed streetscape will be an aesthetically pleasing environment that facilitates and reinforces the building's architecture while creating a sense of neighborhood at the street level. The streetscape elements include new tree boxes and street trees, mixed plantings, lighting, and pedestrian-oriented furnishings, all of which will comply with DDOT standards and the Georgia Avenue Plan. The project is required to comply with a 15-foot building restriction line on Alaska Avenue and Kalmia Road. The area within the building restriction line will have outdoor gathering spaces and significant new landscaping with native species. Special paving is proposed to be located along Eastern Avenue to further define the grocery store entrance, and along Kalmia Road to feature the residential entrance.

Zoning Flexibility

43. The Applicant requested areas of flexibility from the Zoning Regulations discussed below.
44. Flexibility from the Compact Parking Space Requirements. Subsection 2115.4 of the Zoning Regulations provides that compact parking spaces shall be placed in groups of at

least five contiguous spaces with access from the same aisle. The Applicant proposed to provide 271 total parking spaces, 32 of which would be compact in size, but not all of which would be in groupings of five or more, thus requiring flexibility.

45. The Commission finds that providing the compact spaces in the proposed locations is necessary to: maximize the efficiency of the garage, provide as many parking spaces as possible, maintain a drive aisle width of 20 feet, and accommodate a greater amount of compact, fuel-efficient vehicles that have a lower carbon footprint than full-size vehicles. This requested flexibility will not have any adverse effects, and will instead allow the Applicant to best accommodate parking for the project's residential and retail users. Moreover, the Commission notes OP's support for the requested flexibility in its assertion that the "[p]rovision of compact parking spaces in groups of less than five allows the applicant to more efficiently design the garage and maximize the amount of on-site parking provided without requiring the construction of additional garage space while providing a minimum drive aisle width of twenty feet." (Ex. 24, p. 7.)
46. Flexibility from the Loading Requirements. Subsection 2201.1 of the Zoning Regulations requires the following loading facilities: (a) one loading berth at 55 feet deep, one loading platform at 200 square feet, and one service/delivery space at 20 feet deep (residential requirement); and (b) one loading berth at 30 feet deep and one loading berth at 55 feet deep; one loading platform at 100 square feet and one loading platform at 200 square feet; and one service/delivery space at 20 feet deep (grocery requirement). The project includes all of the required residential and grocery loading facilities, except for the residential service delivery space.
47. The Commission finds that the requested flexibility is directly in accordance with the Comprehensive Plan's recommendations to consolidate loading areas within new developments, minimize curb cuts, and provide shared loading spaces in mixed-use buildings. Given the nature and size of the residential units, it is unlikely that residents will need to use the required service/delivery space, particularly since the loading areas will be used by residents for move-ins and move-outs only, and any other use by residents will be infrequent and can be restricted to times which pose the least potential conflicts with retail users. The OP report noted its support for the flexibility, stating that "[l]oading for the residential portion of the building would largely be restricted to move-in and move-outs, for which a 55-foot deep loading berth would be available, and the use of this space could be coordinated by a TDM leader." (Ex. 24, p. 7.). DDOT also referenced the need for loading flexibility and stated no concerns with the "one service/delivery space [] proposed to be shared by the residential and retail uses." (Ex. 23, p. 5.)
48. Flexibility from the Court Requirements. The Applicant requested flexibility from the open court width requirements for the open court facing Kalmia Road adjacent to the parking garage entrance. When provided, open courts in the C-2-B Zone District dedicated to residential use must have a minimum width of four inches per foot of height, or a minimum of 15 feet. (11 DCMR § 776.3.) In this case, based on the court's height of

26 feet, eight inches, a minimum width of 15 feet is required. However, the court is only six feet, 11 inches wide.

49. The Commission finds that this court was designed to break up the massing of the building and provide greater façade articulation. The proposed court introduces light, air, and ventilation into the building, particularly into the larger open court in the center of the building, and provides space for additional landscaping and green space. Thus, the Commission finds that providing this court with a non-compliant width will not result in any adverse impacts to the public good or zone plan.
50. Flexibility from the Penthouse Setback Requirements. The Applicant requested flexibility pursuant to 11 DCMR § 411.18 to provide non-compliant penthouse setbacks in two locations at the interior of the PUD Site as follows:
 - a. Flexibility was requested from 11 DCMR § 411.18(d) for the penthouse enclosing an eight-foot-tall stair tower and a five-foot-tall elevator overrun. This penthouse is not setback from the adjacent side building wall; and
 - b. Flexibility was requested from 11 DCMR § 411.18(c)(5) for the penthouse enclosing a five-foot-tall elevator overrun. This penthouse is not set back from the adjacent open court wall.
51. The Commission finds that flexibility in both cases is a result of the PUD Site's extremely irregular shape and the resultant irregularly shaped building with long narrow corridors. The setback relief is requested for mechanical equipment only, not for penthouse habitable space. This equipment cannot be relocated to be closer to the center of the roof, since both the stair tower and the elevator shafts run through the entire building. Thus, moving them towards the center of the building would push them into the middle of the double-loaded corridors on the residential levels below, resulting in blocked access to residential units. It would also result in the stair tower and elevators being located in the middle of the drive aisles in the below-grade parking garage, thus creating significant operating difficulties for the building. Moreover, as set forth in the Applicant's post-hearing submission and as shown in the revised plan, the Applicant lowered the stair tower from 10 feet to eight feet, which is the minimum height needed to provide head clearance. (Ex. 37; 37A, Sheets A23, A30.)
52. The Commission notes that the building provides stair access to the roof only, which is necessary to allow for the installation and maintenance of the green roof and condensers. The building does not include elevator access to the roof, which limits the potential height of the penthouses to the height of the overrun only (in this case, five feet) instead of the height of a full elevator and its overrun (potentially 18 feet, six inches). As a result, the Commission finds that the requested flexibility will not impair the purpose and intent of the Zoning Regulations, since the non-compliant setbacks are interior to the site and significantly set back from the property line.

Development Flexibility

53. The Applicant also requests flexibility in the following additional areas:
- a. To be able to provide a range in the number of residential units of plus or minus 10%;
 - b. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration of the structure;
 - c. To vary the sustainable design features of the project, provided the total number of LEED points achievable for the project is not below 60 points under the LEED v.4 for BD+C Gold rating standards;
 - d. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and to make minor refinements to exterior details, locations, and dimensions, including: curtain wall mullions and spandrels, window frames, doorways, glass types, belt courses, sills, bases, cornices, railings and trim; and any other changes in order to comply with all applicable District of Columbia laws and regulations that are otherwise necessary to obtain a final building permit;
 - e. In the retail and service areas, flexibility to vary the location and design of the ground floor components of the building in order to comply with any applicable District of Columbia laws and regulations, including the D.C. Department of Health, that are otherwise necessary for licensing and operation of any retail use and to accommodate any specific tenant requirements; and
 - f. To be able to adjust the color of the high-density fiber cement panel used on the inside face of the balconies on the main elevations of the building, so long as the final color selected by the Applicant is consistent with the overall color scheme proposed for the building and shown on the plan sheet presented at the ANC meeting on August 11, 2016.

Project Benefits and Amenities

54. Urban Design, Architecture, and Open Space (11 DCMR § 2403.9(a)). The project will have a positive impact on the visual and aesthetic character of the immediate neighborhood and will further the goals of urban design while enhancing the streetscape. The project includes a significant amount of landscape, garden, and open space features. Streetscape elements include new tree boxes and street trees, mixed plantings, lighting, and pedestrian-oriented furnishings. The hardscape materials will complement the

building, and the landscape areas will include native plantings to enhance the sense of neighborhood. All streetscape elements will comply with DDOT standards and with the Georgia Avenue Plan. Moreover, replacing the existing single-story buildings and surface parking with a new visually interesting and efficient building constitutes a significant urban design benefit.

55. Housing and Affordable Housing (11 DCMR § 2403.9(f)). The project will create new housing and affordable housing consistent with the goals of the Zoning Regulations, the Comprehensive Plan, and the Mayor's housing initiative. The project will include a total of approximately 189,099 square feet of residential gross floor area consisting of approximately 199 units. Approximately 16% of the residential floor area will be designated as affordable housing units as follows: (a) a minimum of four percent of the residential gross floor area will be devoted to households earning up to 80% of the AMI; (b) a minimum of four percent of the residential gross floor area will be devoted to households earning up to 50% of the AMI; (c) a minimum of four percent of the residential gross floor area will be devoted households earning up to 80% of the AMI with units designed to include features such as grab bars, lower sinks, walk-in showers, higher toilets, and will be advertised in traditional rental guides, as well as publications such as AARP Magazine, Senior Living Magazine, and other similar publications; and (d) a minimum of four percent of the residential gross floor area will be devoted to households earning up to 50% of the AMI and will be designed to include the features listed in (c) above.

Residential Unit Type	GFA/Percentage of Total	Units	Income Type	Affordable Control Period	Affordable Unit Type
Total	189,099 sf of GFA (approx. 149,633 sf of net residential area) (100%)	199	NA	NA	NA
Market Rate	157,967 sf of GFA (84%)	166	Market Rate	NA	NA
50% AMI (IZ)	7,817 sf of GFA (4%)	8	50% AMI	For the life of the project	Rental
50% AMI (Non-IZ)³	7,749 sf of GFA (4%)	8	50% AMI	For the life of the project	Rental
80% AMI (IZ)	7,817 sf of GFA (4%)	8	80% AMI	For the life of the project	Rental
80% AMI (Non-IZ)	7,749 sf of GFA (4%)	9	80% AMI	For the life of the project	Rental

56. Pursuant to 11 DCMR §§ 2603.2 and 2603.4, the project is required to allocate the greater of eight percent of the residential gross floor area or 50% of the bonus density utilized to IZ units set aside for households earning up to 80% of the AMI. Thus, the Applicant is providing double the square footage of required affordable housing, and at a significantly steeper subsidy.

³ The Non-IZ Units will be the units designed to include features such as grab bars, lower sinks, walk-in showers, higher toilets, and will be advertised in traditional rental guides, as well as publications such as AARP Magazine, Senior Living Magazine, and other similar publications.

57. Environmental Benefits (11 DCMR § 2403.9(h)). The Applicant will ensure environmental sustainability through the implementation of sustainable design features and strategies to enhance the sustainable nature of the PUD Site's walkable, mixed-use location, and to promote a healthy lifestyle that will holistically benefit the project's residents while minimizing impact on the environment. The project provides a host of environmental benefits consistent with recommendations of 11 DCMR § 2403.9(h), which include street tree planting and maintenance, landscaping, energy efficiency and alternative energy sources, methods to reduce stormwater runoff, and green engineering practices. In addition, the building will integrate many sustainable features, including green roofs, street-level stormwater collection, bioretention planting areas, sustainable materials, energy-efficient building systems, and street and interior bike parking. The project will be designed to include no fewer than the minimum number of points necessary to achieve the equivalent of LEED-Gold under the LEED v.4 for BD+C rating system.
58. Transportation Benefits (11 DCMR § 2403.9(c)). The Applicant incorporated a number of elements into the project designed to promote effective and safe access to the PUD Site, convenient connections to public transit services, and onsite amenities such as bicycle parking. The Applicant will undertake the following transportation improvements:
- a. Install two 240-volt electric car charging stations in the parking garage of the building;
 - b. Install traffic management cameras at 16th Street and Kalmia Road, Alaska Avenue and Kalmia Road, and Georgia Avenue and Geranium Street for integration into the DDOT traffic management program;
 - c. Install a new northbound left-turn signal head at the intersection of Alaska Avenue and Kalmia Road;
 - d. Create two east-bound approaches on the north side of Kalmia Road at the intersection of Alaska Avenue and Georgia Avenue; and
 - e. Offer each of the five existing homeowners on the north side of the 1100 block of Kalmia Road a free parking space within the proposed building, or other mutually agreeable form of mitigation not to exceed \$25,000.
59. The Applicant will also implement the following TDM strategies:
- a. Designate a TDM coordinator responsible for organizing and marketing the TDM plan and provide TDM marketing materials to new residents;

- b. Unbundle parking costs from the price of a lease and set the price at no less than the charges of the lowest fee garage located within a quarter-mile of the site;
- c. Install one transportation information screen in the residential lobby and one transportation information screen in the grocery store, which will display real-time transportation alternative information;
- d. Supply 88 long-term (secure, indoor) and 22 short-term (exterior) bicycle parking spaces;
- e. Dedicate two parking spaces in the parking garage for car sharing services for use by building residents. If no carshare providers are willing to operate in those spaces, the dedicated spaces may be returned to the general residential parking supply;
- f. Provide two showers and changing facilities for grocery store employees;
- g. Include in the residential leases a provision that prohibits tenants from obtaining a Residential Parking Permit ("RPP") from the D.C. Department of Motor Vehicles ("DMV"), under penalty of lease termination; and
- h. Offer each unit's incoming residents an annual carsharing membership or an annual Capital Bikeshare membership for a period of three years.

60. Uses of Special Value to the Neighborhood and the District of Columbia as a Whole (11 DCMR § 2403.9(i)). The Applicant has worked with ANC 4A to develop benefits and amenities identified as needs within the community, and proposes the following:

- a. Provide a community room within the building that will be available to ANC 4A and other community organizations located within the boundaries of ANC 4A;
- b. Contribute \$25,000 to Shepherd Elementary School ("SES") to be used for improvements to the school's cafeteria and/or gymnasium, as determined by SES;
- c. Maintain the grass and landscaped areas located within the curb line of the triangular median within the intersection of Georgia Avenue, Kalmia Road, and Alaska Avenue;
- d. Submit to DDOT, ANC 4A, and ANC 4B, a concept site plan showing a design for the triangular median at the intersection of Georgia Avenue, Kalmia Road, and Alaska Avenue, which includes landscaping details, a new "Welcome to Washington" sign, and relates to the design of the front of the building;
- e. If requested by DDOT, ANC 4A, and the majority of the homeowners on the north side of Kalmia Road (i.e., 1121, 1123, 1125, 1129, and 1133 Kalmia Road)

and 12th Street (i.e., 7801, 7811, 7815, 7819, 7823, 7829, 7831, and 7833 12th Street), demonstrate to the Zoning Administrator that it has submitted a letter to DDOT indicating that it does not object to designating the public alley located between Eastern Avenue and Kalmia Road as a one-way alley; and

- f. Assist SES with applying for an Adult School Crossing Guard at an intersection adjacent to the PUD Site to be determined by DDOT, SES, and the SES PTA. If payment is required for the Adult School Crossing Guard, the Applicant will pay up to \$25,000, divided over up to three years, to be used solely to support paying for the DDOT-approved crossing guard.

Comprehensive Plan

61. The Commission finds that the PUD advances the purposes of the Comprehensive Plan, is consistent with the Future Land Use Map and Generalized Policy Map, complies with the guiding principles in the Comprehensive Plan, and furthers a number of the major elements of the Comprehensive Plan and the Georgia Avenue Plan. The project significantly advances these purposes by promoting the social, physical, and economic development of the District through the provision of a high-quality residential development with ground-floor retail on the PUD Site, without generating any adverse impacts. The project will create new neighborhood-serving retail opportunities to meet the demand for basic goods and services, and will promote the vitality, diversity, and economic development of the surrounding area. Moreover, the project will create new jobs for District residents, provide public health benefits that achieve community goals, and will help to improve the surrounding neighborhood.
62. Future Land Use Map. The District of Columbia Comprehensive Plan Future Land Use Map designates the PUD Site in the mixed-use Low-Density Commercial and Moderate-Density Residential land use categories.
63. The Low-Density Commercial designation is used to define shopping and service areas that are generally low in scale and character. Retail, office, and service businesses are the predominant uses. Areas with this designation range from small business districts that draw primarily from the surrounding neighborhoods to larger business districts' uses that draw from a broader market area. Their common feature is that they are comprised primarily of one- to three-story commercial buildings. The corresponding zone districts are generally C-1 and C-2-A, although other districts may apply. (10A DCMR § 225.8.)
64. The Moderate-Density Residential designation is used to define the District's row house neighborhoods, as well as its low-rise garden apartment complexes. The designation also applies to areas characterized by a mix of single-family homes, two-four unit buildings, row houses, and low-rise apartment buildings. In some of the older inner city neighborhoods with this designation, there may also be existing multi-story apartments, many built decades ago when the areas were zoned for more dense uses (or were not zoned at all). The R-3, R-4, and R-5-A Zone Districts are generally consistent with the

Moderate-Density Residential category; the R-5-B Zone District and other zones may also apply in some locations. (10A DCMR § 225.4.)

65. The Project's Density is Consistent with the Future Land Use Map. The Commission finds that the C-2-B Zone District is consistent with the Low-Density Commercial designation regarding project density. The C-2-A Zone District (which is specifically listed within the Low-Density Commercial category) permits a maximum matter-of-right commercial density of 1.5 FAR and 2.0 FAR as a PUD. (11 DCMR §§ 771.2 and 2405.2.) The project has a maximum commercial density of 1.0 FAR. Thus, the Commission concludes that because the project's commercial density is within maximum density permitted for zone districts specifically listed as consistent with the Low-Density Residential designation, that the C-2-B Zone District and the project's proposed commercial density are consistent with the Future Land Use Map's designations for the PUD Site.
66. The Commission finds that the C-2-B Zone District is also consistent with the Moderate-Density Residential designation regarding project density. The R-5-B Zone District (which is specifically listed in the Moderate-Density Residential category) permits a maximum matter-of-right residential density of 1.8 FAR and 3.0 FAR as a PUD. (11 DCMR §§ 402.4 and 2405.2.) The project has a maximum residential density of 2.12 FAR, which is well below the maximum density permitted by a zone district specifically listed as being compatible with the Moderate-Density Residential designation. Thus, the Commission concludes that although the C-2-B Zone District is not specifically listed as a zone that is consistent with the Moderate-Density Residential designation, the project is still within the density limitations that the Comprehensive Plan anticipated for this land use designation. The Commission finds that the C-2-B Zone District and the project's proposed residential density are consistent with the Future Land Use Map's designations for the PUD Site.
67. The Project's Height is Consistent with the Future Land Use Map. The Commission finds that the C-2-B Zone District is consistent with the land use designations for the PUD Site regarding maximum building height. The Low-Density Commercial designation permits zones having a maximum building height of 65 feet for a PUD (e.g. C-2-A). The Moderate-Density Residential designation permits zones having a maximum building height of 60 feet for a PUD (e.g. R-5-B). The p has a maximum building height of 73 feet, four inches. However, the building provides significant setbacks and height step-downs that result in an overall massing that is appropriate for the PUD Site, in context with the surrounding neighborhood, and consistent with the Future Land Use Map designations.
68. Due to the PUD Site's irregular shape, the building has 11 distinct exterior elevations that abut a street, alley, or adjacent private property. Of those 11 elevations, only five elevations rise to the maximum proposed building height of 73 feet, four inches, and those elevations are located at the intersection of the commercial corridors of Georgia/Eastern/Alaska Avenues. Moreover, the building has significant height

step-downs as it approaches the residentially-scaled streets to the south and west, as follows: (a) 52 feet for a small portion of the building above the residential entrance on Kalmia Road; (b) 41 feet, four inches for the western-most north-south leg of the residential tower and for the ancillary building on Eastern Avenue; (c) 20 feet along the western perimeter of the residential tower above the grocery store (directly adjacent to the row dwellings on Kalmia Road); and (d) 16 feet for the one-story portion of the building that connects the residential tower to the ancillary building (directly adjacent to and behind the row dwellings on Kalmia Road). (See Attachment A to Ex. 37B.) Thus, the building's height closest to the public alley and the existing row dwellings on Kalmia Road is only 16-20 feet in height.

69. The significant height step-downs result in an average building height of approximately 44 feet. (See Attachment A to Ex. 37B.) This average height is well below the maximum permitted PUD heights for zones specifically listed as being consistent with the Low-Density Commercial and Moderate-Density Residential designations (65 feet for C-2-A and 60 feet for R-5-B, respectively). Moreover, the building reaches its maximum height of 73 feet, four inches for only 40% of the building area. (See Attachment A to Ex. 37B.) The predominant building height is 52 feet or less, which is also well below the maximum permitted PUD heights for zones specifically listed as being consistent with the Low-Density Commercial and Moderate-Density Residential designations. Therefore, the Commission concludes that the proposed height step-downs result in an overall building height that is consistent with the Future Land Use Map designations for the PUD Site.
70. The Commission also finds that the height step-downs to allow for increased PUD density are specifically anticipated by the Comprehensive Plan: "the land use category definitions describe the general character of development in each area, citing typical building heights (in stories) as appropriate. *The granting of density bonuses (for example, through Planned Unit Developments) may result in heights that exceed the typical ranges cited here.* (10A DCMR § 226(c) (emphasis added).)"
71. The intended result of the height step-downs described above is to shift the PUD Site's density towards the commercial corridors to the north and east and away from the existing row dwellings to the south and west. The Commission finds that shifting density in this manner ensures that the building's physical characteristics are consistent with its mixed-use land use designation and in harmony with the surrounding neighborhood. As set forth in the OP report, the "building would be at its greatest height on the east side, along Georgia Avenue, before tapering down to a height of one to three stories, respecting the adjacent one-family dwellings of Shepherd Park." (Ex. 12, p. 8.) The Commission agrees with OP's finding that the project's varying heights and step-downs are consistent with the mixed-use neighborhood and respect the adjacent residential uses.
72. Furthermore, the Commission notes that the Framework Element of the Comprehensive Plan provides that the Land Use Map is not a zoning map. (See 10A DCMR § 226(a); see also Z.C. Order No. 11-13; Z.C. Order No. 10-28.) The Future Land Use Map is intended

to provide generalized guides for development and conservative decisions. (10A DCMR § 226.) Whereas zoning maps are parcel-specific and establish detailed requirements for setback, 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. (*Id.* at § 226(a).) Thus, the zoning of any given area should be guided by the Future Land Use Map, interpreted in conjunction with the text of the Comprehensive Plan, including the citywide elements and the area elements, as well as approved Small Area Plans. (*Id.* at § 266.1(d).) The Georgia Avenue Plan, which is the Small Area Plan approved for the PUD Site, specifically states that “[h]eights of up to a maximum of 90 feet are limited to properties fronting Georgia Avenue and Eastern Avenue,” and that “new development at the 7800 and 7700 blocks of Georgia Avenue should consist of moderate to medium density development, incorporating street level retail with residential or office uses above.” (*See* Georgia Avenue Plan, pp. 45, 49.) Thus, for the reasons stated above, the Commission finds that the project and associated map amendment have been appropriately guided by the Future Land Use Map, particularly when evaluated in conjunction with the text of the Comprehensive Plan and the Georgia Avenue Plan.

73. Generalized Policy Map. The Comprehensive Plan Generalized Policy Map designates the majority of the PUD Site fronting Georgia Avenue, Eastern Avenue, and Kalmia Road as a Main Street Mixed Use Corridor. The Generalized Policy Map designates the remaining portions of the PUD Site along Kalmia Road and the public alley as a Neighborhood Conservation Area.
74. Main Street Mixed-Use Corridors are traditional commercial business corridors with a concentration of older storefronts along the street. Their common feature is that they have a pedestrian-oriented environment with traditional storefronts. Many have upper-story residential or office uses. Conservation and enhancement of these corridors is desired to foster economic and housing opportunities and serve neighborhood needs. Any development or redevelopment that occurs should support transit use and enhance the pedestrian environment. (10A DCMR § 223.14.)
75. The guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods. Limited development and redevelopment opportunities do exist within these areas but they are small in scale. The diversity of land uses and building types in these areas should be maintained and new development and alterations should be compatible with the existing scale and architectural character of each area. Densities in Neighborhood Conservation Areas are guided by the Future Land Use Map. (10A DCMR § 223.5.)
76. The Commission finds that the proposed rezoning and redevelopment of the PUD Site is consistent with the policies indicated for Main Street Mixed-Use Corridors. The proposed C-2-B Zone District will allow for development that will maintain the traditional commercial business corridors on which the PUD Site is located by providing ground-floor retail, including an outdoor sidewalk café. The project also incorporates

upper-story residential uses and significant streetscape improvements that will enhance the pedestrian environment and support transit use through its location in a mixed-use, walkable neighborhood with convenient access to Metrorail and Metrobus routes (*see* Sheet L-1 of the Architectural Plans and Elevations). Together, the mix of uses in the project will foster economic and housing opportunities to serve the needs of District residents. Thus, the Commission finds that the project's overall characteristics and the proposed map amendment are consistent with the policies indicated for Main Street Mixed-Use Corridors.

77. The Commission finds that the C-2-B Zone District is also consistent with the policies indicated for Neighborhood Conservation Areas, since the portion of the project located in the Neighborhood Conservation Area is compatible with the existing scale and architectural character of the surrounding neighborhood. The portion of the building that falls within the Neighborhood Conservation Area designation is small in scale, with a maximum height of 20 feet. This portion of the building will be clad in brick to establish consistency with brick row houses that surround the PUD Site. Moreover, this portion of PUD Site is interior to the site or abuts the public alley and does not have any direct street frontage. Given that “[d]ensities in Neighborhood Conservation Areas are guided by the Future Land Use Map,” the Commission concludes that this portion of the project is well within the height and density limits prescribed by the Low-Density Commercial and Moderate-Density Residential designations on the Future Land Use Map.
78. Guiding Principles and Major Elements of the Comprehensive Plan. The Commission further finds that the PUD is also consistent with many guiding principles in the Comprehensive Plan for managing growth and change, creating successful neighborhoods, and building green and healthy communities, as discussed in the paragraphs below.
79. Managing Growth and Change. In order to manage growth and change in the District, the Comprehensive Plan encourages, among other goals, the growth of both residential and non-residential uses. The Comprehensive Plan also states that redevelopment and infill opportunities along corridors is an important part of reinvigorating and enhancing neighborhoods. The Commission finds that the project is fully consistent with each of these goals. Redeveloping the PUD Site as a vibrant mixed-use development with residential and retail uses will further the revitalization of the neighborhood. The proposed retail spaces will create new jobs for District residents, further increase the District's tax base, and will help to reinvigorate the existing neighborhood fabric.
80. Creating Successful Neighborhoods. One of the guiding principles for creating successful neighborhoods is getting public input in decisions about land use and development from development of the Comprehensive Plan to implementation of the Plan's elements. The project furthers this goal since, as part of the PUD process, the Applicant worked closely with ANCs 4A and 4B, the Shepherd Park Citizens Association, and a number of other community groups and neighborhood residents to ensure that the project results in a positive impact on the immediate neighborhood.

81. Building Green and Healthy Communities. A major objective for building green and healthy communities is that building construction and renovation should minimize the use of non-renewable resources, promote energy and water conservation, and reduce harmful effects on the natural environment. (10A DCMR § 221.3.) The project will include a significant number of sustainable design features and is located in a walkable, mixed-use neighborhood, which inherently reduces the need to use a private vehicle to access the PUD Site. Moreover, the project will achieve LEED-Gold equivalent status.
82. The Commission also finds that the PUD furthers the objectives and policies from various elements of the Comprehensive Plan, including the Land Use, Transportation, Housing, Environmental Protection, Economic Development and Urban Design Citywide elements, and the Rock Creek East Area Element, as set forth in the Applicant's Statement in Support and in the OP reports. (Ex. 3, 12, 24.)

Georgia Avenue Plan

83. The Comprehensive Plan requires zoning to be “interpreted in conjunction with... approved Small Area Plans” (10A DCMR § 266.1(d)) and the Zoning Regulations further require consistency with “other adopted public policies and active programs related to the subject site.” (*See* 11 DCMR § 2403.4.) The Comprehensive Plan also states that small area policies appear in “separately bound Small Area Plans for particular neighborhoods and business districts. As specified in the city’s municipal code, Small Area Plans provide supplemental guidance to the Comprehensive Plan and are not part of the legislatively adopted document.” (10A DCMR § 104.2.)
84. The PUD Site is located within the Georgia Avenue Plan. The Commission finds that the project is consistent with many specific recommendations and policies in the Georgia Avenue Plan. With respect to height and density, the Georgia Avenue Plan states that “new development at the 7800 and 7700 blocks of Georgia Avenue should consist of moderate to medium density development, incorporating street level retail with residential or office uses above. Development in the medium density range should be placed at the intersection along Georgia... [b]uilding height should step down towards the rear of the properties in order to provide an appropriate scale transition to adjacent residential areas.” Georgia Avenue Plan, p. 45. More specifically, the Georgia Avenue Plan states that “[h]eights of up to a maximum of 90 feet are limited to properties fronting Georgia Avenue and Eastern Avenue and should step down in height at the rear of the site to provide a scale transition to surrounding residential neighborhoods.” (*Id.* at 49.) Indeed, the Georgia Avenue Plan anticipates that taller heights are to be achieved through the PUD and Zoning Map amendment process: “[i]t is important to note that proposed development that exceeds the existing C-2-A zoning category is discretionary and must receive approval from the District’s Zoning Commission.” (*Id.*)
85. The Commission finds that the project is consistent with these recommendations. The project will consist of moderate-density development and incorporate street-level retail

with residential uses above. Density on the PUD Site has been shifted to Georgia and Eastern Avenues, and the building's height steps down as it moves away from the Georgia Avenue corridor to provide an appropriate scale transition to the adjacent residential dwellings. Although the Georgia Avenue Plan envisions a maximum building height of 90 feet for properties fronting Georgia and Eastern Avenue, the project's maximum building height is only 73 feet, four inches, which is more than 16 feet less than the Georgia Avenue Plan's recommendation. Moreover, as set forth in the Applicant's post-hearing submission, the project complies with many other elements of the Georgia Avenue Plan related to overall development, height, density, architectural character, and mix of uses. (Ex. 37.) Thus, the Commission concludes that the project is consistent with numerous policies and vision set forth in the Georgia Avenue Plan.

Office of Planning Reports

86. On January 15, 2016, OP submitted a report recommending setdown of the application. (Ex. 12.) The OP setdown report stated that the project is consistent with major policies from various elements of the Comprehensive Plan, including the Land Use, Transportation, Housing, Environmental Protection, Economic Development, and Urban Design Citywide Elements, and the Rock Creek East Area Element. OP also found that the project is consistent with the Low-Density Commercial and Moderate-Density Residential designations on the Future Land Use Map. (Ex. 12, p. 10.) Finally, OP asserted that it supports the mix of uses proposed for the PUD Site. (*Id.*)
87. The OP setdown report also requested that the Applicant submit the following information prior to the public hearing:
 - a. Consider designing the building to read horizontally, providing for a separation between the retail and residential sections of the building, as opposed to the verticality of the design, where the ground-floor retail "reads up," resulting in a commercial or office appearance to the façade;
 - b. Provide details to activate the area between the public space and the building, including the area contained within the building restriction line along the Alaska Avenue frontage. Such details could include outdoor seating and plantings, and how that space would be integrated into the building and the sidewalk;
 - c. Consider designing the residential windows on the west side of the building facing the Georgian-style residences to be more contextual with those residences; and
 - d. Provide a more detailed and comprehensive benefits and amenities proffer, commensurate with the flexibility gained through the PUD.
88. On March 24, 2016, the Applicant submitted revised architectural plans and elevations with its Prehearing Submission, which incorporated the following changes in response to

OP's comments: (a) a strong metal band above the retail storefront; (b) additional detail on the proposed building materials; (c) transparent glazing for the building's retail storefront; (d) additional balconies and brick coursing to give the masonry façade an additional layer of interest and create a more residential appearance; and (e) an outdoor cafe on Alaska Avenue with at-grade defined seating and planting areas. (Ex. 14, 14A.)

89. On June 6, 2016, OP submitted a hearing report recommending approval of the application subject to the following conditions:
- a. Provision of assurances in the Order that the supermarket windows adjacent to the outdoor café along the Alaska Avenue frontage remain transparent to the interior of the retail space;
 - b. Resolution of TDM issues with DDOT;
 - c. Unbundling of parking costs from the apartment leases, with the cost of parking set at no less than the lowest fee garage located within a quarter-mile of the PUD Site;
 - d. Dedication of two parking spaces within public space adjacent to the PUD Site for car sharing services to use with the right of first refusal;
 - e. Provision of additional long-term bicycle parking within the garage and short-term bicycle parking along the interior and perimeter of the PUD Site;
 - f. Provision of specific information regarding the proposed locations of the electric car charging stations, including whether they would be located inside or outside of the building; and
 - g. Management of the building shall employ a TDM Manager responsible for coordinating use of the service/delivery space and implementing the [sic] as recommended in the CTR Report. (Ex. 24.)
90. At the public hearing, the Applicant stated that it agreed to each of the conditions set forth in the OP hearing report, except that the two dedicated car-share spaces would be located within the building's garage rather than in public space adjacent to the PUD Site.
91. The OP hearing report also reaffirmed that the project furthers several major policies from various elements of the Comprehensive Plan, and that the project is not inconsistent with the Generalized Policy Map or Future Land Use Map designations for the PUD Site. (Ex. 24, p. 8.) The report acknowledged that the project would further policy direction from the Georgia Avenue Plan by providing a grocery store and new dwelling units and addressing off-street parking needs. (*Id.*) The report also noted that the Applicant appropriately modified the building's architecture to evoke a more residential appearance (e.g. the incorporation of more balconies, the use of red brick on the western façade, the

addition of bands to provide a visual separation between the commercial ground floor and the upper residential floors). (*Id.* at 10.)

92. Finally, the OP hearing report noted that the Department of Housing and Community Development submitted an email dated May 26, 2016, asserting that it had no comments on the application, and considered the 16% residential gross floor area dedicated to affordable housing as a substantive public benefit. (Ex. 24, p. 10.)
93. Stephen Mordfin and Jennifer Steingasser of OP testified in support of the application at the public hearing.

DDOT Reports

94. On June 6, 2016, DDOT submitted a report. (Ex. 23.) The DDOT report found that vehicle traffic impacts from the project would degrade vehicle operations at three intersections surrounding the PUD Site; however, DDOT suggested a combination of signal changes and physical improvements that would address the vehicle impacts and sufficiently diminish the project's impact. (Ex. 23, pp. 10-11.) The Applicant agreed to each of these improvements at the public hearing. In addition, DDOT also found that: the PUD Site "generally has excellent pedestrian access to nearby destinations and transit. Pedestrian facilities — sidewalks, curb ramps, and crosswalks — are generally in good condition and meet current DDOT standards" (Ex. 23, p. 9); the Applicant "proposes to provide an adequate number of short- and long-term bicycle parking spaces" (Ex. 23, p. 2); with respect to loading, "all truck maneuvers can be accommodated with head-in, head-out movements consistent with DDOT standards" (Ex. 23, p. 5); and "existing transit service, pedestrian infrastructure, and bicycle infrastructure has capacity to accommodate future demand" (Ex. 23, p. 2). Moreover, DDOT indicated no objection to the application with the following conditions:
 - a. Ensure full access out of the parking garage driveway on Kalmia Road;
 - b. Install traffic management cameras at 16th Street and Kalmia Road, Alaska Avenue and Kalmia Road, and Georgia Avenue and Geranium Street for integration into the DDOT traffic management program to provide real-time traffic signal updates in coordination with other signals in the District;
 - c. Implement the signal and physical improvements at the Alaska Avenue/Kalmia Road/Georgia Avenue intersection, subject to DDOT approval;
 - d. Remove from the TDM plan the commitment to coordinate with DDOT to identify carsharing spaces within the public space;
 - e. Strengthen the TDM plan to include the following:

- i. Dedicate two parking spaces in the parking garage for car sharing services to use with right of first refusal;
 - ii. Install a transportation information screen in the grocery store;
 - iii. Provide showers and changing facilities for grocery store employees; and
 - iv. Offer each unit's incoming residents an annual carsharing membership or an annual Capital Bikeshare membership for a period of three years.
95. At the public hearing, the Applicant agreed to all of DDOT's conditions. Jonathan Rogers of DDOT testified in support of the application.
96. On July 11, 2016, DDOT submitted a memorandum providing additional information about landscaping on Georgia Avenue, as requested by the Commission at its public hearing. (Ex. 41.) In its memo, DDOT indicated that it would work with property owners along Georgia Avenue to improve the streetscape design in the public right-of-way.

ANC Reports

ANC 4A Reports

97. ANC 4A, the ANC in which the PUD Site is located, submitted a resolution to the record stating that at its regularly scheduled public meeting of September 1, 2016, at which notice was properly given and a quorum was present, ANC 4A voted 5:2 to support the application. (Ex. 11.) ANC 4A's resolution stated that the project "would be an improvement over the existing condition of the site, will help continue the positive development of the area, and will result in a number of important public benefits." (Ex. 11, p. 4.) The resolution supported the location of the proposed location of curb cuts on Kalmia Road for vehicular access into the parking garage, and on Eastern Avenue for commercial and residential loading, and also noted that the on-site parking garage would provide adequate parking for the project's residents and retail employees/customers, and would eliminate any potential parking spillover onto the surrounding streets. (Ex. 11, p. 3.)
98. ANC 4A submitted a second letter dated June 8, 2016 stating that at its regularly scheduled meeting of June 7, 2016, for which proper notice was given and a quorum was present, ANC 4A voted to submit the letter into the record. (Ex. 26.) The letter stated that ANC 4A was concerned about the potential loss of parking on the 1100 block of Kalmia Road due to potential traffic modifications caused by the project. The ANC's letter requested that the Applicant provide off-street parking spaces within the project to five existing residents on the north side of the 1100 block of Kalmia Road. The Commission finds that the Applicant adequately responded to this concern by the offering each of the five existing homeowners on the north side of the 1100 block of Kalmia Road a free parking space within the proposed building. (Ex. 37.)

99. On August 21, 2016, the Applicant attended a public meeting hosted by the Single Member District Commissioner for ANC 4A02. During the meeting, some community members raised concerns regarding impacts caused by the project's construction. In response, the Applicant submitted a Construction Management Plan, with which the Applicant will comply during construction of the project. (Ex. 58.) The Construction Management Plan includes provisions regarding construction traffic, community updates, surveying of adjacent properties, and other provisions that will ensure that all construction-related activities will be consistent with the Building Code, other applicable laws and regulations, and will address all concerns raised by the community.

ANC 4B Reports

100. ANC 4B, the ANC located adjacent to the PUD Site, submitted a letter dated June 15, 2016, stating that it was unable to vote on the project and requesting that the Commission hold the record open to permit ANC 4B to submit a resolution by June 29, 2016. At the public hearing, the Commission left the record open to accept a report from ANC 4B.
101. On June 28, 2016, ANC 4B submitted a report. (Ex. 36). The report stated that at its regularly scheduled public meeting, for which notice was properly given and a quorum was present it voted 9:0 to adopt a resolution, which provided several recommendations on the application.
102. On July 18, 2016, ANC 4B submitted a second report. (Ex. 44.) It stated that on July 12, 2016, ANC 4B held a special public meeting, for which proper notice was given and a quorum was present, at which it rescinded its first resolution and adopted a second resolution. The resolution reaffirmed the recommendations in the June 27, 2016 resolution and also addressed several new issues not previously raised.
103. On August 15, 2016, ANC 4B submitted a third report. (Ex. 54). The report stated that at a special public meeting on August 11, 2016, for which proper notice was given and a quorum was present, it adopted a third resolution which superseded its prior resolutions. The resolution stated that it was "reaffirming some key elements of earlier resolutions and replacing others" and listed the following issues and concerns:
- a. The project will sit at a major entrance to the District, identified as a gateway in the 2008 Upper Georgia Avenue Land Development Plan, and that the project does not create a prominent gateway as detailed in the plan;
 - b. The landscaping along Georgia Avenue, including the median triangle with the monument located near the intersection of Kalmia Road is inadequate and poorly maintained;

- c. The square footage of affordable housing should total 16% of the building with half reserved for those with 30% to 50 % of AMI;
 - d. The traffic impact the project will have on the streets east of Georgia Avenue in ANC 4B. The Applicant's traffic study included little information about ANC 4B streets. A comprehensive traffic study should be repeated and resubmitted to DDOT for analysis; and
 - e. Residents' concerns about the protection of property values and quality of life, including issues related to parking and traffic mitigation, as well as construction, site management and communication, legal fees, rodent control, and liability insurance.
104. The resolution further stated that ANC 4B, "cannot support the application as it is currently presented unless the following provisions are included" in this Order:
- a. Develop and submit to appropriate DC government agencies and ANC 4A and 4B a concept site plan showing a design for the Kalmia Road median triangle that includes a new "Welcome to Washington" sign that relates to the front of the building;
 - b. Support making the public alley located off of Kalmia Road one way, if the community ANC 4A, and DDOT support the change;
 - c. Work with SES and DDOT to apply for an Adult School Crossing Guard at an intersection adjacent to the PUD Site, to be determined by DDOT, SES, and the SES PTA. If payment is required for the crossing guard, commit to paying \$25,000 to be used solely to support paying for the DDOT-approved crossing guard for a period of up to three years to assist students walking to schools in the immediate area;
 - d. Continue to work with and resolve concerns of those most affected by the building; and
 - e. Request flexibility to alter the colors of the building's exterior with the objective of simplifying the color palate, particularly the high-density fiber cement panels used on the inside face of the balconies on the main elevations of the building.
105. By letter dated August 31, 2016, the Applicant agreed to each of ANC 4B's recommended conditions, which are included as conditions of this Order. (Ex. 57.)

106. With respect to the issues and concerns expressed in ANC 4B's third resolution, the Commission finds as follows:

- a. Architectural "Gateway" Design and Compliance with the Georgia Avenue Plan.
The Commission finds that the design of the building employs high-quality materials and features that articulate the building's façades and that recognize the prominence of the PUD Site. For example, the majority of the building's massing is located at the intersection of Georgia Avenue, Kalmia Road, and Alaska Avenue, which reflects the prominence of this intersection. The building incorporates a number of high-quality materials, including metal panels, glass bays, and wire cut iron spot brick (which is a highly durable and textured brick). The building also includes multiple façades that are clad in a variety of materials in order to create visual interest and to enhance the articulation of these facades. The building's façades include detailing elements such as entry canopies, storefront glazing bays, punches of metal panels at projecting bays, a distinct pattern of glazing, vertical and horizontal mullion patterns, rain screens, balconies that inset into and project from the building, and integrated brick coursing around each opening. Finally, at the sidewalk level, two of the most prominent angled corners along Georgia Avenue and Alaska Avenue include bas relief engraved panel art, hallmarking the prominence of the corners of the building.

The Applicant presented a materials board at the public hearing and also provided multiple renderings and perspectives. (Ex. 3A, 14A, 22A, 31.) As requested by ANC 4B, the Applicant also agreed to request flexibility to this Order to be able to adjust the color of the high-density fiber cement panel used on the inside face of the balconies on the main elevation of the building.

The Commission finds that the project is consistent with numerous recommendations and policies specifically listed in the Georgia Avenue Plan for the PUD Site and the surrounding area. For example, the project is consistent with the recommendation that "new development at the 7800 and 7700 blocks of Georgia Avenue should consist of moderate to medium density development, incorporating street level retail with residential or office uses above." (*See* Georgia Avenue Plan, p. 45.) The project is also consistent with the vision that building heights "should step down towards the rear of the properties in order to provide an appropriate scale transition to adjacent residential areas... subtle setbacks above the ground floor are encouraged to provide visual relief and highlights ground floor commercial use." (*Id.*) Therefore, the Commission concludes that the project as a whole is consistent with the vision and recommendations set forth in the Georgia Avenue Plan;

- b. Landscaping along Georgia Avenue. The Applicant agreed to maintain the grass and landscaped areas located within the curb line of the triangular median within the intersection of Georgia Avenue, Kalmia Road, and Alaska Avenue. This commitment will be enforced through the corresponding condition set forth in this Order. The Commission finds this is adequate to address this concern;
- c. Affordable Housing. ANC 4B requested that the Applicant increase the affordable housing proffer to dedicate 16% of the residential gross floor area as affordable housing units, with half of that reserved for households earning between 30% and 50% of the AMI. In this case, the Commission finds that the Applicant is providing double the amount of square footage required for affordable housing units, and at a significantly steeper subsidy. As the Commission has previously stated, and has now codified at 11-X DCMR § 305.11 for post-September 6, 2016 PUD applications:

The Zoning Commission may not compel an applicant to add to proffered public benefits, but shall deny a PUD application if the proffered benefits do not justify the degree of development incentives requested (including any requested map amendment).

For this application, the Commission has found that the public benefits proffered meet this test. In fact, with respect to affordable housing, the Applicant is offering twice the gross floor area required by IZ, half of which will be offered at a deeper level of the affordability required;

- d. Traffic impact and adequacy of the traffic study. The Commission finds that DDOT's report provided a thorough analysis of the project's impact on the surrounding transportation infrastructure. DDOT suggested a variety of signal changes and physical improvements to mitigate potential vehicular impacts caused by the PUD, and at the public hearing, the Applicant agreed to all of DDOT's recommendations. Moreover, the Applicant offered each of the five existing homeowners on the north side of the 1100 block of Kalmia Road a free parking space within the proposed building, and has agreed to restrict building residents from obtaining RPPs. Moreover, DDOT found that the PUD Site "generally has excellent pedestrian access to nearby destinations and transit," that the Applicant "proposes to provide an adequate number of short- and long-term bicycle parking spaces;" and that "existing transit service, pedestrian infrastructure, and bicycle infrastructure has capacity to accommodate future demand." (Ex. 23, pp. 2, 9.) Thus, the Commission finds that the Applicant adequately addressed the traffic and parking issues; and
- e. Residents' concerns about the protection of property values and quality of life. The July resolution also raised concerns related to parking and traffic issues, construction, site management, lighting plans, rodent proofing, and liability insurance. The Commission finds that the Applicant has adequately addressed all

the project's traffic and parking issues. The comments related to construction, site management, lighting plans, rodent proofing, and liability insurance all pertain to the construction of the project. Neither the Zoning Regulations in general, nor the PUD regulations in particular, address the construction of buildings. And although the Commission must find that "[t]he impact of the project on the surrounding area and the operation of city services and facilities shall not be found to be unacceptable" the phrase "impact on the surrounding area and the operation of the city services and facilities" refers only to the impact of the PUD project, once it is operating. Therefore, issues pertaining to the impact of the construction of this project are not relevant to the Commission's review. Construction issues are governed by the Construction Codes which "safeguard the public health, safety, and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, accessibility, sustainability, and safety to life and property from fire and other hazards attributed to the built environment, and to provide safety to fire fighters and emergency responders during emergency operations." (12-A DCMR § 101-2.4.)

Contested Issues

107. In addition to the issues raised by ANCs 4A and 4B, several residents of the surrounding neighborhood, including the Jeffersons, raised concerns about the project. The concerns raised by the community included the following issues: (a) impacts of traffic, noise, and respiratory health due to project construction; (b) spillover parking on the surrounding streets; (c) increased traffic and the impact on response times for emergency vehicles; (d) increased public transportation usage; (e) additional noise and night-life infiltrating the quiet residential neighborhood; (f) that the project would not be desirable to future tenants; (g) inadequate landscaping in public space; (h) disappointing building design; (i) insufficient affordable housing; (j) inadequate communication with the surrounding community; (k) the Applicant's lack of a valid business permit or business license; (l) a general failure to provide adequate evidence on the project's impact on the environment and surrounding neighborhood; and (m) the Applicant did not provide statutorily required information such that the PUD could not be adequately evaluated. The Commission has carefully reviewed the written and oral testimony presented by members of the surrounding community and makes the following findings.
108. Construction issues. Community residents raised concerns about impacts caused by project construction. The Jeffersons specifically alleged that construction activities would have adverse effects on Rev. Jeffersons' sensitivity to noise and the respiratory health of the Jeffersons' daughter.
109. For the reasons explained in FF No. 106(e), the impact of the construction of a PUD is not a relevant criterion for the Commission to consider. As noted above, the Applicant will also comply with all applicable regulations within the Construction Code, and with all other laws and regulations regarding building construction, operation, management,

lighting, rodent proofing, and liability insurance. Nonetheless, the Applicant has agreed to abide by a Construction Management Plan.

110. Similarly, the Commission may not deny a PUD because it happens to be situated near a person who might be more impacted by construction activities than the general public, any more than a building permit may be denied for matter-of-right development with these same impacts.
111. Moreover, the Applicant offered a number of concessions to the Jeffersons, including (a) monitoring the Jefferson's property during and after construction to determine whether construction damaged the Jefferson's home, and if so, repairing any damage directly caused by construction of the project; (b) indemnifying the Jeffersons from any and all liabilities or damages directly caused by construction of the project; (c) maintaining insurance during construction of the project and adding the Jeffersons as additional insureds to its policy; (d) complying with all applicable construction and notice provisions regarding noise, trash, rodent control, and hours of construction; and (e) paying for specific home improvements following construction. (Ex. 52.)
112. With respect to noise concerns, none of the asserted noise generating actions pertained to the PUD use and therefore, for the reasons stated above, are not germane to the Applicant that in any case must comply with all applicable laws and regulations associated with noise generated by building construction activities. In addition, the Applicant will pay \$50,000 to the Jeffersons to select and hire a contractor to replace their windows; repair or replace their HVAC system; install Quietrock to reduce noise entering their home; and to make any other improvements the Jeffersons deem necessary to their home to ensure appropriate noise mitigations are in place during construction. The Applicant also proposed to drill all piles surrounding the PUD Site, in lieu of driving piles for sheeting and shoring, which will substantially reduce the amount of noise generated during project construction.
113. With respect to respiratory impacts, the Applicant is required to comply with all applicable requirements regarding air quality and dust mitigation set forth in the Construction Code, the DC Municipal Regulations, and the DC Air Pollution Control Act, in order to limit the impact of construction on the health of the Jeffersons' daughter's. Specifically, the Applicant is required to comply with the Construction Code requirement that all exhaust shall be located at least 10 feet above the ground for public safety along sidewalks and property lines. The Applicant will ensure that all construction activities comply with D.C. Standards and Specifications for Soil Erosion and Sediment Control (2003) promulgated by the Department of Environmental Health Administration Bureau of Environmental Quality Watershed Protection Division, specifically Section K (Other Practices), Subsection 44.0 (Standards and Specifications for Dust Control). During building operations, the Applicant will comply with all requirements of the Mechanical Code and all applicable referenced standards such as ASHREA. Moreover, since the project is designed to be LEED-Gold, the building will incorporate highly efficient equipment that will not emit toxins into the atmosphere. Finally, the Applicant

offered to pay the Jeffersons to have their HVAC replaced, and also agreed to remove the trees that were originally proposed to be located along the Jeffersons' eastern property line, in order to further reduce any impacts on the respiratory health of their daughter.

114. Thus, the Commission finds that the Applicant's specific offered concessions to the Jeffersons, together with compliance with the Construction Management Plan and all applicable laws and regulations, far exceed what is required by law, reasonably address all relevant concerns, and go beyond the scope of any zoning issues. The Applicant's proposal also demonstrates the Applicant's good-faith attempt to work with the neighborhood residents, including the Jeffersons. The Commission therefore finds that the Applicant has adequately addressed this concern.
115. Spillover on-street parking. Several individuals also testified that project residents, visitors, retail patrons, and retail employees would drive to the PUD Site, thus resulting in spillover parking on surrounding residential streets. However, the Commission finds that the project includes significant on-site parking in its below-grade garage, such that individuals driving to the PUD Site will not take up existing residential on-street parking spaces. Indeed, the project provides significantly more on-site parking than is required by the Zoning Regulations in order to help combat spillover parking. The garage accommodates 130 parking spaces for the grocery store use, whereas only 71 spaces are required, and 141 spaces for the residential use, whereas only 67 spaces are required. As set forth in the DDOT report, the residential parking provision "equates to a parking supply of 0.7 parking spaces per unit, which is higher than what is typical for other multi-family developments in close proximity to high quality transit." (Ex. 23, p. 6.)
116. In addition, the Applicant will implement an extensive TDM plan that includes restricting building residents from obtaining RPP permits, such that project residents will not be able to park on the surrounding streets for extended periods of time when the RPP limits are in effect. The Applicant offered each of the five existing homeowners on the north side of the 1100 block of Kalmia Road a free parking space within the proposed building, or a mutually agreeable form of mitigation not to exceed \$25,000. Therefore, based on the large number of on-site parking spaces, the parking demand analysis provided in the DDOT report, the RPP restriction, the offer to provide on-site parking to residents of Kalmia Road, and the testimony provided at the public hearing, the Commission finds that the proposed number of parking spaces in the building will adequately accommodate individuals driving to the PUD Site such that they will not unreasonably take up on-street residential parking.
117. Increased traffic. Individuals at the public hearing asserted that the project would result in significantly more traffic congestion on the streets surrounding the PUD Site. However, the Commission finds that the project incorporates significant traffic management measures that will effectively mitigate any potential increased traffic congestion created by the project. DDOT specifically noted in its report that it requires applicants to mitigate the impacts of their developments in order to positively contribute to the District's transportation network, and that the mitigations must sufficiently diminish the action's

vehicle impact and promote non-auto travel modes. (Ex. 23, p. 10.) DDOT reviewed each of the traffic mitigation measures proposed by the Applicant, and requested that the Applicant implement each of them. At the public hearing, the Applicant agreed to do so. The mitigation measures are as follows:

- a. Install traffic management cameras at 16th Street and Kalmia Road, Alaska Avenue and Kalmia Road, and Georgia Avenue and Geranium Street for integration into the DDOT traffic management program;
 - b. Install a new northbound left-turn signal head at the intersection of Alaska Avenue and Kalmia Road; and
 - c. Create two eastbound approaches on the north side of Kalmia Road at the intersection of Alaska Avenue and Georgia Avenue.
118. DDOT testified in support of these actions and found that the combination of signal changes and physical improvements would address vehicle impacts and diminish the project's impact. (Ex. 23, pp. 10-11.) DDOT also asserted that full access out of the project's parking garage, as proposed, would allow for site traffic to distribute through the network, thus reducing focused vehicle impacts from a particular intersection. (Ex. 23, p. 6.)
119. In addition to the traffic mitigation measures listed above, the Applicant will incorporate an extensive TDM plan that will limit the overall number of individuals driving to and from the PUD Site. Therefore, the Commission finds that based on the results set forth in the DDOT Report, DDOT's support, and testimony provided at the public hearing, the project will not create adverse traffic impacts on the surrounding streets.
120. Neighborhood residents also asserted that due to the increase in traffic, response times for emergency management vehicles would be increased. As discussed above, the Commission finds that because of the traffic mitigation measures and TDM plan, the project will not create adverse traffic impacts. Accordingly, the Commission finds the project will not create adverse impacts on emergency management vehicle response times.
121. Public transportation capacity. Individuals asserted that project residents would add to already overcrowded Metrobus routes in the area. However, as described in the DDOT Report, the Commission finds that existing transit service has capacity to accommodate future demand. (Ex. 23.) The PUD Site is well served by multiple Metrobus routes that run on nearby primary corridors and connect the PUD Site to many areas of the District. Limited stop service bus lines have recently been added to several nearby lines, which have stops adjacent to the PUD Site and have shorter headways during peak periods. (Ex. 23, p. 9.) Moreover, as stated in DDOT's report, the site is "well-served by high-frequency bus routes... The S9 and 79 offer[] very frequent express peak hour headways with stops immediately adjacent to the site. The 70 and S2 line provide local transit

service.” (Ex. 23, p. 9.) Thus, based on findings from the DDOT report that nearby bus lines have capacity to accommodate future demand created by project residents and visitors, the Commission concludes that the project will not cause detrimental impacts to Metrobus service.

122. Noise and nightlife. Several nearby residents claimed that the grocery store and associated sidewalk café would be open late and would disturb the quiet residential neighborhood. The Commission finds that the claims that the noise from the grocery store and associated café would disturb the neighborhood are speculative. The grocery store and café must comply with District noise regulations. The sidewalk café must also comply with rules related to use of public space. The Commission finds that these restrictions are sufficient to ensure that possible adverse impacts of the project related to noise from the grocery store and café are adequately mitigated.
123. Attractiveness of the project to future tenants. Residents also alleged that future tenants would not move into the project due to the lack of public transportation, social activities, and quality retail in the surrounding area. They also asserted that vacant apartment complexes already exist on Georgia Avenue, such that another apartment house is undesirable and unnecessary. However, the Commission finds that the project will be an attractive residential option for a variety of tenants, and that the mixed-use apartment building specifically advances the recommendation set forth in the Georgia Avenue Plan of “incorporating street level retail with residential or office uses above.” (See Georgia Avenue Plan, p. 45.)
124. Landscaping in the public space. At the public hearing, individuals requested that the Applicant provide additional landscaping along and within the Georgia Avenue right-of-way. In response, the Applicant agreed to maintain the grass and landscaped area located within the curb line of the triangular median within the intersection of Georgia Avenue, Kalmia Road, and Alaska Avenue. The Commission finds that this proffer will result in a significant benefit to the surrounding community. As a condition of this Order, the Applicant will be required to maintain the landscaping for the life of the project, and will begin to do so prior to receiving a Certificate of Occupancy for the building. Moreover, the Commission notes that the landscape plan included as Sheet L1 of the Revised Plan Sheets has already been approved by DDOT’s Public Space Committee and includes significant new street trees, tree boxes, and landscaping of mixed native plantings. (Ex. 37A.)
125. Building design. One individual asserted that the project’s architecture is not sufficiently attractive or bold for a true “gateway” building. However, the Commission finds that the design of the building employs high-quality materials and features that articulate the building’s facades and that recognize the prominence of the PUD Site. For example, the majority of the building’s massing is located at the intersection of Georgia Avenue, Kalmia Road, and Alaska Avenue, which reflects the prominence of this intersection. The building incorporates a number of high-quality materials, including metal panels, glass bays, and wire cut iron spot brick. The building also includes multiple facades, which are

clad in a variety of materials in order to create visual interest and to enhance the articulation of these facades. The façades include detailing elements, such as entry canopies, storefront glazing bays, punches of metal panels at projecting bays, a distinct pattern of glazing, vertical and horizontal mullion patterns, rain screens, balconies that inset into and project from the building, and integrated brick coursing around each opening. Finally, at the sidewalk level, two of the most prominent angled corners along Georgia Avenue and Alaska Avenue include bas relief engraved panel art, hallmarking the prominence of the corners of the building. Therefore, the Commission finds that the project will have a positive impact on the visual and aesthetic character of the neighborhood, will further the goals of urban design, and will enhance the streetscape leading into the District to create a true gateway project.

126. Affordable housing. Residents asserted that the project did not provide enough affordable housing for District residents. For the reasons stated in FF No. 106(c) the Commission finds the Applicant's affordable housing proffer is sufficient.
127. Community meetings. Several nearby residents asserted that the Applicant did not provide adequate information to the community about the project or notice of the public hearing. However, the Commission finds that the Applicant has presented evidence demonstrating that it has engaged in significant community outreach for the project. (Ex. 37C.) Moreover, the Applicant formally notified all owners of property within 200 feet of the PUD Site of its intent to file a zoning application, posted and maintained notice on the PUD Site leading up to the public hearing, and maintained and updated a public website with all applicable project updates. (Ex. 3F, 18, 20.) ANC 4A also commended the Applicant in its September 1, 2016 Resolution, stating that the Applicant "engaged in extensive community outreach efforts in addition to meeting with ANC 4A" and listing community meetings beginning in May, 2013. (Ex. 11.) Thus, the Commission finds that the Applicant made substantial efforts to meet with neighbors to discuss the project and that the Applicant complied with all applicable notice requirements.
128. Business License. One of the allegations set forth by the Jeffersons was that the Applicant does not have a valid business permit or business license to transact business in the District of Columbia, and that this somehow raised issues regarding the Applicant's solvency, insurability, and ability to legally transact business to ensure the safety of the Jeffersons, other adjoining property owners, and the public. (See Ex. 40, Footnote 1.) However, as indicated in the Applicant's Certificate of Organization and Articles of Organization, dated October 1, 1997, the Applicant's organization is a validly existing limited liability company in the District of Columbia. (Ex. 43A.) Therefore, the Commission finds that the Jeffersons' claim that the Applicant is unable to conduct business in the District of Columbia or is otherwise unable to keep any of the commitments that the Applicant has made is meritless.
129. General Impact on Environment and Surrounding Neighborhood. The Jeffersons specifically alleged that the Applicant failed to produce "statutorily required impact studies" related to the alleged "environmental damage" and to the PUD's impact on the

“nature of the neighborhood.” (Ex. 40, p. 2). To the extent the Jeffersons are referring to the District of Columbia Environmental Policy Act (“DCEPA”), the District of Columbia Court of Appeals has previously held the Commission does not err in declining to postpone consideration of a PUD application until an environmental review under that act had been conducted. (*Foggy Bottom Ass’n v. D.C. Zoning Comm’n*, 979 A.2d 1160, 1167 (D.C. 2009).) As required by the DCEPA and 20 DCMR Chapter 72, the Applicant will submit an Environmental Impact Screening Form (“EISF”) to DCRA prior to obtaining a building permit for the PUD, in order to assess all potential environmental impacts that could be caused by the project. The EISF will be reviewed by the Department of Energy and the Environment and other agencies and utilities as part of the permitting process.

130. As to the Zoning Regulations, no such formal impact studies are required. Rather, the Commission’s jurisdiction is focused on considering “[t]he impact of the project on the surrounding area and the operation of city services and facilities shall not be found to be unacceptable, but shall instead be found to be either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the project.” (11 DCMR § 2403.3.) Among the public benefits to be considered pursuant to 11 DCMR § 2403.3 are environmental benefits, such as stormwater runoff controls, use of natural design techniques that treat runoff, and preservation of open space or trees. (11 DCMR § 2403.9(h).) As demonstrated by the record in this case, and as set forth above, the Applicant has submitted substantial evidence indicating that the PUD meets the standards set forth in 11 DCMR § 2403.
131. With respect to environmental impacts, the project incorporates a host of sustainable features, including green roofs, street-level stormwater collection systems, bioretention planting areas, sustainable materials, and energy-efficient building systems, which collectively will limit negative impacts to the environment. (*See, e.g.* Applicant’s Statement in Support at Ex. 3 and the OP reports at Ex. 12 and 24.) The PUD will also be designed to achieve the LEED-Gold equivalent rating standard. Thus, the Commission finds that the project will not have an adverse impact on the environment.
132. With respect to the Jeffersons’ concern with the PUD’s impact on the existing neighborhood, there is substantial evidence in the record regarding the PUD’s consistency with the District’s vision for the PUD Site, as set forth in the Comprehensive Plan, Future Land Use Map, Generalized Policy Map, and the Georgia Avenue Plan. The project has also been designed to minimize potential adverse impacts on the existing neighborhood in terms of traffic and design. In addition, the project will provide significant public benefits and amenities so that in fact it will have a positive impact on the environment and surrounding neighborhood.
133. Complete Case Record and Compliance with PUD Requirements. The Jeffersons alleged that they were not able to complete a thorough review of the PUD due to the Applicant’s purported failure to provide information on prior relevant Commission orders or submit the CTR Report within the regulatory deadline. (Ex. 43, pp. 5-6.) However, the Commission finds that the Applicant prepared a thorough and complete case record that

permitted a full and fair opportunity to review the project. Pursuant to 11 DCMR § 2406, the Applicant submitted all of the information required for a PUD application, formally notified all owners of property within 200 feet of the PUD Site of its intent to file the zoning application, posted and maintained notice on the PUD Site, and met with the affected ANCs, community groups, and adjacent neighbors on multiple occasions. The Applicant presented testimony at the public hearing, responded to questions from the Commission and community members, and submitted all requested information following the public hearing. Thus, the Commission finds that the Jeffersons' claim that they could not complete a thorough review of the project is meritless.

134. Section 2406 does not require an Applicant to provide prior Commission orders. All but one of the orders cited by the Jeffersons have been expired for decades (of those, the most recent order was approved in 1989), involved entirely different development and design concepts, and were put forward by different owner/applicants. The only order cited that was submitted by the Applicant was in 2001 to the Board of Zoning Adjustment for a special exception. None of the prior cases, including the one put forward by the Applicant, have any bearing on the PUD currently under review, and are not necessary for the Commission or anyone else to fairly review the project. And, all orders are publicly available on the Office of Zoning website and are searchable by address.
135. The Jeffersons' claim that the Applicant's CTR Report was posted past the deadline is also untrue. Pursuant to 11 DCMR § 3013.8, the Applicant was permitted to submit the CTR Report 20 days prior to the public hearing. The CTR Report, dated March 11, 2016 (Ex. 22B), was submitted on May 27, 2016, which was exactly 20 days prior to the public hearing, and was thus submitted in compliance with 11 DCMR § 3013.8. Therefore, the Applicant met all requirements related to the filing and timing of the CTR Report.⁴
136. With respect to compliance with the PUD requirements, the Jeffersons requested that the Commission convert the application to a "two-step PUD process," and claimed that the Applicant did not request, and there was no ruling, on whether the PUD is a one- or two-step process. Subsection 2402.3 of the PUD rules provides that an "applicant may elect to file a single application for consolidated PUD review, consolidating the two-stage review into one proceeding." In this case, the application was made by filing a Form 104 – Application for Review of a Consolidated Planned Unit Development. Although 11 DCMR § 2402.6 allows the Commission to "direct an applicant to revise a one-stage application into a two-stage application, if in the opinion of the Commission the

⁴ The Applicant presented an updated CTR Report dated March 31, 2016 to DDOT, and this updated CTR Report formed the basis of DDOT's report. DDOT's report contained a very thorough analysis of the Applicant's March 31, 2016 CTR Report. The Jeffersons had an opportunity to raise any issues about the content of DDOT's report, including the contents of the Applicant's CTR Report, in their hearing testimony. The Jeffersons also had the opportunity to raise these issues in a post-hearing submission to the record.

circumstances and issues surrounding the proposal require a two-stage review," the Jeffersons provided no basis for concluding that such circumstances and issues exist.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." (11 DCMR § 2400.2.)
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards, which may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, parking and loading, yards, and courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.
3. Development of the property included in this application carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments, which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
4. The PUD, as approved by the Commission, complies with the applicable height, bulk, and density standards of the Zoning Regulations. The mixed uses for the project are appropriate for the PUD Site. The impact of the project on the surrounding area is not unacceptable. Accordingly, the project should be approved.
5. The applications can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
6. The Applicant's request for flexibility from the Zoning Regulations is consistent with the Comprehensive Plan. Moreover, the project's benefits and amenities are reasonable tradeoffs for the requested development flexibility.
7. Approval of the PUD is appropriate because the project is consistent with the present character of the area and is not inconsistent with the Comprehensive Plan. In addition, the project will promote the orderly development of the PUD Site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.

8. 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 (2001)), to give great weight to OP recommendations. The Commission carefully considered the OP report and, as explained in this decision, finds its recommendation to grant the applications persuasive.
9. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the issues and concerns raised in the written report of the affected ANC. There were two affected ANCs in this case, ANC 4A and ANC 4B:
 - (a) ANC 4A. The Commission carefully considered ANC 4A's two reports. The first recommended approval of the project and the Commission concurs with this recommendation. The second expressed concern about the potential loss of parking on the 1100 block of Kalmia Road. The ANC's letter requested that the Applicant provide off-street parking spaces within the project to five existing residents on the north side of the 1100 block of Kalmia Road. The Commission finds that the Applicant adequately responded to this concern by the offering each of the five existing homeowners on the north side of the 1100 block of Kalmia Road a free parking space within the proposed building, and a condition requiring the Applicant to do so is included in this Order; and
 - (b) ANC 4B. ANC 4B submitted three reports. Its third report rescinded its previous two reports, listed the ANC's issues and concerns, and stated that it "cannot support the application unless" the Applicant agreed to several listed conditions. The Commission carefully considered the issues and concerns expressed by the ANC in its resolution, and in FF 106 above, explained why they were or were not persuasive under the circumstances. The Applicant agreed to abide with all the ANC's conditions, and they have been incorporated as conditions of this Order.
10. The application for a PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2- 1401 et seq. (2007 Repl.)).

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 applications for consolidated review and approval of a planned unit development and related Zoning Map amendment from the C-2-A and R-1-B Zone Districts to the C-2-B Zone District for Lot 17 and a portion of a public alley to be closed in Square 2960. The approval of this PUD is subject to the guidelines, conditions, and standards set forth below.

A. Project Development

1. The project shall be developed in accordance with the Architectural Plans and Elevations dated May 27, 2016 (Ex. 22A), as modified by the supplemental architectural drawings dated July 5, 2016 (Ex. 37A), and as modified by the supplemental architectural drawings showing the balcony colors and materials submitted on September 12, 2016 (Ex. 59) (the “Plans”) and as modified by the guidelines, conditions, and standards of this Order.
2. In accordance with the Plans, the PUD shall be a mixed-use project consisting of approximately 273,308 square feet of gross floor area (3.12 FAR), with approximately 189,099 square feet of gross floor area devoted to residential use and approximately 58,400 square feet of gross floor area devoted to retail use. The project shall have 199 residential units (plus or minus 10%) and shall have a maximum height of 74 feet, three inches, not including penthouses.
3. The Applicant is granted flexibility from the compact parking space requirements, the loading requirements, the open court width requirements, and the penthouse setback requirements, consistent with the Plans and as discussed in the Development Incentives and Flexibility section of this Order.
4. The Applicant shall also have flexibility with the design of the PUD in the following areas:
 - a. To be able to provide a range in the number of residential units of plus or minus 10%;
 - b. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration of the structure;
 - c. To vary the sustainable design features of the project, provided the total number of LEED points achievable for the project is not below 60 points under the LEED v.4 for BD+C Gold rating standards;
 - d. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and to make minor refinements to exterior details, locations, and dimensions, including: curtain wall mullions and spandrels, window frames, doorways, glass types, belt courses, sills, bases, cornices, railings and trim; and any other changes in order to comply with all applicable District of Columbia laws and regulations that are otherwise necessary to obtain a final building permit;

- e. In the retail and service areas, flexibility to vary the location and design of the ground floor components of the building in order to comply with any applicable District of Columbia laws and regulations, including the D.C. Department of Health, that are otherwise necessary for licensing and operation of any retail use and to accommodate any specific tenant requirements; and
- f. To be able to adjust the color of the high-density fiber cement panel used on the inside face of the balconies on the main elevations of the building, so long as the final color selected by the Applicant is consistent with the overall color scheme proposed for the building and shown on the plan sheet submitted on September 12, 2016. (Ex 59.)

B. Public Benefits

1. **Prior to the issuance of a Certificate of Occupancy for the building and 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 189,099 square feet of residential gross floor area (and no habitable penthouse space). Approximately 157,967 square feet of gross floor area of this total will be market-rate housing, and approximately 31,132 square feet of gross floor area will be affordable housing;
 - b. The Applicant shall set aside a minimum of 16% of the residential gross floor area as affordable units for the life of the project. Of the affordable units, a minimum of four percent of the residential gross floor area (approximately eight units) shall be reserved for households with incomes not exceeding 50% of the AMI; a minimum of four percent of the residential gross floor area (approximately eight units) shall be reserved for households with incomes not exceeding 50% of the AMI and shall be designed to include features such as grab bars, lower sinks, walk-in showers, higher toilets, and will be advertised in traditional rental guides, as well as publications such as AARP Magazine, Senior Living Magazine, and other similar publications; a minimum of four percent of the residential gross floor area (approximately eight units) shall be reserved for households with incomes not exceeding 80% of the AMI; and a minimum of four percent of the residential gross floor area (approximately nine units) shall be reserved for households with incomes not exceeding 80% of the AMI and shall be designed to include features such as grab bars, lower sinks, walk-in showers, higher toilets, and will be advertised in traditional rental guides, as well as publications such as AARP Magazine, Senior Living Magazine, and other similar publications;

- c. The distribution of the affordable housing units shall be in substantial accordance with the matrix and plans marked as Exhibit 37A 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	189,099 sf of GFA (100%)	199	NA	NA	NA
Market Rate	157,967 sf of GFA (84%)	166	Market Rate	NA	NA
50% AMI (IZ)	7,817 sf of GFA (4%)	8	50% AMI	For the life of the project	Rental
50% AMI (Non-IZ)⁵	7,749 sf of GFA (4%)	8	50% AMI	For the life of the project	Rental
80% AMI (IZ)	7,817 sf of GFA (4%)	8	80% AMI	For the life of the project	Rental
80% AMI (Non-IZ)	7,749 sf of GFA (4%)	9	80% AMI	For the life of the project	Rental

- d. The monitoring and enforcement documents required by 11 DCMR § 2409.10 for the Non-IZ Units and the inclusionary zoning covenant required for the IZ Units shall include a provision requiring compliance with Conditions B.1.b and B.1.c.
2. **Prior to the issuance of a building permit and for the life of the project**, the Applicant shall provide proof to the Zoning Administrator that the building has been designed to:
- Include no fewer than the minimum number of points necessary to achieve the equivalent of LEED-Gold under the LEED v.4 for BD+C Gold rating standards. The Applicant shall put forth its best efforts to design the project so that it may satisfy such LEED standards, but the Applicant shall not be required to register or to obtain the certification from the United States Green Building Council; and
 - Comply with the landscape plans included as Sheets L1 through L12 of the Architectural Plans and Elevations dated May 27, 2016 (Ex. 22A).
3. **Prior to issuance of a Certificate of Occupancy for the building and for the life of the project**, the Applicant shall undertake the following transportation improvements:

⁵ The Non-IZ Units will be the units designed to include features such as grab bars, lower sinks, walk-in showers, higher toilets, and will be advertised in traditional rental guides, as well as publications such as AARP Magazine, Senior Living Magazine, and other similar publications.

- a. Demonstrate to the Zoning Administrator that it has installed or has expended the funds necessary to install two 240-volt electric car charging stations in the parking garage;
 - b. Demonstrate to the Zoning Administrator that it has installed or has expended the funds necessary to install traffic management cameras at 16th Street and Kalmia Road, Alaska Avenue and Kalmia Road, and Georgia Avenue and Geranium Street for integration into the DDOT traffic management program; and
 - c. Demonstrate to the Zoning Administrator that it has implemented or has expended the funds necessary to implement the signal and physical improvements at the Alaska Avenue/Kalmia Road/Georgia Avenue intersection, subject to DDOT approval.
4. **Prior to issuance of a Certificate of Occupancy for the building**, the Applicant shall demonstrate to the Zoning Administrator that it has offered each of the five existing homeowners on the north side of the 1100 block of Kalmia Road (owners of Lots 8-12 in Square 2960) a free parking space within the proposed building, or other mutually agreeable form of mitigation not to exceed \$25,000. Use of the five parking spaces shall be for the existing residents of Lots 8-12 only, and shall expire upon sale of each property.
5. **Prior to the issuance of a Certificate of Occupancy for the building and for the life of the project**, the Applicant shall dedicate a community room within the building, as shown on Sheet A09 of the Plans, for use by ANC 4A and other community organizations located within the boundaries of ANC 4A.
6. **Prior to the issuance of a Certificate of Occupancy for the building**, the Applicant shall demonstrate to the Zoning Administrator that it has expended, or is otherwise in the process of expending, up to \$25,000.00 to Shepherd Elementary School (“SES”) to be used for improvements to the school’s cafeteria and/or gymnasium, as determined by SES.
7. **Prior to the issuance of a Certificate of Occupancy for the building and for the life of the project**, the Applicant shall maintain the grass and landscaped area located within the curb line of the triangular median within the intersection of Georgia Avenue, Kalmia Road, and Alaska Avenue.
8. **Prior to the issuance of a Certificate of Occupancy for the building**, the Applicant shall submit to DDOT, ANC 4A, and ANC 4B, a concept site plan showing a design for the triangular median at the intersection of Georgia Avenue, Kalmia Road, and Alaska Avenue. Such plan shall include landscaping details, a new “Welcome to Washington” sign, and shall relate to the design of the front of the building.

9. If requested by DDOT, ANC 4A, and the majority of the homeowners on the north side of Kalmia Road (i.e., 1121, 1123, 1125, 1129, and 1133 Kalmia Road) and 12th Street (i.e., 7801, 7811, 7815, 7819, 7823, 7829, 7831, and 7833 12th Street)(with each address getting a single vote), then **prior to the issuance of a Certificate of Occupancy for the building**, the Applicant shall demonstrate to the Zoning Administrator that it has submitted a letter to DDOT indicating that it does not object to designating the public alley located between Eastern Avenue and Kalmia Road as a one-way alley.
10. **Prior to the issuance of a Certificate of Occupancy for the building**, the Applicant shall demonstrate to the Zoning Administrator that it has assisted SES with applying for an Adult School Crossing Guard at an intersection adjacent to the PUD Site to be determined by DDOT, SES, and the SES PTA. **Prior to the issuance of a Certificate of Occupancy for the building**, if payment is required for the Adult School Crossing Guard, the Applicant shall pay up to \$25,000, divided over up to three years, to be used solely to support paying for the DDOT-approved crossing guard.

C. Transportation Incentives

1. **For the life of the project**, the Applicant shall provide the following TDM strategies:
 - a. Designate a TDM coordinator responsible for organizing and marketing the TDM plan and provide TDM marketing materials to new residents;
 - b. Unbundle parking costs from the price of the lease and set the price at no less than the charges of the lowest fee garage located within a quarter-mile of the site;
 - c. Install one transportation information screen in the residential lobby and one transportation information screen in the grocery store, which will display real-time transportation alternative information;
 - d. Supply 88 long-term (secure, indoor) and 22 short-term (exterior) bicycle parking spaces;
 - e. Dedicate two parking spaces in the parking garage for car sharing services. The carshare spaces shall be made available to residents of the building only. In the event that no carshare providers are willing to operate in those spaces, the dedicated spaces shall be returned to the general residential parking supply;

- f. Provide two showers and changing facilities for grocery store employees; and
 - g. Include in its residential leases a provision that prohibits tenants from obtaining an RPP from the DMV under penalty of lease termination.
2. **For the first three years of operation of the project**, the Applicant shall offer each unit's incoming residents an annual carsharing membership or an annual Capital Bikeshare membership.

D. Miscellaneous

- 1. No building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia that is satisfactory to the Office of the Attorney General and the Zoning Division, Department of Consumer and Regulatory Affairs. Such covenant shall bind the Applicant and all successors in title to construct and use the PUD Site in accordance with this Order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
- 2. The PUD shall be valid for a period of two years from the effective date of Z.C. Order No. 15-29. Within such time, an application must be filed for a building permit, with construction to commence within three years of the effective date of this Order.
- 3. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act") the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.
- 4. The Applicant shall file with the Zoning Administrator a letter identifying how it is in compliance with the conditions of this Order at such time as the Zoning Administrator requests and shall simultaneously file that letter with the Office of Zoning.

On July 25, 2016, upon a motion by Commissioner Miller, as seconded by Commissioner Vice Chairperson Cohen, the Zoning Commission took **PROPOSED ACTION** to **APPROVE** the application 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 Chairman Hood, 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 Position vacant, not voting).


In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *DC Register*; that is on February 17, 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. BARDIN
DIRECTOR
OFFICE OF ZONING