

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Zoning Commission**



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 17-13**  
**Z.C. Case No. 17-13**  
**TM DBT Limited Partnership**  
**(CG Zone Design Review @ Square 656, Lots 54 and 813)**  
**October 30, 2017**

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on September 18, 2017, to consider an application for design review of a new building in Square 656 in the CG-4 zone filed by TM DBT Limited Partnership ("Applicant"). The Commission considered the application pursuant to Subtitle K § 512 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of Subtitle Z, Chapter 400. For the reasons stated below, the Commission hereby **APPROVES** the application.

**FINDINGS OF FACT**

**The Application, Parties, Hearings, and Post-Hearing Filings**

1. On June 19, 2017, the Applicant, on behalf of the owner of property located at 1542-1550 1<sup>st</sup> Street, S.W. (Square 656, Lots 54 and 813) ("Property") filed an application for design review. The application also included a request for a variance from the residential loading requirements of 11-C DCMR § 901.1. The Commission is authorized to approve such relief pursuant to 11-K DCMR § 512.7.
2. The Applicant is a Joint Venture comprised of UPO Community Development Corporation ("UPO CDC"); REBJ, Inc., a subsidiary of T.M. Associates, Inc.; and DBT Development Group, LLC ("DBT"). T.M. Associates, Inc. was formed in 1978 and primarily focuses on developing apartments and residential buildings for low-income residents. DBT is a District-owned business formed over 20 years ago as a real estate development company specializing in residential development. Since its inception, DBT has delivered approximately 300 units in the District. UPO CDC is a non-profit 501(c)(3) organization that is affiliated with the United Planning Organization ("UPO") and was incorporated in 1962 to plan, coordinate, and implement human services programs for low-income residents of the District. For over 50 years, UPO CDC has been at the forefront of the war on poverty and has planned, coordinated, and offered a vast array of programs and services for those in need.

3. The Property will be developed with approximately 76 residential units, comprised of one-bedroom, two-bedroom, and four-bedroom units with ground-floor, neighborhood-serving commercial uses from one or more of the following commercial use groups: (i) Office (11-B DCMR § 200.2(x)); (ii) Retail (11-B DCMR § 200.2(cc)); (iii) Services, General (11-B DCMR § 200.2(dd)); (iv) Services, Financial (11-B DCMR § 200.2(ee)); and (v) Eating and Drinking Establishments (11-B DCMR § 200.2(j)) (“Project”). Of the 76 units, 16 will be reserved for households with incomes not exceeding 30% of the area median income (“AMI”) and the remaining 60 units will be reserved for households with incomes not exceeding 50% AMI.
4. A description of the proposed development and the notice of the public hearing in this matter were published in the *D.C. Register* on June 27, 2017. (Exhibit [“Ex.”] 10.) The notice of the public hearing was mailed to all owners of property located within 200 feet of the Property and to Advisory Neighborhood Commission (“ANC”) 6D on June 29, 2017. (Ex. 13.)
5. On August 28, 2017, the Applicant submitted its Prehearing Submission, which included revised architectural drawings. (Ex. 19-19B.)
6. On September 7, 2017, the Office of Planning (“OP”) submitted a report to the Commission recommending approval of the application and the residential loading relief requested subject to the Applicant providing the materials listed on page 1 of its report. (Ex. 21.)
7. On September 8, 2017, the District Department of Transportation (“DDOT”) submitted a report finding no objection to the application including the residential loading relief requested subject to the mitigations listed on pages 10-12 of its report. (Ex. 22.)
8. On September 11, 2017, ANC 6D held a public meeting to consider the application, for which notice was properly given and a quorum was present. The ANC voted unanimously to support the design review application and zoning relief requested by the Applicant subject to certain conditions. (Ex. 23.)
9. On September 18, 2017, ANC 6D submitted a letter of authorization to the record authorizing Commissioner Roger Moffatt to represent ANC 6D before the Commission, as well as written testimony by Commissioner Moffatt to clarify that the September 11, 2017 ANC resolution submitted to the record was merely a draft, and to reiterate the ANC’s support for the application. The ANC testimony concluded that “this is a good project that meets the CG-4 design requirements and we are elated that it is designed as 100% low income.” (Ex. 28.)
10. The parties to the case were the Applicant and ANC 6D, the ANC in which the property is located.
11. The Commission held a public hearing on the application on September 18, 2017. At the hearing, Neil Mutreja of T.M. Associates, Dana M. Jones of UPO, Jeff Goins and Matt

Stevison of PGN Architects, Erwin Andres of Gorove Slade Associates, and Shane Dettman of Holland & Knight LLP testified on behalf of the Applicant. At the public hearing the Commission requested that the Applicant continue to refine the building's north and east façades and to continue its outreach with the ANC.

12. Elisa Vitale of OP and Anna Chamberlin of DDOT testified in support of the application at the public hearing.
13. No persons testified in opposition to the application at the public hearing. Commissioner Roger Moffatt of ANC 6D testified in support of the application at the public hearing.
14. The record was closed at the conclusion of the public hearing, except to receive additional submissions from the Applicant, as requested by the Commission, and responses thereto from ANC 6D.
15. On October 23, 2017, the Applicant submitted its post hearing submission, including revised architectural drawings responding to the Commission's, OP's and the ANC's comments. (Ex. 31.)
16. ANC 6D submitted a second resolution in support of the Project, indicating that at its regularly scheduled and duly noticed public meeting of October 16, 2017, at which a quorum of commissioners was present, it voted 5-0-0 to support the application including the redesigned façades. (Ex. 32.) ANC 6D also submitted copies of a Memorandum of Agreement and a Construction Management Agreement between ANC 6D and the Applicant that related to the development of the Project. (Ex. 33, 34.)
17. At its public meeting on October 30, 2017, the Commission voted to approve the application. The Commission stated that it would include additional design flexibility for the Applicant to add solar panels to the roof, so long as they did not interfere with the building's green roof.

#### **Description of the Site and Surrounding Area**

18. The Property is located at the northeast corner of 1<sup>st</sup> and Q Streets, S.W. First Street is 90 feet wide and Q Street is 85 feet wide. The Property is presently improved with a one-story building that was most recently occupied by retail uses and associated surface parking. Based upon the records of the D.C. Office of Tax and Revenue, the Property has a land area of approximately 9,138 square feet.
19. The Property is located two blocks west of South Capitol Street. To the north is the High Road Middle School at 1530 1<sup>st</sup> Street, S.W. and Fort McNair is located approximately two blocks to the west of the Property. Nationals Stadium is also approximately two blocks northeast of the Property and the area in between the stadium and the Property includes a mix of commercial and residential uses. The area south of Q Street includes numerous industrial uses, vacant properties, 11 single-family row houses, the PEPCO Waterfront Substation, and the proposed DC United Stadium complex.

20. The Property has a walk score of 74 (“Very Walkable”), a transit score of 75 (“Excellent Transit”), and a bike score of 82 (“Very Bikeable”). The Property is located within 0.5 miles of the Waterfront-SEU and Navy Yard Metrorail Stations, both of which are serviced by the green line, and seven Metrobus routes.

### **Description of the Project**

21. The Property will be developed with a 100% affordable housing development for individuals and families in need. The Project includes approximately 76 residential units, comprised of one-bedroom, two-bedroom, and four-bedroom units with ground-floor, neighborhood-serving commercial uses from one or more of the following commercial use groups: (i) Office (11-B DCMR § 200.2(x)); (ii) Retail (11-B DCMR § 200.2(cc)); (iii) Services, General (11-B DCMR § 200.2(dd)); (iv) Services, Financial (11-B DCMR § 200.2(ee)); and (v) Eating and Drinking Establishments (11-B DCMR § 200.2(j)).
22. Of the 76 units, 16 will be reserved for households with incomes not exceeding 30% of the AMI and the remaining 60 units will be reserved for households with incomes not exceeding 50% AMI.
23. In conjunction with the Property’s management, UPO CDC will provide wraparound services to the building’s residents. The residents of the 16 units reserved for households with incomes not exceeding 30% AMI will be referred through the District’s Coordinated Entry System. These residents will be provided with Permanent Supportive Housing (“PSH”) services and will receive on-site case management services designed to help them attain self-sufficiency. Case management will be provided according to the Department of Human Services (“DHS”) PSH standards. Moreover, UPO CDC will conduct monthly home visits to ensure residents are following their specified plan and are living in a safe environment. Other on-site programs and services provided to all of the building’s tenants include the following:
- Summer Food Program that provide lunches to kids in the summer months who receive a free lunch at school;
  - Holiday parties/kids toy drives;
  - Thanksgiving dinners;
  - End of school year (summer party) for children;
  - Informational speakers (crime prevention, saving, budgeting, etc.);
  - Computer classes; and
  - Financial education classes
24. The Project includes approximately 71,124 square feet of gross floor area, with a density of 7.78 floor area ratio (“FAR”). Approximately 67,320 square feet gross floor area will be devoted to residential use and approximately 3,804 square feet of gross floor area will

be devoted to ground-floor commercial uses. Depending upon the number of commercial tenants in the first-floor space, up to three entryways to the commercial spaces will be located along 1<sup>st</sup> Street. The residential entry will be located along Q Street. The Project also includes a landscaped courtyard on the ground-floor level at the rear of the building for the residents and approximately 941 square feet of indoor residential amenity space.

25. The Applicant will provide 15 below-grade parking spaces, which will be accessible from Q Street since the Property is not serviced by an existing public alley. Two of the parking spaces will be reserved for car-sharing services, each of which may count as three required parking spaces, per 11-C DCMR § 708.2. Thus, 19 parking spaces are provided for the development. The Applicant will also close all of the existing curb cuts along 1<sup>st</sup> Street and Q Street that are adjacent to the Property. No on-site loading is proposed for the Project.
26. The building on the Property will have a maximum height of 100 feet and will include a penthouse containing both mechanical and habitable space, with a maximum height of 13 feet, 10 inches, as measured to the top of the elevator override. All portions of the penthouse will be setback 1:1 in accordance with the Zoning Regulations. The Project complies in all respects with the Zoning Regulations, except for the residential loading relief requested.
27. The Project includes an expansive green roof and the Applicant is pursuing LEED-Silver certification for the Project under LEED v4, consistent with the Green Building Act requirements and DHCD's requirements for the Project's funding.

#### **Capitol Gateway Zones Design Review Requirements**

28. Pursuant to 11-K DCMR § 512.1(e), the proposed development of the Property is subject to design review and approval by the Commission since it is located in Square 656. (11-K DCMR § 512.2.) The Applicant must show that the proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will meet the requirements of 11-K DCMR § 512.3. The Commission finds that the Project meets the requirements of 11-K DCMR § 512.3 as discussed below.
29. *Help Achieve the Objectives of the Capitol Gateway (11-K DCMR § 512.3(a))*: The Project satisfies the following stated objectives for the Capitol Gateway zones as provided in 11-K DCMR § 500.1 including: (i) assuring development of the area with a mixture of residential and commercial uses, and a suitable height, bulk, and design of buildings, as generally indicated in the Comprehensive Plan and recommended by planning studies of the area; (ii) encouraging a variety of support and visitor-related uses, such as retail and service uses; and (iii) providing for a reduced height and bulk of buildings along the Anacostia riverfront in the interest of ensuring views over and around waterfront buildings, and provide for continuous public open space along the waterfront with frequent public access points. The Project includes approximately 67,320 square feet of gross floor area devoted to new residential use, all of which will be reserved for households with incomes not exceeding 50% of the AMI. In addition, approximately

3,804 square feet of gross floor area on the ground floor will be devoted to neighborhood-serving commercial uses in a vibrant and attractive new building. The building will have a maximum height of 100 feet and an overall FAR of 7.78, both of which are permitted as a matter of right in the CG-4 zone. The Applicant is not requesting relief from any of the applicable zoning requirements of the CG-4 zone except for the residential loading requirements. The Applicant discussed the Project with OP, including the height, bulk, design, use, and projections into public space. The Applicant also discussed the Project with DDOT, including the difficulty of providing on-site residential loading, the proposed public space improvements, the location of the proposed curb cut and driveway to the garage, and the proposed curbside loading.

30. *Help achieve the desired use mix, with the identified preferred uses specifically being residential, hotel or inn, cultural, entertainment, retail, or service uses (11-K DCMR § 512.3(b))*: The Project includes approximately 3,804 square feet of gross floor area on the ground floor devoted to neighborhood-serving commercial uses and 76 residential units, all of which will be reserved for households with incomes not exceeding 50% of the AMI. The Applicant will continue to work with community to evaluate commercial uses that will serve the community's needs.
31. *Be in Context with Surrounding Neighborhood and Street Patterns (11-K DCMR § 512.3(c))*: The Project is contextual to the surrounding neighborhood and street patterns. All of the abutting properties are zoned CG-4 and can be developed with similar heights and density. In addition, the approved PEPCO Waterfront Substation, located to the southwest of the Property, will have a maximum building height of approximately 58 feet. (See BZA Order No. 18911 (August 4, 2015).) An additional example of development in the vicinity of the Property includes the redevelopment of the existing office building at the corner of T Street and Half Street. The existing office building on that site will be reconfigured into a mixed-use development with approximately 462 residential units and is expected to open by 2018. The Property is also located within the boundaries of the Buzzard Point Urban Design Framework Plan (the "Buzzard Point Plan"), which seeks to catalyze Buzzard Point's "long-awaited economic revitalization and overcome its isolated, industrial character. (See Buzzard Point Plan, p. 2.) Improvements in the vicinity of the Property include the new South Capitol Street bridge and soccer stadium, which will initiate additional physical improvements and further development of Buzzard Point. (Id. at 10.) The Buzzard Point Plan specifically designates the Property for multifamily residential development. (Id. at 4.) Moreover, one of the overarching goals of the Buzzard Point Plan is to protect the existing public housing within the study area and create additional residential development. (Id. at 7.) As a result, the Commission finds that the Project is consistent with the Buzzard Point Plan and is in context with the street patterns and redevelopment plan for the surrounding neighborhood.
32. *Minimize Conflict between Vehicles and Pedestrians (11-K DCMR § 512.3(d))*: Access to the below-grade parking will be located on the south side of the Property from Q Street, since there is no existing public alley servicing the Property. The Applicant will eliminate the existing curb cuts along 1<sup>st</sup> and Q Street adjacent to the Property, thus substantially

minimizing potential pedestrian and vehicle conflicts. The proposed curb cut and garage access driveway along Q Street is located within eight feet of the property line to the east. If the Applicant incorporated the eight-foot setback set forth in the guidelines of the DDOT Design and Engineering Manual, the driveway, and thus the garage ramp, and the building stairwell would need to shift to the west, in turn resulting in the building's stairwell encroaching into the four-bedroom units on each floor, which would result in at best three-bedroom units. The four-bedroom units will be affordable units in the 30% AMI category, which are needed in the DC area, and are specifically favored in DHCD's programs to address the housing needs of families eligible for assistance.

33. The purpose of the eight-foot driveway setback is to allow for at least 16 feet between driveways on adjacent properties. The existing driveway along Q Street is located right up against the neighboring property to the east, in the same location as the proposed driveway. However, there is no need or use for a driveway into the front of the townhouse building to the east, nor is that small building individually a likely candidate for redevelopment as a separate building on its own lot. The most likely redevelopment scenario for the properties to the east is for the five townhouses to be assembled into one development site. If that was the case, the properties to the east will have access to the alley for parking and loading, and thus will not need a curb cut or driveway from Q Street. The DDOT Design and Engineering Manual calls for a driveway in the public space serving two-way traffic to be between 18 and 24 feet in width. If an 18-foot-wide driveway in the public space is utilized for the subject development, the driveway in the public space would be set back three feet from the extension of the east property line on the public space.
34. *Minimize Unarticulated Blank Walls Adjacent to Public Spaces through Façade Articulation (11-K DCMR §512.3(e))*: The building offers extensive façade articulation across all of its elevations and includes projections that extend a maximum of four feet past the property line at the building's southwest corner. The façades are distinctly and extensively conveyed through irregular patterns and the building's materials include iron spot brick, red brick, medium gray metal panels, and high-quality EIFS panels on only the north and east facades that are built on the property line. The colors used on the north and east façade tie into the broader design language of the building. As a result of consultation with OP, the ANC, and the comments from the Commission, the façades on the lot lines have been simplified and redesigned to respect the lower-scale development to the north and east. In addition, the north and east façades are designed to minimize blank walls, even though these façades may be covered at some point in the future. The Applicant is not providing windows on the north and east facades since they would be at-risk windows, subject to closure when the adjacent properties are developed.
35. *Minimize Impact on the Environment (LEED) (11-K DCMR § 512.3(f))*: The Applicant is providing an expansive green roof and is pursuing LEED-Silver certification for the Project under LEED v4, consistent with the Green Building Act requirements and DHCD's requirements for the Project's funding. The Applicant intends to achieve a minimum of 50 points, with an additional 26 points possible.

## **General Design Review Requirements**

36. In addition to the requirements of 11-K DCMR § 512.3, the Commission must also find that the Project is consistent with the general design review standards set forth in Subtitle X of the Zoning Regulations. The Commission finds that the Project is consistent with the standards set forth in Subtitle X of the Zoning Regulations as discussed below.
37. *The Zoning Commission shall find that the proposed design review development is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site (11-X DCMR § 604.5):* The Project is not inconsistent with the Comprehensive Plan and with other adopted policies and active programs related to the Property. The Comprehensive Plan is described as “the centerpiece of a “Family of Plans” that guide public policy in the District. 10-A DCMR § 103.1. Under the DC Code, the Comprehensive Plan is the one plan that guides the District’s development, both broadly and in detail. Thus, it carries special importance in that it provides overall direction and shapes all other physical plans that District government adopts. In fact, all plans relating to the city’s physical development should take their lead from the Comprehensive Plan, building on common goals and shared assumptions about the future. (10-A DCMR § 103.2.) As the guide for all District planning, the Comprehensive Plan establishes the priorities and key actions that other plans address in greater detail. The broad direction it provides may be implemented through agency strategic plans, operational plans, long-range plans on specific topics (such as parks or housing), and focused plans for small areas of the city. (10-A DCMR § 103.3.)
38. The purposes of the Comprehensive Plan are six-fold: (a) to define the requirements and aspirations of District residents and, accordingly, influence social, economic and physical development; (b) to guide executive and legislative decisions on matters affecting the District and its citizens; (c) to promote economic growth and jobs for District residents; (d) to guide private and public development in order to achieve District and community goals; (e) to maintain and enhance the natural and architectural assets of the District; and (f) to assist in conservation, stabilization, and improvement of each neighborhood and community in the District. (D.C. Code §1-245(b).) The Project significantly advances these purposes by promoting the social, physical and economic development of the District through the provision of a high-quality mixed-use project consisting of affordable housing for low- and very low-income District residents and ground-floor neighborhood-serving commercial uses on the Property, all without generating any adverse impacts.
39. The policies contained in the Comprehensive Plan are based on 36 Guiding Principles that acknowledge that the benefits and opportunities of living in the District are not available to everyone equally and that divisions in the city—physical, social and economic—must be overcome to move from vision to reality. (10-A DCMR § 216.3.) The Guiding Principles are derived from the Comprehensive Plan’s “vision for growing an inclusive city,” and express cross-cutting goals for the District’s future. (10-A DCMR § 2004.4.) The Guiding Principles are grouped into five core themes: Managing Growth and Change, Creating Successful Neighborhoods, Increasing Access to Education and



Employment, Connecting the City, and Building Green and Healthy Communities. (10-A DCMR § 216.2.)

40. The Project will aid in managing growth and change by assisting the District in retaining and attracting an economically diverse population, including families, by providing new affordable housing in a rapidly revitalizing area of the District that is close to public transportation. (10-A DCMR §§ 217.2, 217.3.) The Project also will support the District's non-residential growth through the proposed ground-floor commercial uses that will generate tax revenue and create jobs and opportunities for less affluent households to increase their income. (10-A DCMR § 217.4.) The Project will aid in the successful revitalization of the Buzzard Point neighborhood by ensuring that as this area of the District transforms from an industrial neighborhood to a vibrant, sought after mixed-use neighborhood it will include housing and services for low- and very low-income residents, including families, and will also provide employment opportunities through the proposed ground-floor neighborhood-serving commercial uses. (10-A DCMR §§ 218.3, 219.3.) The Project will also advance the District's environmental goals through the use of sustainable design strategies and adherence to LEED v.4 design criteria. (10-A DCMR § 221.3.)
41. The substantive policies of the Comprehensive Plan are organized into 12 Citywide Elements that each address a specific topic that is citywide in scope, and 10 Area Elements that focus on issues that are unique to a particular part of the District, and are intended to provide a sense of local priorities and to recognize the different dynamics at work in each part of the city. Although they focus on a specific area of the District, the policies contained within the Area Elements are still general in nature and do not prescribe specific uses or design details. (10-A DCMR §§ 104.4-104.6.) The Area Elements also do not repeat policies that already appear in the Citywide Elements; however, this does not mean all Comprehensive Plan policies are mutually exclusive from each other. On the contrary, the Comprehensive Plan specifically recognizes the overlapping nature among and between the Citywide and Area Elements, and that the policies in one element may be tempered by one or more of the other elements where there may be a need to balance competing policies.
42. Due to the wide range of topics addressed in the Comprehensive Plan, some Citywide Elements oftentimes are not necessarily applicable to a development project, or are applicable to only a minor degree. Such is the case for the Project where the Parks, Open Space, and Recreation; Community Services and Facilities; Infrastructure; and the Arts and Culture Elements have little to no applicability. Nonetheless, the Applicant still reviewed the overarching goal and the policies of these elements to confirm that the Project was not inconsistent.
43. Land Use Element: The Commission finds that the Project is not inconsistent with the Land Use Element. The Land Use Element is the cornerstone of the Comprehensive Plan. It establishes the basic policies guiding the physical form of the city, and provides direction on a range of development, conservation, and land use compatibility issues. The Element describes the balancing of priorities that must take place in order to

accommodate a multiplicity of land uses within the boundaries of the District of Columbia. (10-A DCMR § 300.1.) The overarching land use goal of the District is to ensure the efficient use of land resources to meet long-term neighborhood, citywide, and regional needs; to help foster other District goals; to protect the health, safety, and welfare of District residents, institutions, and businesses; to sustain, restore, or improve the character and stability of neighborhoods in all parts of the city; and to effectively balance the competing demands for land to support the many activities that take place within District boundaries. (10-A DCMR § 302.1.)

44. The Project will substantially advance the above stated goal by redeveloping an underutilized Property into a new mixed-use project containing ground-floor commercial uses and affordable housing for low- and very low-income households, including families, in a rapidly revitalizing area of the District that is close to Metrorail. Currently, the existing improvements on the Property do not take advantage of the potential for the Property, and are not compatible with the future vision for the neighborhood put forth by the District in the Buzzard Point Plan. The proposed design will blend with the designs of other market-rate projects that are underway or planned for the surrounding neighborhood. The Project is consistent with the CG-4 zoning of the Property, and the Medium Density Residential land use designation of the Comprehensive Plan. (Policy LU-2.1.10: Multi-Family Neighborhoods.) The Project will complement and be compatible with the new development that is contemplated to the south of the Property near the new DC United soccer stadium, while also relating to the existing and proposed development to the north. (Policy LU-1.4.1: Infill Development.) The height and massing of the Project will complement and be compatible with new development that is contemplated to the south of the Property near the new DC United soccer stadium. (Policy LU-1.4.1: Infill Development.) In addition, while the adjacent lots to the north and east have the same CG-4 zoning as the Property, and can be redeveloped to the same height and density, the Applicant has taken steps to reduce the massing of the proposed building through projections, bays, recesses, and material changes to help soften the juxtaposition between the proposed building, the existing immediate context, and the moderate-density development that exists further to the north.
45. Transportation Element: The Commission finds that the Project is not inconsistent with the policies contained within the Transportation Element of the Comprehensive Plan. The overarching goal for transportation in the District is to create a safe, sustainable, efficient multi-modal transportation system that meets the access and mobility needs of District residents, the regional workforce, and visitors; supports local and regional economic prosperity; and enhances the quality of life for District residents. (10-A DCMR § 401.1.) The Project will help achieve this goal due to its close proximity to Metrorail and several Metrobus routes, and through the substantial pedestrian improvements that will be made to the public realm adjacent to the Property, including the removal of multiple existing curb cuts. (Policy T-1.1.4: Transit-Oriented Development, Policy T-2.4.1: Pedestrian Network, and Policy T-2.4.2: Pedestrian Safety.) The Project will also provide secure bicycle parking as required under the Zoning Regulations, and will support the expansion of Capital Bikeshare. (Action T-2.3.A: Bicycle Facilities and Action T-2.3.D: Bicycle Sharing.) Finally, the Project will encourage the expansion of car-sharing by devoting

two parking spaces within the below-grade garage of the building to car share spaces. (Policy T-3.1.3: Car-Sharing.)

46. Housing Element: The Commission finds that the Project is not only “not inconsistent” with the policies of the Housing Element, but it will directly and substantially advance several policies that are aimed at addressing the District’s affordable housing crisis. The overarching goal of the Housing Element is to “[d]evelop and maintain a safe, decent, and affordable supply of housing for all current and future residents of the District of Columbia.” (10 DCMR § 501.1.) The Applicant will help the District achieve this goal by providing a mixed-use development that includes ground floor commercial uses and 76 units of low- and very low-income affordable housing, including larger family-sized housing, in a rapidly revitalizing area of the District that is close to public transportation. (Policy H-1.1.1: Private Sector Support, Policy H-1.1.3: Balanced Growth, Policy H-1.1.4: Mixed Use Development, Policy H-1.1.7: New Neighborhoods, Policy H-1.2.3: Mixed Income Housing, and Policy 1.3.1: Housing for Families.)
47. Environmental Protection Element: The Commission finds that the Project is not inconsistent with the policies of the Environmental Protection Element. The overarching goal for environmental protection in the District is to protect, restore, and enhance the natural and man-made environment, taking steps to improve environmental quality, prevent and reduce pollution, and conserve the values and functions of the District’s natural resources and ecosystems. (10-A DCMR § 601.1.) The Project will help achieve this goal, in part, through the improvements that will be made to the public space surrounding the Property. Currently the public space surrounding the Property is 100% impervious, utilized entirely for parking, does not contain a single street tree, and is interrupted by several side curb cuts. The Project will substantially improve the environmental quality of the public space by eliminating all of the curb cuts along 1<sup>st</sup> Street, S.W., and adding several new street trees and planters. (Policy E-1.1.1: Street Tree Planting and Maintenance.) The Applicant will also improve environmental sustainability and storm water management on the Property through the use LEED-Silver v.4 to design the building, and the use of a large green roof system on the building’s main roof and penthouse roof. (Policy E-3.1.2: Using Landscaping and Green Roofs to Reduce Runoff and Policy E-3.2.1: Support for Green Building.)
48. Economic Development Element: The Commission finds that the Project is not inconsistent with the policies of the Economic Development Element. The Project will provide positive economic benefit both through the ground floor commercial uses that are proposed, and the onsite financial education services that will be provided to the residents of the building. Specifically, the on-site services provided by UPO will include monthly financial education classes. In addition, UPO will provide access to offsite services including various construction, culinary arts, hospitality, and emergency medical technician training classes at UPO facilities within the District. (Policy ED-4.1.4: Adult Education, Policy ED-4.2.3: Focus on Economically Disadvantaged Populations, Policy ED-4.2.4: Neighborhood-Level Service Delivery.) These services will strengthen the District workforce and help increase the income of building residents.

49. Parks, Recreation, and Open Space Element: This Element addresses the future of parks, recreation, and open space in the District of Columbia. It recognizes the important role parks play in recreation, aesthetics, neighborhood character, and environmental quality. It includes policies on related topics such as recreational facility development, the use of private open space, and the creation of trails to better connect the city's open spaces and neighborhoods. (10-A DCMR § 800.1.) The overarching goal for parks, recreation and open space is to preserve and enhance parks and open spaces within the District of Columbia to meet active and passive recreational needs, improve environmental quality, enhance the identity and character of District neighborhoods, and provide visual beauty in all parts of the national capital. (10-A DCMR § 801.1.) The Commission finds that the Project is not inconsistent with this stated goal, nor with the policies contained within the Parks, Recreation, and Open Space Element.
50. Urban Design Element: The Urban Design Element addresses the District's physical design and visual qualities, and the goal of its various policies is to enhance the beauty and livability of the city by protecting its historic design legacy, reinforcing the identity of its neighborhoods, harmoniously integrating new construction with existing buildings and the natural environment, and improving the vitality, appearance, and security of streets and public spaces. (10-A DCMR § 901.1.) As also mentioned below under the Historic Preservation Element, the Project will improve the spatial character and urban design quality of 1<sup>st</sup> and Q Streets, S.W., both historic L'Enfant Plan streets, by removing multiple curb cuts, strengthening the street wall, and respecting the historic right-of-way. (UD-1.1 Protecting the Integrity of Washington's Historic Plans and Policy UD-1.1.2: Reinforcing the L'Enfant and McMillan Plans.) The Project will also improve the sense of identity for the Buzzard Point neighborhood which, as stated in the Buzzard Point Plan, is envisioned as an environmentally sustainable, vibrant, mixed-use neighborhood with improved pedestrian circulation, continuous access to the water, and new development opportunities that could increase the inventory of mixed-use development and affordable housing. Buzzard Point Plan, pg. 4. The Project will advance this vision through the ground floor retail and substantial affordable housing that is proposed, as well as its attractive façade design and significant improvements to adjacent public space. (Policy UD-2.2.5: Creating Attractive Facades, Policy UD-3.1.1: Improving Streetscape Design, Policy UD-3.1.7: Improving the Street Environment.) In addition, as addressed above, while the lots that are adjacent to the Property have the same zoning and can be constructed to the same height, the Applicant has taken steps to design and articulate the building in a way that reduces overall scale and will provide visual interest until the adjacent properties are redevelopment. (Policy UD-2.2.4: Transitions in Building Intensity.) As a result, the Commission finds that the Project is not inconsistent with this stated goal, nor with the policies contained within the Urban Design Element.
51. Historic Preservation Element: The overarching goal for historic preservation is to preserve and enhance the unique cultural heritage, beauty, and identity of the District of Columbia by respecting the historic physical form of the city and the enduring value of its historic structures and places, recognizing their importance to the citizens of the District and the nation, and sharing mutual responsibilities for their protection and stewardship. (10-A DCMR § 1001.1.) The Commission finds that the Project is not

inconsistent with this stated goal, nor with the policies contained within the Historic Preservation Element. The site of the Project is not a historic landmark, nor is it located within the boundaries of a historic district. Nonetheless, the Project will improve the spatial character and urban design quality of 1<sup>st</sup> and Q Streets, S.W., both historic L'Enfant Plan streets, by removing multiple curb cuts, strengthening the street wall, and respecting the historic right-of-way. (Policy HP-2.3.1: The Plan of the City of Washington, Policy HP-2.3.3: Spatial Character of L'Enfant Plan Streets, and Policy HP-2.3.4: Public Space Design in the L'Enfant Plan.)

52. Community Services and Facilities Element: The Community Services and Facilities Element provides policies and actions on health care facilities, child care and senior care facilities, libraries, police stations, fire stations, and other municipal facilities such as maintenance yards. A well-balanced and adequate public facility system is a key part of the city's drive to sustain and enhance the quality of life for its residents. (10-A DCMR § 1100.1.) The Comprehensive Plan goal for community services and facilities is to provide high-quality, accessible, efficiently managed, and properly funded community facilities to support the efficient delivery of municipal services, protect public health and safety, and enhance the well-being of current and future District residents. (10-A DCMR § 1101.1.) The Commission finds that the Project is not inconsistent with this stated goal, nor with the policies contained within the Community Services and Facilities Element.
53. Educational Facilities Element: The Educational Facilities Element addresses the location, planning, use and design of the District's educational facilities and campuses. It includes policies and actions related to primary, secondary, and higher educational facilities. The Element focuses on the efficient use of school property, and the relationship between schools and the communities that surround them. For District public schools, it focuses on school modernization and the right-sizing of school facilities to meet existing and long-term educational needs. (10-A DCMR § 1200.1.) The overarching goal for educational facilities in the District is to transform the educational environment in the District of Columbia, providing facilities that inspire excellence in learning, create a safe and healthy environment for students, and help each individual achieve his or her fullest potential. (10-A DCMR § 1201.1.) The Commission finds that the Project is not inconsistent with this stated goal, nor with the policies contained within the Educational Facilities Element.
54. Infrastructure Element: The Infrastructure Element provides policies and actions on the District's water, sanitary sewer, storm water, solid waste management, energy, and telecommunication systems. Investments in these systems are essential to our city's future, both to meet the demands of existing users and to accommodate future change and development. (10-A DCMR § 1300.1.) The overarching goal for infrastructure is to provide high-quality, efficiently managed and maintained, and properly funded infrastructure to serve existing development, as well as future change and growth. (10-A DCMR § 1301.1.) The Commission finds that the Project is not inconsistent with this stated goal, nor with the policies contained within the Infrastructure Element.

55. Arts and Culture Element: The Arts and Culture Element provides policies and actions dedicated to the preservation and promotion of the arts in the District of Columbia. Its focus is on strengthening the role of the arts in shaping the physical form of our city. (10-A DCMR § 1400.1.) The overarching goal for arts and culture is to support and encourage arts and cultural venues, programs and learning experiences in the District of Columbia that inspire a vibrant cultural life for all segments of the population. Enhance the city's diverse artistic and cultural traditions through decisions affecting the physical environment. (10-A DCMR § 1401.1.) The Commission finds that the Project is not inconsistent with this stated goal, nor with the policies contained within the Arts and Culture Element.
56. Lower Anacostia Waterfront/Near Southwest Area Element: The Lower Anacostia Waterfront/Near Southwest Planning Area encompasses approximately 3.0 square miles of land along both sides of the Anacostia River in the southwest and southeast quadrants of the District, and includes parts of Wards 6, 7, and 8. (10-A DCMR 1900.1.) The key planning and development priorities within this area include revitalizing and increasing access to the waterfront; improving economic opportunities for the neighborhoods within the area; protecting existing neighborhoods while expanding housing, including affordable housing; and the protection of natural resources along the Anacostia and Potomac Rivers. The Commission Finds that the Project is not inconsistent with the policies of the Lower Anacostia Waterfront / Near Southwest Area Element. Specifically, the Project will support the revitalization of the Buzzard point neighborhood into a new mixed-use neighborhood by adding new commercial uses and a substantial amount of affordable housing. (Policy AW-1.1.2: New Waterfront Neighborhoods, Policy AW-1.1.3: Waterfront Area Commercial Development, and Policy AW-2.2.7: Buzzard Point.)
57. *The Zoning Commission shall find that the proposed design review development will not tend to affect adversely the use of neighboring property and meets the general special exception criteria of Subtitle X, Chapter 9 (11-X DCMR § 604.6):* The CG-4 zone “is intended to permit medium- to high-density mixed-use development with a balance of uses conducive to a higher quality of life and environment for residents, businesses, employees, and institutions...” (11-K DCMR 504.1.) The Project will have a maximum building height of 100 feet and an overall FAR of 7.78. The CG-4 zone permits a maximum of 100 feet and 8.2 FAR with Inclusionary Zoning (“IZ”) on the Property. As a result, the height and density are consistent with the development parameters for the CG-4 zone. The Applicant is not requesting any relief except for residential loading relief.
58. *The Zoning Commission shall review the urban design of the site and the building for the following criteria:*
- (a) Street frontages are designed to be safe, comfortable, and encourage pedestrian activity, including:
    - (i) Multiple pedestrian entrances for large developments;

- (ii) Direct driveway or garage access to the street is discouraged;
  - (iii) Commercial ground floors contain active uses with clear, inviting windows;
  - (iv) Blank façades are prevented or minimized; and
  - (v) Wide sidewalks are provided;
- (b) Public gathering spaces and open spaces are encouraged, especially in the following situations:
  - (i) Where neighborhood open space is lacking;
  - (ii) Near transit stations or hubs; and
  - (iii) When they can enhance existing parks and the waterfront;
- (c) New development respects the historic character of Washington's neighborhoods, including:
  - (i) Developments near the District's major boulevards and public spaces should reinforce the existing urban form;
  - (ii) Infill development should respect, though need not imitate, the continuity of neighborhood architectural character; and
  - (iii) Development should respect and protect key landscape vistas and axial views of landmarks and important places;
- (d) Buildings strive for attractive and inspired façade design, including:
  - (i) Reinforce the pedestrian realm with elevated detailing and design of first and second stories; and
  - (ii) Incorporate contextual and quality building materials and fenestration;
- (e) Sites are designed with sustainable landscaping; and
- (f) Sites are developed to promote connectivity both internally and with surrounding neighborhoods, including:
  - (i) Pedestrian pathways through developments increase mobility and link neighborhoods to transit;

- (ii) The development incorporates transit and bicycle facilities and amenities;
  - (iii) Streets, easements, and open spaces are designed to be safe and pedestrian friendly;
  - (iv) Large sites are integrated into the surrounding community through street and pedestrian connections; and
  - (v) Waterfront development contains high-quality trail and shoreline design as well as ensuring access and view corridors to the waterfront. (11-X DCMR § 604.7.)
59. The street frontages along 1<sup>st</sup> Street and Q Street have been designed to be safe, comfortable, and encourage pedestrian activity. The Project includes ground floor, neighborhood-serving commercial uses with up to three distinct entryways along 1<sup>st</sup> Street and a separate entrance for the residential use along Q Street. In addition, outdoor seating is provided along 1<sup>st</sup> Street and Q Street. Currently, there are limited pedestrian facilities and sidewalks within Buzzard Point neighborhood. (*See* Buzzard Point Plan, p. 8.) The Project includes streetscape improvements including new sidewalk paving and landscaping adjacent to the Property. All public space improvements, including the width of the sidewalks, will comply with DDOT requirements and are subject to the approval by the DDOT Public Space Division.
60. The Property is not located along the District's major boulevards, and the proposed public space improvements respect the existing urban form. The Project does not infringe on any key landscape vistas or axial views of landmarks and important places. The building's materials include iron spot brick, red brick, medium gray metal panels, and high-quality EIFS panels on only the north and east facades that are built on the property line. The materials are compatible with the neighborhood architecture in the surrounding CG zones, without imitating the architecture.
61. The Project's ground floor includes active uses with clear inviting windows, and blank façades have been minimized. The pedestrian realm along 1<sup>st</sup> Street and Q Street has also been reinforced through the provision of outdoor bench seating for use by the building's residential tenants and the surrounding community. Depending upon the tenant or tenants of the ground-floor commercial space, the Project may also include outdoor seating utilized by the commercial tenants. Since the north and east façades are built on the property line, the Applicant is providing additional and varied articulation in lieu of at risk windows that are subject to closure. The Project also includes projections that extend a maximum of four feet past the property line, which help animate and enhance the building's design.
62. The Property is not located near a transit station hub, nor is it located near an existing park or waterfront. The Applicant is providing outdoor bench seating along Q Street and 1<sup>st</sup> Street for use by the building's residents and surrounding neighborhood.



63. The Project includes access to the below-grade parking garage via Q Street. The Applicant is not proposing any other curb cuts and is in fact closing the two existing curb cuts along 1<sup>st</sup> Street and Q Street that are adjacent to the Property. The Applicant is also providing a new Capital Bikeshare station along Q Street, in addition to 28 bicycle parking spaces located in the below-grade parking garage. The Project is not a waterfront development.
64. The Commission therefore finds, pursuant to 11-X DCMR § 604.8, that the Project meets the criteria of 11-X DCMR § 604.7 in a way that is superior to any matter-of-right development.

### **Variance Relief**

65. Pursuant to 11-K DCMR § 512.7, the Commission may hear and decide any additional requests for variance relief needed for the Property together with the application for design review approval.
66. The Applicant requests an area variance from the residential loading requirements of 11-C DCMR § 901.1. Pursuant to 11-C DCMR § 901.1, the Applicant is required to provide one 30-foot loading berth, one 100-square-foot loading platform, and one 20-foot service/delivery space for the residential portion of the Project. Due to site constraints, the Applicant is unable to provide any loading on the Property for the Project.
67. The Commission is authorized to grant an area variance where it finds that three conditions exist:
- (a) The property is affected by exceptional size, shape, or topography or other extraordinary or exceptional situation or condition;
  - (b) The owner would encounter practical difficulties if the Zoning Regulations were strictly applied; and
  - (c) The variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

(See *French v. District of Columbia Board of Zoning Adjustment*, 658 A.2d 1023, 1035 (D.C. 1995) (quoting *Roumel v. District of Columbia Board of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)); see also, *Capitol Hill Restoration Society, Inc. v. District of Columbia Board of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987).) The Commission finds that all three prongs of the area variance test are met in this application.

### **Exceptional Condition or Situation**

68. A unique or exceptional situation or condition may arise from a confluence of factors which affect a single property. (*Gilmartin v. D.C. Board of Zoning Adjustment*, 579

A.2nd 1164, 1168 (D.C. 1990).) The Commission finds that the exceptional condition arises from the relatively small size and shape of the Property; the minimal amount of street frontage; the absence of a public alley adjacent to the Property; and from the specific design review criteria for the Property that discourages access to parking and loading facilities directly from the street. The design review requirements of Subtitles K and X: (i) encourage development of the Property with a mixture of residential and commercial uses; (ii) encourage minimizing conflicts between vehicles and pedestrians; (iii) encourage pedestrian activity along the adjacent street frontages; (iv) and discourage direct driveway or garage access to the street.

69. The Applicant will provide access to the below-grade parking from Q Street. In order to also provide the required loading, the Applicant would need to install a second curb cut since the required loading cannot be accommodated in the below-grade parking garage. Given the proposed use of the Property, the lot is relatively small (9,138 square feet), and has limited street frontage along 1<sup>st</sup> Street (65.67 feet) and Q Street (93.25 feet). The Applicant is proposing to provide a residential lobby, an office for UPO CDC staff (PSH Case Manager), and ground-floor amenity space for the building's residents in addition to ground-floor commercial uses. As a result, there is no additional room on the ground floor of the building to accommodate a 30-foot loading berth, a 100-square-foot platform, and a 20-foot service/delivery space.

#### Resulting Practical Difficulty

70. The strict application of the Zoning Regulations would result in a practical difficulty to the Applicant, since providing the required loading would significantly constrain the Applicant's ability to provide ground floor, neighborhood-serving commercial uses and minimize conflicts between vehicles and pedestrians as specified in 11-K DCMR § 512.3. Moreover, the Commission finds that the Applicant would be unable to provide an office for UPO CDC staff to provide its on-site wrap around services. If the Applicant provided the requisite loading, the Applicant would need to install another curb cut along either Q or 1<sup>st</sup> Street, which is specifically discouraged by 11-X DCMR 604.7(a)(2). As a result, if the Applicant provided the required loading the Project would not meet the specific design review requirements specified in Subtitles K and X of the Zoning Regulations since the loading facilities would require an additional 22-24 feet of street frontage devoted to a loading entryway and an additional 700 square feet of interior space for loading. As shown on Sheet A-44 of the Plan, if the required loading was provided, there is still insufficient space on the ground floor for 30-foot trucks to perform front in/front out maneuvers to access the loading berth. (Ex. 31.)

#### No Harm to Public Good or Zone Plan

71. The Commission finds that the requested variance will not result in harm to the public good or zone plan. Residential loading will be accommodated curbside along Q Street, in front of the residential entrance. The building's residents will utilize "Emergency No Parking Signs" for move-in and move-out consistent with the District Department of

Transportation's policies to allow for residential loading operations to take place on a particular day for a limited duration.

72. Although loading facilities are not required for the proposed ground-floor commercial use, the Applicant will apply for a curbside loading zone adjacent to the Property on 1<sup>st</sup> Street for the ground-floor commercial uses. DDOT has informed the Applicant that the commercial loading zone application will be reviewed after construction.
73. As detailed in the Comprehensive Transportation Review report, the Commission finds that the proposed loading plan will adequately serve the loading needs for the Project. The Applicant will implement a loading management plan for the Project, which will include the following elements: (Ex. 17.)
- A loading manager will be designated by the building management. The manager will coordinate with residents to schedule deliveries, direct residents to apply for parking restrictions curbside, and will be on duty during delivery hours;
  - Residents will be required to schedule move-in and move-outs with the loading manager through leasing regulations;
  - The loading manager will coordinate with trash pick-up to minimize the time trash trucks need to use the loading area;
  - Trucks using the loading area will not be allowed to idle and must follow all District guidelines for heavy vehicle operation including but not limited to DCMR 20 – Chapter 9, § 900 (Engine Idling), the regulations set forth in DDOT's Freight Management and Commercial Vehicle Operations document, and the primary access routes listed in the DDOT Truck and Bus Route System; and
  - The loading manager will be responsible for disseminating DDOT's Freight Management and Commercial Vehicle Operations document to drivers as needed to encourage compliance with District laws and DDOT's truck routes. The loading manager will also post these documents in a prominent location.

### **Office of Planning Report**

74. By report dated September 8, 2017, OP recommended approval of the application including the requested loading variance relief provided the Applicant: (i) confirm that the building meets the requirements of the District's projection regulations (12-A DCMR § 3202) and other relevant public space regulations; (ii) examine and refine the north and east building façades; (iii) provide a color and materials board; (iv) complete an IZ chart; (v) examine whether the green features of the building can be enhanced and provision of a LEED checklist; and (vi) confirm that the long-term bike parking meets the requirements of 11-C DCMR § 805. (Ex. 21.)

75. At the public hearing, the Applicant provided a materials board. (Ex 26.) In addition, the Applicant confirmed that the building meets the requirements of the District's projections regulations and public space requirements, and the long-term bike parking requirements. (Ex. 25A5.) The Applicant also revised the design of the building's north and east façades; provided a LEED checklist; and completed an IZ Chart. (Ex. 31, 25A1, 25A7.)

### **DDOT Report**

76. By report dated September 8, 2017, DDOT stated that it has no objection to the application including the request loading variance relief provided the Applicant implement the proposed Transportation Demand Management ("TDM") Plan and Loading Management Plan. (Ex. 22.) DDOT found that the proposed Loading Management Plan is appropriate and will serve to mitigate idle vehicles servicing the building.

### **ANC Report**

77. ANC 6D submitted a resolution in support of the Project, indicating that at its regularly scheduled and duly noticed public meeting of September 11, 2017, at which a quorum of commissioners was present, ANC 6D voted 6-0-0 to support the application. (Ex. 23.) The ANC stated that "ANC 6D is pleased that this development is a 100% affordable housing and sets an example for other developers who fail to add to the increasing need for this type of housing." The ANC requested that the Applicant consider participating in additional meetings prior to any final design and prior to construction to address Commission and community concerns about the Project.
78. The Applicant presented a revised design for the building's north and east façades to address ANC 6D's concerns with the Project. Commissioner Rhonda Hamilton, the single member district representative for the Project, acknowledged that the ANC's concerns regarding the Project's design have been addressed. ANC 6D, submitted a second resolution in support of the Project, indicating that at its regularly scheduled and duly noticed public meeting of October 16, 2017, at which a quorum of commissioners was present, it voted 5-0-0 to support the application including the redesigned facades. (Ex. 32.)

## **CONCLUSIONS OF LAW**

1. The application was submitted pursuant to 11-K DCMR § 512 for review and approval by the Commission, and pursuant to 11-K § 512.7 for an area variance from the residential loading requirements of 11-C DCMR § 901.1. The Commission concludes that the Applicant has met its burden of proof.
2. The Commission provided proper and timely notice of the public hearing on the application by publication in the *D.C. Register* and by mail to ANC 6D, OP, and owners of property within 200 feet of the Property.

3. Pursuant to 11-K DCMR § 512.3, the Commission required the Applicant to comply with CG zone design guidelines set forth in 11-K DCMR §§ 512.3(a)-(e) and the general design guidelines in 11-X DCMR §§ 604.5-604.7. The Commission concludes that the proposed project will further the objectives of the CG zones, as set forth in 11-K DCMR § 500.1, and the design of the Project meets the specific design requirements of 11-K DCMR §§ 512.3(a)-(e) and 11-X DCMR §§ 604.5-604.7 in a way that is superior to any matter-of-right develop possible on the Property.
4. The Commission concludes that the Applicant has met its burden and that the proposed development is within the applicable height, bulk, and density standards for the CG-4 zone and will not tend to affect adversely the use of neighboring properties. The overall Project is also in harmony with the general intent and purpose of the Zoning Regulations and Map.
5. The Commission also required the Applicant to meet the requirements for variance relief set forth in 11-X DCMR § 1002.1(a). The Commission concludes that the Applicant has met its burden.
6. No person or parties appeared at the public hearing in opposition to the application.
7. 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. The affected ANC in this case is ANC 6D. The Commission carefully considered ANC 6D's recommendation for approval and concurs in its recommendation, and considered the issues and concerns stated in its reports.
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 application persuasive.
9. Based upon the record before the Commission, including witness testimony, the reports submitted by OP, DDOT, ANC 6D and the Applicant's submissions, the Commission concludes that the Applicant has met the burden of satisfying the applicable standards under 11-K DCMR §§ 512.3(a)-(e) and 11-X DCMR §§ 604.5-604.7 of the Zoning Regulations and for variance under 11-X DCMR § 1002.1(a).

### **DECISION**

In consideration of the above Findings of Fact and Conclusions of Law, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application consistent with this Order. This approval is subject to the following guidelines, standards, and conditions:

1. The approval of the proposed development shall apply to Lots 54 and 813 in Square 656.
2. The Project shall be built in accordance with the architectural drawings submitted to the Commission on August 28, 2017, dated August 23, 2017, (Ex. 19A1-19A4), as supplemented by the architectural drawings submitted on October 23, 2017, dated October 16, 2017 (Ex. 31A1-31A4), and the guidelines, conditions, and standards below.
3. The Applicant shall implement the following TDM measures for the life of Project:
  - (a) The Applicant shall identify a TDM Leader (for planning, construction, and operations) at the building, who will act as a point of contact with DDOT/Zoning Enforcement with annual updates. The TDM Leader will work with residents to distribute and market various transportation alternatives and options;
  - (b) The Applicant shall provide TDM materials to new residents in the Residential Welcome Package materials and meet the zoning requirements by providing approximately 26 long-term bicycle parking spaces in the building garage. Short-term bicycle parking spaces shall be provided within and/or along the perimeter of the site, meeting zoning requirements;
  - (c) All parking on site shall be priced at market rates, at minimum, defined as the average cost for parking in a 0.25-mile radius from the Property;
  - (d) The Applicant shall unbundle the cost of residential parking from the cost of lease or purchase of each unit;
  - (e) The Applicant shall provide each unit's incoming residents with an \$80 SmarTrip Card. A proactive marketing strategy shall be provided to ensure residents are aware of this benefit;
  - (f) The Applicant shall provide a bicycle repair station;
  - (g) The Applicant shall provide an on-site business center to residents with access to copier, fax, and internet services;
  - (h) The Applicant shall install a Transportation Information Center Display (electronic screen) within the residential lobbies containing information related to local transportation alternatives; and
  - (i) The Applicant shall construct and maintain a Capital Bikeshare station, as shown on the architectural drawings.
4. The Applicant shall implement the following Loading Management Plan for the life of Project:
  - (a) A loading manager shall be designated by the building management. The manager

shall coordinate with residents to schedule deliveries, direct residents to apply for parking restrictions curbside, and shall be on duty during delivery hours;

- (b) Residents shall be required to schedule move-in and move-outs with the loading manager through leasing regulations;
  - (c) The loading manager shall coordinate with trash pick-up to minimize the time trash trucks need to use the loading area;
  - (d) Trucks using the loading area shall not be allowed to idle and must follow all District guidelines for heavy vehicle operation including but not limited to DCMR 20 – Chapter 9, Section 900 (Engine Idling), the regulations set forth in DDOT’s Freight Management and Commercial Vehicle Operations document, and the primary access routes listed in the DDOT Truck and Bus Route System; and
  - (e) The loading manager shall be responsible for disseminating DDOT’s Freight Management and Commercial Vehicle Operations document to drivers as needed to encourage compliance with District laws and DDOT’s truck routes. The loading manager shall also post these documents in a prominent location.
5. The Project shall achieve LEED-Silver certification.
6. The Applicant shall have flexibility with the design of the Project in the following areas:
- (a) To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atria and mechanical rooms, provided that the variations do not change the exterior configuration or appearance of the building;
  - (b) To vary the final selection of the colors of the exterior materials based on availability at the time of construction, provided such colors are within the color ranges proposed in the final plans;
  - (c) To increase the final number of residential units by no more than 10% above the total number approved to respond to program demand, or to decrease the final number of residential units within the approved gross floor area in order to accommodate demand for larger units;
  - (d) To make minor variations to the location, attributes and general design of the streetscape within public space to comply with the requirements of and the approval by the District Department of Transportation Public Space Division, without changing the overall design intent, the general location and dimensions of landscaping and hardscaping, or the quality of materials;

- (e) To make refinements to the garage configuration, including layout, parking spaces and other elements, so long as the number of parking spaces provided is at least the minimum number of spaces required by the Zoning Regulations;
  - (f) To make minor refinements to the buildings' details and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylight, architectural embellishments and trim, window mullions and spacing, or any other changes that otherwise do not significantly alter the exterior design as shown on the final plans to comply with the District of Columbia Building Code. Any refinements may not substantially change the buildings' external configurations, appearance, proportions, or general design intent;
  - (g) To locate retail entrances in accordance with the needs of the retail tenants; and to vary the façades as necessary within the general design parameters proposed for the Project; and to vary the types of uses designated as "retail" use on the Plans to include the following use categories: (i) Office (11-B DCMR § 200.2(x)); (ii) Retail (11-B DCMR § 200.2(cc)); (iii) Services, General (11-B DCMR § 200.2(dd)); (iv) Services, Financial (11-B DCMR § 200.2(ee)); and (v) Eating and Drinking Establishments (11-B DCMR § 200.2(j));
  - (h) To vary the font, message, logo, and color of the proposed signage, provided that the maximum overall dimensions and signage materials do not change from those shown on the approved architectural drawings; and
  - (i) To add solar panels to the roof, provided they comply with all applicable zoning regulations and building code requirements, and do not diminish the size of or interfere with the green roof shown on the plans.
7. 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 § 2-1401.1 et seq. (the "Act"), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, 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. Violations will be subject to disciplinary action.


On October 30, 2017, upon the motion of Commissioner Turnbull as seconded by Vice Chairman Miller, the Zoning Commission took **FINAL ACTION** to **APPROVE** the application at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve).




In accordance with the provisions of 11-Z DCMR § 604.9 of the Zoning Regulations, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on June 15, 2018.

**BY THE ORDER OF THE D.C. ZONING COMMISSION**

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

  
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**ANTHONY J. HOOD**  
**CHAIRMAN**  
**ZONING COMMISSION**

 for  
\_\_\_\_\_  
**SARA A. BARDIN**  
**DIRECTOR**  
**OFFICE OF ZONING**