

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 17-19
Z.C. Case No. 17-19
The Warrenton Group and NHP Foundation
(Consolidated PUD and Related Map Amendment
@ Square 5197, Lots 1, 64, 65, and 73)
June 11, 2018

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on May 7, 2018, to consider an application for a consolidated planned unit development (“PUD”) and a related zoning map amendment filed by The Warrenton Group and the NHP Foundation (collectively, the “Applicant”). The Commission considered the application pursuant to Subtitle X, Chapter 3 and Subtitle Z 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 September 29, 2017, the Applicant filed an application with the Commission for consolidated review of a PUD and a related Zoning Map amendment from the MU-3 zone to the MU-4 zone for the properties located 5110-5140 Nannie Helen Boroughs Avenue, N.E. (Square 5197, Lots 1, 64, 65, and 73) (collectively, the “Property”).
2. The Applicant proposes to redevelop the Property as a mixed-use development on two parcels. Parcel 1 consists of approximately 71,891 square feet, and will be improved with a building containing approximately 9,900 square feet of retail at the ground level; approximately 174,900 square feet of residential, generating approximately 151 units; and 143 covered parking spaces. The maximum building height will be 65 feet and the density will be 3.56 floor area ratio (“FAR”). Parcel 2 consists of approximately 13,619 square feet, and will be improved with a building containing approximately 6,000 square feet of retail at the ground level; approximately 39,200 square feet of residential generating approximately 32 units; and three surface parking spaces. The maximum building height will be 63 feet and the density will be 3.32 FAR.
3. Of the 183 units proposed for the development, 61 will be replacement units for the Lincoln Heights and Richardson Dwellings residential communities controlled by the DC Housing

Authority (“DCHA”). The replacement units include 12 one-bedroom units, nine two-bedroom units, 32 three-bedroom units, six four-bedroom units, and two five-bedroom units. Of the remaining units, 104 will be a mix of units reserved for households not exceeding 60% of the median family income (“MFI”) and 18 will be market-rate units.

4. By report dated December 1, 2017, the District of Columbia Office of Planning (“OP”) recommended that the application be set down for a public hearing. (Exhibit [“Ex.”] 13.) At its public meeting on December 11, 2017, the Commission voted to schedule a public hearing on the application.
5. The Applicant filed its pre-hearing submission on January 10, 2018, and a public hearing was timely scheduled for the matter. (Ex. 16-16G.) On January 30, 2018, the notice of public hearing was sent to all owners of property located within 200 feet of the Property; Advisory Neighborhood Commission (“ANC”) 7C, the ANC in which the Property is located; Commissioner Patricia Malloy, the Single Member District Representative for ANC 7C01; and to Councilmember Vincent Gray, whose Ward includes the Property. A description of the proposed development and the notice of the public hearing in this matter were published in the *DC Register* on February 9, 2018.
6. On February 20, 2018, the Applicant filed its Comprehensive Transportation Review (“CTR”). (Ex. 22-22A.)
7. On February 23, 2017, the Applicant filed its supplemental pre-hearing submission. (Ex. 27-27A5.) The supplemental pre-hearing submission included: (i) a comprehensive set of revised architectural plans and elevations; (ii) responses to outstanding issues from the set down of the application; and (iii) a statement regarding the Applicant’s community outreach.
8. On March 5, 2018, OP submitted a hearing report. (Ex. 30.) The OP hearing report recommended approval of the application. (Ex. 30, p. 1.)
9. On March 5, 2018, the District Department of Transportation (“DDOT”) submitted a hearing report. (Ex. 31.) The report stated that DDOT has no objection to the approval of the consolidated PUD subject to certain listed revisions and conditions, which were addressed by the Applicant at the public hearing. (Ex. 38A1-38A3.)
10. On March 5, 2018, the District Department of Energy and Environment (“DOEE”) submitted a hearing report. (Ex. 29.) The report stated that DOEE supported the approval of the consolidated PUD and recommend that the Applicant consider certain issues early in its design process that can fully addressed through DOEE’s normal regulatory review processes.
11. On March 12, 2018, the Applicant submitted a letter requesting that the public hearing on the application scheduled for March 15, 2018, be postponed in order to allow sufficient time to obtain the necessary application form(s) and authorization letter from the new owner of Lot 73 and update the Applicant’s information. (Ex. 33.)

12. On March 26, 2018, the Applicant submitted a letter updating the Applicant's information to include the NHP Foundation, and submitted updated letters of authorization from the owners of the Property. (Ex. 36-36C.)
13. ANC 7C filed a resolution in support of the application indicating that at its regularly scheduled and duly noticed public meeting of April 12, 2018, at which a quorum of commissioners was present, it voted 6-0-0 to support the application. (Ex. 37.) The resolution stated that ANC 7C supports the application contingent upon a Community Benefits Agreement ("CBA") being crafted between the applicant and the affected neighborhood citizens' association, Deanwood Citizens Association ("DCA").
14. The parties to the case were the Applicant and ANC 7C. Commissioner Antawan Holmes, the Chairperson of ANC 7C, testified at the public hearing on behalf of the ANC.
15. The public hearing on the application was held on May 7, 2018. At the public hearing, the Applicant presented the following witnesses: Warren Williams of the Warrenton Group; Stephanie Farrell, Torti Gallas Partners, architects for the Project; and Erwin Andres of Gorove/Slade transportation consultant for the Project. Based upon their professional experience and qualifications, the Commission qualified Ms. Farrell as an expert in planning and architecture and Mr. Andres as an expert in transportation planning and engineering.
16. Ms. Gina Smith, Project Manager for the New Communities Initiative at the Office of the Deputy Mayor for Planning and Economic Development, testified in support of the application. (Ex. 44.)
17. Karen Thomas with OP and Aaron Zimmerman with DDOT testified in support of the application at the public hearing.
18. No persons testified in opposition to the application at the public hearing.
19. Jamar Wells vice president of the DCA testified in support of the application.
20. At the conclusion of the public hearing, the Commission closed the record and took proposed action to approve the application.
21. On May 14, 2018, the Applicant filed its required initial list of proffers and draft conditions pursuant to 11-C DCMR § 308. (Ex. 43-43A.)
22. On May 21, 2018, the Applicant filed its post-hearing submission, which included a revised benefits and amenities package, a copy of the signed MOU between the Applicant and DCA, and revised drawings showing screening for the parking area. (Ex. 45-45B.)
23. On May 29, 2018, the Applicant submitted its proposed Findings of Fact and Conclusions of Law and its final list of proffers and proposed conditions pursuant to 11-C DCMR

§ 308.12, which included revisions suggested by the Office of the Attorney General. (Ex. 46-46A, 47-47A.)

24. The proposed action was referred to the National Capital Planning Commission (“NCPC”) on May 10, 2018, pursuant to § 492 of the Home Rule Act.
25. By letter dated June 4, 2018, NCPC’s Director of Urban Design and Plan Review stated that NCPC staff had determined that the project is exempt from NCPC review, pursuant to NCPC’s submission guidelines. (Ex. 48.)
26. The Commission took final action to approve the PUD on June 11, 2018.

The Property and Surrounding Area

27. The Property consists of two parcels totaling approximately 85,510 square feet of land area. Parcel 1 is currently improved with the Holy Christian Missionary Baptist Church and a carry-out restaurant, and Parcel 2 is occupied by a four-story office building. To the south, across Nannie Helen Burroughs Avenue, is the historic Strand Theater, the site for Strand Residences PUD (Z.C. Order No. 17-10), and Sargent Memorial Presbyterian Church. Immediately to the north of the Property is the Deanwood Hills residential development (Z.C. Order No. 15-10), which is currently under construction. The Property is well served by several Metrobus routes, including six routes within 0.2 miles of the Property.
28. The application included a Zoning Map amendment to rezone the Property from the MU-3 zone to the MU-4 zone. As detailed in Findings of Fact (“FF”) Nos. 45-48, the Commission finds that the requested map amendment is consistent with Future Land Use Map designation of mixed-use Moderate-Density Residential and Low-Density Commercial.

Existing and Proposed Zoning

29. The Property is currently zoned MU-3. The MU-3 zones are intended to permit low-density mixed-use development and provide convenient retail and personal service establishments for the day-to-day needs of a local neighborhood, as well as residential and limited community facilities with minimum impact upon surrounding residential development. (11-G DCMR § 400.2.) The MU-3 zone permits the following development standards:
 - Height: 40 feet and three stories; 40 feet for a PUD; (11-G DCMR § 403.1; 11-X DCMR § 303.7.)
 - Density: 1.0 FAR; 1.2 FAR with Inclusionary Zoning (“IZ”), with a maximum of 1.0 FAR for non-residential use; and 1.44 FAR for a PUD, with a maximum of 1.34 FAR for non-residential use; and (11-G DCMR § 402.1; 11-X DCMR § 303.3.)
 - Lot Occupancy: The maximum lot occupancy for residential use is 60% and 100% for non-residential use. (11-G DCMR § 104.1.)

30. The Applicant proposes to rezone the Property to the MU-4 zone, which permits the following development standards:

- Height: 50 feet, with no limit on the number of stories; and 65 feet for a PUD; (11-G DCMR § 403.1; 11-X DCMR § 303.7.)
- Density: 2.5 FAR; 3.0 FAR with IZ, with a maximum non-residential FAR of 1.5; and 3.6 FAR for a PUD, with a maximum non-residential FAR of 2.01; (11-G DCMR § 402.1; 11-X DCMR § 303.3.)
- Lot Occupancy: The maximum lot occupancy for residential use is 60% and 75% with IZ; and 100% for non-residential uses; (11-G DCMR § 404.1.)
- Rear Yard: The minimum rear yard is 15 feet; (11-G DCMR § 405.2.)
- Side Yard: No side yard is required for a building or structure other than a detached single dwelling unit or semi-detached single dwelling unit; however, if a side yard is provided it shall be at least two inches wide for each one foot of height of the building but no less than five feet; (11-G DCMR § 406.1.)
- Parking for Residential, multiple dwelling unit: one space per three dwelling units in excess of four units; (11-C DCMR § 701.5.)
- Parking for Retail: In excess of 3,000 square feet, one space per each 1,000 square feet of gross floor area; (11-C DCMR § 701.5.)
- Bicycle Parking for Residential Apartment: one space for each three dwelling units (long term); one space for each 20 dwelling units (short term); (11-C DCMR § 802.1.)
- Bicycle Parking for Retail: one space for per 7,500 square feet (long term); one space per 3,500 square feet (short term); (11-C DCMR § 802.1.)
- Loading for Residential More than 50 Units: one loading berth, one loading platform and one service/delivery space; (11-C DCMR § 902.2.)
- Loading for Retail with 5,000 to 20,000 square feet of gross floor area: one loading berth, one loading platform, and one service/delivery space; and (11-C DCMR § 902.2.)
- Green Area Ratio ("GAR"): The minimum required GAR is 0.3. (11-G DCMR § 407.1.)

Description of the PUD Project

31. As shown on the approved architectural drawings (“Plans”), the Applicant proposes to redevelop the Property as mixed-use development on two parcels. Parcel 1 consists of approximately 71,891 square feet, and will be improved with a building containing approximately 9,900 square feet of retail at the ground level; approximately 174,900 square feet of residential, generating approximately 151 units; and 143 covered parking spaces. The maximum building height will be 65 feet and the density will be 3.56 FAR. Parcel 2 consists of approximately 13,619 square feet, and will be improved with a building containing approximately 6,000 square feet of retail at the ground level; approximately 39,200 square feet of residential generating approximately 32 units; and 3 surface parking spaces. The maximum building height will be 63 feet and the density will be 3.32 FAR.
32. Of the 183 units proposed for the development, 61 will be replacement units for the Lincoln Heights and Richardson Dwellings residential communities controlled by the DC Housing Authority (“DCHA”). The replacement units include 12 one-bedroom, nine two-bedroom, 32 three-bedroom units, six four-bedroom units, and two five-bedroom units. Of the remaining units, 104 will be a mix of units reserved for households not exceeding 60% of the median family income (“MFI”) and 18 will be market-rate units.
33. The PUD will be certified under the *Enterprise Green Communities* standard and will use Enterprise Green Communities certification to meet the applicable Green Building Act Requirements. The Green Building Act states that the Enterprise Green Communities standard was developed for affordable housing, and shall be used for projects with at least 15% District financing. The Enterprise Green Communities Checklist for the project is included on Sheet G14 of the Plans. (Ex. 27A2.)

Development Flexibility

34. The Applicant requested flexibility to provide a minimum rear yard of eight feet, seven inches for portions of the building on Parcel 1 where a minimum rear yard of 15 feet is required pursuant to 11-G DCMR § 406.1 of the Zoning Regulations. The requested flexibility is necessary to provide a building with a regular geometry in relationship to Nannie Helen Burroughs Avenue. The eight-foot, seven-inch rear yard will not reduce the amount of light or air available to the building’s residents since the Applicant is providing landscaped central courtyard that consists of approximately 22,000 square feet.
35. The Applicant requested flexibility to provide a minimum side yard of eight feet on the west side of the building on Parcel 1 where, if provided, a minimum side yard of 10 feet, 10 inches is required pursuant to 11-G DCMR § 406.1 Zoning Regulations. The proposed side yard will not reduce the amount of light or air available to the building’s residents since the Applicant is providing landscaped central courtyard that consists of approximately 22,000 square feet and the side yard is adjacent to 51st Street. Although not required, the side yard allows the Applicant to provide stoops and landscaped entrances to enhance the residential character of 51st Street.

36. The Applicant also requested flexibility to provide a side yard of eight feet on the west side of the building on Parcel 2, where, if provided, a side yard of 10 feet, six inches is required pursuant to 11-G DCMR § 406.1 of the Zoning Regulations. The side yard will not reduce the amount of light or air available to the building's resident since the Applicant is providing a rear yard with an average depth of 45 feet and the side yard is adjacent to the alley being widened to 20 feet. The buildings on Parcel 1 and Parcel 2 will be separated by 38 feet as a result of the widened alley.
37. The Applicant has requested flexibility 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 make refinements to the garage configuration, including layout and number of parking spaces and other elements, so long as the number of parking spaces provided is at least the minimum number of required spaces, and also does not equal or exceed double the number of spaces required by the Zoning Regulations;
 - c. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the building;
 - d. To vary the final selection of the color of the exterior materials, within the color ranges reflected in the approved architectural drawings, without making changes to the exterior materials; and to make minor refinements to exterior details, locations and dimensions, including: window mullions and spandrels, window frames, doorways, glass types, belt courses, sills, bases, cornices, railings, canopies and trim; and any other changes that do not substantially alter the exterior design necessary to comply with all applicable District of Columbia laws and regulations;
 - e. To vary the location, attributes and general design of the streetscape incorporated in the PUD to comply with the requirements of and the approval by the DDOT Public Space Division;
 - f. To make refinements to exterior materials, details and dimensions including belt courses, sills, bases, cornices, railings, roof, skylight, architectural embellishments and trim, venting, window mullions and spacing, or any other changes to comply with the District of Columbia Building Code or that are necessary to obtain a final building permit or any other applicable approvals;
 - g. 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 Plans; and
 - h. To locate retail entrances in accordance with the needs of the retail tenants and vary the façades as necessary within the general design parameters proposed for the PUD

and to vary the types of uses designated as “retail” use on the approved Plans to include the following use categories: (i) Retail (11-B DCMR § 200.2(cc)); (ii) Services, General (11-B DCMR § 200.2(dd)); (iii) Services, Financial (11-B DCMR § 200.2(ee)); and (iv) Eating and Drinking Establishments (11-B DCMR § 200.2(j)).

The Commission modified the design flexibility granted through this order to limit the Applicant’s ability to modify the exterior materials and design.

Project Benefits and Amenities

38. Affordable Housing (§ 305.5(g)). Of the 183 units proposed for the PUD, 61 units shall be replacement units for the Lincoln Heights and Richardson Dwellings communities controlled by DCHA. Further, approximately 168,100 square feet of gross floor area shall be devoted to households with incomes not exceeding 60% of MFI and approximately 97,300 square feet of gross floor area shall be devoted to households with incomes at 30% of MFI. The mix of units for the PUD shall include 32 three-bedroom units, six four-bedroom units, and two five-bedroom units in order to accommodate families.
39. The Applicant will provide affordable housing in accordance with the chart below:

Residential Unit Type	Floor Area/ % of Total*	# of Units	Income Type	Affordable Control Period	Unit Type	Notes
Total	214,100/ 100%	183	Mixed			
IZ Units**	21,410/ 10%	18	Up to 60% of MFI	Life of the Project	Rental	Required only if the IZ exemption request pursuant to 11-C DCMR § 1001.6 is denied.
Affordable Non-IZ / Replacement Units	70,650/ 33%***	Up to 61***	Up to 60% of MFI	Subject to the HAP Contract with DCHA***	Rental	The amount of GFA, number of units, and Affordable Control Period is subject to the HAP Contract with DCHA***
Affordable Non-IZ	122,040/57% if the IZ exemption is granted, or 100,630/47% if the IZ exemption is denied	Minimum of 86 if the IZ exemption is denied. Minimum of 104 if the IZ exemption is granted. The actual number to be determined by the HAP contract.	Up to 60% of MFI	Life of the Project	Rental	All units that are not IZ Units, Replacement Units or Market Rate Units shall be Affordable Non-IZ units. Replacement Units shall become Affordable Non-IZ Units at the conclusion of the HAP Contract with DCHA.
Market	21,140/ 10%	18	Market Rate	Life of the Project	Rental	

- * *Refers to the residential gross floor area, but the floor area may be adjusted to subtract the building core factor.*
- ** *The IZ Units are only required if the IZ exemption is denied.*
- *** *These shall be replacement units for the Lincoln Heights and Richardson Dwellings communities. The HAP contract will determine the actual GFA, number of replacement units and the control period required for these units. At the conclusion of the control period, the former Replacement Unit shall convert to an "Affordable Non-IZ" unit.*

40. Employment and Training Opportunities (X-§ 305.5(h)).

- a. First Source Agreement. Prior to the issuance of a building permit, the Applicant shall enter into a First Source Employment Agreement with the Department of Employment Services ("DOES"), which requires that the Developer use DOES as its first source for recruitment, referral and placement of new hires or employees for the new jobs created by the Project, and will hire 51% of District of Columbia residents for all new jobs created; and 51% of apprentices employed in connection with the Project shall be District residents registered in programs approved by the District of Columbia Apprenticeship Council;
- b. Certified Business Enterprise ("CBE") Agreement. Prior to the issuance of a building permit, the Applicant shall enter into a CBE Agreement with the District Department of Small and Local Business Development to ensure that a preference is made to District-based firms pursuing District government issued procurement opportunities. In accordance with the CBE Agreement, the Developer shall expend funds contracting and procuring goods and services from CBEs in the amount equivalent to no less than 35% of the Adjusted Development Budget for the Project; and
- c. Job Fair. Prior to the issuance of a building permit for the PUD, the Applicant shall host a job fair for residents of the Deanwood neighborhood, Lincoln Heights and Richardson Dwellings. After construction of the Project has begun, and prior to the issuance of a certificate of occupancy for the PUD, the Developer shall host two additional job fairs for residents of the Deanwood neighborhood, Lincoln Heights and Richardson Dwellings. The job fairs shall include applications for training and employment opportunities related to the construction and operation of the PUD.

41. Environmental Benefits (§ 305.5(k)). The PUD shall meet the requirements of the *Enterprise Green Communities* standard for residential buildings. It shall employ environmentally sustainable strategies as called for in the Green Communities standard such as high efficiency mechanical systems, lighting, and windows; low-flow plumbing systems; and energy star appliances; low-emitting and recycled construction materials; pervious pavement; an extensive upper green roof and an intensive green roof at the courtyard. The Applicant shall promote a healthy environment for the buildings' residents by using safe non-toxic materials and properly ventilated spaces to prevent exposure to mold and other contaminants.

42. Uses of Special Value to the Neighborhood or the District as a Whole (§ 305.5(q)).

- a. Retail Tenant Search. The Applicant agrees to have a grocery store retailer as a primary focus of its retail tenant search. In the event the Applicant cannot attract a grocer to the Property, the Applicant agrees to market a portion of the retail space to a drug store and/or an eating and drinking establishment;
- b. Space for Local Business. The Applicant shall set aside approximately 1,200 square feet of the ground-floor retail/commercial space for neighborhood-serving retail or services, with preference being given to a business or organization owned and/or operated by a Ward 7 SBE or CBE; and
- c. Community Leadership Meetings. The Applicant shall meet monthly with community leadership to discuss updates on the development. The community leadership includes residents in proximity to the Property and organizations within the boundaries on ANC 7C, including but not limited to representatives of the Lincoln Heights, Richardson Dwellings, and Deanwood communities. The agenda, minimally, will cover updates on the following:
 - i. Construction;
 - ii. Employment;
 - iii. Retail Tenant Selection Process; and
 - iv. Community Benefits Fund

Comprehensive Plan

43. 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.
44. Purposes of the Comprehensive Plan. The purposes of the Comprehensive Plan are six-fold: (1) to define the requirements and aspirations of District residents, and accordingly influence social, economic and physical development; (2) to guide executive and legislative decisions on matters affecting the District and its citizens; (3) to promote economic growth and jobs for District residents; (4) to guide private and public development in order to achieve District and community goals; (5) to maintain and enhance the natural and architectural assets of the District; and (6) to assist in conservation, stabilization, and improvement of each neighborhood and community in the District. (D.C. Code §1-245(b) (§ 1-301.62).) The Commission finds that the PUD significantly advances these purposes by promoting the social, physical and economic development of the District through the provision of a high-quality residential development that will increase the housing supply, improve the District's natural and architectural assets, promote economic growth and jobs for District residents, and improve the surrounding community. The PUD

will achieve community goals by providing significant new affordable housing, and will do so through the construction of aesthetically pleasing new buildings that respect the character of the surrounding neighborhood without generating any adverse impacts.

45. Future Land Use Map. According to the District of Columbia Comprehensive Plan Future Land Use Map, the Property is designated as mixed-use Moderate-Density Residential and Low-Density Commercial. 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- to 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.)

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.)

46. The Framework Element of the Comprehensive Plan provides that the Land Use Map is not a zoning map. (*See* 10A DCMR § 226.1(a); *see also* Z.C. Order No. 11-13.) 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. (*Id.*) By definition, the Map is to be interpreted broadly. (*Id.*) Furthermore, 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 PUDs) may result in heights that exceed the typical ranges cited here. (*Id.* at § 226.1(c).) 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).)
47. Thus, in evaluating the proposed map amendment, the Property should be viewed in context and not as an isolated parcel. When taken in context with the surrounding neighborhood, the Applicant's proposal to rezone the Property from the MU-3 zone to the MU-4 zone in order to construct an apartment house with replacement units for Lincoln Heights and Richardson Dwellings, is consistent with the Comprehensive Plan's designation of the Property, particularly given the fact that the MU-4 zone (previously, the C-2-A Zone District) is specifically identified as a corresponding zone district in Low-Density Commercial Designation.

48. 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 New Communities Plan specifically recommends that the Property be rezoned to the C-2-B Zone District, which corresponds to the MU-5-A zone under the Zoning Regulations of 2016. (Ex. 4D.) The New Communities Plan also specifically recommends that the Property be redeveloped as part of the “Town Center” and depicts the redevelopment of the Property with a six-story building and ground floor retail. Thus, when taken in context with the surrounding neighborhood, the Applicant’s proposal to rezone the Property from the MU-3 zone to the MU-4 zone to construct the proposed PUD is less dense than the development called for in the New Communities Plan. Thus, the PUD and related map amendment are consistent with the designation of the Property on the Comprehensive Plan and the New Communities Plan designation for the Property.
49. Generalized Policy Map. The Generalized Policy Map of the Comprehensive Plan designates the Property as a Main Street Mixed-Use Corridor. Main Street Mixed-Use Corridors are traditional commercial business corridors with a concentration of older storefronts along the street. The service area for Main Streets can vary from one neighborhood (e.g., 14th Street Heights or Barracks Row) to multiple neighborhoods (e.g., Dupont Circle, H Street, or Adams Morgan). 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.)
50. The proposed map amendment will help implement the policies embodied in the Generalized Policy Map by strengthening the Nannie Helen Burroughs/Division Avenue Main Street Corridor through the redevelopment of underutilized and blighted parcels into an active and productive use. Redevelopment of the Property will benefit the existing businesses in the neighborhood and the District, generally. Furthermore, redevelopment of the Property will result in improvements to the public realm adjacent to the Property, thus improving pedestrian circulation along this portion of Division Avenue.
51. Guiding Principles and Major Elements of the Comprehensive Plan. The Commission further finds that the PUD is consistent with many guiding principles in the Comprehensive Plan for managing growth and change, creating successful neighborhoods, increasing access to education and employment, connecting the city, and building green and healthy communities, as discussed below.
52. Managing Growth and Change. In order to manage growth and change in the District, the Comprehensive Plan encourages diversity and asserts that the District “cannot sustain itself by only attracting small, affluent households. To retain residents and attract a diverse population, the city should provide services that support families [and prioritize] sustaining and prompting safe neighborhoods... and housing for families.” (10A DCMR § 217.2.)

Diversity also means maintaining and enhancing the District's mix of housing types... [with] housing developed for households of different sizes, including growing families as well as singles and couples." (10A DCMR § 217.3.) The Comprehensive Plan also states that redevelopment and infill opportunities along corridors is an important part of reinvigorating and enhancing neighborhoods. (10A DCMR § 217.6.) The PUD is fully consistent with each of these goals since the PUD results in redevelopment of the Property into a vibrant, mixed-use, mixed-income development intended to attract a diverse population of residents.

53. Creating Successful Neighborhoods. One of the guiding principles for creating successful neighborhoods is to protect, maintain, and improve residential neighborhoods. (10A DCMR § 218.1.) The preservation of existing affordable housing and the production of new affordable housing both are essential to avoid a deepening of racial and economic divides in the city. (10A DCMR § 218.3.) Public input in decisions about land use and development is an essential part of creating successful neighborhoods, from development of the Comprehensive Plan, to implementation of the Plan's elements. (10A DCMR § 218.8.) The PUD furthers these goals because it will simultaneously protect and improve the existing residential neighborhood while producing new affordable housing on a vacant and underutilized site. The Applicant has engaged neighborhood stakeholders, and will continue to do so as part of the PUD process, to ensure that redevelopment of the site creates a positive impact on the neighborhood.
54. Building Green and Healthy Communities. One of the guiding principles 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 PUD will be certified under the *Enterprise Green Communities* standard for residential buildings to meet the applicable Green Building Act Requirements. The Green Building Act states that the Enterprise Green Communities standard was developed for affordable housing, and shall be used for projects with at least 15% District financing. The PUD will employ environmentally sustainable strategies as called for in the Green Communities standard such as: high efficiency mechanical systems, lighting, and windows; low-flow plumbing systems; and energy star appliances; low-emitting and recycled construction materials; pervious pavement; an extensive upper green roof and an intensive green roof at the courtyard. A healthy environment for the buildings' residents will be created using safe non-toxic materials and properly ventilating spaces to prevent exposure to mold and other contaminants.
55. The Commission also finds that the PUD furthers the objectives of the *Lincoln Heights & Richardson Dwellings New Communities Initiative Revitalization Plan*, which was approved by the City Council on December 19, 2006, pursuant to Resolution No. 16-923, which encourages rezoning the Property to the C-2-B Zone District (MU-5-A zone under the Zoning Regulations of 2016). (Ex. 4D.) The PUD will provide up to replacement housing units for Lincoln Heights/Richardson Dwellings, as well as additional housing.

56. 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 Element, Urban Design Citywide elements, Infrastructure Element and the Far Northeast and Southeast Area Element, as set forth in the Applicant's Statement in Support and the OP Reports. (Ex. 4-4F, 13, 30.)

Office of Planning Reports

57. On December 1, 2017, OP submitted a report to the Commission recommending that the application be set down for a public hearing. (Ex. 13.) The OP report stated that the project "is not inconsistent with the Comprehensive Plan." (Ex. 13, p. 1.) The report also recommended that the Applicant provide the following: (i) design changes to strengthen the building's design; (ii) additional information on the requested/potential phasing of the project; (iii) consider the installation of solar panels on the building; and (v) materials samples.
58. On March 5, 2018, OP submitted a hearing report reiterating that the application is not inconsistent with the Comprehensive Plan and recommended approval of application including the flexibility requested. (Ex. 30.) OP stated that the "the proposed PUD meets this criterion and would not be inconsistent with the Comprehensive Plan's Generalized Future Land Use Map designation of moderate-density residential and low-density commercial, the Generalized Policy Map designation of a Main Street Mixed-Use Corridor and the Guiding Principles of the Framework Element. It also is consistent with the Land Use, Transportation, Housing, Urban Design, and Environmental Elements; as well as the policies of the Far Northeast and Southeast Area Element." (*Id.* at 5.)
59. The Commission finds that the Applicant sufficiently answered all of the outstanding questions posed by OP in its pre-hearing statement, supplemental pre-hearing statement, at the public hearing, and the post-hearing submission. (Ex. 16-16G, Ex. 27-27A5, Ex. 45-45B.)

DDOT Report and Testimony

60. On March 5, 2018, DDOT submitted a hearing report. (Ex. 31.) The DDOT hearing report indicated no objection to the application, subject to the Applicant doing the following:
- a. Clarifying that Transportation Information Center Display screens will be located in the lobby of each residential building; and
 - b. Enhancing the TDM measures to include the following elements:
 - i. Fund and install an expansion of at least four docks to the existing Capital Bikeshare station at the intersection of Division Avenue and Foote Street, N.E.;

- ii. The Applicant will work with a private carshare provider to place at least one (1) carshare vehicle on site, preferably in one of the three on-site parking spaces at the eastern building. In the event that a carshare provider cannot be secured for the project, the Applicant will offer a one-year Capital Bikeshare membership for each unit for the initial residents of the buildings; and
- iii. Provide at least eight shopping carts for residential use.

The report also stated in that the Applicant should provide a public access easement for the widened portions of the alley to private property to ensure residents of the Deanwood Hills property will have access through the Deanwood Town Center site.

- 61. At the public hearing, Aaron Zimmerman of DDOT testified that DDOT was agreeable to the Applicant's revised TDM measures and stated that DDOT had no objection to the application, subject to the revised Transportation Demand Management measures submitted by the Applicant.
- 62. At the public hearing, the Applicant's representative stated that the Applicant was in agreement with the conditions proposed by DDOT.

DOEE Report

- 63. On March 5, 2018, DOEE submitted a hearing report. (Ex. 29.) The DOEE hearing report indicated support for the application and recommend that the Applicant consider the following:
 - a. Capturing a higher storm level volume will benefit the Project and the neighborhood, and demonstrate the developer's commitment to the environment by providing needed relief from stormwater runoff. Hence, DOEE's Regulatory Review Division ("RRD") recommends the Project capture a 1.7-inch rain storm event;
 - b. Using lower-emitting technologies to the extent possible to provide power, heating, and cooling;
 - c. Maximize all strategies to increase energy efficiency and, therefore, decrease tenant utility costs; and
 - d. Incorporate solar panels to the maximum extent practicable and utilize the District's Community Solar program to offer the resulting cost-saving benefits to residents.
- 64. In response to the DOEE report, the Applicant incorporated solar panels on the roof of the PUD, as reflected on Sheet A05 of the plans dated May 7, 2018, and marked as Ex. 39A of the record. The Applicant testified at the hearing that the Project was designed to capture

a 1.2-inch rain storm event, not the higher 1.7-inch standard. The Commission considers this acceptable.

ANC Report

65. ANC 7C, the ANC in which the Property is located, filed a resolution in support of the Project, indicating that at its regularly scheduled and duly noticed public meeting of April 12, 2018, at which a quorum of commissioners was present, ANC 7C voted 6-0-0 to support the application. (Ex. 37.) The resolution stated that ANC 7C supports the application contingent upon a Community Benefits Agreement (CBA) being crafted between the applicant and the affected neighborhood citizens' association, Deanwood Citizens Association ("DCA"). Although the resolution refers to a CBA, the Applicant and the DCA entered into an agreement that is titled a Memorandum of Understanding. The agreement was entered into the record. (Ex. 45A.) The Applicant discussed the document at the hearing and clarified that it is the document that ANC 7C was referring to.

Interagency Review

66. OP circulated the application to DDOT, DOEE, DC Public Schools, DC Water, and DC Fire and Emergency Service for their review of the Project. (Ex. 30, p. 14.) Only DDOT and DOEE, submitted comments into the record.

Community Benefits Fund

67. Prior to the hearing, the Applicant proffered a community benefits fund ("Fund") as a public benefit of the Project. The Applicant stated the purpose of the Fund is to provide grant monies and/or loans to fund façade improvements to buildings and business within the boundaries of ANC 7C. The Applicant is obligated to create the fund by the agreement it signed with the Deanwood Citizens Association. The Applicant withdrew the Fund from its list of proffered benefits of the PUD because the Fund does not meet the PUD public benefits criteria for monetary contributions set forth in 11-X DCMR § 305.3(d). However, the Applicant intends to meet all its obligations under the agreement including those related to the Fund. The Applicant therefore consented to include its obligations related to the Fund in the conditions of this Order.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the purpose of the PUD process is to provide for higher quality development through flexibility in building controls, including building height and density, provided that a PUD: (a) results in a project superior to what would result from the matter-of-right standards; (b) offers a commendable number or quality of meaningful public benefits; and (c) protects and advances the public health, safety, welfare, and convenience, and is not inconsistent with the Comprehensive Plan. (11-X DCMR § 300.1.)

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 11-X DCMR, Chapter 3 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 Commission concludes that the proposed development:
 - a. Is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site;
 - b. Does not result in unacceptable project impacts on the surrounding area or on the operation of city services and facilities but instead concludes the impacts are either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the project. This Order includes conditions to ensure that any potentially unacceptable impacts are mitigated; and
 - c. Includes specific public benefits and project amenities of the proposed development that are not inconsistent with the Comprehensive Plan or with other adopted public policies and active programs related to the subject site.
5. The Commission has judged, balanced, and reconciled the relative value of the public benefits and project amenities offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case, and concludes the application should be approved.
6. Approval of the PUD is appropriate because the Project will promote the orderly development of the Property 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.
7. 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 reports in this case and, as explained in this decision, finds its recommendation to grant the application persuasive.
8. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the issues and concerns raised in the written report of the affected ANC. ANC 7C's report expressed no issues or concerns, just that the ANC's support "was

contingent on a Community Benefits Agreement (CBA) being crafted between the applicant and the affected neighborhood citizens association, Deanwood Citizens Association (“DCA”).”¹ . Because the ANC expressed no issues or concerns, there is nothing for the Zoning Commission to give great weight to. (*See Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The Commission carefully considered the ANC 7C’s position supporting approval of the application and concurred in its recommendation of approval.

9. 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 application for consolidated review and approval of a planned unit development and related Zoning Map amendment from the MU-3 to the MU-4 zone for Square 5197, Lots 1, 64, 65, and 73. The approval of this PUD is subject to the guidelines, conditions, and standards set forth below.

A. Project Development

1. The PUD shall be developed in accordance with the plans titled “Deanwood Town Center”, prepared by Torti Gallas Partners dated February 23, 2018, and marked as Exhibits 27A1-27A5 of the record, and as modified by the plans submitted by the Applicant at the public hearing dated May 7, 2018, and marked as Exhibits 39A1 and 39A2 of the record, and as further modified by the plans submitted with the Applicant’s post-hearing submission dated May 7, 2018, 2017, and marked as Exhibit 45B of the record (collectively, the “Plans”).
2. The Applicant has 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 make refinements to the garage configuration, including layout and number of parking spaces and other elements, so long as the number of parking spaces provided is at least the minimum number of required spaces, and also does not equal or exceed double the number of spaces required by the Zoning Regulations;
 - c. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and

¹ Although the resolution refers to a CBA, the Applicant and DCA actually entered into an MOU, which was discussed during the public hearing. (Ex. 45A.)

mechanical rooms, provided that the variations do not change the exterior configuration of the building;

- d. 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 Plans;
- e. To make minor refinements to exterior details, locations and dimensions, including: window mullions and spandrels, window frames, doorways, glass types, belt courses, sills, bases, cornices, railings, canopies and trim; and any other changes that do not substantially alter the exterior design shown on the Plans necessary to comply with all applicable District of Columbia laws and regulations;
- f. To vary the location, attributes and general design of the streetscape incorporated in the PUD to comply with the requirements of and the approval by the DDOT Public Space Division;
- g. To make minor refinements to exterior materials, details and dimensions including belt courses, sills, bases, cornices, railings, roof, skylight, architectural embellishments and trim, venting, window mullions and spacing, or any other changes that do not substantially alter the exterior design shown on the Plans to comply with the District of Columbia Building Code or that are necessary to obtain a final building permit or any other applicable approvals;
- 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 Plans; and
- i. To locate retail entrances in accordance with the needs of the retail tenants and vary the façades as necessary within the general design parameters proposed for the PUD and to vary the types of uses designated as “retail” use on the Plans to include the following use categories: (i) Retail (11-B DCMR § 200.2(cc)); (ii) Services, General (11-B DCMR § 200.2(dd)); (iii) Services, Financial (11-B DCMR § 200.2(ee)); and (iv) Eating and Drinking Establishments (11-B DCMR § 200.2(j)).

B. Public Benefits

- 1. The PUD shall include affordable units as set forth in this condition:
 - a. The Applicant shall provide the affordable housing set forth in the following chart. The chart assumes that the Applicant will apply for the exemption from the Inclusionary Zoning regulations (“the IZ Regulations”) set forth in Subtitle C, Chapter 10 of the Zoning Regulations, pursuant to 11-C DCMR

§ 1001.6 (“IZ Exemption”). However, the Commission takes no position as to whether the IZ Exemption should be granted;

Residential Unit Type	Floor Area/ % of Total*	# of Units	Income Type	Affordable Control Period	Affordable Unit Type	Notes
Total	214,100/100%	183	Mixed			
IZ Units**	21,410/10%	18	Up to 60% of MFI	Life of the Project	Rental	Required only if the IZ exemption request pursuant to 11-C DCMR § 1001.6 is denied.
Affordable Non-IZ / Replacement Units	70,650/ 33%***	Up to 61***	Up to 60% of MFI	Subject to the HAP Contract with DCHA***	Rental	The amount of GFA, number of units, and Affordable Control Period is subject to the HAP Contract with DCHA***
Affordable Non-IZ	122,040/ 57% if the IZ exemption is granted, or 100,630/ 47% if the IZ exemption is denied.	Minimum of 86 if the IZ exemption is denied. Minimum of 104 if the IZ exemption is granted. The actual number to be determined by the HAP contract.	Up to 60% of MFI	Life of the Project	Rental	All units that are not IZ Units, Replacement Units or Market Rate Units shall be Affordable Non-IZ units. Replacement Units shall become Affordable Non-IZ Units at the conclusion of the HAP Contract with DCHA.
Market	21,140/10%	18	Market Rate	Life of the Project	Rental	

* Refers to the residential gross floor area, but the floor area may be adjusted to subtract the building core factor.

** The IZ Units are only required if the IZ exemption is denied.

*** These shall be replacement units for the Lincoln Heights and Richardson Dwellings communities. The HAP contract will determine the actual GFA, number of replacement units and the control period required for these units. At the conclusion of the control period, the former Replacement Unit shall convert to an “Affordable Non-IZ” unit.

- b. Each control period shall commence upon the issuance of the first certificate of occupancy for the PUD;
- c. Should the IZ Exemption be granted, the Applicant shall record the covenant required by 11-C DCMR § 1001.6(a)(4) as to the 10% of the residential gross floor area of the building (which is equal to 18 units), and shall execute the monitoring and enforcement documents required by 11-X DCMR § 311.6 as to the remaining residential gross floor area, excluding the Market units;

- d. Should the IZ Exemption be denied, the Applicant shall nevertheless provide affordable housing in accordance with this condition, unless the IZ Regulations impose more restrictive standards. The Applicant shall record the covenant required by the Inclusionary Zoning Act as to 10% of the residential gross floor of the building (which is equal to 18 units), and shall execute the monitoring and enforcement documents required by 11-X DCMR § 311.6 as to the remaining residential gross floor area; and
 - e. As indicated on the chart, the Applicant shall reserve up to 61 units for replacement units for the Lincoln Heights and Richardson Dwellings communities. The actual GFA, number of units and control period for the replacement units shall be in accordance with the HAP contract entered into with DCHA.
- 2. **Prior to the issuance of a Building Permit for the Project**, the Applicant shall submit to the Zoning Administrator a copy of the executed First Source Employment Agreement with DOES.
 - 3. **Prior to the issuance of a Building Permit for the Project**, the Applicant shall submit to the Zoning Administrator a copy of the executed CBE Agreement with DSLBD.
 - 4. **Prior to the issuance of a building permit for the PUD**, the Applicant shall submit to the Zoning Administrator evidence that a job fair for training and employment opportunities related to the construction and operation of the PUD was hosted for residents of the Deanwood neighborhood and the Lincoln Heights and Richardson Dwelling communities. **After construction of the Project has begun, and prior to the issuance of a certificate of occupancy for the PUD**, the Developer shall host two additional job fairs for residents of the Deanwood neighborhood, Lincoln Heights and Richardson Dwellings. The job fairs will include applications for training and employment opportunities related to the construction and operation of the PUD.
 - 5. **Prior to the issuance of a final Certificate of Occupancy for the Project**, the Applicant shall furnish a copy of its preliminary *Enterprise Green Communities* certification application to the Zoning Administrator demonstrating that the building has been designed to meet the *Enterprise Green Communities* standard for residential buildings, as shown on the *Enterprise Green Communities* Checklist on Sheet G14 of the Plans. (Ex. 27A2.)
 - 6. **Prior to the issuance of a final certificate of occupancy for the Project**, the Applicant shall install solar panels on the roof of the building, as shown on Sheet A05 of the Plans, dated May 7, 2018, and marked as Exhibit 39A.
 - 7. The Applicant shall set aside approximately 1,200 square feet of retail/commercial space at the ground floor of the building for neighborhood serving retail or services,

with preference being given to a business or organization owned and/or operated by a Ward 7 SBE or CBE. **Prior to the issuance of a final certificate of occupancy for the retail space,** the Applicant shall furnish evidence to the Zoning Administrator that leasing of the space was marketed to businesses or organizations owned and/or operated by Ward 7 SBEs or CBEs. In the event, that the Applicant is unable to secure a Ward 7 SBE or CBE to occupy the space within six months after the effective date of this Order, the space shall not be restricted to a Ward 7 SBE or CBE.

8. **Prior to the issuance of a final certificate of occupancy for the retail space,** the Applicant shall furnish evidence to the Zoning Administrator that leasing of the retail space in the PUD was marketed to a grocery store retailer. In the event the Applicant cannot attract a grocery store to the Property, the Applicant shall furnish evidence to the Zoning Administrator that leasing of a portion the retail space was marketed to a drug store and/or eating and drinking establishment. In the event, that the Applicant is unable to secure a grocery store, drug store, and/or eating and drinking establishment as a tenant within six months after the effective date of this Order, other types of permitted uses may occupy the retail space.
9. **Prior to the issuance of a final certificate of occupancy for the Project,** the Applicant shall meet monthly with community leadership to discuss updates on the development. The community leadership includes residents in proximity to the Property and organizations within the boundaries on ANC 7C, including but not limited to representatives of the Lincoln Heights, Richardson Dwellings, and Deanwood communities.

C. **Transportation**

1. **Prior to the issuance of a final certificate of occupancy for the Project,** the Applicant shall record a covenant in the record of the Recorder of Deeds that is acceptable to DDOT that grants a perpetual eight-foot-wide alley easement along the eastern edge of Parcel 1, effectively widening the existing 12-foot-wide public alley in between the two parcels from 12 feet to 20 feet, as shown on Sheets G11 and G12 of the Plans.
2. **During the operation of the building,** the Applicant shall provide a Transportation Management Program, as set forth in the TDM section of the memo prepared by Gorove/Slade Associates, dated January 29, 2018. (Ex. 22A). The TDM Plan shall include the following:
 - a. The Applicant shall work with DDOT and goDCgo (DDOT's TDM program) to implement TDM measures at the site;
 - b. 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;
- c. The Applicant shall share the full contact information of the TDM coordinator for the site with DDOT and goDCgo;
 - d. The Applicant shall provide TDM materials to new residents in the Residential Welcome Package materials;
 - e. The Applicant shall exceed the zoning requirements to provide bicycle parking facilities at the proposed development. This includes secure parking located on-site and a minimum of 18 short-term bicycle parking spaces around the perimeter of the Site (in the form of nine bicycle racks);
 - f. The Applicant shall provide a bicycle repair station to be located in the secure long-term bicycle storage room;
 - g. The Applicant shall install a Transportation Information Center Display (electronic screen) within the residential lobby of both residential buildings, which will contain information related to local transportation alternatives;
 - h. The Applicant shall fund the expansion of at least four docks to the existing Capital Bikeshare station at the intersection of Division Avenue and Foote Street, N.E., at a maximum contribution of \$2,000;
 - i. The Applicant shall work with a private carshare provider to place at least one carshare vehicle on site, preferably in one of the three on-site parking spaces at the eastern building. **In the event that a carshare provider cannot be secured for prior to the issuance of a final certificate of occupancy for the Project**, the Applicant will offer a one-year Capital Bikeshare membership for each unit for the initial residents of the buildings;
 - j. The Applicant shall provide at least eight shopping carts for residential use; and
 - k. The Applicant shall reserve at least three parking spaces to be served by electric car charging stations.
3. To enhance safety for motorists and pedestrians in the vicinity of the Property, the Applicant shall fund and construct the following roadway network improvements, all subject to DDOT approval:
- a. Remove the westernmost median break and eastbound left-turn lane on Nannie Helen Burroughs Avenue, N.E. in the location of the existing curb cuts to be closed;

- b. Install signage on the eastbound and westbound Nannie Helen Burroughs Avenue approaches at Division Avenue restricting U-turns; and
- c. Install signage on the northbound 50th Street approach at Nannie Helen Burroughs Avenue, N.E. restricting left-turns.

D. Loading Management Plan

- 1. **For the life of the Project**, the Applicant shall implement a loading management plan for the PUD as follows:
 - a. A loading manager shall be designated by the building management. The manager shall coordinate with residents to schedule deliveries 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 dock manager shall coordinate with trash pick-up to help move loading expeditiously between their storage area inside the building and the curb beside the loading area 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 § 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 dock manager shall also post these documents in a prominent location within the service area.

E. Miscellaneous

- 1. **Prior to the issuance of a building permit for the Project**, the Applicant shall enter into an agreement for the creation of a community benefits fund (“Fund”). The purpose of the Fund is to provide grant monies and/or loans to fund façade improvements to buildings and business within the boundaries of ANC 7C. Under the agreement the Applicant shall contribute \$100,000 to the Fund. Said contribution may be paid in either a lump sum or in three annual payments of \$33,333 per year. The initial payment to the Fund shall occur **prior to the issuance of a building permit for the Project**.

2. 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 Property 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.
3. The PUD shall be valid for a period of two years from the effective date of this Order within which time an application shall be filed for a building permit. Construction must begin within three years of the effective date of this Order.
4. 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.
5. 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 May 7, 2018, upon the motion of Vice Chairman Miller, as seconded by Commissioner Shapiro, the Zoning Commission took **PROPOSED ACTION** to **APPROVE** the application at the conclusion of its public hearing 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).

On June 11, 2018, 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 **4-0-1** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve; Peter A. Shapiro, not present, not voting).


In accordance with the provisions of 11-Z DCMR § 604.9 of the Zoning Regulations, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on July 6, 2018.

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 for
DIRECTOR
OFFICE OF ZONING