

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 09-15

Z.C. Case No. 09-15

**Application for a Consolidated Planned Unit Development and Related Map Amendment
for 1412 Chapin Street, N.W. (Lot 152 in Square 2661)**

(G.K.D. 1412 Chapin Street, LLC)

June 14, 2010

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on April 1, 2010 to consider an application from G.K.D. 1412 Chapin Street, LLC (the "Applicant") for consolidated review and approval of a planned unit development ("PUD") and related amendment to the Zoning Map for the property in Square 2661, Lot 152, located at the street address 1412 Chapin Street, N.W. (the "Property"). The Commission considered the application pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations (the "Regulations"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application.

The Application and Hearing

1. On September 25, 2009, the Applicant filed an application for consolidated review and approval of a PUD and related map amendment for the Property. The Property is located in the R-5-B Zone District.
2. The Commission set down the application for public hearing at its November 9, 2009 public meeting. Notice of the public hearing, including a description of the subject property and the proposed development, was published in the *D.C. Register* on January 1, 2010 at 57 DCR 118, and was mailed to all property owners within 200 feet of the Property, and to Advisory Neighborhood Commission ("ANC") 1B. The public hearing was scheduled for February 11, 2010. Due to record snowfalls in Washington, D.C. and a District-wide closure due to the inclement weather, the hearing for February 11, 2010 was cancelled.
4. Notice of the rescheduled public hearing was published in the *D.C. Register* on February 19, 2010 at 57 DCR 1608, and was mailed to all property owners within 200 feet of the Property, and to ANC 1B. The rescheduled public hearing was set for April 1, 2010.
5. The application was updated by a pre-hearing submission on December 2, 2009, a supplemental pre-hearing submission on January 22, 2010, the Applicant's presentation

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at the public hearing, and a post-hearing submission as requested by the Commission, which the Applicant filed on April 27, 2010.

6. The Commission opened and closed the public hearing on the application on April 1, 2010, which was conducted in accordance with the provisions of 11 DCMR § 3022. Parties to the proceeding were the Applicant and ANC 1B. During the public hearing, the Commission heard testimony and received evidence from the parties and from the Office of Planning (“OP”) and District Department of Transportation (“DDOT”), as well as from three individuals residing in the neighborhood surrounding the Property.
7. At the April 1, 2010 public hearing, the Commission recognized Jeffrey Goins of PGN Architects as an expert in architecture, Nicole White of Symmetra Design as an expert in traffic engineering and transportation planning, and Ellen McCarthy of Arent Fox LLP as an expert in planning and zoning.
8. The Applicant further refined plans, drawings, and other components of the application in response to the Commission’s comments and concerns, and submitted the revisions with other information requested by the Commission in a post-hearing submission filed on April 26, 2010. The post-hearing submission also addressed issues raised by DDOT during the course of the public hearing.
9. At a public meeting on May 10, 2010, the Commission took proposed action to approve the application. The Commission ordered the Applicant to submit its final list of proffered benefits for the consolidated PUD, and for each public benefit, a draft condition that is both specific and enforceable by May 17, 2010, and to serve the submission on the District of Columbia Office of Zoning (“OZ”), OP, the Office of the Attorney General (“OAG”), and ANC 1B; further ordered that OP and OAG communicate with the Applicant regarding any perceived deficiencies in the Applicant’s proposed conditions by May 24, 2010; that the Applicant submit any revisions to the conditions made as a result of this communications to OZ, OP, OAG, and ANC 1B by May 31, 2010; and that OAG, OP, and ANC 1B file any responses to the Applicant’s final draft by June 7, 2010.
10. The proposed action of the Commission was referred to the National Capital Planning Commission (“NCPC”) pursuant to § 492 of the Home Rule Act. NCPC, by action dated May 27, 2010, found that the proposed PUD and amendment to the Zoning Map would not affect the federal interests in the National Capital, and would not be inconsistent with the Comprehensive Plan for the National Capital.
11. The Applicant submitted its final list of proffered benefits and draft conditions on May 17, 2010 and revised conditions on June 1, 2010. The Commission took final action to approve the Application on June 14, 2010, with conditions.

PUD Site and Surrounding Area

12. The Property consists of a rectangular parcel and is bounded by Chapin Street, N.W. on the north, a public alley running north-south in Square 2661 on the east, a public alley running east-west in Square 2661 on the south, and a residential apartment building to the west. The Property consists of 9,000 square feet of land area and is located in the Columbia Heights neighborhood in Ward 1.
13. The Property is more than 150 feet deep, but is just 60 feet wide, and is bounded on two sides by public alleys, each 20 feet in width. The residential apartment building on the west is set back from its property line, but if redeveloped, could be built to the property line. To the east of the Property, across the public alley, is the former Nehemiah Shopping Center site, which awaits development via an approved PUD (Zoning Commission Case No. 06-24) (the "Level 2 PUD"). The Level 2 PUD includes 225 units of market rate and affordable housing and approximately 16,000 square feet of retail in a single building that is 90 feet in height.
14. The Property is located in the Medium-Density Residential Land Use category on the District of Columbia Future Land Use Map.

Description of the PUD Project

15. The proposed project consists of a residential apartment building containing up to 44 units of affordable housing. The units will be distributed among studio, one-bedroom, and two-bedroom units as follows: nine studio units, 26 one-bedroom units, and nine two-bedroom units. All units will be reserved for households earning less than 60% of the Area Median Income ("AMI").
16. The ground floor of the building will provide a building manager's office, a fitness center, and access to a common terrace on the roof of the first floor in a courtyard oriented to the west. An additional terrace, approximately 3,000 square feet in size, will be located on the roof.
17. The exterior elevations will be clad in a combination of red and beige brick veneer, beige and buff stone veneer, and composite aluminum paneling in grey and copper tones.
18. The building will include 15 parking spaces (including one handicapped-accessible space), plus a dedicated service/delivery space in a partially below-grade garage, accessed from the public alley in the rear of the building.
19. In conjunction with the PUD, the Applicant requests an amendment to the Zoning Map from the R-5-B Zone District to the C-2-B Zone District, in order to accommodate the proposed uses, height, and density of the Project.

20. The total gross floor area of the PUD is approximately 48,258 square feet, for a total density of 5.36 floor area ratio ("FAR"). The proposed building will have a height of 57 feet/five stories. The project will have a lot occupancy of 100% on the ground floor and approximately 87% on floors two through five.

Satisfaction of PUD Evaluation Standards

21. Pursuant to 11 DCMR § 2401.1, the minimum area required for PUDs in the C-2-B District, the requested zone pursuant to the application, is 15,000 square feet. The Commission may waive up to 50% of this requirement, pursuant to 11 DCMR § 2401.2, provided that (1) the Commission finds, after a public hearing, that the development is of exceptional merit and in the best interest of the city or country; and (2) if the development is to be located outside of the Central Employment Area, at least 80% of the gross floor area of the development shall be used exclusively for dwelling units and uses accessory thereto. The Property is just 9,000 square feet in land area, therefore the Applicant seeks a waiver from the minimum land area requirement found in 11 DCMR § 2401.1. In this case, the Applicant seeks a waiver of 40% of the minimum required land area. The site is outside of the Central Employment Area and 100% of the gross floor area of the development will be devoted to residential uses and uses accessory thereto. The project is of exceptional merit and in the best interest of the city, in that it will produce up to 44 units of affordable, "workforce" housing for the District of Columbia.
22. Pursuant to 11 DCMR Chapter 24, the Applicant requested a PUD-related rezoning to the C-2-B Zone District. The proposed PUD's height, density, and lot occupancy are within the matter-of-right limitations for the C-2-B Zone District, and are therefore within the PUD standards set forth in 11 DCMR § 2405. In addition, the Applicant requested relief from maximum lot occupancy (§ 772), rear yard setback (§ 774.1), and roof structure requirements (§ 411). This requested flexibility will have no impact on the surrounding properties.
23. At the public hearing, the Applicant's representatives, Jordan Bishop and Buwa Binitie, described their contact with the community, including the ANC, regarding the project. The Applicant also noted that he had met with OP; DDOT; the Single Member District ("SMD") Commissioner for ANC 1B06, Meghan Conklin; and the Meridian Hills Neighborhood Association.
24. The project will not cause adverse traffic or parking impacts, as demonstrated by the Applicant's traffic study and by testimony presented by the Applicant's traffic consultant, Nicole White, who was recognized by the Commission in the field of traffic engineering and transportation planning. The Applicant's traffic expert testified that the proposed development will not have a significant impact on traffic or parking in the neighborhood. According to the traffic expert, the Applicant will institute and maintain a Transportation Demand Management Plan, including such features as on-site bicycle storage and complimentary transit benefits to initial residents of the project.

25. As detailed in the Applicant's written submissions and testimony to the Commission, the proposed PUD will provide the following project amenities and public benefits:

- Housing and Affordable Housing. The proposed building will include 44 units. The units will be distributed as follows: nine studio, 26 one-bedroom, and nine two-bedroom apartments. These units will remain affordable for a minimum of 30 years following completion of construction and will be reserved for households earning less than 60% of the AMI. Four of these units will remain affordable as Inclusionary Units subject to Chapter 26 of the Zoning Regulations.
- Urban Design, Architecture, and Open Spaces. The Applicant's architect, Jeff Goins, who was admitted as an expert in architecture, testified that the project's design showed a strong sense of neighborhood compatibility by bridging the traditional limestone and brick facades of older apartment buildings along Chapin Street to the west, with the modern and high-density character of the architecture approved for the Level 2 PUD immediately to the east of the Property. The density, massing, and height also provide an appropriate transition from the 90-foot high, 6.0 FAR building approved as part of the Level 2 PUD to the east and the less intensive residential buildings to the west of the Property. Mr. Goins testified that the unique shape of the Property and its extraordinarily deep lot required orientation of the units along the public alley to the east, because any windows along the west façade would be at risk. Mr. Goins testified further that the primary design object was to provide Class A residential units in a building that is reserved for the workforce and will be superior to the typical affordable housing product being built in the District of Columbia today.
- Site Planning and Efficient and Economical Land Uses. The proposed development has been designed to maximize the number of affordable units provided while maintaining spaces for residents and their guests to enjoy the outdoors. A fitness center is provided on the ground floor, with a terrace above which will be accessible to all residents. A large roof terrace accessible to all residents is also provided. Parking is provided on site and entirely below grade. Numerous bicycle parking spaces will be provided in the building so that residents will not need to store their bicycles inside their units.
- Environmental Benefits. The proposed development will meet or exceed the Enterprise Green Communities standard. Features will include numerous environmentally-sensitive elements, including: high emissive roofing (reducing heat island effect), privately-metered electrical services, individually-controlled heating and air conditioning units, and non-vinyl and non-carpet floor coverings for improved indoor air quality.
- Transportation. The Applicant has proposed several transportation management measures, but since the site is located within one-half mile of two Metrorail stations

and is close to several major bus lines running along the 14th Street corridor, these measures are not necessary to mitigate any adverse impacts; they are therefore public benefits and/or amenities. Such amenities include a one-time, complimentary \$50.00 SmarTrip fare card for Metro use to each residential unit upon initial occupancy, a one-time membership fee subsidy in D.C. SmartBike or a one-time membership fee subsidy for participation in ZipCar for each unit upon initial occupancy. The project will also supply a significant number of indoor bicycle parking spaces.

- Employment and Training Opportunities. The Applicant will partner with MentoringWorks2, Inc. (“MW2”), a community-based non-profit organization that operates mentoring programs with at-risk, inner-city youth to employ a minimum of two MW2 youth participants in a pre-apprenticeship with the Developer and/or general contractor of the project. The partnership with MW2 will allow youth to participate in and observe the development from architectural design through construction phases. Additionally, the Applicant will execute a First-Source Employment Agreement with the Department of Employment Services (“DOES”) and enter into an agreement with the D.C. Department of Small and Local Business Development office to promote and encourage the hiring of District of Columbia residents.
- Comprehensive Plan. The PUD is not inconsistent with the Property’s Medium-Density Residential Land Use designation on the Future Land Use Map. While the Future Land Use Map typically is helpful in determining appropriate uses and density in areas of the city, it is not intended to serve as a “general” zoning map, nor does it mandate a parcel-by-parcel limitation on permitted development. The proposed Project and C-2-B Zone District are consistent with the flexibility that the Medium-Density Residential Land Use category provides for the Property. In addition, the PUD is not inconsistent with the District Elements of the Comprehensive Plan, including the Land Use Element, the Housing Element, Urban Design Element, and Mid-City Area Element.
- Housing Element. The proposed development is consistent with the housing provisions of the Comprehensive Plan as it creates 44 units of new affordable rental units. The Housing Element of the Comprehensive Plan seeks to ensure housing affordability, foster housing production, and limit displacement. The Property is located in a residential neighborhood. A new development of residential units will not be disruptive; in fact, in this particular case, the new development will help activate this long-neglected corner in the 14th Street corridor, as the Property and the sites immediately east and south of the Property are all currently vacant. No displacement of residents will occur as a result of this development, and many more neighborhood residents will be able to remain in the area because of the affordable units being provided as part of the project.

- Land Use Element. The proposed development has been carefully designed to incorporate the style and improve the aesthetics of the surrounding community. The project will have a pleasing architectural style that will help stabilize and revitalize this portion of the 14th Street corridor.
- Mid-City Area Element. The Project is consistent with the Mid-City Area Element calling for medium-density development transforming the corridor from “auto-oriented commercial uses, including several ‘strip’ shopping center and warehouses, to an attractive urban residential street.” The project is consistent with the specific direction to provide affordable and/or subsidized housing in this area, and to “establish appropriate transitions in scale and density” between the 14th Street corridor and the less dense residential areas to the west and east.

Government Reports

26. In its February 1, 2010 report, and by testimony at the public hearing, OP recommended that the Commission approve the project. OP determined that the project is consistent with the goals and objectives of the Comprehensive Plan by providing public benefits. OP noted that, although the Property is designated as Medium-Density Residential on the Future Land Use Map, the C-2-B Zone District requested by the Applicant would not be inconsistent with this designation and recommended that the entire Property be re-zoned to the C-2-B Zone District.
27. In its February 8, 2010 report and by testimony at the public hearing, DDOT recommended approval of the project, subject to conditions. DDOT’s recommended conditions included adherence to the Building Code by removing all projections over the property lines, removal of all vaults in the sidewalk adjacent to the project, and installation of DDOT-approved bicycle racks as part of the Project. Following the public hearing, the Applicant met with DDOT on two separate occasions and worked with the agency to revise its plans so that DDOT could recommend approval of the design including projections above the public alleys. On April 26, 2010, DDOT indicated its support of the revised design as shown on the plans submitted by the Applicant on that date.

ANC Report

28. ANC 1B sent a letter indicating support of the project dated December 18, 2009, indicating that the ANC voted unanimously, with a quorum of commissioners present, on October 1, 2009 to support the application, including the applicant’s request for relief for lot occupancy, construction of a penthouse, and rear yard. ANC 1B did not appear at the public hearing.

Persons in Opposition

29. Eva Yoseph, a resident of 1421 Chapin Street N.W.; Al Afshar, owner of 1416 Chapin Street, N.W.; and Charles Meish, a resident of 1412 Chapin Street, N.W., all testified at the public hearing in general opposition to the project. Ms. Yoseph and Mr. Afshar expressed concern about the number of subsidized housing units in the surrounding neighborhood and the proposed building's height, respectively. Mr. Meish testified that he was not opposed to the project, *per se*, but that he wanted to know more about who would be managing the building once constructed and the role of MW2 in the project plans.

Compliance with PUD Standards

30. In evaluating a PUD application, the Commission must “judge, balance, and reconcile the relative value of Project amenities and public benefits offered, the degree of development incentives requested, and any adverse effects.” (11 DCMR § 2403.8.) The Commission finds that the related rezoning, development incentives, and requested flexibility from the Zoning Regulations are appropriate and are justified by the benefits and amenities offered by this project.
31. The Commission credits the testimony of the Applicant, OP, ANC 1B, and DDOT, and finds that the project is acceptable in all proffered categories of public benefits and project amenities, including the proposed housing and affordable housing, environmental benefits, transportation benefits, employment and training opportunities, and architectural planning and design. The Commission agrees with the written submissions and testimony of the Applicant's representatives that the project will provide superior features that benefit the surrounding neighborhood to a significantly greater extent than a matter-of-right project on the subject Property would provide.
32. The Commission finds that the Property is a suitable site for the proposed PUD and that the character, scale, mix of uses, and design of the project are appropriate, and finds that the site plan is consistent with the intent and purposes of the PUD process to encourage high quality developments that provide public benefits.
33. The Commission finds that the project is of exceptional merit, in the best interest of the city, and meets the requirements of 11 DCMR § 2401.2 for a waiver of the minimum land area required for a PUD in the C-2-B Zone District.
34. The Commission credits the testimony of OP that the project provides benefits and amenities of substantial value to the community and the District that are commensurate with the rezoning and other flexibility sought through the PUD. The Commission also credits the testimony of OP that the proposed rezoning to the C-2-B Zone District is appropriate. Finally, the Commission credits the testimony of OP that the proposed PUD

is not inconsistent with the Future Land Use Map, District Elements, and applicable Area Element of the Comprehensive Plan.

35. The Commission credits the testimony of the Applicant's traffic consultant and finds that the traffic, parking, and other impacts of the project on the surrounding area are negligible.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality developments that provide public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." (11 DCMR § 2400.2.)
2. Under the PUD process, the Commission has the authority to consider this application as a consolidated PUD. (11 DCMR § 2402.5.) The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards. In this application, the Commission finds that the requested relief from the rear yard, lot occupancy, and roof structure requirements can be granted with no detriment to surrounding properties and without detriment to the zone plan or map.
3. The development of the PUD project executes the purposes of Chapter 24 of the Zoning Regulations to encourage 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. Notice of the public hearing was provided in accordance with the Zoning Regulations.
5. The Application meets the requirements for waiver of minimum area requirements for a PUD pursuant to 11 DCMR § 2401.2.
6. The PUD is within the applicable height and density standards of the Zoning Regulations. The proposed height and density will not cause significant adverse impacts on any nearby properties. The proposed affordable residential units are appropriate for this site.
7. The impact of the project on the surrounding area and the operation of city services and facilities is not unacceptable. As demonstrated in the traffic study submitted by the Applicant, the project will not cause adverse traffic impacts. Overall, the impact of the project on the surrounding area and operation of city services and facilities is favorable.
8. The Application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the project will be mitigated.

9. The Commission concludes that the benefits and amenities provided by the project are reasonable for the development proposed in this application.
10. The Applicant seeks a PUD-related zoning map amendment to the C-2-B Zone District. The Applicant also seeks relief from the rear yard, maximum lot occupancy, and roof structure requirements. The Commission has judged, balanced, and reconciled the value of the project benefits and amenities, the degree of development incentives requested, and any potential adverse effects, and concluded that the benefits and amenities provided by the project are reasonable trade-offs for the requested development flexibility, and the requested flexibility can be granted with no detriment to surrounding properties and without detriment to the zone plan or map.
11. Approval of the PUD and related rezoning is not inconsistent with the Comprehensive Plan, including the designation of the Property as part of the Medium-Density Residential Land Use category on the Future Land Use Map, because of other policies and goals regarding the production of housing, neighborhood stabilization and revitalization, and provision of superior architecture and design. The PUD is not inconsistent with and promotes numerous elements and policies of the Comprehensive Plan. Specifically, the Commission concludes that the Project furthers the Housing Element, Land Use Element, and Environmental Protection Element. The Commission also concludes that the proposed PUD is consistent with the policies of the Mid-City Area Element of the Comprehensive Plan.
12. In accordance with D.C. Official Code § 1-309.10(d), the Commission must give great weight to the issues and concerns raised in the written report of the affected ANC. As reflected in the Findings of Fact, ANC 1B voted unanimously to support the project and submitted a report recommending approval of the project to the Commission.
13. Approval of the application 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 Zoning Map.
14. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04), to give great weight to OP's recommendation for approval. For the reasons stated above, the Commission concurs with OP's recommendation and has given it the great weight to which it is entitled.
15. The Commission notes that the Zoning Regulations treat a PUD-related Zoning Map amendment differently from other types of rezoning. A PUD-related Zoning Map amendment does not become effective until after the filing of a covenant that binds the current and future owners to use the Property only as permitted and conditioned by the Commission. If the PUD project is not constructed within the time and in the manner enumerated by the Zoning Regulations (11 DCMR §§ 2408.8 and 2408.9), and as

provided for in Condition 1 herein, the Zoning Map amendment expires and the zoning reverts to the pre-existing designation, pursuant to 11 DCMR § 2400.7. A PUD-related Zoning Map Amendment is thus a temporary change to existing zoning that does not begin until a PUD covenant is recorded, ceases if the PUD is not built, and ends once the PUD use terminates. The Commission might grant PUD-related Zoning Map amendments in circumstances where it would otherwise reject permanent rezoning. In this case, the Commission believes that the proposed PUD-related map amendment of the Property to the C-2-B Zone District is appropriate given the superior features of the PUD project and Comprehensive Plan policies and goals supporting the change in zoning, and is permitting a maximum density of 5.36 FAR in the C-2-B Zone District on this Property.

16. The Applicant is subject to compliance with D.C. Law 2-38, as amended, the Human Rights Act of 1977, D.C. Official Code § 2-1401.01 *et seq.*

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 of a Planned Unit Development and PUD-related Zoning Map amendment application from the R-5-B Zone District to the C-2-B Zone District for Square 2661, Lot 152 as shown in Exhibit 1. Except where otherwise noted, compliance with the following conditions shall be the sole responsibility of the Owner, although the Owner may authorize others to perform on its behalf. For the purposes of these conditions, the term "Owner" shall mean the person or entity then holding title to the subject property. If there is more than one Owner, the obligations under this Order shall be joint and several. If a person or entity no longer holds title to the Subject Property, that party shall have no further obligations under this Order; however, that party remains liable for any violation of these conditions that occurred while an Owner. Reference to the Applicant shall refer to G.K.D. 1412 Chapin Street, LLC and any successor in interest. The approval of this PUD and Zoning Map amendment is subject to the following guidelines, conditions, and standards of this Order:

1. The PUD project shall be developed in accordance with the plans and materials submitted by the Applicant and marked as Exhibits 26B, 45, and 53 of the record, as modified by the guidelines, conditions, and standards of this Order.
2. The PUD project shall include approximately 44 rental housing units that will be distributed among studio, one-bedroom, and two-bedroom configurations. The residential units will be distributed as follows: nine studios, 26 one-bedrooms, and nine two-bedrooms. All residential units will be set aside for households earning less than 60% of the Area Median Income for a minimum of 30 years following completion of construction. Units numbered 106, 202, 307, and 405 as shown on Sheets A2.2 through A2.4 dated April 26, 2010 (Exhibit 54) will also be subject to the Inclusionary Zoning

regulations set forth in Chapter 26 of Title 11 and, pursuant to that Chapter, will remain subject to its controls for as long as the project is in existence.

3. The PUD project shall have design flexibility in the following areas:
 - To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, and toilet rooms, provided that the variations do not change the exterior configuration of the structures; and
 - To make minor refinements to exterior details and dimensions, including balcony enclosures, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit.
4. The proposed development shall be constructed in accordance with and shall achieve a minimum of 41 points available pursuant to the 2008 Enterprise Green Communities Criteria.
5. The Owner shall satisfy the following Transportation Demand Management Measures prior to or concurrent with the occupancy of the first residents in the subject PUD:
 - a. Metro SmarTrip. The Owner shall provide each initial resident with a one-time, complimentary SmarTrip fare card with a value of \$50.00 for use on Metro upon move-in.
 - b. Bicycle-sharing or Car-sharing Subsidy. The Owner shall provide each initial resident with a one-time, complimentary \$40.00 subsidy which may be used *either* for membership in the District of Columbia's bicycle-sharing program *or* for a membership in a local car-sharing service.
 - c. Bicycle Storage. The Owner shall provide a minimum of 34 indoor bicycle racks within the building, at least four of which shall be available to visitors.
6. The Owner shall enter into a First Source Employment Agreement with the Department of Employment Services ("DOES") in substantial conformance with the First Source Agreement submitted as Exhibit E of Exhibit 15 of the record. A fully signed First Source Employment Agreement between the Applicant and DOES must be filed with the Office of Zoning ("OZ") prior to the issuance of the first above-grade building permit for the Property.
7. The Owner shall enter into a Memorandum of Understanding with the D.C. Department of Small and Local Business Development to achieve, at a minimum, the goal of 35% participation by small, local, and disadvantaged businesses in the contracted development

costs for the design, development, construction, maintenance, and security for the project to be created as a result of the PUD. The Memorandum of Understanding with the D.C. Department of Small and Local Business Development must be filed with OZ prior to the issuance of the first above-grade building permit for the Property.

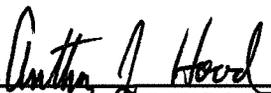
8. The Owner shall enter into a Partnership Agreement with MentoringWorks2, Inc. ("MW2") to provide a minimum of two pre-apprenticeship positions for MW2 youth participants with the Owner and its contractors to participate in the design, development, and construction of the PUD on the Subject Property. The Partnership Agreement between MW2 and the Owner shall be filed with OZ concurrent with the covenant required by Condition No. 10 of the PUD Order.
9. The PUD shall be valid for a period of two years from the effective date of Zoning Commission Order No. 09-15. Within such time, an application must be filed for a building permit, and construction of the Project must begin within three years of the effective date of this Order. The filing of the building permit application will vest this Order.
10. No building permit shall be issued for the PUD until the Owner has recorded a covenant in the land records of the District of Columbia, between the Owner and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs ("DCRA"). Such covenant shall bind the Owner and all successors in title to constrict and use the Property in accordance with this Order, or amendment thereof by the Commission. The Owner shall file a certified copy of the covenant with the records of OZ.
11. The PUD-related change in zoning from the R-5-B Zone District to the C-2-B Zone District shall be effective upon the recordation of the covenant specified in Condition 5 above.
12. The Owner 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 expression or identity, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the applicant to comply shall furnish grounds for denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

For these reasons above, the Commission concludes that the Applicant has met the burden; it is thereby **ORDERED** that the application is **GRANTED**.

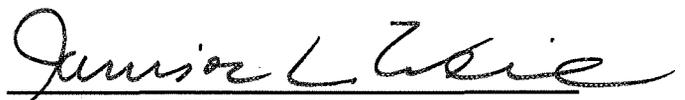
On May 10, 2010, upon the motion of Chairman Hood, as seconded by Commissioner May, the Zoning Commission **APPROVED** the application at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Konrad W. Schlater, Peter G. May, and Michael G. Turnbull to approve; third Mayoral appointee position vacant, not voting).

On June 14, 2010, upon the motion of commissioner Turnbull, as seconded by Chairman Hood, the Commission **ADOPTED** the Order at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Konrad W. Schlater, Peter G. May, and Michael G. Turnbull to adopt; third Mayoral appointee position vacant, not voting).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register* on August 6, 2010.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



JAMISON L. WEINBAUM
DIRECTOR
OFFICE OF ZONING

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



Z.C. CASE NO.: 09-15

AUG 4 2010

As Secretary to the Commission, I hereby certify that on _____ copies of this Z.C. Order No.09-15 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

- | | | | |
|----|--|----|--|
| 1. | <i>D.C. Register</i> | 5. | Gottlieb Simon
ANC
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004 |
| 2. | Kinley R. Bray, Esq.
Arent Fox
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5339 | 6. | Councilmember Jim Graham |
| 3. | ANC 1B
2000 14 th Street, N.W. #100B
Washington, DC 20009 | 7. | DDOT (Karina Ricks) |
| 4. | Commissioner Melissa McKnight
ANC/SMD 1B06
1421 Chapin Street, N.W. #2
Washington, DC 20009 | 8. | Melinda Bolling, Acting General Counsel
DCRA
1100 4 th Street, S.W.
Washington, DC 20024 |
| | | 9. | Office of the Attorney General (Alan Bergstein) |

ATTESTED BY:

A handwritten signature in cursive script that reads "S. S. Schellin".

Sharon S. Schellin
Secretary to the Zoning Commission
Office of Zoning