

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



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 10-11**

**Z.C. Case No. 10-11**

**AWA Holdings, LLC & the District of Columbia - Consolidated PUD & Related Map  
Amendment @ Square 5148  
October 18, 2010**

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on September 23, 2010, to consider an application from AWA Holdings, LLC, as owner of Lots 804 and 819 in Square 5148, and the District of Columbia, as owner of Lots 8, 9, 10, 11, 12, 13, 14, and 818 in Square 5148, for the consolidated review and approval of a planned unit development ("PUD") and a related zoning map amendment to rezone the property from the R-2 and C-1 Zone Districts to the C-2-A Zone District. The Commission considered the applications pursuant to Chapters 24 and 30 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 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the applications.

**FINDINGS OF FACT**

**The Applications, Parties, and Hearing**

1. On May 7, 2010, AWA Holdings, LLC and the District of Columbia (collectively the "Applicant"), filed applications with the Commission for the consolidated review and approval of a PUD and a related zoning map amendment to rezone Lots 8, 9, 10, 11, 12, 13, 14, 804, 818, and 819 and a portion of a public alley proposed to be closed in Square 5148 (the "Subject Property") from the R-2 and C-1 Zone Districts to the C-2-A Zone District.
2. The Subject Property is situated in Ward 7 and has a combined land area of approximately 45,031 square feet. The Subject Property is located on the north side of Nannie Helen Burroughs Avenue, N.E., between 48<sup>th</sup> Street, N.E. and 49<sup>th</sup> Street, N.E. The property has approximately 240 linear feet of frontage on Nannie Helen Burroughs Avenue, N.E. Square 5148 is located in the northeast quadrant of the District and is bounded by Hayes Street to the north, 49<sup>th</sup> Street to the east, Nannie Helen Burroughs Avenue to the south, and 48<sup>th</sup> Street to the west.

3. At its public meeting held on May 24, 2010, the Commission voted to schedule a public hearing on the application.
4. On June 9, 2010, the Applicant submitted a Prehearing Statement. (Exhibit 17.) The prehearing statement included an updated Architectural Plan and Elevations sheets, and additional materials required pursuant to § 3013 of the Zoning Regulations.
5. On September 3, 2010, the Applicant submitted a Supplemental Prehearing Statement and Final Architectural Plans and Elevations. (Exhibits 26 and 27.) The Final Architectural Plans and Elevations included all of the information requested by the Commission at the public meeting on May 24, 2010. The submission also included the resume of Stephanie Farrell. The Applicant also added a request for relief from § 2115.4 of the Zoning Regulations, which requires that compact spaces be placed in groups of at least five contiguous spaces with access from the same drive aisle, whereas the Applicant proposes to provide a group of seven compact parking spaces and a group of three compact parking spaces, all of which will be accessible from the same drive aisle.
6. After proper notice, the Commission held a public hearing on the applications on September 23, 2010.
7. The parties to the case were the Applicant and Advisory Neighborhood Commission ("ANC") 7C (the ANC within which the Subject Property is located).
8. Two principal witnesses testified on the Applicant's behalf at the public hearing, including Stephanie Farrell, on behalf of Torti Gallas Partners, and Robert B. Schiesel, on behalf of Gorove/Slade Associates, Inc. Based upon his professional experience, as evidenced by the resume submitted for the record and his prior testimony before the Commission, Mr. Schiesel was qualified by the Commission as an expert in transportation planning and analysis.
9. The Office of Planning ("OP") testified at the public hearing in support of the project.
10. At the hearing, the Applicant submitted updated plan sheets which included a revised ground floor plan and landscape plan with minor revisions made in response to OP comments (Exhibit 39); a copy of the Applicant's PowerPoint presentation (Exhibit 41); and a copy of the report and outline of testimony prepared by Steven E. Sher, the Applicant's expert in land use and zoning. (Exhibit 40.)
11. ANC 7C submitted a letter in support of the application. (Exhibit 39.) ANC 7C's letter indicated that at a duly noticed public meeting on September 9, 2010, at which notice was properly given and a quorum was present, ANC 7C voted unanimously to support the application and proposed development. ANC 7C indicated that approval of the

project will have a positive impact on the development of the community, particularly given that the project will include a substantial amount of affordable housing. ANC 7C indicated that it strongly supports the project and believes it will assist in the revitalization of a long-neglected area in the District. ANC 7C also noted that its support is conditioned upon the Applicant ultimately executing a Community Benefits Agreement with the ANC 7C Commissioner representing the community and all stakeholders. The Applicant has agreed to execute such an agreement.

12. Councilmember Yvette M. Alexander also submitted a letter in support of the project. (Exhibit 32.) Councilmember Alexander indicated that the project is an important first step in developing the Nannie Helen Burroughs Avenue corridor and will provide numerous benefits to the District, including 47 units affordable to households earning 60% of the area median income ("AMI"), 23 residential units as replacement units for the Lincoln Heights/ Richardson Dwellings Public Housing, and an adult enrichment/community center that will provide a number of services, such as computer literacy training, job training, healthy living education, career counseling, and other programming. Councilmember Alexander also indicated that given the importance of this project in improving a currently underutilized site and serving as a catalyst for future development in the area, the project has strong support from other members of the Council, the Deputy Mayor for Planning and Economic Development, ANC 7C, and other community groups. Councilmember Alexander concluded by indicating that she looks forward to the Commission's approval of this project, and she requested that such approval be processed as expeditiously as possible.
13. Three individuals submitted letters in support of the project, including: Rev. Ivory Teague, Pastor of the church located to the east of the Subject Property at 4832 Nannie Helen Boroughs Avenue, N.E. (Exhibit 33); Patricia Malloy (Exhibit 34); and Alfreda Brown, who resides to the north of the Subject Property at 711 48<sup>th</sup> Street, N.E. (Exhibit 35).
14. On October 1, 2010, the Applicant submitted a post-hearing submission. (Exhibit 46.) The post-hearing submission included a memo and supporting materials from Gorove Slade showing vehicle access and turn movements; a memo from Buzzuto Construction indicating that it would cost approximately \$140,118.00 to improve the existing paper alley to the east of the Subject Property; and revised sheets from Torti Gallas showing revised material size and patterns on the ground floor of the building.
15. At its public hearing held on September 23, 2010, the Commission took proposed action to approve the proposed PUD and requested zoning map amendment.
16. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") under the terms of the District of Columbia Home Rule Act. (Exhibit 43.) NCPC, by action dated September 30, 2010, found that the proposed PUD

would not affect the federal establishment or other federal interests in the National Capital, nor be inconsistent with the Comprehensive Plan for the National Capital. (Exhibit 49.)

17. The Commission took final action to approve the application on October 18, 2010.

### **The PUD Project**

18. The Applicant proposes to build a mixed-use development composed of retail and residential uses. The overall project will have a floor area ratio ("FAR") of 1.9, less than the maximum permitted of 3.0 under the C-2-A PUD requirements, and will include approximately 85,200 square feet of residential uses, comprising 70 units plus or minus five percent, approximately 5,600 square feet of commercial space, and approximately 1,900 square feet of space devoted to an adult enrichment/community center. The building will be constructed to a maximum height of 62 feet, eight inches with a maximum of five stories. The project will have an overall lot occupancy of approximately 41 %, and will include 41 surface parking spaces.

### **Development under Existing Zoning**

19. The Subject Property is currently zoned R-2 and C-1. The Applicant is seeking to rezone the Subject Property to the C-2-A Zone District as part of this application.
20. The R-2 zoning classification consists of areas developed with one-family and semi-detached dwellings. (11 DCMR § 300.1.) R-2 Zone Districts permit residential uses, community-based residential facilities, churches, and other similar uses as a matter-of-right. (11 DCMR § 300.3.)
21. The maximum permitted matter-of-right height in the R-2 Zone District is 40 feet, with a maximum of three stories. (11 DCMR § 400.1.)
22. The R-2 Zone District requires a minimum lot area ranging from 4,000 to 9,000 square feet, and a minimum lot width ranging from 30 to 120 feet, both depending upon the use. (11 DCMR § 401.3.) There is no prescribed maximum FAR in the R-2 Zone District. (11 DCMR § 402.4.)
23. The maximum percentage of lot occupancy in the R-2 Zone District ranges from 40% to 60%, depending upon the use. (11 DCMR § 403.2.) Moreover, pursuant to § 404.1 of the Zoning Regulations, a rear yard with a minimum depth of 20 feet must be provided for each structure in the R-2 Zone District. The minimum side yard requirement in the R-2 Zone District is eight feet. (11 DCMR § 405.6.)

24. Where an open court is provided in the R-2 Zone District for anything other than a one-family dwelling, the court must have a minimum width of four inches per foot of height of court, but not less than 10 feet. (11 DCMR § 406.1.) Where a closed court is provided in the R-2 Zone District for anything other than a one-family dwelling, the court must have a minimum width of four inches per foot of height of court, but not less than 15 feet, and an area of twice the square of the required width of court dimension based on the height of court, but not less than 350 square feet. (11 DCMR §406.1.)
25. A one-family dwelling in the R-2 Zone District is required to provide one parking space for each dwelling unit. (11 DCMR §2101.1.) The loading requirement for an apartment house or multiple dwelling with 50 or more dwelling units in all zone districts is one loading berth at 55 feet deep, 1 loading platform at 200 square feet, and one service/delivery loading space at 20 feet deep. (11 DCMR §2201.1.)
26. Development of the Subject Property under the PUD guidelines for the R-2 Zone District would allow a maximum building height of 40 feet, and a maximum density of 0.4 FAR, all of which would be devoted to residential use. (11 DCMR §§ 2405.1 and 2405.2.)
27. The C-1 Zone District is designed to provide convenient retail and personal service establishments for the daily needs of neighborhoods, with a minimum impact upon surrounding residential development. (11 DCMR § 700.1.) Community facilities, housing, mixed-uses, and neighborhood shopping and service establishments are permitted in the C-1 Zone District. (11 DCMR § 770.3.)
28. The maximum permitted matter-of-right height in the C-1 Zone District is 40 feet, with a maximum of three stories. (11 DCMR § 770.1.) The density in the in the C-1 Zone District is 1.0 FAR, all of which may be devoted to either residential or non-residential uses. (11 DCMR § 771.2.)
29. In the C-1 Zone District, the maximum percentage of lot occupancy for a building or portion of building devoted to residential use is 60%, and a rear yard with a minimum depth of 20 feet must be provided for all structures in the C-1 Zone District. (11 DCMR §§ 772.1 and 774.1.) Side yards generally are not required in the C-1 Zone District. However, if a side yard is provided, it must be at least two inches wide per foot of building height, but not less than 6 feet. (11 DCMR § 775.5.)
30. Where a court is provided for a building or portion of building devoted to residential uses, at any elevation in the court, the width of court must be a minimum of four inches per foot of height, measured from the lowest level of the court to that elevation, but not less than 15 feet. (11 DCMR § 776.3.) In the case of a closed court for a building or portion of a building devoted to residential uses, the minimum area must be at least

twice the square of the width of court based upon the height of court, but not less than 350 square feet. (11 DCMR § 776.4.)

31. An apartment house or multiple dwelling in the C-1 Zone District is required to provide one parking space for each dwelling unit. (11 DCMR § 2101.1.) The loading requirement for an apartment house or multiple dwelling with 50 or more dwelling units in all zone districts is one loading berth at 55 feet deep, one loading platform at 200 square feet, and one service/delivery loading space at 20 feet deep. (11 DCMR § 2201.1.)
32. Development of the Subject Property under the PUD guidelines for the C-1 Zone District would allow a maximum building height of 40 feet, and a maximum density of 1.0 FAR, all of which may be devoted to residential or non-residential uses. (11 DCMR §§ 2405.1 and 2405.2.)

#### **Development under Proposed C-2-A Requirements**

33. The Applicant proposes to rezone the Subject Property to C-2-A in connection with this Application. The C-2-A Zone District is designed to provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core. (11 DCMR § 720.2.) The C-2-A Zone Districts are located in low- and medium-density residential areas with access to main highways or rapid transit stops. (11 DCMR § 720.3.) The C-2-A Zone Districts permit development to medium proportions and accommodate commercial strip developments. (11 DCMR §§ 720.4 and 720.5.) The C-2-A Zone District includes the following development requirements:
  - A maximum matter-of-right height of 50 feet with no limit on the number of stories (§ 770.1), and a maximum height of 65 feet under the PUD requirements (§ 2405.1);
  - A maximum matter-of-right density of 2.5 FAR, all of which may be devoted to residential use, but not more than 1.5 of which may be devoted to non-residential uses (§ 771.2);
  - Under the PUD requirements, a maximum density of 3.0 FAR, all of which may be devoted to residential use, but not more than 2.0 of which may be devoted to non-residential uses (§ 2405.2);
  - A maximum lot occupancy of 60% for a building or portion thereof devoted to a residential use (§ 772.1);
  - A minimum rear yard depth of 15 feet (§ 774.1);

- If provided, a side yard at least two inches wide per foot of building height, but not less than six feet (§ 775.5);
- If provided, a minimum court width of four inches per foot of height, but not less than 15 feet (§ 776.3) and in the case of a closed court, a minimum area of at least twice the square of the width of court, but not less than 350 square feet (§ 776.4);
- For an apartment house or multiple dwelling, one off-street parking space for each two dwelling units (§ 2101.1); and
- For an apartment house or multiple dwelling with 50 or more dwelling units, one loading berth at 55 feet deep; one loading platform at 200 square feet; and one service/delivery loading space at 20 feet deep (§ 2201.1).

#### **Development Incentives and Flexibility**

34. The Applicant requested the following areas of flexibility from the Zoning Regulations:
- a. *Flexibility from Loading Requirements.* The Applicant requests relief from the loading requirements for the residential portion of the building. Pursuant to § 2201.1 of the Zoning Regulations, the Applicant is required to provide the following for the residential uses in the building: one loading berth at 55 feet deep; one loading platform at 200 square feet; and one service/delivery space at 20 feet deep. However, due to the anticipated needs of the residents, the Applicant is seeking flexibility to provide the loading berth at 30 feet deep, instead of the required depth of 55 feet, one loading platform at 200 feet, and one service/delivery space at 20 feet deep. The service/delivery space will be shared by all uses within the building. The Commission finds that the requested flexibility is in accordance with the Comprehensive Plan's recommendations to consolidate loading areas within new developments and minimize curb cuts on streets to the greatest extent possible, and to provide shared loading spaces in mixed-use buildings. The Commission also finds that given the nature and size of the residential units, it is unlikely that the building will be served by 55-foot tractor-trailer trucks. In addition, the loading areas are likely to be used by the residents primarily when they move in or out of the building, and any subsequent use by residents will be generally infrequent and can be restricted to times which pose the least potential conflicts with retail users. Therefore, the Commission finds that flexibility from the loading requirements of § 2201.1 of the Zoning Regulations as described in this paragraph is appropriate in this case.
  - b. *Flexibility From Roof Structure Requirements.* The Applicant requests flexibility from the roof structure requirements of the Zoning Regulations because there will

be two roof structures located on the roof (§§ 411 and 770.6). One of the structures encloses the elevators and the other structure encloses the stair tower. The Commission finds that each roof structure is a necessary feature and the structures have to be separated due to the building code requirement to provide separate means of egress for buildings. In addition, the design and location of the structures is driven by the layout and design of the residential units within the building. The Commission further finds that the requested flexibility will not adversely impact the light and air of adjacent buildings because the structures have been successfully designed and located to minimize their visibility, and the provision of two roof structures instead of one continuous structure will help to break up massing on the roof. Therefore, the Commission concludes that the intent and purposes of the Zoning Regulations will not be materially impaired and the light and air of adjacent buildings will not be adversely affected by granting the requested flexibility.

- c. *Flexibility from Compact Parking Space Location Requirements.* The Applicant is required to provide 41 parking spaces. The Applicant is providing 25 standard spaces and 16 compact spaces, and is therefore providing the total number of required parking spaces. Section 2115.4 of the Zoning Regulations requires compact spaces to be placed in groups of at least five contiguous spaces with access from the same aisle. However, the Applicant proposes to provide a group of seven compact parking spaces and a group of three compact parking spaces. Therefore, flexibility is required from § 2115.4. The Commission finds that the proposed parking layout has been designed to operate efficiently and to provide adequate access and circulation for the site. The Commission further finds that approval of the requested relief to provide a row of three contiguous compact spaces instead of a row of five contiguous compact spaces will not have any adverse impacts.
- d. *Additional Areas of Flexibility.* The Applicant also requests flexibility in the following areas:
  - i. 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;
  - ii. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and to make minor refinements to exterior details and dimensions, including curtainwall mullions and spandrels, window frames, glass types, belt courses, sills, bases, cornices, railings and trim, or any other changes to

comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit;

- iii. To be able to provide a range in the number of residential units of plus or minus five percent from the 70 units, provided that a minimum of two-thirds of the total unit count will be two- and three-bedroom units; and
- iv. To vary the number, location, and arrangement of parking spaces, provided that: (1) the total number of parking spaces is not reduced below the minimum level required by the Zoning Regulations; (2) the project includes a playground with a minimum area of 1,500 square feet, and (3) the project includes a minimum of 13,500 square feet of pervious area.

### **Public Benefits and Amenities**

35. The Commission finds that the following benefits and amenities will be created as a result of the PUD:
- a. *Urban Design, Architecture, Landscaping and Open Space.* The building's façades have been carefully designed and articulated. The design of the building is separated into two portions that vary the massing of the building along Nannie Helen Burroughs Avenue. The first has a background field of wall with projecting bays, while the second has a projected wall with inset openings. The size and rhythm of the openings remains the same between the two portions helping to create a cohesive building. The bays on the west end also help break down the scale of the building as it transitions around the corner to the residences to the north. The building is set back 25 feet from the rear property line and a terraced green buffer retaining wall will be provided. The massing on the north side is modulated to compliment and be compatible with the residential neighborhood. A masonry base with storefront openings creates a clear reading of the commercial ground level. The residential entrance is located towards the eastern end of the site, and is marked with a tower element. The façades will be primarily a masonry base with cementitious panels and glass that will relate to surrounding architecture through scale and rhythm. Moreover, with respect to site planning and efficient and economical land utilization, the project includes a significant amount of open and green space on the site.
  - b. *Transportation Features.* The proposed development will include a number of elements designed to promote effective and safe vehicular and pedestrian access, transportation management measures, and connections to public transit services. For example, the Applicant has located the vehicular access point on 48<sup>th</sup> Street in order to limit potential conflicts with pedestrians along Nannie Helen Burroughs Avenue and to maximize the pedestrian and retail experience along Nannie Helen

Burroughs Avenue. Moreover, the Applicant has developed a comprehensive Transportation Demand Management (“TDM”) plan (Exhibit 37), which includes:

- The provision of a Transportation Services Coordinator;
  - The provision of an information kiosk in the lobby of the building with information on transit services, car-sharing, ride matching and other TDM measures;
  - The provision of 26 on-site bicycle parking spaces;
  - The provision of enough parking spaces to meet the applicable Zoning Requirements for off-street parking to ensure that parking demand does not spill over onto neighboring residential streets; and
  - The provision of information to tenants regarding existing Ride-matching/ridesharing programs.
- c. *First Source Employment Agreement and CBE Agreement.* The Applicant has entered into a First Source Employment Agreement with the Department of Employment Services. Execution and implementation of this agreement will help to expand employment opportunities for residents of the District in connection with construction of the project. The Applicants will also be executing a Certified Business Enterprise Utilization And Participation Agreement with the District's Department of Small and Local Business Development.
- d. *Housing and Affordable Housing.* The single greatest benefit to the area, and the District as a whole, is the creation of new housing consistent with the goals of the Zoning Regulations, the Comprehensive Plan and the Mayor's housing initiative. The project will include a total of 70 residential units, 47 of which will be affordable to households earning 60% of the AMI, and the remaining 23 residential units are replacement units for the Lincoln Heights/Richardson Dwellings Public Housing. This substantially exceeds the amount of affordable housing that would be required under the Inclusionary Zoning requirements of Chapter 26 of the Zoning Regulations.
- e. *Environmental Benefits.* The development provides a number of environmental benefits and will include a number of sustainability features and measurements, including, for example:
- The implementation of an erosion and sediment control plan;
  - The use of native landscaping;

- The installation of water conserving appliances and fixtures;
  - The use of energy efficient interior and exterior lighting;
  - The implementation of a Construction Waste Management plan; and
  - The use of low/no-VOC (volatile organic Compound) paints, primers, adhesives, and sealants.
- f. *Adult Enrichment/Community Center.* The project also includes an adult enrichment/community center that will provide services to residents of the building and the community, including computer literacy training, job training, career counseling, and other programming as needed.
36. The Commission finds that the project benefits and amenities as outlined in Finding of Fact No. 35 are reasonable trade-offs for the requested development flexibility.

**Compliance with Guiding Principles of the Comprehensive Plan Amendment Act of 2006 (D.C. Law 16-300, effective March 8, 2007)**

37. The majority of the Subject Property is designated in the Low Density Commercial land use category on the District of Columbia Comprehensive Plan Future Land Use Map, and a small portion is designated in the Low Density Residential land use category. 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. The C-1 and C-2-A Zone Districts are generally consistent with the Low Density Commercial designation, although other districts may apply. The Low Density Residential designation is used to define the District's single family neighborhoods, and the R-1-A, R-1-B, and R-2 Zone Districts are generally consistent with this land use category.
38. The Commission finds that the Applicant's proposal to construct a mixed-used development that includes residential and retail uses on the Subject Property is consistent with the Future Land Use Map's designation of the Subject Property. The proposed C-2-A zoning classification is specifically identified as a low-density zone district. The portion of the building located in the low-density commercial segment of the Subject Property will be built to a density of 1.9 FAR, which is consistent with the amount of density permitted in low-density commercial zones. The project's height of 62 feet eight inches is less than the maximum height permitted under the proposed C-2-A zoning.
39. The Subject Property is designated in a Neighborhood Enhancement Area on the District of Columbia Comprehensive Plan Generalized Policy Map. As indicated in the

Comprehensive Plan, Neighborhood Enhancement Areas are areas with substantial amounts of vacant residentially-zoned land. (§ 223.6.) Many of these areas are characterized by a patchwork of existing homes and individual vacant lots, some privately owned and others owned by the public sector or non-profit developers. Id. These areas present opportunities for compatible small-scale infill development. Id.

40. The guiding philosophy in Neighborhood Enhancement Areas is to ensure that new development “fits-in” and responds to the existing character, natural features, and existing/planned infrastructure capacity. (§ 223.7.) New housing is encouraged to improve the neighborhood. Id. The unique and special qualities of each area should be maintained and conserved, and overall neighborhood character should be protected as development takes place. Id. New development in Neighborhood Enhancement Areas should improve the real estate market, reduce crime and blight, and attract complementary new uses and services that better serve the needs of existing and future residents. (§ 223.8.)
41. The Commission finds that the proposed PUD is consistent with this designation. The Applicant proposes to redevelop a currently underutilized site through construction of a mixed-use development on the Subject Property. As shown on the Plans, this new development is compatible with the surrounding uses. The mix of new residential and commercial uses in the project will help to improve the neighborhood fabric and bring new residents and retail uses to the area.
42. The Commission further finds that the proposed PUD is consistent with many guiding principles in the Comprehensive Plan for managing growth and change, creating successful neighborhoods, and building green and healthy communities, as follows:
  - a. *Managing Growth and Change.* The guiding principles of this element are focused on ensuring that the benefits and opportunities of living in the District are equally available to everyone in the city. In order to manage growth and change in the District, the Comprehensive Plan encourages, among other factors, the growth of both residential and non-residential uses. The Comprehensive Plan also states that redevelopment and infill opportunities along corridors is an important part of reinvigorating and enhancing neighborhoods. (§ 217.6.) The proposed PUD is fully-consistent with each of these goals. Redeveloping the Subject Property into a residential development will further the revitalization of the neighborhood.
  - b. *Creating Successful Neighborhoods.* The guiding principles for creating successful neighborhoods include both improving the residential character of neighborhoods and encouraging commercial uses that contribute to the neighborhood’s character and make communities more livable. (§§ 218.1 and 218.2.) In addition, the production of new affordable housing is essential to the

success of neighborhoods. (§ 218.3.) Another guiding principle for creating successful neighborhoods is getting public input in decisions about land use and development, from development of the Comprehensive Plan to implementation of the plan's elements. (§ 218.8.) The proposed development furthers each of these guiding principles with the construction of affordable housing, as well as commercial uses that will create additional retail and employment opportunities. In addition, as part of the PUD process, the Applicant has worked with the ANC and local community groups to ensure that the development provides a positive impact to the immediate neighborhood.

- c. *Increasing Access to Education and Employment.* The Increasing Access to Education and Employment element includes a number of policy goals focused on increasing economic activity in the District, including increasing access to jobs by District residents (§ 219.1); encouraging a broad spectrum of private and public growth (§ 219.2); supporting land development policies that create job opportunities for District residents with varied job skills (§ 219.6); and increasing the amount of shopping and services for many District neighborhoods (§ 219.9). The project is fully consistent with these goals since the proposed retail area will help to attract new jobs to the District, as well as to this specific neighborhood.
  - d. *Connecting the City.* The proposed development will help to implement a number of the guiding principles of this element. The project includes streetscape improvements to provide improved mobility and circulation through the project, as well as the overall neighborhood. (§ 220.2.) In addition, the access points for the required parking and loading facilities have been designed to appropriately balance the needs of pedestrians, bicyclists, transit users, autos and delivery trucks as well as the needs of residents and others to move around and through the city. Moreover, the proposed redevelopment and streetscape improvements along Nannie Helen Boroughs Avenue will also help to reinforce and improve one of the “great streets” of the city. (§ 220.3.)
  - e. *Building Green and Healthy Communities.* The proposed development is fully-consistent with the guiding principles of the building green and healthy communities element since the project's proposed landscaping plan will help to increase the District's tree cover, and the proposed development will minimize the use of non-renewable resources, promote energy and water conservation, and reduce harmful effects on the natural environment. (§§ 221.2 and 221.3.) In addition, the project, which includes Green Communities elements, will also help to facilitate pedestrian and bicycle travel.
43. The Commission also finds that the proposed PUD furthers the objectives and policies of many of the Comprehensive Plan's major elements as set forth in the report and testimony of the Applicant's land use and zoning expert and the OP report.

### **Office of Planning Report**

44. By report dated May 14, 2010, OP stated that it supports the application and that the proposed PUD is not inconsistent with the Comprehensive Plan. Therefore, OP recommended that the Commission schedule a public hearing on the application. (Exhibit 15.)
45. By report dated September 13, 2010, OP recommended final approval of the application. (Exhibit 28.) OP stated that the proposal would benefit the Deanwood neighborhood given the level and amount of affordable housing provided, the mix of uses, and the provision of an on-site community center. OP stated that it supports the C-2-A designation for the site, which is not inconsistent with the 2006 Comprehensive Plan's Future Land Use Map and policy objectives that encourage residential infill along this "Great Streets" corridor. OP also requested that the Applicant provide the following information: (1) more information regarding the requested variation in the number of residential units; (2) refinements to the layout and design of the ground floor plan; (3) more information regarding the requested flexibility with respect to parking; and (4) a materials board indicating the types of materials contemplated for the project.
46. As indicated in Finding of Fact No. 34(d), the Applicant modified its requests for flexibility to provide that a minimum of two-thirds of the total unit count will be two- and three-bedroom units, and that the parking flexibility is conditioned upon the project continuing to include a playground with a minimum area of 1,500 square feet and a minimum of 13,500 square feet of pervious area. The Applicant also submitted at the hearing a revised ground floor plan, marked as Exhibit 39, addressing the layout and design comments noted by OP. In addition, the Applicant presented a materials board at the hearing, and discussed in detail the proposed materials. Therefore, the Commission finds that the Applicant has addressed the comments outlined in OP's report.

### **DDOT Report**

47. The District Department of Transportation ("DDOT") submitted a memorandum dated September 17, 2010, recommending conditional support of the project. (Exhibit 34). DDOT indicated that the proposed development will provide a more vibrant and urban space on the Nannie Helen Boroughs corridor. DDOT requested that the Applicant submit a list of proposed transportation demand measures for the project, and a pedestrian study. DDOT indicated that it is not opposed to the proposed curb cut on 48<sup>th</sup> Street which provides loading and parking access for the project. However, DDOT requested that, as an additional amenity of the project, the Commission should require the Applicant to improve an existing paper alley adjacent to the Subject Property.

48. The Applicant submitted a list of proposed transportation demand measures and a pedestrian study to DDOT on September 18, 2010. The Applicant also submitted a copy of the transportation demand measures and the pedestrian study at the hearing, marked as Exhibits 37 and 38, respectively. The Applicant also included in its post-hearing submission a memorandum prepared by Buzzoto Construction indicating it would cost approximately \$140,118.00 to pave the unimproved paper alley as requested by DDOT.
49. Based upon the reports (Exhibits 6, 37, and 38) and testimony of the Applicant's expert in transportation analysis and planning, the Commission finds that given the minimal number of vehicle trips to be generated by the project, the project can be approved as proposed by the Applicant without creating any objectionable traffic or parking impacts on existing and future roadway users or the adjacent residential community. (Exhibits 6 and 41.) The Commission further finds that the Applicant's proposed transportation demand management measures include a number of features that will ensure the loading and delivery operations perform well (Exhibit 37.) Moreover, the Commission further finds that the Project will have no impact on pedestrians or the additional intersections which DDOT requested that the Applicant analyze, and that all vehicle turn movements can be accommodated within the site, without use of the unimproved paper alley. (Exhibits 38 and 46.) Finally, the Commission finds that the project includes a sufficient number of project benefits and amenities, as indicated in the Applicant's submission, confirmed by OP, and indicated in this Order. Therefore the Commission does not adopt DDOT's recommendation that the Applicant should improve the existing paper alley adjacent to the Subject Property.

### **CONCLUSIONS OF LAW**

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high quality development that provides public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." (11 DCMR § 2400.2.)
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking and loading, or for yards and courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.

3. Development of the property included in this application carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
4. The PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations.
5. The PUD, as approved by the Commission, complies with the applicable height, bulk and density standards of the Zoning Regulations. The uses for this project are appropriate for the Subject Property. The impact of the project on the surrounding area is not unacceptable. Accordingly, the project should be approved.
6. The application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
7. The Applicant's request for flexibility from the Zoning Regulations is consistent with the Comprehensive Plan. Moreover, the project benefits and amenities are reasonable trade-offs for the requested development flexibility.
8. Approval of this PUD is appropriate because the proposed development is consistent with the present character of the area, and is not inconsistent with the Comprehensive Plan. In addition, the proposed development will promote the orderly development of the Subject 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.
9. The Commission is required under § 13(d) of the Advisory Neighborhood Commission Act of 1975, effective March 26, 1976 (D.C. Law 1021; D.C. Official Code § 1-309.10(d) (2001)) to give great weight to the affected ANC's recommendation. In this case, ANC 7C voted unanimously to support the project and recommended that the Commission approve the application. (Exhibit 29.) The Commission notes that the ANC conditioned its support upon the Applicant ultimately executing a Community Benefits Agreement with the ANC 7C Commissioner representing the community and all stakeholders and that Applicant has agreed to do so. The Commission has given ANC 7C's recommendations great weight through articulating and addressing the ANC's issues.
10. 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 recommendations. For the reasons stated above, the Commission concurs with OP's recommendation for approval and has given the OP recommendation the great weight it is entitled.

11. The application for a PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

### **DECISION**

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the applications for the consolidated review and approval of a planned unit development and a related zoning map amendment to rezone Lots 8, 9, 10, 11, 12, 13, 14, 804, 818, and 819 in Square 5148 from the R-2 and C-1 Zone Districts to the C-2-A Zone District subject to the following guidelines, conditions, and standards.

1. The PUD shall be developed in accordance with the final set of plans prepared by Torti Gallas and Partners, Inc., dated October 18, 2010, marked as Exhibit 51 in the record (the "Plans") and as further modified by the guidelines, conditions, and standards in this Order and subject to any future modifications subsequently approved by the Zoning Commission.
2. The PUD shall have a maximum density of 2.0 FAR and a gross floor area of 92,700 square feet.
3. The maximum height of the building shall be 63 feet.
4. The project shall include a minimum of 41 striped off-street surface parking spaces.
5. Subject to the flexibility granted in Condition 10 (iii), the project shall include a total of 70 residential units, 47 of which will be affordable to households earning no more than 60% of the AMI, and the remaining 23 residential units will be replacement units for the Lincoln Heights/Richardson Dwellings Public Housing.
6. The project shall include an adult enrichment/community center having a minimum square footage of 1,900 square feet of floor area. The adult enrichment/community center shall provide services to residents of the building and the community including computer literacy training, job training, career counseling, and other programming as needed.
7. The Applicant is granted flexibility from the loading requirements (§ 2201.1), roof structure number requirements (§§ 411 and 770.6), and compact parking space location requirements (§ 2115.4), consistent with the approved Plans and as discussed in the Development Incentives and Flexibility section of this Order.

8. During operation of the building, the Applicant shall implement and maintain the Transportation Demand Management measures marked as Exhibit 37 of the record in Z.C. Case No. 10-11.
9. The Applicant shall submit with its building permit application a Green Communities checklist confirming that the project includes sustainable design features such that the building would be able to achieve a minimum of 32 points of the Green Communities Criteria.
10. Prior to the issuance of a building permit for the project, the Applicant shall submit to the District Department of Consumer and Regulatory Affairs (“DCRA”) a fully-executed First Source Employment Agreement with the Department of Employment Services and a fully executed CBE Agreement with the Department of Small and Local Business Development.
11. The Applicant shall also have flexibility with the design of the PUD in the following areas:
  - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the building;
  - b. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and to make minor refinements to exterior details and dimensions, including curtainwall mullions and spandrels, window frames, glass types, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit;
  - c. To be able to provide a range in the number of residential units of plus or minus five percent from the 70 units, provided that a minimum of two-thirds of the total unit count will be two- and three-bedroom units; and
  - d. To vary the number, location, and arrangement of parking spaces, provided that: (1) the total number of parking spaces provided is not reduced below the minimum level required by the Zoning Regulations; (2) the project includes a playground with a minimum area of 1,500 square feet, and (3) the project includes a minimum of 13,500 square feet of pervious area.
12. Prior to the issuance of the first building permit for the project the Applicant shall record a covenant in the land records of the District of Columbia, between the owners and the

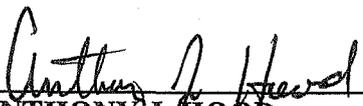
District of Columbia, that is satisfactory to the Office of the Attorney General and DCRA. Such covenant shall bind the Applicants and all successors in title to construct on and use the Subject Property in accordance with this Order or amendment thereof by the Zoning Commission. The Applicant shall file a copy of the covenant with the Office of Zoning for the case record.

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

On September 23, 2010, upon the motion of Chairman Hood, as seconded by Commissioner May, the Zoning Commission **APPROVED** the applications at the conclusion of its public hearing a vote of 4-0-1 (Anthony J. Hood, Greg M. Selfridge, Peter G. May, and Michael G. Turnbull to approve; Konrad W. Schlater, not present, not voting).

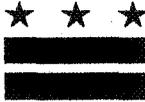
On October 18, 2010, upon the motion of Commissioner Turnbull, as seconded by Commissioner May, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of 5-0-0 (Anthony J. Hood, Konrad W. Schlater, Greg M. Selfridge, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on November 19, 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.: 10-11

NOV 26 2010

As Secretary to the Commission, I hereby certify that on \_\_\_\_\_ copies of this Z.C. Order No. 10-11 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

1. *D.C. Register* (via e-mail)
2. Kyrus Freeman, Esq  
Holland & Knight  
2099 Pennsylvania Avenue, NW  
Washington, D.C. 20006
3. ANC 7C  
4651 Nannie Helen Burroughs Avenue, NE #2  
Washington, D.C. 20019
4. Commissioner Patricia Malloy  
ANC/SMD 7C01  
501 50<sup>th</sup> Place, NE  
Washington, D.C. 20019
5. Commissioner Sylvia Brown  
ANC/SMD 7C04  
920 52<sup>nd</sup> Street, NE  
Washington, D.C. 20019
6. Gottlieb Simon  
ANC  
1350 Pennsylvania Avenue, NW  
Washington, D.C. 20004
7. Councilmember Yvette Alexander
8. DDOT (Karina Ricks)
9. Melinda Bolling, Acting General Counsel  
DCRA  
1100 4<sup>th</sup> Street, SW  
Washington, D.C. 20024
10. Office of the Attorney General (Alan Bergstein)

ATTESTED BY:

A handwritten signature in cursive script, appearing to read "S. S. Schellin", is written over a horizontal line.

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