

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



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 11-25**  
**Z.C. Case No. 11-25**  
**VASUDAV, INC. d/b/a BAYWOOD HOTELS**  
**(Consolidated PUD and Related Map Amendment at 501 New York Avenue, N.E.)**  
**July 30, 2012**

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on June 18, 2012, in order to consider an application from VASUDAV, Inc., d/b/a Baywood Hotels ("Applicant"), the owner of Lot 4 (formerly referred to as Lot 5) in Square 3594, for the approval of a consolidated planned unit development ("PUD") and related map amendment. The subject property is located at 501 New York Avenue, N.E. The Commission considered the application 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 application.

**FINDINGS OF FACT**

**The Application, Parties, and Hearing**

1. On December 14, 2011, the Applicant filed an application with the Commission for the review and consolidated approval of a PUD on Lot 4 in Square 3594, located at 501 New York Avenue, N.E. ("Property"), and a related map amendment to rezone a portion of the Property from the C-M-1 Zone District to the C-3-C Zone District ("Application"). (Exhibit ["Ex."] 3.)
2. The Property has a land area of approximately 39,616 square feet. It is situated to the east of the intersection of New York Avenue, N.E. and Penn Street, N.E., and is currently improved with a two-story Quality Inn hotel with 78 rooms and surface parking lot with 51 spaces. The Property is designated Production, Distribution, and Repair ("PDR") on the Land Use Map and is presently zoned C-M-1. It is also designated in the Multi-Neighborhood Center category on the District of Columbia Comprehensive Plan Generalized Policy Map and within the boundaries of the Florida Avenue Market Small Area Plan, which is the planning document most specific to the site. The Florida Avenue Small Area Plan designates the Property as "high density," with a matter-of-right height of 90 feet and density of 6.5 floor area ratio ("FAR").
3. At its meeting of February 13, 2012, the Commission voted unanimously to set down the Application for public hearing. However, in its discussion on the Application, the Commission commented on the building design of the proposed hotel and requested

enhancements to the building exterior, better definition of the building materials, clarification on the rooftop lounge/penthouse, and a justification for the two curb cuts proposed on New York Avenue. The Commission requested an explanation of how the development of the parcel to the southwest of the Property, with frontage along Penn Street (“Penn Street Parcel”), would be impacted by a waiver of the rear yard setback. Additionally, the Commission wanted to know how the First Source Agreement proffered by the Applicant will be implemented and the status of the Applicant's discussions with the Advisory Neighborhood Commission (“ANC”). Finally, the Commission requested details on how the PUD would achieve the equivalent of LEED Silver.

4. On March 23, 2012, the Applicant submitted a Prehearing Statement (Ex. 16.) The Prehearing Statement addressed some of the issues and comments raised by the Commission and the Office of Planning (“OP”), and included as exhibits revised drawings, correspondence to the District Department of Transportation (“DDOT”) regarding the proposed curb cuts on New York Avenue, and a traffic impact study, dated March 23, 2012, prepared by O.R. George & Associates.
5. On May 29, 2012, the Applicant submitted a Supplemental Filing, which included an updated set of architectural plans and elevations, that reflected significant changes in the project design as a result of having the building served by a single 19'-wide curb cut on New York Avenue instead of two curb cuts as originally designed. (Ex. 35.) Additionally, the number of hotel rooms for the PUD increased from a range of 200 to 235 rooms to a range of 220 to 240 rooms; and the number of parking spaces was reduced from approximately 136 spaces to approximately 115 spaces. The Supplemental Filing also included the following: (i) a letter from ANC 5B, dated May 3, 2012, expressing support for the PUD; (ii) a supplemental memorandum from O.R. George & Associates addressing the revisions to the project; and (iii) the proffered PUD benefits and amenities package.
6. A description of the proposed development and the notice of the public hearing in this matter were published in the *D.C. Register* on April 20, 2012. The notice of public hearing was mailed to all property owners within 200 feet of the Property, as well as to ANC 5B. On June 18, 2012, the Commission held a public hearing on the Application. The parties to the case were the Applicant and ANC 5B.
7. At the June 18 public hearing, the Applicant submitted a letter addressing the following: (i) renderings of the proposed streetscape and revised landscape plan; (ii) the revised scholarship and internship proposal for Hospitality High Public Charter School; (iii) the additional hotel amenities intended to specifically accommodate deaf persons; and (iv) the corrected plat for the Property. (Ex. 46.) Reduced copies of the Applicant's PowerPoint presentation were also provided to the Commission. (Ex. 48.)

8. A letter in support of the revised building design (i.e. single curb cut on New York Avenue, increased number of hotel rooms, and reduced number of parking spaces) from ANC 5B, dated June 7, 2012. (Ex. 45.)
9. Five witnesses testified at the public hearing on behalf of the Applicant: Paul Williams, Director of Development for Baywood Hotels; Bahram Kamali, Partner with BBG-BBGM; Steven E. Sher, Director of Zoning and Land Use Services at Holland & Knight LLP; O.R. George, President of O.R. George & Associates; and Jonathan Fitch, ASLA Principal, Landscape Architecture Bureau. Based upon professional experience and qualifications, Mr. Kamali was accepted by the Commission as an expert in architecture; Mr. Sher was accepted as an expert in land use, zoning, and planning; Mr. George was accepted as an expert in traffic engineering and transportation planning; and Mr. Fitch was accepted as an expert in landscape architecture.
10. OP testified at the hearing in support of the project.
11. DDOT testified at the hearing in support of the project.
12. Commissioner Jacqueline Manning, Chair of ANC 5B, testified in support of the project at the public hearing.
13. No persons or parties testified in opposition to the Application.
14. At the conclusion of the public hearing, the Commission took proposed action to approve the Application. The Commission requested that the Applicant revise the drawings (i) to include corridor windows on the south-facing building façade and (ii) to refine the architectural embellishment along the east-facing building façade. Additionally, the Commission requested photographs of the architectural mesh/screening similar to that being proposed for the through-wall units for the PUD.
15. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") on June 19, 2012, under the terms of the District of Columbia Home Rule Act. NCPC did not respond to the referral.
16. At its regularly scheduled public meeting on July 30, 2012, the Commission re-opened the record to receive a filing dated July 2, 2012 that attached a revised and consolidated set of plans which included revisions to the south and east façade, photographs of the mesh screening proposed for the building, and an excerpt from the DC Atlas outlining the current boundaries of ANC 5B06, then took final action to approve the Application.

### **The PUD Project**

17. The Applicant intends to raze the existing two-story hotel on the Property and redevelop the Property with an eight-story hotel building that will have approximately 162,185 square feet of gross floor area. The building will have 220 to 240 hotel rooms and approximately 115 parking spaces contained in an underground parking garage and covered parking area at the second floor of the hotel building.
18. The maximum density for the project shall be 4.08 FAR, and the maximum building height shall be 90 feet.

### **Development Under Existing C-M-1 Zone District**

19. The Subject Property is presently zoned C-M-1. Commercial-Light Manufacturing (C-M) Zone Districts provide sites for heavy commercial and light manufacturing activities employing large numbers of people and requiring heavy machinery, with heavy truck traffic and loading and unloading operations. (11 DCMR §§ 800.1 and 800.2.) Pursuant to § 800.4 of the Zoning Regulations, no new residential development is permitted under C-M-1 zoning. C-M-1 Zone Districts permit the development of low-bulk commercial and light manufacturing uses to a maximum building height of 40 feet and three stories (§ 840.1), and a maximum density of 3.0 FAR (§ 841.1). A rear yard with a minimum depth of two and one-half inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 12 feet, is required for each structure in the C-M-1 Zone District. (11 DCMR § 842.2.)

### **Development Under Proposed C-3-C Zone District**

20. The C-3-C Zone District permits a maximum building height of 90 feet with no limit on the number of stories. (11 DCMR § 770.1.) In the C-3-C Zone District, the maximum density of all buildings and structures on a lot cannot exceed 6.5 FAR for any permitted use. (11 DCMR § 771.2.) The maximum percentage of lot occupancy in the C-3-C Zone District is 100%. (11 DCMR § 772.1.) Rear yards in the C-3-C Zone District must have a minimum depth of two and one-half inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 12 feet. (11 DCMR § 774.1.) A side yard is generally not required in the C-3-C Zone District; however, when a side yard is provided, it must have a minimum width of two inches per foot of height of building, but not less than six feet. (11 DCMR § 775.5.)

The parking and loading requirements in the C-3-C Zone District are based upon the proposed use of a subject property. For example, a hotel or inn in the C-3-C Zone

District requires one parking space for each four rooms useable for sleeping, plus one for each 150 square feet of floor area in either the largest function room or the largest exhibit space, whichever is greater. (11 DCMR § 2101.1.) Retail or service establishments are required to provide one parking space for each additional 750 square feet of gross floor area in excess of 3,000 square feet. (*Id.*) A hotel in all zone districts with 30 to 200 rooms useable for sleeping is required to provide 1 loading berth at 30 feet deep, 1 loading platform at 100 square feet, and 1 service/delivery space at 20 feet deep. (11 DCMR § 2201.1.)

### **PUD Development in C-3-C Zone District**

21. For a PUD in the C-3-C Zone District, the permitted maximum building height increases from 90 feet to 130 feet and the permitted maximum density increases from 6.0 to 8.0 FAR, all of which may be for commercial use, including hotels and motels. (11 DCMR §§ 2405.1 - 2405.2.)

### **Development Flexibility**

22. *Flexibility for Roof Structures.* The Applicant requests flexibility from that section of the Zoning Regulations requiring that all penthouses and mechanical equipment be placed in one enclosure wall of equal height and set back from exterior walls of the building a distance equal to their height above the roof upon which it is located. (11 DCMR §§ 411.3; 411.5; 770.6(b).) In this case, the elevator penthouse and mechanical room penthouse are separated because of the revised building design with a central courtyard serving both hotels. Also, the roof structures have been separated in order to minimize the massing and bulk of the buildings, so that the project is more in scale with the surrounding area. The mechanical penthouse requires relief because it does not meet the 1:1 setback on either side.
23. *Flexibility From Loading Requirements.* The Applicant requests flexibility from Chapter 22 of the Zoning Regulations in order to provide a 30-foot loading berth in lieu of the required 55-foot loading berth. This request is made because the engineering studies indicate that the turning radius into the loading area cannot accommodate a 55-foot tractor trailer. Additionally, from a practical standpoint, 55-foot tractor trailers will not be used to make deliveries to the proposed hotel building after it opens for business.
24. In addition, the Applicant seeks flexibility for the PUD as follows:
  - a. Flexibility to provide a range in the number of hotel rooms, from 220 to 240;
  - b. Flexibility 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;

- c. Flexibility to make refinements to the garage configuration, including layout, number of parking spaces, and/or other elements, so long as the total parking provided complies with the parking requirements for a hotel use as set forth in Chapter 21 of the Zoning Regulations; and
  - d. Flexibility 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.
25. No other flexibility from the requirements of the Zoning Regulations was requested or granted.

**Public Benefits and Amenities**

26. The PUD will have the following benefits and amenities in the areas of site planning and efficient and economical land utilization (§ 2403.9(b)):
- a. The PUD will result in the redevelopment of a currently underutilized site with a well-designed new hotel building that will include two hotel flags – one for a traditional overnight hotel and the second for an extended stay hotel. Generally speaking, a traditional overnight hotel serves persons who stay an average of three nights whereas extended stay hotels serve guests an average stay of three weeks; and
  - b. The redevelopment of the Property includes the reduction of curb cuts along New York Avenue along the Property's frontage from two curb cuts to one curb cut that will be 19 feet wide.
27. The PUD will have the following benefits and amenities in the areas of effective and safe vehicular and pedestrian access, transportation management measures, connections to public transit service, and other measures to mitigate adverse traffic impacts (§ 2403.9(c)):

- a. The Applicant will repave or cause the repaving of the entire length and width of the public alley that extends southwest from the Property to Fourth Street ("Alley");
  - b. The Applicant agrees to install lighting in the Alley in order to enhance the use and improve the safety of the Alley;
  - c. The driveway access on New York Avenue will be limited to ingress only. Vehicular egress and ingress will occur through the Alley. The existing signal at the intersection of 4<sup>th</sup> Street and New York Avenue will facilitate safe vehicular egress from the hotel building onto New York Avenue, significantly improving the situation over what exists today;
  - d. Shuttle service between the hotel site and the New York Avenue Metrorail Station will be provided for hotel guests and employees;
  - e. The Applicant will provide bike racks to accommodate 18 bicycles; and
  - f. The PUD will not have any laybys in the public right of way. The laybys will be internal to the site.
28. The PUD will have the following benefits in the area of employment and training opportunities (§ 2403.9(e)):
- a. The Applicant has entered into a First Source Employment Agreement with the Department of Employment Services, which is attached as Tab D of the Applicant's Prehearing Statement; (Ex. 20.)
  - b. The Applicant will provide two internships to students at the Hospitality High Public Charter School and 10 college scholarships in the amount of \$1,000 each to students graduating from the Hospitality High Public Charter School. The internships and scholarships will be awarded on an annual basis for five years starting within one year of the issuance of the certificate of occupancy for the hotel building; and
  - c. The Applicant agrees to host a job fair at the Trinidad Recreation Center in order to accept applications for open full- and part-time job positions at the new hotel.
29. The PUD will have the following environmental benefits and amenities (§ 2403.9(f)):
- a. The PUD will achieve a minimum of 50 LEED points equivalent, which equates to LEED Silver.

30. The PUD will have the following benefits and amenities that are of special value to the Trinidad neighborhood (§ 2403.9(f)):
  - a. The Applicant agrees to donate furniture from the existing hotel to residents in the immediate neighborhood; and
  - b. The Applicant agrees to donate the following items to the DC Parks and Recreation Department specifically and exclusively for the benefit of the Trinidad Recreation Center.
    - i. One Brother MFC-932cw digital color all-in-one printer copier/scanner/fax;
    - ii. One LG 42" LCD 1080p 60 Hz HDTV;
    - iii. One Dynex television wall mount;
    - iv. Twenty-six football uniforms – jersey and pants – for nine to 12 year olds;
    - v. Four 12-pack of HERCULES Metal Folding Chairs; and
    - vi. Four Realspace Folding Tables – 29"H x 72"W x 30"D.
31. Fifty-one of the hotel rooms will be designed with special accommodations for deaf persons. This is three times the amount required by the Building Codes.
32. The Applicant will install FM hearing loops in all hotel meeting spaces as an accommodation to deaf persons.

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

33. The PUD is consistent with the following policies of the Land Use Element of the Comprehensive Plan:
  - a. Policy LU-3.1.4: Rezoning of Industrial Areas. Allow the rezoning of industrial land for non-industrial purposes only when the land can no longer viably support industrial or PDR activities or is located such that industry cannot co-exist adequately with adjacent existing uses. Examples include land in the immediate vicinity of Metrorail stations, sites within historic districts, and small sites in the midst of stable residential neighborhoods. In the event such rezoning results in the displacement of active uses, assist these uses in relocating to designated PDR areas.

34. The PUD is consistent with the following policies of the Economic Development Element of the Comprehensive Plan:
- a. Policy ED-2.3.1: Growing the Hospitality Industry. Develop an increasingly robust tourism and convention industry, which is underpinned by a broad base of arts, entertainment, restaurant, lodging, cultural and government amenities. Strive to increase: (a) the total number of visitors to Washington; (b) the number of visitors staying in the District (rather than in suburban hotels); and (c) longer visitor stays in Washington. Promote the District not only as the preferred base for exploring the city's attractions but also the preferred overnight base for visiting regional attractions;
  - b. Policy ED-2.3.4: Lodging and Accommodation. Support the development of a diverse range of hotel types, serving travelers with varying needs, tastes, and budgets. New hotels should be encouraged both within Central Washington and in outlying commercial areas of the city, particularly in areas which presently lack accommodation; and
  - c. Policy ED-2.3.9: Hospitality Workforce Development. Recognize the potential for the hospitality sector to generate entry level jobs and opportunities for upward mobility for District residents promoting vocational, job training, and job placement initiatives in this sector, and by working with local hotels, the District of Columbia Hotel Association, the Washington Convention and Tourism Corporation, and others.
35. The PUD is consistent with the following policies of the Upper Northeast Area Element of the Comprehensive Plan:
- a. Policy UNE-2.1.2: Capital City Market. Redevelop the Capital City Market into a regional destination that may include residential, dining, entertainment, office, hotel, and wholesale food uses; and
  - b. Policy UNE-2.3.1: New York Avenue Corridor. Improve the appearance of New York Avenue as a gateway to the District of Columbia. Support road design change, streetscape improvements, and new land uses that improve traffic flow and enhance the road's operation as a multi-modal corridor that meets both regional and local needs.

**Consistency with Future Land Use Map and Generalized Policy Map**

36. The Property is designated PDR on the Future Land Use Map. The PDR category is used to define areas characterized by manufacturing, warehousing, wholesale and distribution

centers, transportation services, food services, printers and publishers, tourism support services, and commercial, municipal, and utility activities that may require substantial buffering from noise, air pollution, and light-sensitive uses such as housing. This category is also used to denote railroad rights-of-way, switching and maintenance yards, bus garages, and similar uses related to the movement of freight, such as truck terminals. A variety of zone districts apply within PDR areas, recognizing the different intensities of use and impacts generated by various PDR activities. The corresponding zone districts are generally C-M-1, C-M-2, C-M-3, and M, although other districts may apply.

37. The Property is located in the Multi-Neighborhood Center category on the District of Columbia Comprehensive Plan Generalized Land Use Policy Map. Multi-neighborhood centers contain many of the same activities as neighborhood centers, which are intended to meet the day-to-day needs of residents and workers in the adjacent neighborhoods, but in greater depth and variety. Multi-neighborhood centers service areas are typically one to three miles, and these centers are generally found at major intersections and along key transit routes. These centers might include supermarkets, general merchandise stores, drug stores, restaurants, specialty shops, apparel stores, and a variety of service-oriented businesses. Multi-neighborhood centers also may include office space. Mixed-use infill development at these centers should be encouraged to provide new retail and service uses, and additional housing and job opportunities.

### **Florida Avenue Market Plan**

38. The Subject Property is located within the boundaries of the Florida Avenue Market Small Area Plan, which was approved by the D.C. Council pursuant to Resolution No. 18-257, the "*Florida Avenue Market Small Area Plan Approval Resolution of 2009*". As specified in the D.C. Code and the Comprehensive Plan, Small Area Plans provide "supplemental guidance to the Comprehensive Plan" by providing detailed direction for areas ranging in size from a few city blocks to entire neighborhoods or corridors. (10 DCMR C § 104.2.) However, such plans "are not part of the legislatively adopted document." (*Id.*)
39. The Florida Avenue Market Small Area Plan recommends that the Property be rezoned to "high density", with a matter-of-right height of 90 feet and 6.5 FAR, and PUD/TDR height of 130 feet and 8.0 FAR. Thus, the Applicant's request to rezone the Subject Property from C-M-1 to C-3-C directly implements the zoning recommendations of the Florida Avenue Market Small Area Plan. The proposed C-3-C zoning would permit development of higher density on the Subject Property as a matter-of-right (90 feet and 6.5 FAR) and permit a broader range of uses than permitted under the existing C-M-1 zoning, and is therefore fully consistent with the Florida Avenue Market Small Area Plan.

**Office of Planning Reports**

40. By its final report dated June 8, 2012, OP recommended approval of the Application, including the requested flexibility, subject to the Applicant implementing certain traffic demand measures and other project benefits and amenities proffered by the Applicant. (Ex. 39.)

**DDOT Report**

41. By report dated June 8, 2012, DDOT did not express any objection the PUD. In its report, DDOT concluded the following:
- The redeveloped Site will add a nominal and manageable amount of vehicle traffic onto the roadway network;
  - The proposed vehicle site ingress/egress access points are located to minimize the potential for pedestrian-vehicle conflicts in the public space adjacent to the site;
  - The proposed ingress-only driveway access on New York Ave minimizes the site's impacts in the safety and operations of the roadway network;
  - The proposed bike parking is adequate to serve the expected needs and is conveniently located; and
  - The Applicant is proposing site egress through the public alley, which will require upgrading to DDOT standards for regular use.

(Ex. 40.)

42. DDOT's Urban Forestry Administration ("UFA") issued a separate report dated June 8, 2012. (Ex. 41.) The report was favorable to the project design with the single curb cut. The report also included recommendations for the preservation for the existing American Elm at the west end of the Property, the proposed streetscape layout, and the planting of street trees and plantings. The specific recommendations for the preservation of the American Elm tree, the streetscape layout, and the selection and planting of street trees and plantings are to comply with DDOT/UFA guidelines and will be coordinated directly with the agency.

### **ANC 5B Report**

43. ANC 5B issued a letter dated May 3, 2012, stating that at its regularly scheduled meeting on May 3<sup>rd</sup>, ANC 5B voted 8-0 in support of the originally proposed PUD. The letter is attached as Tab B of the Applicant's 20-day Supplemental Filing. (Ex. 35).
44. ANC 5B issued a letter dated June 7, 2012, stating that at its regularly scheduled meeting on June 7, 2012, ANC 5B voted 8-0 in support of the PUD with the current building design and development program. (Ex. 45.)
45. Commissioner Jacqueline Manning, Chair of ANC 5B, testified at the public hearing in support of the PUD application.

### **Post-Hearing Submissions**

46. On July 2, 2012, the Applicant submitted a consolidated set of plans to the Commission, which included revised sheets showing corridor windows on the south building façade, refinements to the architectural embellishment on the east building façade, and photographs of the mesh screening over the through-wall units. (Ex. 56.)
47. On July 2, 2012, the Applicant submitted an excerpt from the DC Atlas on the Geographic Information System ("GIS") website outlining the current boundaries of ANC 5B06 (the "GIS Map"). (Ex. 55.)

### **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. A comprehensive public review by the Commission of the specific development proposal is required in order to evaluate the public benefits offered in proportion to the flexibility or incentives requested, and in order to establish a basis for long-term public control over the specific use and development of the Property. (11 DCMR § 2400.3.)
3. The Commission may approve a PUD application, with or without modifications. In carrying out the purposes of the Zoning Regulations, the Commission may establish general standards and, in individual cases, set standards and conditions for height and

bulk lesser or greater than the standards established for the affected districts under the Zoning Regulations or elsewhere in the Zoning Regulations. (11 DCMR § 2400.5.)

4. Development of the Property included in this application carries out the purposes of Chapter 24 of the Zoning Regulations, which is to encourage the development of well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
5. The PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations. 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 Property. The impact of the project on the surrounding area and the operation of city services is acceptable given the quality of the public benefits in the project.
6. The Commission finds that the Applicant's proposal to rezone a portion of the Property from C-M-1 to C-3-C and to construct a hotel building on the Property is consistent with the Property's designation on the Future Land Use Map and the Generalized Policy Map.
7. The Commission finds that the PUD, including the height, bulk, and density, is consistent with the Florida Avenue Market Plan.
8. The Applicant's request for flexibility from the Zoning Regulations is consistent with the Comprehensive Plan. Moreover, the project benefits and amenities are in proportion to the requested development flexibility.
9. Approval of this PUD is appropriate because the proposed development is compatible 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 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.
10. The Commission is required under § 3 of the Comprehensive Advisory Neighborhood Commissions Reform Amendment Act of 2000, effective June 27, 2000 (D.C. Law 13-135; D.C. Official Code § 1-309.10(d)) to give great weight to the issues and conditions expressed in the written report of an affected ANC. In this case, ANC 5B voted to support the Application and recommended that the Commission approve the Application. (Ex. 45.) The Commission has given ANC 5B's recommendation great weight in approving the modification application.
11. 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 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.

12. The Application 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 application for the planned unit development on Lot 4 in Square 3594, and a PUD-related map amendment to rezone the Property from the C-M-1 Zone District to the C-3-C Zone District subject to the following guidelines, conditions, and standards. For the purposes of these conditions, the term "Applicant" shall mean the person or entity then holding title to the 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 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. "During the operation of the building" means a period of time that begins when the building is first occupied, and ending when it is last occupied.

#### **A. Project Development**

1. The PUD shall be developed in accordance with the plans titled "Homewood Suites/Hampton Inn" prepared by BBG-BBGM, dated July 2, 2012 ("Plans"). (Ex. 56.)
2. In accordance with the Plans, the PUD shall be an eight-story hotel building that will have approximately 162,185 square feet of gross floor area. The building will have 220 to 240 hotel rooms and approximately 115 parking spaces contained in an underground parking garage and covered parking area at the second floor of the hotel building. The maximum density for the project shall be 4.08 FAR, and the maximum building height shall be 90 feet.
3. The PUD shall consist of two hotel flags -- one will be that of a traditional overnight hotel and the second will be that of an extended stay hotel.
4. The Applicant has flexibility from §§ 411 and 770.6 of the Zoning Regulations to have roof structures that do not meet the setback and are not enclosed within walls of equal height, to the extent depicted in the Plans.

5. The Applicant has flexibility from the loading requirements set forth in Chapter 22 of the Zoning Regulations to provide a 30-foot loading berth in lieu of the required 55-foot loading berth.
6. The Applicant has flexibility to provide a range in the number of hotel rooms from 220 to 240.
7. The Applicant has flexibility 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.
8. The Applicant has flexibility to make refinements to the garage configuration, including layout, number of parking spaces, and/or other elements, so long as the number of parking spaces for the project complies with the parking requirements for a hotel use as set forth in Chapter 21 of the Zoning Regulations.
9. The Applicant has flexibility 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.

**B. Public Benefits**

1. **Prior to the issuance of a building permit for the project,** the Applicant shall donate the following items to the DC Parks and Recreation Department for the specific and exclusive benefit of the Trinidad Recreation Center:
  - a. One Brother MFC-932cw digital color all-in-one printer copier/scanner/fax;
  - b. One LG 42" LCD 1080p 60 Hz HDTV;
  - c. One Dynex television wall mount;
  - d. Twenty-six football uniforms – jersey and pants – for nine to 12 year olds;
  - e. Four 12-pack of HERCULES Metal Folding Chairs; and

- f. Four Realspace Folding Tables -- 29"H x 72"W x 30"D.
2. **Prior to the issuance of a certificate of occupancy for the hotel building**, the Applicant shall repave or cause the repaving of the entire length and width of the Alley in accordance with DDOT standards. Said improvements shall be subject to review and approval by DDOT.
  3. **Prior to the issuance of a certificate of occupancy for the hotel building**, the Applicant shall install lighting in the Alley in accordance with DDOT standards. Said improvements shall be subject to review and approval by DDOT.
  4. **Prior to the issuance of a certificate of occupancy for the hotel building**, the Applicant shall install appropriate signage on the Property and in the Alley directing vehicles from the hotel building to New York Avenue via the Alley and 4<sup>th</sup> Street. Signage in the Alley shall be in accordance with DDOT standards and subject to review and approval by DDOT.
  5. **Prior to the issuance of a certificate of occupancy for the hotel building**, the Applicant shall install bike racks on or adjacent to the Property to accommodate a minimum of 18 bicycles.
  6. **Prior to the issuance of a certificate of occupancy for the hotel building**, the Applicant shall submit to the Commission a letter agreement between the Applicant and Hospitality High Public Charter School wherein the Applicant agrees to award two internships to students at the Hospitality High Public Charter School and 10 college scholarships in the amount of \$1,000 each to students graduating from the Hospitality High Public Charter School. The letter agreement shall provide that the internships and scholarships will be awarded on an annual basis for five years starting within one year of the issuance of the certificate of occupancy for the hotel building. It should also state the general criteria for the internships and scholarships.
  7. **Prior to the issuance of a certificate of occupancy for the hotel building**, the Applicant shall submit a letter to the Commission from the single member district representative for the area that is currently ANC 5B06 as shown on the GIS Map confirming that (i) the Applicant hosted a job fair at the Trinidad Recreation Center where applications for open full and part time job positions at the new hotel were accepted and (ii) notice of the job fair was advertised through the ANC representing the single member district that is currently ANC 5B06 as shown on the GIS Map.

8. **Prior to the issuance of a certificate of occupancy for the hotel building**, the Applicant shall host an event where furniture from the existing hotel is donated to residents living within the boundaries of what is currently ANC 5B06 as shown on the GIS Map. Residents must be able to pick up the furniture directly from the existing hotel, the Trinidad Recreation Center, or some other location within the boundaries of the single member district that is currently ANC 5B06 as shown on the GIS Map. Also prior to the issuance of certificate of occupancy, the Applicant shall submit a letter from the single member district representative for the area that is currently ANC 5B06 as shown on the GIS Map confirming that the Applicant hosted the above-described furniture donation event.
9. **Prior to the issuance of a certificate of occupancy for the hotel building**, the Applicant shall install FM hearing loops in all the hotel meeting spaces.
10. **During the operation of the hotel building**, at least 51 of the hotel rooms shall be designed with special accommodations specifically for deaf persons.
11. **During the operation of the hotel building, the hotel** shall provide shuttle service between the hotel site and the New York Avenue Metrorail Station for hotel guests and employees.
12. The Applicant shall comply with the terms of the First Source Employment Agreement with the Department of Employment Services, which is attached as Tab D of the Applicant's Prehearing Statement. (Ex. 20.)
13. The PUD shall achieve a minimum of 50 LEED points equivalent, which equates to LEED Silver.

**C. Miscellaneous**

1. No building permit shall be issued for this PUD until the Applicant has recorded a PUD 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. Such covenant shall bind the Applicant and all successors in title to construct on and use the Property in accordance with this Order or amendment thereof by the Commission.
2. The PUD shall be valid for a period of two years from the effective date of this Order, or until August 17, 2014. Within such time, an application must be filed for a building permit as specified in 11 DCMR §2409.1. Construction shall begin within three years of the effective date of this Order. Failure to take these actions will result in the expiration of the PUD approval as of the applicable date.

3. 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 June 18, 2012, upon the motion of Commissioner Turnbull, as seconded by Commissioner May, the Zoning Commission **APPROVED** the Application at the conclusion of its public hearing by a vote of **4-0-1** (Anthony J. Hood, Marcie I. Cohen, Peter G. May, and Michael G. Turnbull to approve; the 3<sup>rd</sup> Mayoral appointee position vacant, not voting).

On July 30, 2012, upon the motion of Commissioner May, as seconded by Vice Chairperson Cohen, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Marcie I. Cohen, 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*; that is on August 31, 2012.

  
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**ANTHONY J. HOOD**  
CHAIRMAN  
ZONING COMMISSION

  
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**SARA A. BARDIN**  
DIRECTOR  
OFFICE OF ZONING