

Response to Comments and Issues Raised by DC for Reasonable Development

As it has in several recent proceedings before the Commission, DC for Reasonable Development (“DC4RD”) makes several claims that the proposed second-stage PUD and first-stage PUD modification is inconsistent with the Comprehensive Plan, and that the proposal will destabilize the area’s existing affordability and cause/contribute to gentrification. It would appear from its written comments submitted to the case record (Exhibit 86), the primary basis for DC4RD’s claims is the amount of time that has passed since the Commission’s initial approval of the overall Waterfront Station project, and changes that have occurred in the surrounding area during that time including, according to DC4RD, “the massive displacement of black families.” Consistent with the manner in which it has participated in other recent proceedings, DC4RD continues to raise generalized grievances that are not specific to any portion of a particular proposal, including the Applicant’s proposal, and also fails to substantiate any of its claims regarding displacement and gentrification through fact-based evidence or analysis.

Consistency with the Comprehensive Plan

In its written comments submitted to the record, DC4RD states that the project shows a huge inconsistency with the fundamentals of the Comprehensive Plan. However, as fully set forth in the Applicant’s Consistency with the Comprehensive Plan analysis (Exhibit 2H) and the hearing testimony of Mr. Shane Dettman, the Applicant’s expert in zoning and land use (Exhibit 88), the proposed project is not inconsistent with the guiding principles, policies, and goals of the Comprehensive Plan, including the land use designation on the Future Land Use Map and general policy designation on the Generalized Policy Map.

Moreover, the Office of Planning found that the project “is not inconsistent with the Comprehensive Plan, would not result in unacceptable impacts on the area or on city services, and includes public benefits and project amenities that balance the flexibility requested.” *See* OP Hearing Report, p. 1 (Exhibit 64). OP also acknowledged that the Commission previously determined that the first-stage PUD was not inconsistent to the Comprehensive Plan, and further found that the change in proposed use from office to residential “would not be inconsistent with major policies from the Land Use, Transportation, Housing, Economic Development, Urban Design, and Lower Anacostia Waterfront / Near Southwest elements of the Comprehensive Plan,” and “would not be inconsistent with, and would further housing objectives, including the provision of affordable housing.” *Id.* at 10.

Gentrification, displacement, destabilization of land values, and overdevelopment

As stated above, DC4RD claims that the project will destabilize the area’s existing affordability and cause/contribute to displacement and gentrification, although offers no factual evidence to substantiate these claims. The Commission has previously opined on an Applicant’s obligation to respond to these types of unsubstantiated generalized grievances/claims. In so doing, the Commission found that while the burden of proof rests with the Applicant, an Applicant is not obligated to respond to such assertions. The Commission further stated that “[f]or a party or witness to raise issue for which a response is required, the party or witness must have some factual basis for the claim and draw a nexus between the claimed deficiency and the current application.” *See* Z.C. Order No. 11-03J, Finding of Fact No. 150. DC4RD has not provided any such factual

basis or nexus. Indeed, the DC Court of Appeals has also recognized that claims regarding “destabilization of land values,” “environmental impacts,” and broad concerns regarding overdevelopment in the community are generalized, and that under the principles of standing “a plaintiff...may not attempt to litigate generalized grievances.” See DCCA No. 16-AA-0705, *Union Market Neighbors v. District of Columbia Zoning Commission and 301 Florida Ave Manager, LLC*.

Based on the foregoing, the Applicant submits that DC4RD’s unsupported claims regarding displacement, gentrification, destabilization of land values, and overdevelopment do not actually warrant a response given their generalized nature that in no way has been directly tied to the Applicant’s proposal, and the lack of any factual nexus between the personal interests of DC4RD, including its groups and individual members. Nonetheless, out of an abundance of caution the Applicant provides the following response.

Not only does DC4RD fail to provide any information or analysis of its own to verify its claims regarding displacement, gentrification, destabilization of land values, and overdevelopment, as it has done in several recent cases before the Commission, DC4RD continues to approach the issue of affordable housing in the District extremely narrowly by applying a one size fits all solution to an issue that requires a range of strategies and programs spanning several District agencies that focus on, among other things, preserving existing affordable housing and controlling housing costs for existing residents through programs that provide rental assistance and limit assessment value increases. The following chart provides several examples of programs, followed by the District agency or entity that is in charge of administering the program:

Program	Agency
Housing linkage	DC Council
Affordable housing requirements for public land disposal (D.C. Code 10-801)	DC Council
Homestead and Senior Citizen Deduction	OTR
Senior Citizen or Disabled Tax Relief Program	OTR
Property Assessment Cap Credits	OTR
Lower Income Homeownership Tax Abatements	OTR
Lower Income, Long-term Homeowners Tax Credits	OTR
Low-income or Low-income Senior Citizen Property Tax Deferral	OTR
Local Rent Supplement Program	DHCD
Housing Production Trust Fund	DHCD
Tenant Opportunity to Purchase Act (TOPA)	DHCD
Home Purchase Assistance Program (HPAP)	DHCD
Housing Choice Voucher Program	DCHA

Increasing market rate and affordable housing supply is yet another strategy proven to be effective at addressing the issue of affordable housing, and the project will be greatly beneficial in this regard by adding approximately 598 new units of housing, of which approximately 50 units will be set aside as affordable at 60% of the median family income (“MFI”). Contrary to DC4RD’s claim that the project will harm the area’s existing affordability, actual analysis conducted by the District has shown that increases in housing (both market rate and affordable) has not impacted lower income residents. Specifically, according to a report entitled Bridges to Opportunity, A New Housing Strategy for D.C. (March 2013), prepared by the 2013 Comprehensive Housing Strategy Task Force, “the recent increase in market rate housing does not appear to have led to significant gentrification, by which we mean the displacement of lower income residents. In fact, over the

past two years of the city's population growth, the number of people filing income taxes has increased across all income levels citywide. Market rate housing starts are essential to improving the city's continuum of housing as are public-private investments in affordable housing development." See *Bridges to Opportunity, A New Housing Strategy for D.C* (2013), pp. 7 and 41.

Contrary to DC4RD's unsubstantiated claims, the project will have significant positive impacts on affordable housing in the District through the significant number of new residential dwelling units that will be constructed, including the substantial number of affordable dwelling units that would otherwise not be constructed under the current approved office use. In fact, DC4RD's claim that the project exacerbates the issue of affordable housing only shows a lack of knowledge of where the overall Waterfront Station PUD initially started when it was approved for seven commercial buildings and one residential building. Taking into account the Applicant's proposal, and the current proposal for substantial affordable housing on the Northeast Parcel of the Waterfront Station PUD, the amount of affordable housing provided within the overall Waterfront Station PUD will be significantly more than originally proposed. Further, as noted in the Comprehensive Plan, the development of new housing both market rate and affordable – is important to addressing the issue of affordable housing in the District. Academic studies and articles written from a wide range of political perspectives are increasingly finding that addition of new housing of all types and price ranges is one of the key steps that can be taken to mitigate rising prices and rents. As stated by Richard Florida in a recent article “[w]e’ve long known...that restrictive land use and building codes in cities limit housing construction (and therefore housing supply), leading to increased costs, worse affordability problems, and deepened inequality in urban centers.”¹

Consistent with the above statement, many academic studies and articles have found that construction of new housing in all price ranges, and specifically new affordable housing, is one of the best ways to mitigate increasing housing prices and rents as it helps address the imbalance between housing demand and housing supply. One such example is research conducted by the Legislative Analyst's Office of the California Legislature which concluded that “[a]s market-rate housing construction tends to slow the growth in prices and rents, it can make it easier for low-income households to afford their existing homes. This can help to lessen the displacement of low-income households.”² This approach to addressing the issue of affordable housing through increasing the supply of new market-rate and affordable housing is also consistent with the priorities recently adopted by a diverse group of D.C. business groups, tenants' groups, developers, affordable housing advocates, faith groups, and over 250 residents regarding revisions to the Comprehensive Plan.³ Specifically, the first of these adopted priorities states that the District should meet housing demand by forecasting, planning for, and encouraging the creation and preservation of a supply of housing (market-rate and subsidized affordable) to meet the demand at all income levels. The supply of housing should be sufficient to slow rising costs of rental and for-sale housing.

To that end, the project will not cause or exacerbate gentrification or displacement of existing residents in the surrounding area. Rather, the project is a perfect example of the type of

¹ Florida, R. (2016). How Zoning Restrictions Make Segregation Worse. *The Atlantic Citylab*.

² Legislative Analyst's Office (2016). Perspectives on Helping Low-Income Californians Afford Housing.

³ <https://ggwash.org/view/62320/meet-the-housing-demand>.

development that can help mitigate the negative effects of gentrification and increasing housing costs as it will introduce approximately 598 new dwelling units into the District's supply of housing, of which approximately 50 units will be devoted to affordable housing at the 60% MFI level, including six three-bedroom units to help meet the demand for family-sized units.⁴

Impacts on public services

In its written comments, DC4RD states that “[t]here's no study on the infrastructure impacts (transportation, parking, utilities, pipes, etc.), the environmental impacts (noise, refuse, emissions, air/water, construction nuisance, etc.), the gentrification impacts on surrounding vulnerable affordable housing (no surveys of housing-cost burdened residents in the area now), and the impacts on public service capacities/needs that serve our members and community now (schools, libraries, clinics, rec centers, truly affordable housing, police/fire, etc.). Without an impartial and meaningful impact assessment, the Commission cannot reconcile the benefits in determining approval.”

Regarding transportation, as testified by Mr. Dettman, as part of its review in 2003, and again in 2007, the Commission evaluated the impacts of the project, specifically finding in Z.C. Order No. 02-38A that the project “has been evaluated by the relevant District agencies, including being supported by both OP and DDOT. Based on those reports, there will be no adverse impacts that cannot be mitigated by the conditions imposed herein.”

Regarding impact to public services, as is clearly demonstrated by the following information, which is published by various District agencies and is publically available, the impacts of the project on public services will not be unacceptable, but instead will be favorable, capable of being mitigated, or acceptable given the quality of public benefits in the project. Other than the proposed change in use from office to residential for the M Street buildings, the project remains fully consistent with the approved first-stage PUD, as modified. As such, the potential impacts of the project relative to height, mass, scale, and density remain the same as what has already been evaluated and deemed acceptable by the Commission. With respect to transportation, as presented at the public hearing by Mr. Daniel Van Pelt, the Applicant's expert in transportation, the potential transportation impacts of the proposed change in use of the M Street buildings has been thoroughly analyzed and determined to be less than the currently approved office use. Further, any potential impacts of the residential use proposed for the M Street buildings will be mitigated through implementation of the Applicant's transportation demand management (“TDM”) plan and other commitments made with Waterfront Tower (a party in opposition to the case).

Considering its claim that the project “[d]emonstrates a lack of acknowledgement of recent laws...such as the law regarding substantial affordable housing for families on land/assets that were formerly public,” it is ironic that DC4RD would raise a question as to whether the capacity of local schools will be burdened by the project. Nonetheless, according to a D.C. Public Schools

⁴ DC4RD states that the Project “[d]emonstrates a lack of acknowledgement of recent laws passed before this Application for significant changes was reviewed, such as the law regarding substantial affordable housing for families on land/assets that were formerly public, a law that is backed by Comprehensive Plan policies.” Noting that DC4RD does not provide any legal citation, it is assumed DC4RD is referring to the Family Unit Amendment Act of 2017 (B22-0180), which is still under review by the D.C. Council, and thus has not been passed into law.

report entitled “Public Education Supply and Demand for the District of Columbia Citywide Fact Sheet, SY2016-17 (“Fact Sheet”),” which was released by DCPS on October 6, 2017, there is sufficient capacity within the DCPS and D.C. Public Charter School systems to accommodate expected growth through 2025. Specifically, as stated on page 12 of the Fact Sheet, “...there may be between 93,687 and 95,502 3-17 year old public school students in 2025. If the District grows by this amount, and if the city keeps the same supply of schools with the same grade spans and facilities as they have in SY2016-17, then there may be a surplus of 6,182 to 7,996 seats in our current facility inventory.”

Specific to the project site, according to data published by DCPS the local schools that currently serve the project site all have additional capacity to accommodate demand, and all have either recently been fully modernized or are in the process of being modernized. According to the DCPS website, the three public schools that serve the project site include Amidon-Bowen Elementary School, Jefferson Middle School Academy, and Eastern High School. According to the DCPS online profile for Amidon-Bowen Elementary School, which was fully modernized in 2012, this school has a current enrollment of 350 students (<http://profiles.dcps.dc.gov/Amidon-Bowen+Elementary+School>) and a building capacity of approximately 400 students, equating to approximately 88% utilization. The online profile for Jefferson Middle School Academy indicates a current enrollment of 305 students (<http://profiles.dcps.dc.gov/Jefferson+Middle+School+Academy>) and an existing building capacity of approximately 567 students, equating to approximately 54% utilization. Of note, on May 31, 2017, the D.C. Council voted to accelerate the complete modernization of Jefferson Middle School. The modernization process was recently initiated with a community kick-off meeting held on October 25, 2017, with construction estimated to be complete in August 2020. Finally, the online profile for Eastern High School, which was fully modernized in 2010, indicates a current enrollment of 818 students (<http://profiles.dcps.dc.gov/Eastern+High+School>) and a building capacity of approximately 1100 students, equating to approximately 74% utilization. Based on the foregoing, the project will not burden local schools.

Regarding impacts to public libraries, as the Commission knows that D.C. Public Libraries (“DCPL”) continues to advance its efforts to transform the District’s library system for the 21st Century through major renovation or reconstruction of public libraries throughout the city. Some of the standard programmatic requirements DCPL is incorporating into all of its library projects include an average size of approximately 20,000 to 22,000 gross square feet, flexible space to accommodate future changes, LEED certification, ADA accessibility, separate age-related reading areas, and community meeting space and study rooms. With regard to capacity, according to a December 2010 analysis conducted by OP, the Southwest Library was one of the least active libraries in terms of computer usage, circulation, and patronage.⁵ Thus, although this study is seven years old, it is reasonable to believe the Southwest Library has enough capacity to accommodate any additional demand that may be generated by the project, especially given DCPL’s ongoing efforts to modernize the District’s library system. In fact, the process to modernize the Southwest Library is well underway. According to a presentation given by DCPL at a community meeting held on September 26, 2017, the funded \$18 million modernization project will increase the net square footage of the library devoted to public areas (entrance/marketplace; adult, teen, and

⁵ <https://www.scribd.com/document/49490030/Appendix-a-DCPL-Presentation-October-2010-Revised-01-31-11#fullscreen>

children services; and meeting spaces) by approximately 3,421 square feet, thus further increasing capacity of the Southwest Library.⁶ Of note, the West M Street building site will serve as the interim site for the SW Library while the new SW Library is under construction.

The project will also not adversely impact recreation centers and facilities. The surrounding area has more than sufficient recreational facilities. First, the King Green Leaf Recreation Center, located at 201 N Street, SW, is a 16,500 square foot facility that was substantially renovated in 2005. Indoor facilities at this recreation center provide a computer lab, fitness center, gymnasium, and a multi-purpose room. Outdoor facilities include a playground, spray park, ballfields, tennis courts, pavilion, and a large multi-purpose field. In addition, the Southwest area is also serviced by Randall Recreation Center, located at 820 South Capitol Street, SW, which provides an indoor multi-purpose room and several outdoor facilities including a pool, basketball courts, soccer field, and tennis courts. Finally, the area is located in close proximity to other significant parks and recreation facilities including East Potomac Park and the National Mall.

The Project will not adversely impact fire stations or emergency response times. In fact, the Southwest area is home to the newly constructed Engine Company 13 (“EC13”), which was completed in November 2015 and is the first new fire station to be built in the District in more than 20 years. Located at 400 E Street, SW, in close proximity to the project, EC13 is a \$10 million state-of-the-art facility for D.C. Fire and Emergency Management Service (“FEMS”) units that serves the population of Southwest. At a November 24, 2015, grand opening event, Mayor Muriel Bowser commented on the positive impact the new fire station would have by stating “[a] new DCFEMS Engine 13 means better services for Ward 6 residents and businesses... This complex will play a major role in our efforts to improve public safety, ...” (<https://dmped.dc.gov/release/mayor-bowser-opens-new-fire-station-and-hotel-sw>).

⁶ <https://www.slideshare.net/DCPublicLibrary/sow-slide-show-9-2617>