

ZONING COMMISSION CASE NO. 02-38J

**SECOND-STAGE PUD FOR
1000 4th STREET, SW**

SUPPLEMENTAL PRE-HEARING STATEMENT OF THE APPLICANT

On May 15, 2018, WFS2, LLC (the “**Applicant**”) as future ground lessee of the parcel located at 1000 4th Street, SW (Square 542, Lot 822, the “**Property**”) filed an application for approval of a second-stage planned unit development (“**PUD**”) arising out of the Zoning Commission’s approval of the First-Stage PUD contained in Z.C. Order No. 02-38 (as amended and extended, the “**Waterfront Station PUD**”). The Applicant has entered into an agreement (the “**LDDA**”) with the District of Columbia, acting through the Office of the Deputy Mayor for Planning and Economic Development (“**DMPED**”) to ground lease the Property from the District.

Consistent with the plans for the Property set forth in the Waterfront Station PUD, the Applicant proposes to construct an eleven-story mixed-use building with ground floor restaurant/retail, arts/cultural, and educational/daycare uses, approximately 450 residential units (with 30 percent of the units set aside as affordable housing: half of those units are initially set aside for households earning up to 30 percent of the Median Family Income (“**MFI**”), and the balance of the units are set aside for households earning up to 50 percent MFI), and approximately 233 below-grade parking spaces (the “**Project**”). The Project also includes a private drive (the “**Private Drive**”) along the north side of the Property and an outdoor play area (the “**Play Area**”). The Project is consistent with the first-stage approval in the Waterfront Station PUD.

This statement, filed in accordance with Subtitle Z, Section 401.5, details the Applicant’s revisions and changes to the Project since the filing of the initial application materials and summarizes this application’s satisfaction of the relevant zoning standards as follows:

Section I: changes to the Project since the initial application filing

Section II: requested zoning and design flexibility

Section III: the Applicant’s community outreach

Section IV: the Applicant’s outreach to District agencies

Section V: the Project’s impacts

Section VI: the Project’s consistency with the Comprehensive Plan and Small Area Plan

Section VII: the Project’s public benefits

Draft proffers and conditions language is attached as Exhibit A. Additional impact studies, mitigation plans, and background information are included as Exhibits B through F. Revised plans and drawings for the Project are included as Exhibit G (the “**Revised Plans**”) along with signage plans for the Project (the “**Signage Plans**”).

I. Revisions to the Project and Update on Questions Raised at Setdown

A. Revisions to the Project's Building Design

The Applicant has advanced the design of the Project in the months since the initial filing, and the Project has changed as follows:

1. Wesley Place, SW Façade: In the initial filing, the Wesley Place, SW façade was largely all glass on floors 4-10. Page 34 of the Revised Plans shows that such façade is now composed of a ceramic rainscreen with metal panel and floor-to-ceiling windows, an aesthetic choice more in keeping with the character of the Waterfront Station PUD residential buildings.

2. Courtyard Reconfiguration: The Project's courtyard has been revised to increase the amount of open space and improve the amount of light and air to units fronting on the courtyard. Although the reconfigured courtyard reduces the number of units with balconies, the Project still retains a very high percentage of units with private outdoor space: of the Project's 450 units, 150 (33 percent) have a balcony or terrace. All units have access to outdoor space in the courtyard.

B. Responses to Office of Planning (“OP”) Questions

In its July 20, 2018 preliminary report to the Commission, OP asked for additional information on three topics, each addressed below:

1. Rooftop Materials: OP requested a description of the “rooftop materials” surrounding the Project's open-air mechanical penthouse. Such metal screening is a painted dark gray aluminum panel with perforations for air flow. The Applicant will have a materials board available at the public hearing with a sample of such screening. Photos of the materials are included in the Revised Plans at page 55.

2. Materials for the Private Drive: OP also requested further evaluation of the relationship of the Project's Private Drive to the private drive on the west side of 4th Street, SW.

The design of the Project's Private Drive reflects the general materiality and character of the existing private drive on the west side of 4th Street, SW. Both drives use all-weather, permeable unit pavers of a similar material and color, but the shape of the pavers differs to reflect the different function and intent of each drive. See page 59 of the Revised Plans. Further, the design of the Project's Private Drive has been tailored to reflect the form and function of the Project's active, pedestrian-focused ground-floor uses. The one-way driveway allows for ample space for café seating on the west end and a play area on the east end, and it creates a dynamic environment that connects the building uses to the outdoor public realm. The Private Drive also accommodates pick-up and drop-off services for the multiple ground floor uses in the Project that are served by the Private Drive. By contrast, the existing private drive is a less intense, two-way drive, adjacent to ground-level walk-out residences.

3. Affordable Housing Unit Breakdown and Location: Finally, OP requested a breakdown of the location and mix of the Project's affordable housing units. As noted above, the Project has a substantial affordability commitment: 30 percent of the Project's units are reserved as affordable with half of those units affordable at 30 percent MFI and the other half at 50 percent MFI. Pages 90-95 of the Revised Plans contain floor-by-floor locations of the Project's affordable housing units and show that the units are dispersed throughout the Project. The Project's affordable units are in proportion to the market-rate units with respect to bedroom count.

In its July 30, 2018 public meeting in which the Commission set the Project down for a public hearing, the Commission did not raise any additional questions or concerns about the Project. However, anticipating the Commission's request for similar PUDs, drawings of the Project shown in a photograph of the existing context have been incorporated at pages 30-31 of the Revised Plans.

II. Development Incentives and Flexibility

The Waterfront Station PUD included an amendment to the Zoning Map, re-designating the Property from the C-3-B Zone District to the C-3-C Zone District.¹ This application does not propose to change that designation but does seek modest technical zoning flexibility from yard requirements as well as design and use flexibility that the Commission regularly affords PUDs. The Project's exemplary architecture, urban design, and landscaping more than justify the modest incentives and flexibility requested herein.

A. Side and Rear Yard Flexibility

The Project requires flexibility from the side and rear yard requirements of the C-3-C Zone District. All buildings that are part of the Waterfront Station PUD "front" on M Street, SW for zoning and Height Act purposes. Therefore, the Project's frontages along 4th Street, SW and Wesley Place, SW are technically side yards and its margin along the Private Drive is a rear yard.²

4th Street, SW "side yard": In the C-3-C Zone District, no side yard is required. However, if side yards are provided, they should be at least 2 inches for each foot of building height. Because the Project is 114 feet tall, any side yard would need to be 19 feet. Along 4th Street, SW, the Project's "side yard" (functionally a setback from the street) varies in width from 12 feet to 0 feet

¹ The Project is vested under the substantive provisions of the 1958 Zoning Regulations because it is part of a PUD vested prior to the 2016 adoption of the current Zoning Regulations. *See* 11-A DCMR § 102.3(a).

² The Zoning Regulations have been consistently interpreted as treating a street-facing lot line as a "front" yard rather than a side yard, and that interpretation has been codified in the 2016 Zoning Regulations. *See, e.g.,* 11-B DCMR § 313.3. To be conservative, this application seeks relief for the "side yards" given the unique history of the site and its vesting under the 1958 Regulations.

as it tapers off with the angle of 4th Street, SW. See page 16 of the Revised Plans. However, none of the typical concerns about the adequate width of side yards are present here: there is ample space and light and air between the Project and the building opposite 4th Street, SW because of the intervening public right of way.

Wesley Place, SW “side yard”: The side yard on the eastern side of the Project is only 4 feet, again short of the 19 feet that would be required under the strict application of the applicable Zoning Regulations. See page 16 of the Revised Plans. Again, the typical concerns about a non-conforming side yard are inapplicable to the Project: the intervening Wesley Place, SW provides ample room for light and air between the Project and any other building.

The non-compliant side yards are necessary from an urban design perspective: they align the Project with the existing street wall and create the type of strong urban presence encouraged by the Comprehensive Plan and urban design principles.

Rear Yard: The Project’s rear yard does not comply with the 28 foot rear yard requirement. Portions or all of two to three balconies on floors 4 through 10 of the building Project into the required rear yard by up to four feet. See page 16 of the Revised Plans. These balconies provide substantial benefits that warrant the requested flexibility: they add articulation, visual interest, and outdoor space for building occupants. In addition, there is ample space to the north of the Project, with a 45-foot wide, tree-lined, District-owned parcel separating the Property from the church to the north of the Project.

In total, the requested relief strengthen the overall design of the Project without any negative effects on surrounding properties.

B. Ground Floor Use Commitments and Flexibility

Based on extensive dialogue with ANC 6D representatives, the Applicant proposes the following commitments and flexibility regarding the Project’s ground floor uses. These conditions are included in Exhibit A but are reprinted below for the Commission’s convenience.

1. 4th Street Retail Use: The Applicant will reserve 11,000 square feet of the Project’s ground floor for neighborhood-serving uses in the retail, general service, financial service, and eating/drinking establishment use categories.

a. For a minimum of two years after the date of issuance of the first certificate of occupancy for the Project, the Applicant will reserve a minimum of 1,200 square feet of the Project’s ground floor for a restaurant use serving three meals a day with typical hours of operation beginning not later than 7:00 a.m. (e.g. a “diner” or similar establishment), or other use as approved by ANC 6D. The Applicant will ensure that the Project is designed to accommodate kitchen equipment functions for the “diner” space (e.g. exhaust systems

and grease traps). After the expiration of this period, the “diner” space may be used for any other use in the retail, service, financial service, or eating/drinking establishment use categories.

b. Following the issuance of a building permit for the Project, the Applicant will provide ANC 6D representatives with quarterly updates on retail marketing and leasing efforts for the “diner” space as well as other retail space.

2. Theater/Cultural Use: For a minimum of five years after the date of issuance of the first certificate of occupancy for the Project, the Applicant will reserve a minimum of 9,000 square feet of the Project’s ground floor for a theater or similar performing arts venue.³ After the expiration of this period, the space will be reserved for any use in the entertainment/assembly/performing arts, arts/design/creation, and arts-related educational use categories.

a. Prior to the issuance of a building permit for the Project, the Applicant will issue solicitations for a potential theater operator through a “request for proposals” or similar process. The Applicant will request that respondents address neighborhood engagement and inclusivity in their responses and include them as evaluation criteria within such request for proposals. The Applicant will provide ANC 6D representatives with an opportunity to review and advise on proposals that are received.

3. Retail/Educational Use: The Applicant will reserve 9,000 square feet of the Project’s ground floor for neighborhood-serving uses in the retail, general service, financial service, eating/drinking establishment, education, or daytime care use categories.⁴

C. Design Flexibility

Finally, the Applicant seeks for the Project flexibility that is consistent with what is the Commission’s standard design flexibility and accommodates the future needs of the Project’s uses, design, and operation as they are further developed. The proposed flexibility conditions are included in Exhibit A.

³ In the Applicant’s initial filing, the Applicant identified Forum Theater as the prospective operator of the Project’s arts/cultural space. In the period since filing, Forum Theater has dissolved for financial reasons unrelated to this Project. The proposed conditions accommodate the Applicant’s commitment to accommodate a theater use or, if a theater use cannot be identified, other cultural use within this space in the Project.

⁴ The Applicant is in advanced discussions with AppleTree Public Charter School (“AppleTree”) as an educational provider to operate a pre-kindergarten school use in this space in the Project. The flexibility is requested to accommodate future use of the space over the life of the Project.

III. Community Outreach

For over three years, the Applicant has met with ANC 6D, members of the communities surrounding the Project, neighbors, and neighborhood groups to discuss plans, concepts and designs for the Project and to address concerns. These discussions began in 2015 when the Applicant entered into DMPED's RFP solicitation process and have continued through the PUD process. The Project has improved substantially as a result of this community engagement.

ANC 6D

ANC 6D has played a significant and positive role in the development of the Project. Because the Applicant has worked closely with the ANC from the outset of the RFP process, the ANC's preferences regarding the Project's ground floor uses are reflected in the Project's program and design. Similarly, the ANC's concerns about traffic and curbside management were significant factors in the design of the Project's Private Drive and parking and loading access locations. In addition, the Project expands substantially on the already-robust package of public benefits in the Waterfront Station PUD, as outlined in detail below. The extension of the public benefits associated with this Project are largely the result of the Applicant's discussion with the ANC. And with the encouragement of and input from the ANC, the Applicant took a holistic and comprehensive study of transportation impacts, mitigation, and safety measures and construction management to address potential impacts.

The Applicant presented the Project to the ANC at its December 2018 public meeting, met subsequently with the Commissioners on multiple occasions to resolve outstanding questions and concerns, and looks forward to presenting to the ANC again on January 14, 2019 for a vote on the Project.

Other Community Groups and Neighbors

The Applicant has also met or had discussions with representatives from:

- Westminster Presbyterian Church and Christ United Methodist Church, which are located to the immediate northwest and north of the Project.
- SWNA, Waterfront Towers, Capitol Park Towers, USAA Real Estate, Bernstein Management Company, Forest City, Carrollsburg Condominium, Tiber Island Cooperative, and Tiber Island Condominium Association, which represents a broad cross section of community groups, nearby residential buildings, and adjacent commercial property owners.
- Amidon-Bowen Elementary School Parent-Teachers Association ("**PTA**"), on behalf of students at the public school approximately one block north of the Property.

These community conversations have informed the Project's design, mix of uses, mitigation plans, and public benefits package.

IV. Agency Meetings and Comments

For over a year, the Applicant has engaged in discussions with numerous District agencies regarding the Project. The Applicant has met with or discussed the Project with representatives from DMPED, OP, the District Department of Transportation ("**DDOT**"), the District Department of Energy and the Environment ("**DOEE**"), the District Department of Housing and Community Development ("**DHCD**"), the DC Public Library ("**DCPL**"), Fire and Emergency Management Services ("**FEMS**"), the Metropolitan Police Department ("**MPD**"), the Office of Aging, as well as with utilities such as DC Water and PEPCO. Among other discussions and meetings, the Applicant participated in an intensive interagency discussion regarding the Project with many of the stakeholders listed above, so that the agencies could coordinate with each other and share comments and questions about the Project in real time with each other and the Applicant and its design team and consultants. These conversations affected the final design of the Project; key inputs and changes are summarized below.

The Applicant met with DOEE as part of the interagency meeting and followed up with a separate conversation before filing this statement. In summary, DOEE expressed that it was satisfied with the Project's LEED commitment and solar panels. DOEE requested that the Applicant design the garage to be capable of supporting electric vehicle charging stations, which is something the Applicant intends to do. DOEE also noted that it would reserve additional technical comments for its review of the Project's building permit application.

The Applicant met with DHCD as part of the interagency meeting and followed up with separate correspondence before filing this statement. In summary, DHCD had no objections to the proposed development. DHCD concurred with the amount, duration, and levels of affordable housing proposed for the Project and noted that the proposed affordable housing in the Project exceeds the amount that the inclusionary zoning regulations would require for both the building and penthouse, both in terms of amount of setaside and level of affordability.

The Applicant met with Commander Morgan Kane of MPD to discuss design and operational measures that could be incorporated into the Project to improve its overall safety and security, particularly with respect to the Project's Private Drive and proposed outdoor Play Area. MPD suggested that the Applicant: raise the height of the fence around the Play Area from 4 feet to 5 feet; ensure that cameras are placed on the perimeter of the building and monitored by the building management; install barriers reinforcing the fence against cars/traffic along the outside of the Play Area; ensure that there is sufficient lighting at night to prevent overnight loitering; monitor the Play Area and work with patrol officers to ensure that it does not become an after-school "hangout" area; and set up further follow up meetings with patrol officers to get additional perspectives. The Applicant has increased the fence height and worked with the design team to

come up with a solution for reinforcing the fencing around the play area. The Applicant will review the camera placement plan again with Commander Kane and her staff and is setting up further meetings with patrol officers in the PSA.

Finally, the Applicant has met with officials from DDOT's Safe Routes to School program regarding student safety both during construction and after completion of the Project and will continue to work with DDOT to facilitate review of the Project with respect to these issues.

V. Project Impacts

A. Transportation Impacts

The Applicant has undertaken an extensive study of the Project's potential transportation impacts, and in particular, has studied those potential impacts in the context of the new and proposed developments in the vicinity of the Project. The scope and design of the Project's impact analysis was established in close coordination with DDOT. This section presents some highlights of the Applicant's study and comments in response to questions and concerns from the ANC.

Overall Transportation Impacts

The Applicant submitted its Comprehensive Transportation Review ("CTR") to the Commission and DDOT in November 2018. The CTR provides, among other things, detailed plans for managing transportation demand, curbside activities, loading, and parking. In connection with the CTR, the Applicant's transportation consultant also prepared a written response to concerns and questions raised by the ANC during the CTR scoping process. That response memorandum is attached as Exhibit B.

In large part because of the Project's proximity to the Metrorail, strong pedestrian connectivity along all nearby streets, and a growing network of bicycle lanes in Southwest DC, the Project is not expected to have any adverse transportation effects. Notwithstanding those projections, the Applicant is prepared to implement a robust suite of measures to mitigate any possible transportation effects, as outlined in the CTR.

At the ANC's request, the Project's residential tenants will be restricted from participating in either of DDOT's Residential Parking Permit or Visitor Parking Pass programs. Such restriction will be applied and enforced through tenant leases pursuant to the language shown on Exhibit C.

Private Drive Management and Safety

The Project includes physical design elements—notably the Private Drive, which has a carefully designed pick-up and drop-off space outside of the public realm, as well as the below-grade garage—and operational elements that together minimize any adverse transportation effects on the surrounding road network. The Private Drive and garage will be managed in accordance

with the CTR. Additional responses to ANC concerns regarding the Private Drive are attached as Exhibit D.

The ANC asked the Applicant to study the installation of traffic calming measures on the Private Drive to control vehicle speeds on the driveway. The Drive's uses design-based measures accomplish the necessary calming. The Private Drive's narrow width at its driveway opening and the continuation of a flush sidewalk across the Drive's entrance are a strong visual cue to drivers that the Private Drive is not a street for cut-through travel. Similarly, the Project's pavers create a "rumble-strip" effect for drivers in cars, another cue to slow travel speeds. In addition, the Private Drive has a slight change in grade at the entry and exit points, which is a DDOT design requirement intended to slow traffic. Operable bollards at both ends of the Private Drive allow it to be closed from time to time for special events outside of school days, and the Drive's design could accommodate additional calming measures (e.g., a speed hump) if necessary in the future.

DDOT, FEMS, and MPD have all reviewed the Project's Private Drive design and have given the Applicant no indication of concern with the design or safety measures of the Drive.

School-Related Transportation Management

The Applicant has a robust plan in place to address transportation matters related to the proposed AppleTree use. The Applicant proposes a detailed signage plan and operational controls to be enforced through its lease with AppleTree to manage parking, drop-off, pick-up, and queuing activities on the Private Drive. In order to prevent school unloading and loading from disrupting traffic, AppleTree staff will escort children to and from cars that queue in the Private Drive so that caregivers do not need to get out of their cars. The Project's garage also helps to accommodate unloading and loading for caregivers who elect to walk students into and out of the school.

In addition, as noted above, the Applicant has met with representatives from DDOT's "Safe Routes to School" program both with respect to access to AppleTree's use as well as with respect to neighborhood children walking to Amidon-Bowen Elementary School and Jefferson Middle School during the period of construction on the Project. The Applicant's discussions included concepts now incorporated into the Project's construction management plan regarding neighborhood student's walking routes.

B. Construction-Period Impacts

As part of the Applicant's discussions with the ANC, the Applicant has prepared a detailed plan to minimize adverse construction-period impacts on the neighborhood surrounding the Project. The Project's Construction Management Plan ("**CMP**") is attached as Exhibit E. In brief, the CMP: requires that the Applicant coordinate with other developers undertaking construction in the neighborhoods around the Project; establishes requirements for pre- and post-construction surveys and monitoring of nearby buildings during construction of the Project; identifies required

truck routes and staging areas; provides for trash, noise, dust, rodent control, and imposes other construction mitigation measures on the Applicant and its contractors.

C. Economic Impacts

The Project does not have any unacceptable economic impacts that cannot be mitigated in light of the extraordinary public benefits provided.

With respect to housing market impacts, as noted above, the Project includes a substantial amount of affordable housing, all of it reserved at levels of affordability far below an ordinary residential development project in the District and far below the 80% MFI required under the conditions to the First-Stage PUD. That is, relative to what is required under the Waterfront Station PUD, the Project provides more affordable housing (approximately 111,077 square feet provided v. 75,967 square feet required), at deeper levels of affordability (30% and 50% MFI provided v. 80% MFI as required under the Waterfront Station PUD), for a longer period of time (the entirety of the 99-year term of the Project's private ground lease v. 20 years as required under the Waterfront Station PUD). In total, the Project contributes approximately 136 new units of affordable housing at a range of bedroom sizes. As noted above, half of the affordable units are reserved at deeply affordable levels (i.e., 30% MFI), and all of the units are reserved at affordability levels below what is required under the inclusionary zoning regulations. Even the Project's market-rate units help to balance the demand for housing in the District and have a muting effect on any potential run-up of housing prices in the areas surrounding the Project. An additional element of the Project's anti-displacement considerations is that it is being constructed on now-vacant land. The Property has no current residents and no current commercial tenants that could possibly be displaced as a result of the Project. Given its housing program and the lack of displacement, the Project is highly unlikely to have any adverse economic impacts on housing.

With respect to the Project's non-residential uses, the Waterfront Station PUD and the DMPED disposition process both include requirements that mitigate any adverse impacts. The Applicant has entered into First-Source and other employment-related agreements with respect to the Project. Separately, the Waterfront Station PUD commits the Applicant to target small businesses and neighborhood operators for ground floor retail space in the Project. Together, these and other commitments applicable to the Project mitigate any adverse economic impacts from the Project's non-residential uses.

Moreover, the Project's mix of affordable and market-rate housing and proposed mix of ground floor uses have been approved by the D.C. Council as a part of DMPED's disposition process. That is, the Project's multifamily rental residential program not only is the result of private market conditions but also represents a public policy and legislative determination, both through the original disposal of land to create the overall Waterfront Station more than a decade ago and more specifically and recently with respect to the Project. The D.C. Council took legislative action in 2018 to approve the selection of the Applicant and to direct DMPED to enter into the long-term

ground lease arrangement at the heart of the Project. The executive and legislative branches have therefore evaluated and concluded that this Project is in the best interests of the District. Therefore, the Project’s mix of affordable and market-rate housing and ground floor uses reflect “policy and political considerations” as recently observed by the D.C. Court of Appeals.⁵

D. City Services, Infrastructure, and Environmental Impacts and Resiliency Considerations

The initial filing for the Project included a detailed environmental and infrastructure impact analysis. The Applicant’s initial analysis touched on utility demand, stormwater management, conservation objectives, and urban wildlife construction strategies. This analysis and the Exhibits referenced below supplement the earlier filing with additional information on the Project’s impact on District services, infrastructure, and environmental considerations.

1. School-Related Impacts: The Applicant’s initial filing provided a quantitative analysis of the District’s public school system’s capability to accommodate potential impacts from the Project. The Project affirmatively enhances the District’s public school and recreation facility capacity, providing space for an important pre-kindergarten opportunity to remain close to families in Southwest DC. The Project also makes room for those pre-kindergarten students to have a safe, outdoor play area that also provides community benefits outside of school hours. In addition, the Applicant has taken steps to ensure no adverse impacts on students walking to school whether during construction of the Project or afterward, among other impact mitigation measures.

2. Library Impacts: The Project is unlikely to have an adverse impact on the District’s library facilities. Instead, the Project’s effects are likely to be positive as the Project adds new patrons and have the potential to create positive synergies with the proposed new educational and arts uses. The Applicant has had conversations with DCPL administration officials to ensure that the Project does not create any adverse impacts on the nearby library branch during construction of the Project. The Applicant has committed to providing wayfinding signage to help the public find the library from the Metrorail and has committed to significant dust and noise mitigation measures during construction.

3. Impacts on Other District Services: On its own, the Project is highly unlikely to cause any critical overcrowding of publicly-accessible District services because of its relatively small scale. Rather, the Project has a significantly net positive effect on District revenues. That is, the Project over-contributes to any necessary future expansion of District services—parks, emergency services, community centers, etc.—relative to the impact of the Project. Furthermore, the Project contributes to the capacity of the District’s art and cultural “infrastructure” with a ground-floor space that is intended to have a community-serving scale.

⁵ See *Union Market Neighbors v. Zoning Comm’n*, No. 17-AA-42 at 14 (D.C. Dec. 13, 2018).

4. Construction, Noise and Air Quality Impacts: The Project will not have unacceptable adverse impacts with respect to construction, noise, or air quality. Noise, air quality, and construction period impacts arise from matter-of-right development and are not unique to PUDs. Nevertheless, the proposed CMP will address construction-period impacts of the Project as a whole and therefore goes well beyond whatever incremental construction impacts, if any, are attributable to the PUD.

5. Loss of “Open Space”: The Project has no unacceptable open space impacts. This portion of Southwest enjoys a variety of well-designed, neighborhood-scale open spaces—the Southwest Duck Pond, the Southwest Library grounds, and the District-owned alleé immediately to the north of the Property that connects the Duck Pond to the Library, as well as Lansburgh Park (which has dedicated play areas and a dog park), among others—that are well-served with appropriate amenities. The Waterfront Station PUD required at least 50,000 square feet of new open spaces, an amount already satisfied in previously approved second-stage PUDs and includes the plaza at the Waterfront Metrorail Station. The Project includes additional ground level public open space in addition to that amount.

The Property has been contemplated as a redevelopment site for more than a decade. Rather than fence off the Property and “mothball” it, the District kept it open and green and installed a temporary paved path to allow for interim use during the pre-development period.⁶ See Exhibit F. With the development of the Project, that interim use comes to its planned end.

In place of the interim vacant-lot condition, the Project provides new uses that are public benefits—new housing and affordable housing as well as a mix of diverse and vibrant retail, cultural, and neighborhood-serving ground-floor uses, which will draw people and will contribute to the diversity of the existing public and quasi-public gathering spaces in Southwest DC. Furthermore, the Project contributes its own additional publicly-accessible open space, through the 3,000 square foot Play Area that will be open to public use outside of school hours and the Private Drive that will provide an additional activated and engaging east-west connection through the Waterfront Station development. On balance, the Project makes a positive contribution to the Southwest open space network consistent with the established and planned vision for redevelopment of Waterfront Station.

6. Conclusion

In sum, the Project does not have any adverse impacts that are not capable of being mitigated or that are not acceptable in light of the Project’s extensive package of public benefits. As the Commission is well aware, District agencies (e.g., DOEE, DDOT, DHCD, FEMS, and

⁶ The Property is not currently subject to any formal easement or other public use designation, and no public rights have accrued in equity or by prescription against the Property given its status as municipally-owned land.

others) and utilities (e.g., DC Water and Pepco, among others) will conduct further technical reviews of the Project's impacts during the permitting phase of the Project's construction and will have the opportunity to require additional measures, as necessary.

VI. Comprehensive Plan

The Project is not inconsistent with the Comprehensive Plan as a whole. The Applicant's initial filing included a written planning matrix analyzing in significant detail the Project's consistency with the Comprehensive Plan for the District of Columbia. By the Applicant's count, there are approximately 775 policy objectives in the Comprehensive Plan's District Wide Elements and the Lower Anacostia Waterfront/Near Southwest Area Element. The Applicant's analysis reviewed the Project against the Future Land Use Map, Generalized Policy Map, and the approximately 200 policy objectives (of the 775 total) that apply in whole or in part to the Project.

In addition, the Applicant's initial planning analysis reviewed the Project against all eleven "Guiding Principles" and more than a dozen of the "Concept Actions" set forth in the 2015 Southwest Neighborhood Small Area Plan. Accordingly, the Applicant has provided the Commission and OP with as thorough and probing an assessment of the Project's consistency with the Comprehensive Plan as is reasonable. The Project and the additional public benefits proposed herein are unquestionably not inconsistent with the Comprehensive Plan and other adopted public policies applicable to the area around the Project.

VII. Public Benefits

The Waterfront Station PUD included a robust suite of public benefits that justified the modest upzoning and other flexibility and incentives approved as part of the First-Stage PUD. For reference, below is a summary of those benefits and the status of completion of each item.

Going above and beyond the regulatory requirement for a typical second-stage PUD, the Project also provides a supplemental package of public benefits that far exceed the requested flexibility. Nonetheless the Applicant is committed to being a good neighbor and ensuring that the Property maximizes public value, given its status as a District-owned parcel.

A. Waterfront Station PUD Public Benefits

Below are the broad categories of public benefits required under the first-stage Waterfront Station PUD.⁷ All such benefits have been or are in the process of being satisfied, and only two benefits—those pertaining to small and local business (number 4 below) and affordable housing (number 6)—rely on the Project for satisfaction.

⁷ See Exhibit 2H of the Zoning Commission record in the instant proceeding for a detailed summary of the conditions to the Waterfront Station PUD order.

1. Open Space: The overall Waterfront Station PUD area is obligated to provide 50,000 square feet of public open spaces. This benefit has been satisfied through second-stage PUD projects approved prior to this application. Nonetheless, the Project's Private Drive and Play Area contribute approximately 13,774 square feet of additional public open spaces beyond the original required amount.

2. 4th Street, SW: The reopening of 4th Street, SW and the subsequent dedication of such street to the District is complete.

3. Neighborhood-Serving Retail and Service Uses: The Waterfront Station PUD must include a minimum of 110,000 square feet of gross floor area to be targeted to neighborhood-serving retail and service uses. Previous filings indicate that this benefit is satisfied. The Project includes an additional 29,743 square feet of neighborhood-serving uses including retail, service, education/daycare,⁸ arts and arts/cultural uses.

4. Small and Local Businesses: The Waterfront Station PUD requires that "best commercially reasonable efforts" be made to provide opportunities for local and small businesses to occupy 12,500 square feet of retail space of the overall Waterfront Station PUD. This second-stage PUD is subject to this requirement to the extent of 2,500 square feet. Separately, the Waterfront Station PUD also required First Source Agreements for all subsequent second-stage PUDs. The Applicant has entered into new First Source and small business agreements in partial satisfaction of its obligations under this benefit.

5. Grocery Store: The Waterfront Station PUD requires a full-service grocery store be provided within the bounds of the PUD area, and such grocery store now exists.

6. Affordable Housing: The Waterfront Station PUD requires the provision of 160,000 square feet of affordable housing, reserved at 80 percent of MFI for a period of 20 years. Existing buildings under the Waterfront Station PUD provide 84,033 square feet, and the Project is obligated to provide the balance. As detailed above, the Project substantially exceeds this requirement in terms of square footage (the Project includes approximately 111,077 square feet of affordable housing), level of affordability (the Project's units are affordable at 30 percent and 50 percent MFI, rather than the required 80 percent MFI) and in duration (the Project's units are to be affordable for 99 years before the Property reverts back into District ownership, rather than the required 20 years).

⁸ Note that AppleTree is part of the DCPS lottery program, so it is obligated to be open to students from across the District. Nonetheless, nearly half of AppleTree's existing 99 students are from Southwest DC households, and an additional one third come from Southeast households.

7. Sustainable Design: The Waterfront Station PUD required that only the PUD's office buildings provide sustainable features. The Project nonetheless also exceeds this requirement with a LEED Gold commitment, solar panels, and other features, as detailed below.

8. Community Meeting Space: The Waterfront Station PUD requires reserving 1,000 square feet of office and meeting space for ANC 6D for a 10-year term. Previously-approved second-stage PUDs fulfilled this benefit.

9. Security and Construction Mitigation Plans: Previous second-stage PUDs were subject to a set of plans that do not bind the Property given its status in District ownership. Nonetheless, the Project provides the CMP, which exceeds the requirements of the Waterfront Station PUD.

10. Transportation Management: Each second-stage PUD under the Waterfront Station PUD is obligated to undergo a refinement of the original Transportation Management Plan. The CTR satisfies this requirement.

11. Park Site Maintenance: Privately-funded maintenance of an existing park north of the Waterfront Station PUD site is an ongoing benefit required under the First-Stage PUD and other second-stage PUDs arising thereunder.

B. Project Public Benefits

The Project goes above and beyond the requirements for a second-stage PUD and provides a supplementary package of public benefits that more than surpasses the justification for the flexibility sought in this application. Each benefit proposed herein: is tangible and quantifiable, measurable and capable of being satisfied in association with the issuance of a certificate of occupancy, accrues primarily to the neighborhoods surrounding the Property or serves a District-wide need, and is not inconsistent with the Comprehensive Plan. As noted above, Exhibit A includes draft proffer and condition language to memorialize these Project public benefits.

1. Superior Urban Design and Architecture: The Project's design is reflective of superior architectural and urban design characteristics relative to any matter-of-right development. Key indicia of superior architecture are the Project's contemporary yet contextual form, its material selection, and its inclusion of numerous high-quality private outdoor spaces.

2. Superior Landscaping: The Project's landscaping and hardscaping are also superior to any matter-of-right development. The Private Drive and Play Area in particular are each indicative of the Project's superior landscaping.

3. Site Planning and Efficient Land Utilization: The Project makes efficient use of a significant site that is near a Metrorail location, places all parking underground, and helps to complete a maturing neighborhood-scale commercial center.

4. Housing in Excess of Matter-of-Right Development: Independent of the Project's significant affordable housing contribution, the Project provides a significant amount of new market-rate housing that responds to the significant demand for new transit-accessible, housing in the District. The provision of housing above the amount allowed or required as a matter-of-right is, for very good reasons, a core policy objective in the Zoning Regulations, Comprehensive Plan, and other District policies: as the housing supply increases to meet demand, such supply expansion helps to counteract other upward pressures on housing prices.⁹

5. Affordable Housing: As noted above, the Project's affordable housing is a superior benefit, perhaps the Project's most significant, because it provides affordable housing (a) in excess of the amount required under the First-Stage PUD and in excess of the inclusionary zoning requirements (b) at much deeper levels of affordability than is required under the First-Stage PUD or under inclusionary zoning, and (c) for a longer period than contemplated in the First-Stage PUD. The Project delivers approximately 136 affordable housing units (initially half affordable at 30 percent MFI and the other half at 50 percent MFI), which exceeds the approximately 91 units anticipated by the First-Stage PUD and significantly exceeds the 37 units that would be provided under a matter-of-right inclusionary zoning development of the Property.

6. Employment and Training Opportunities: The Applicant has already entered into a First Source Employment Agreement with the District's Department of Employment Services and is subject to certain small business enterprise requirements pursuant to its agreement with DMPED.

7. Building Spaces for Special Uses: Arts/Cultural: The Project also anticipates setting aside approximately 9,000 square feet of space for entertainment/assembly/performing arts, arts/design/creation, and/or arts-related educational uses, which is a public benefit under the Zoning Regulations as well. Again, this use is not otherwise required in the underlying zone or by the Waterfront Station PUD, but would be an additional benefit over and above the base conditions for neighborhood-serving ground floor space.

8. Environmental and Sustainable Benefits: LEED Gold: The Applicant proposes to construct the Project to a LEED Gold 2009 level of design. An updated LEED checklist is included with the Revised Plans.

⁹ See generally, John Mangin, *The New Exclusionary Zoning*, 25 STANFORD L. & POL'Y. R. 96-98, 116 (2014), available at https://www-cdn.law.stanford.edu/wp-content/uploads/2018/03/mangin_25_stan_1_poly_rev_91.pdf ("A city's ability to remain affordable depends most crucially on its ability to expand housing supply in the face of increased demand.") and David Alpert, *DC Builds a Lot of New Places to Live and (Some) Rents Decline*, GREATER GREATER WASHINGTON (Oct. 23, 2017), available at <https://ggwash.org/view/65257/dc-builds-a-lot-of-new-places-to-live-housing-supply-and-some-rents-decline> ("Theoretically, adding housing supply should allow . . . rents to slowly decline or at least level off.").

9. Environmental and Sustainable Benefits: Rooftop Solar: The Applicant proposes to include on the Project rooftop 3,000 square feet of solar panels, which are another benefit that was not contemplated in the First-Stage PUD.

10. Outdoor Children's Play Area: The Project also includes the outdoor Play Area designed for pre-school-aged children, which will be made available for use by the community when not reserved for use by the school. This is yet another newly-proffered benefit that was not otherwise required in the underlying zone or by the Waterfront Station PUD.

11. Uses of Special Value to the Neighborhood: Construction Management Plan: The Project is also subject to the CMP.

VIII. Exhibits

Exhibit A – Draft Proffers and Conditions

Exhibit B – Memorandum to ANC 6D re. 1000 4th Street SW (Z.C. Case No. 02-38J)
DDOT Scoping Form, dated November 14, 2018

Exhibit C – RPP and VPP Restriction Rider for Residential Leases

Exhibit D – Private Drive Plans

Exhibit E – Construction Management Plan

Exhibit F – DMPED Letter, dated October 12, 2012 from Z.C. Case No. 02-38C, Ex. 12

Exhibit G – Revised Plans

Respectfully submitted,

/s/ David M. Avitabile

/s/ David A. Lewis

Attorneys for the Applicant

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