

MEMORANDUM

TO: District of Columbia Zoning Commission

FROM: Paul Tummonds
Meghan Hottel-Cox

DATE: September 1, 2020

SUBJECT: Z.C. Case 09-03F – Modification of Significance Application’s Consistency with the Comprehensive Plan

In approving a PUD project, the Commission must determine that a project is not inconsistent with the District of Columbia’s Comprehensive Plan (the “**Plan**”). While the Commission may note that certain individual provisions of the Plan are not consistent with the Plan, the Commission must find that the project, on balance, is not inconsistent with the Plan taken as a whole. The Commission initially approved the Skyland Town Center in 2010 for a proposed mixed-use project consisting of approximately 500 residential units and significant neighborhood-serving retail. The Commission found in its initial approval that the proposal was not inconsistent with the Plan, including the Future Land Use Map (“**FLUM**”) and the Generalized Policy Map (“**GPM**”).

The proposed revisions to the Skyland Town Center PUD proposed in this Modification of Significance application (the “**Project**”) are not inconsistent with the original PUD approval or the Plan. Specifically, the Project still includes a town center configured around a central drive with approximately 500 residential units, significant neighborhood-serving retail, and a full-service grocery store. The Project now includes a medical office building that will include medical care uses that will help achieve additional Plan policies and goals. As set forth below, the Project continues to be not inconsistent with the FLUM and GPM designations for portions of the PUD property. Moreover, the Project is not inconsistent with the Plan as a whole.

I. FLUM and GPM Designations

As shown in Appendix 1, the Skyland Town Center property has split designations on both the FLUM and the GPM. The vast majority of the property is designated for Moderate Density Commercial use on the FLUM. A small triangular portion of the property along Naylor Road is designated for Moderate Density Residential use, and a small portion of the property, that is located on what is now Block 4, is designated for Low Density Residential use. On the GPM, the majority of the Property is designated as a Multi-Neighborhood Center. A portion of the Property in Blocks 3 and 4, is located in a Neighborhood Conservation Area.

The DC Council recently updated portions of the Framework Element of the Plan, pursuant to DC Act No. 23-217 (signed by the Mayor on February 11, 2020). The updated Framework Element provides the following guidelines in using the FLUM and the GPM (10 DCMR Section 228):

The Generalized Policy Map and the Future Land Use Map are intended to provide generalized guidance for development and conservation decisions, and are considered in concert with other Comprehensive Plan policies. Several important parameters, defined below, apply to their use and interpretation.

- a. The Future Land Use Map is not a zoning map. Whereas zoning maps are parcel-specific, and establish detailed requirements for setbacks, height, use, parking and other attributes, the Future Land Use Map is intended to be “soft-edged” and does not follow parcel boundaries, and its categories do not specify allowable uses or dimensional standards. By definition, the Future Land Use Map is to be interpreted broadly and the land use categories identify desired objectives.
- c. While the densities within any given area on the Future Land Use Map reflect all contiguous properties on a block, there may be individual buildings that are larger or smaller than these ranges within each area. Similarly, the land-use category definitions describe the general character of development in each area, citing typical Floor Area Ratios as appropriate. The granting of density bonuses (for example, through the Planned Unit Developments or Inclusionary Zoning) may result in density that exceed the typical ranges cited here.
- d. The zoning of any given area should be guided by the Future Land Use Map, interpreted in conjunction with the text of the Comprehensive Plan, including the Citywide Elements and the Area Elements.

A. Future Land Use Map

As shown in Appendix 1, the FLUM includes the majority of the property in the Moderate Density Commercial designation, which is described as appropriate for “shopping and service areas” and the C-3-A Zone (now known as the MU-7 Zone)¹. As noted above, the FLUM is not to be used as a zoning map, it is not parcel specific, and it is “soft-edged”. The mixed-use residential building in Block 4 includes ground floor retail uses that are located entirely within the Moderate Density Commercial designation. The portions of the building in Block 4 that are located in the Low and Moderate Density Residential Designations are devoted solely to residential use. The density and height of this mixed-use building on Block 4, achieved

¹ ZC Order No. 09-03 rezoned the entirety of the Skyland Town Center property to the C-3-A (MU-7) Zone.

through the PUD process, is not inconsistent with the guidance provided in Section 228 of the Plan as to how the FLUM designations guide decisions of the Zoning Commission.

B. Generalized Policy Map

As shown on Appendix 1, the GPM designates the majority of the property as a Multi-Neighborhood Center. A Multi-Neighborhood Center is intended to provide significant retail and service uses in addition to housing, and the Skyland Town Center is specifically highlighted as a Multi-Neighborhood Center. The Project represents a quintessential Multi-Neighborhood Center project.

A smaller portion of the property in Blocks 3 and 4 is located in a Neighborhood Conservation Area. The recently updated Framework Element of the Comprehensive Plan says the following about Neighborhood Conservation Areas:

The guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods, but not preclude development, particularly to address city-wide housing needs. Limited development and redevelopment opportunities do exist within these areas. The diversity of land uses and building types in these areas should be maintained and new development, redevelopment, and alterations should be compatible with the existing scale, natural features, and character of each area. (See 10 DCMR Section 225.5)

The juxtaposition of a Multi-Neighborhood Center and a Neighborhood Conservation Area immediately adjacent to each other necessarily requires a transition area, which the Project provides. The Project steps down in scale and use intensity moving into the Neighborhood Conservation Area, with a portion of the Lidl grocery store and the Block 4 mixed-use building being the only improvements in this area. The Project includes a significant landscaped buffer between these buildings in the Neighborhood Conservation Area and the nearest residential uses, including a large ravine and tree preserve area. In fact, the number of retaining walls on Block 4 have been reduced and the location of the building on Block 4 has been pushed further away from the adjacent Ft. Baker Drive properties, as compared to the development that was approved in the initial PUD project.

The Commission noted at the public hearing that the Court of Appeals recently vacated the Commission's decision in *Cummins v. D.C. Zoning Commission* ("Park View"). In the *Park View* decision, the Court noted that a 90-foot tall building's intrusion into a Neighborhood Conservation Area raised concerns with the project's consistency with the Plan and noted the Order did not address this potential inconsistency. The Project is distinguishable in several ways from the *Park* decision. First, the Block 4 building is only 60 feet tall, not 90 feet. The Court noted that its concern was directly with the 90-foot intrusion, not the other 60-foot building that was part of the *Park* project. (Opinion at page 18-19) Further, there is a significant landscape buffer and tree preservation area between the Project and the adjacent residential uses. Finally,

the FLUM's overlap with the majority of the Neighborhood Conservation Area is designated for Moderate Density Commercial uses, noting the inconsistency between the maps in the Plan.

The Project's site planning and building design is not inconsistent with the GPM's designation for both a Multi-Neighborhood Center and a Neighborhood Conservation Area. The Lidl building and the mixed-use building on Block 4 are compatible with the existing scale, natural features, and character of the homes along Ft. Baker Drive and the commercial nature of Alabama Avenue. Therefore, the Project is not inconsistent with the GPM designations for the property.

II. Consistency of the Project with the Plan²

Even if the Zoning Commission determines that the Project's proposed development of Blocks 3 and 4 is in conflict with the FLUM and GPM Designations described above, the Project is not inconsistent with the Plan, when viewed in its entirety.

A. Framework Element

The revised Framework Element noted above focuses heavily on equity, noting "Equity exists where all people share equal rights, access, choice, opportunities, and outcomes . . . [that] is achieved by targeted actions and investments to meet residents where they are, to create equitable opportunities." The Project showcases the commitment to equity the Skyland Town Center will provide. In addition to housing, the Project will provide access and opportunity to uses otherwise unavailable to many Ward 7 and 8 residents – grocery and medical office. The Framework Element explicitly calls for reducing things such as "food deserts," while simultaneously acknowledging that places with a "lack of services, amenities and assets, such as . . . grocery stores . . . discourages investment . . . [which] represent[s] missed opportunities for the District to grow inclusively." The Applicant's determined effort to anchor the Town Center with a grocery store and add medical office uses furthers these exact principles of the updated Framework Element.

B. Land Use Element

The Project is also consistent with numerous policies of the Land Use Element, which is known as the cornerstone of the Plan that guides the District's growth. The Project is a quintessential Neighborhood Commercial District and Commercial Center that provides "new retail uses . . . [with] new public facilities [and] upper story housing." (LU-2.4: Neighborhood Commercial Districts and Centers) The Project also creates an "inviting and attractive place. . . [that] support[s] social interaction and ease of access for nearby residents." (LU-2.4.1: Promotion of Commercial Centers) The Project creates a new town center centered around a main drive connecting the mix of uses focusing the higher-intensity uses along the external

² All of the Plan's policies and provisions cited in this section of the memo are included in Appendix 2.

streets and providing a small amount of retail and more housing located in Block 4, the area closest to adjacent residential uses.

C. Citywide Elements

The Project furthers several goals of the overall Citywide Elements of the Plan, including provisions of the Housing Element, Transportation Element, Economic Development Element, and Community Services and Facility Element. The uses proposed by the Project further the uses prioritized in the Plan. First, the Project includes a significant provision of new housing on “vacant and underutilized land” (H-1.1.3: Balanced Growth) in a “mixed use development” located in a “neighborhood commercial center.” (H-1.1.4: Mixed Use Development). The Project continues to have a substantial set aside for affordable housing at differing affordability levels, providing “mixed income housing” (H-1.2.3: Mixed Income Housing), including “workforce housing.” (H-1.2.5: Workforce Housing)

In addition to housing, the Project’s retail use furthers the Plan’s goals to provide “the development of new grocery stores and super markets, particularly in neighborhoods where residents currently travel long distances for food . . . [where] adjustments to current zoning standards to accommodate these uses should be considered.” (ED-2.2.6: Grocery Stores and Supermarkets)

Also, the Project’s new medical office use furthers many specific goals of the Plan, including providing “local-serving offices within [a] neighborhood commercial district[.]” (ED-2.1.6: Local-Serving Office Space). Additionally, because this is medical use, it furthers the goals to provide “high quality, affordable primary health centers . . . are available and accessible to all district Residents.” (CSF-2.1.1: Primary and Emergency Care) The Project’s medical office use will help “build and operate a strong, cohesive network of community health centers” and will “improve the coordination of health care facility planning. (CSF-2.1.2: Public-Private Partnerships; CSF-2.1.6: Health Care Planning)

Finally, the Modified Project’s significant transportation infrastructure improvements and Transportation Demand Management Plan (“**TDMP**”) further the goals of the Transportation Element. The Modified Project’s site plan and infrastructure improvements prioritize “bicycle and pedestrian planning and safety considerations” (T-2.3.1: Better Integration of Bicycle and Pedestrian Planning) The Modified Project includes an enhanced TDMP that will “reduc[e] the number of car trips and miles driven (for work and non-work purposes)” and that includes support of “car-sharing services.” (T-3.1.1: Transportation Demand Management (TDM) Programs; T-3.1.3: Car-Sharing)

D. Far Northeast and Southeast Area Element

The property is located in the Plan’s Far Northeast and Southeast Area (“**Area Element**”) and the Project is consistent with numerous policies enumerated with this Area Element. The

Plan explicitly discusses the Skyland project, and notes it should be “an essential, dynamic community-scale retail center.” (FNS-2.7.1: Skyland Revitalization) The Area Element goes on to call for new housing (FNS-1.1.2: Development of New Housing) and directs new “office and retail development” to be located at “the Skyland Shopping Center.” (FNS-1.1.3: Directing Growth). The Area Element also notes that there should be buffering between the Skyland development and the Ft. Baker Drive residences. (FNS-2.7.B – Fort Baker Drive Buffering) The Area Element calls for retail development with “new businesses and activities that provide needed retail services to adjacent neighborhoods.” (FNS-1.1.4: Retail Development) The Area Element also calls for “additional facilities to meet the mental and physical health needs of Far Northeast and Southeast residents.” (FNS-1.2.7: Health Care Facilities) Additionally, the Area Element calls for “traffic controls and management programs” along arterial streets like Naylor Road, improvements to pedestrian safety, and improved transit options. (FNS-1.1.9: Congestion management; FNS-1.1.0: Transit Improvements)

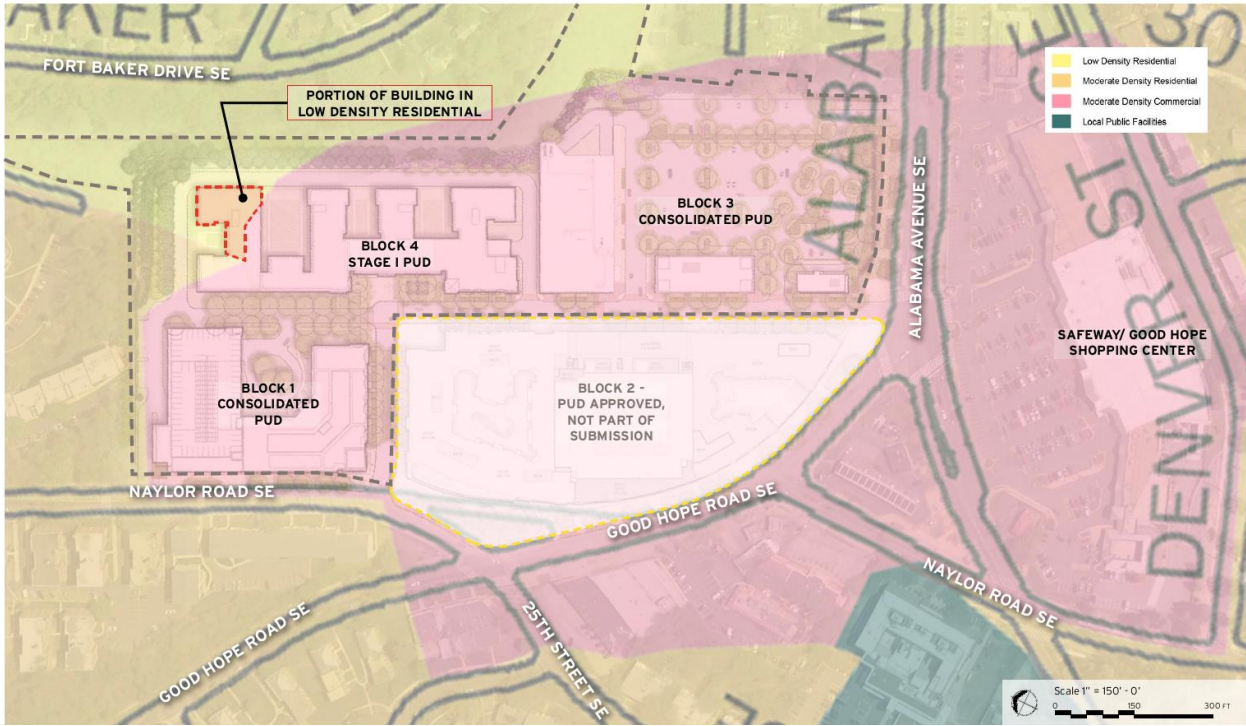
The Project is exactly on point with the Skyland development called for in the Area Element. The Project provides the precise mix of uses called for in the Area Element. Consistent with the initial PUD approval, the Project continues to provide significant new housing opportunities, community-serving retail including a new grocery store, buffering between the property and Ft. Baker Drive, and significant transportation infrastructure improvements. The Project also furthers additional policies of the Area Element by providing medical office uses at the property. Therefore, the Project continues to be consistent with the Area Element.

III. Conclusion

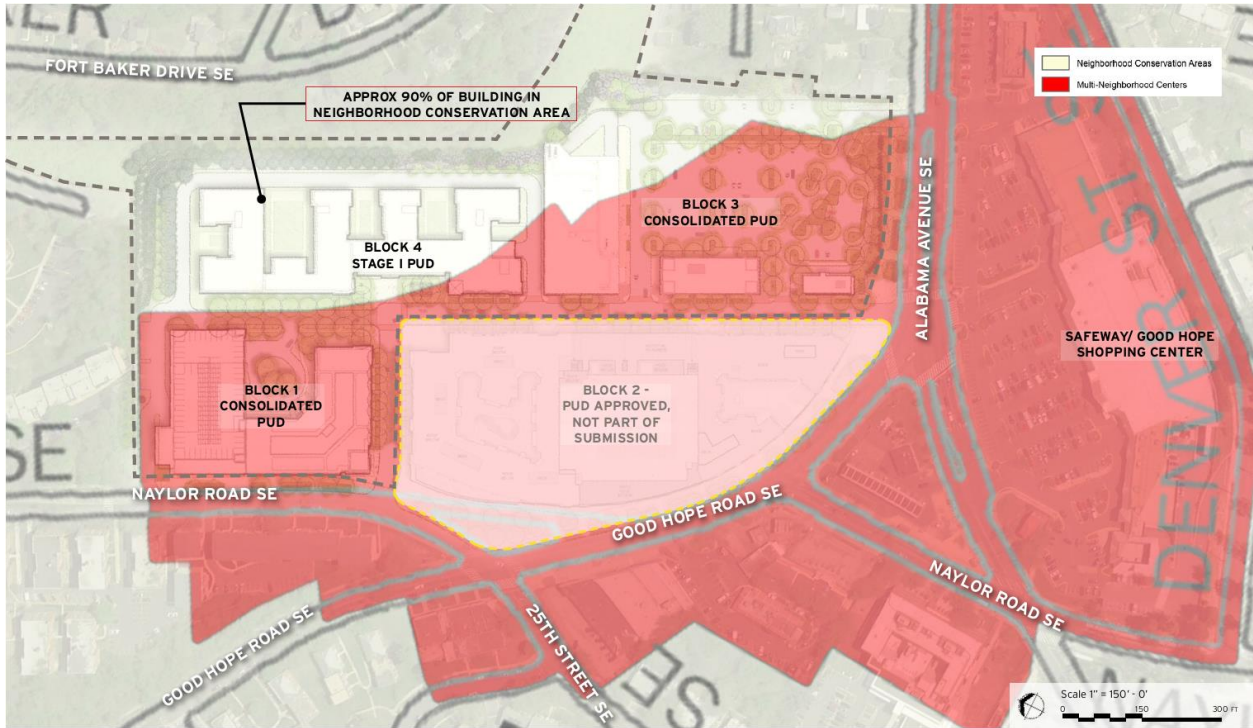
For the reasons noted above, the Project is not inconsistent with the FLUM and GPM designations for the property. The Project’s overall site design, building densities and heights, proposed uses, significant benefits and amenities, and town center nature further several important policies of the Plan, outweighing any inconsistencies with individual portions of the Property and the Plan’s Map Designations. Therefore, the Project is not inconsistent with the Plan and the Zoning Commission should approve this Modification of Significance application.

Appendix 1

FLUM for the Skyland Town Center Property



GPM for Skyland Town Center Property



Appendix 2

Comprehensive Plan Polices

Land Use Element

LU-2.4: Neighborhood Commercial Districts and Centers: Many District neighborhoods, particularly those on the east side of the city, lack well-defined centers or have centers that struggle with high vacancies and a limited range of neighborhood-serving businesses. Greater efforts must be made to attract new retail uses to these areas by improving business conditions, upgrading storefronts and the street environment, and improving parking and pedestrian safety and comfort. The location of new public facilities in such locations, and the development of mixed use projects that include upper story housing, can encourage their revival. 312.2

LU-2.4.1: Promotion of Commercial Centers: Promote the vitality of the District’s commercial centers and provide for the continued growth of commercial land uses to meet the needs of District residents, expand employment opportunities for District residents, and sustain the city’s role as the center of the metropolitan area. Commercial centers should be inviting and attractive places, and should support social interaction and ease of access for nearby residents. 312.5

Transportation Element

T-2.3.1: Better Integration of Bicycle and Pedestrian Planning: Integrate bicycle and pedestrian planning and safety considerations more fully into the planning and design of District roads, transit facilities, public buildings, and parks. § 409.8

T-3.1.1: Transportation Demand Management (TDM) Programs: Provide, support, and promote programs and strategies aimed at reducing the number of car trips and miles driven (for work and non-work purposes) to increase the efficiency of the transportation system. 414.8

T-3.1.3: Car-Sharing: Encourage the expansion of car-sharing services as an alternative to private vehicle ownership. 414.10

Housing Element

H-1.1.3: Balanced Growth: Strongly encourage the development of new housing on surplus, vacant and underutilized land in all parts of the city. Ensure that a sufficient supply of land is planned and zoned to enable the city to meet its long-term housing needs, including the need for low- and moderate-density single family homes as well as the need for higher-density housing. 503.4

H-1.1.4: Mixed Use Development: Promote mixed use development, including housing, on commercially zoned land, particularly in neighborhood commercial centers, along Main Street mixed use corridors, and around appropriate Metrorail stations. 503.5

H-1.2.3: Mixed Income Housing: Focus investment strategies and affordable housing programs to distribute mixed income housing more equitably across the entire city, taking steps to avoid further concentration of poverty within areas of the city that already have substantial affordable housing. 504.8

H-1.2.5: Workforce Housing: In addition to programs targeting persons of very low and extremely low incomes, develop and implement programs that meet the housing needs of teachers, fire fighters, police officers, nurses, city workers, and others in the public service professions with wages insufficient to afford market-rate housing in the city. 504.12

Economic Development Element

ED-2.1.6: Local-Serving Office Space: Encourage the development of small local-serving offices within neighborhood commercial districts throughout the city to provide relatively affordable locations for small businesses and local services (such as real estate and insurance offices, accountants, consultants, and medical offices). § 707.11

ED-2.2.6: Grocery Stores and Supermarkets: Promote the development of new grocery stores and supermarkets, particularly in neighborhoods where residents currently travel long distances for food and other shopping services. Because such uses inherently require greater depth and lot area than is present in many commercial districts, adjustments to current zoning standards to accommodate these uses should be considered. § 708.10

Community Services and Facilities

CSF-2.1.1: Primary and Emergency Care: Ensure that high quality, affordable primary health centers are available and accessible to all District residents. Emergency medical facilities should be geographically distributed so that all residents have safe, convenient access to such services. New or rehabilitated health care facilities should be developed in medically underserved and/or high poverty neighborhoods, and in areas with high populations of senior citizens, the physically disabled, the homeless, and others with unmet health care needs. § 1106.12

CSF-2.1.2: Public-Private Partnerships: Develop public-private partnerships to build and operate a strong, cohesive network of community health centers in areas with few providers or health programs. § 1106.13

CSF-2.1.6: Health Care Planning: Improve the coordination of health care facility planning with planning for other community services and facilities, and with broader land use and transportation planning efforts in the city. Coordinate city population and demographic forecasts with health care providers to ensure that their plans are responsive to anticipated growth and socio-economic changes. § 1106.17

Far Northeast and Southeast Area Element

FNS-1.1.2: Development of New Housing: Encourage new housing for area residents on vacant lots and around Metro stations within the community, and on underutilized commercial sites along the area’s major avenues. Strongly encourage the rehabilitation and renovation of existing housing in Far Northeast and Southeast, taking steps to ensure that the housing remains affordable for current and future residents. 1708.3

FNS-1.1.3: Directing Growth: Concentrate employment growth in Far Northeast and Southeast, including office and retail development, around the Deanwood, Minnesota Avenue and Benning Road Metrorail station areas, at the Skyland Shopping Center, and along the Nannie Helen Burroughs Avenue, Minnesota Avenue, Benning Road, and Pennsylvania Avenue SE “Great Streets” corridors. Provide improved pedestrian, bus, and automobile access to these areas, and improve their visual and urban design qualities. These areas should be safe, inviting, pedestrian-oriented places. 1708.4

FNS-1.1.4: Retail Development: Support the revitalization of the neighborhood commercial areas listed in Policy FNS-1.1.3 with new businesses and activities that provide needed retail services to the adjacent neighborhoods and that are compatible with surrounding land uses. 1708.5

FNS-1.1.9: Congestion Management: Re-examine traffic control and management programs along major Far Northeast and Southeast arterial streets, particularly along Pennsylvania and Minnesota Avenues, East Capitol Street, Benning Road, Branch Avenue, and Naylor Road, and develop measures to improve pedestrian safety and mitigate the effects of increased local and regional traffic on residential streets. 1708.10

FNS-1.1.0: Transit Improvements: Improve bus service to the Metrorail stations from neighborhoods throughout Far Northeast and Southeast, particularly in the southern part of the Planning Area. 1708.11

FNS-1.2.7: Health Care Facilities: Provide additional facilities to meet the mental and physical health needs of Far Northeast and Southeast residents, including primary care facilities, youth development centers, family counseling, drug abuse and alcohol treatment facilities. Such facilities are vital to reduce crime and promote positive youth development. Specific plans for new social service and health facilities should be developed through needs assessments, agency master plans, strategic plans, and the city’s public facility planning process. All plans should be prepared in collaboration with the community, with input from local ANCs and civic associations, residents and businesses, and local community development corporations and non-profit service providers. 1709.7

FNS-2.7.1: Skyland Revitalization: Revitalize Skyland Shopping Center as an essential, dynamic community-scale retail center. Together with the Good Hope Marketplace, these two

centers should function as the primary business district for adjacent neighborhoods, providing a diverse array of quality goods and services for area residents. 1717.3

FNS-2.7.B – Fort Baker Drive Buffering: Work with property owners to develop and maintain a suitable visual, sound and security buffer between Skyland Shopping Center and the adjacent residential areas along Fort Baker Drive. 1717.6