

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 15-20C  
Z.C. Case No. 15-20C  
TBSC Owner I, LLC  
(Modification to First-Stage PUD and Approval of Second-Stage PUD)  
@ Square 620, Lots 252, 253, 254, 255, 904 and 905)<sup>1</sup>**

**[DATE]**

**FINDINGS OF FACT**

**Notice**

1. Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission” or “Zoning Commission”) held a public hearing on September 26, 2019,<sup>2</sup> to consider an application filed by TBSC Owner I, LLC (the “Applicant”) for (1) a modification of the first-stage planned unit development (“PUD”) approval and (2) second-stage approval for Phase 1 of the PUD approved pursuant to Zoning Commission (“ZC”) Order 15-20. The Commission considered the application pursuant to Subtitle X, Chapter 3 and Subtitle Z of the 2016 District of Columbia Zoning Regulations, 11 DCMR (the “Zoning Regulations”).
2. A description of the proposed development and the notice of the public hearing in this matter were published in the D.C. Register on August 2, 2019. (Exhibit [“Ex.”] 31.) The notice of public hearing was mailed to all owners of property located within 200 feet of the subject property and to Advisory Neighborhood Commission (“ANC”) 6E on July 30, 2019. (Ex. 32.)
3. The public hearing was conducted in accordance with the provisions of Subtitle Z, Chapter 4 of the Zoning Regulations. For the reasons stated below, the Commission hereby APPROVES the application.

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<sup>1</sup> In the application, the lots that comprised the subject property were identified as Lots 250, 893, 894, 895, 898, 900, 904 and 905 in Square 620. However, the subject property, except Lots 904 and 905, was subdivided into new record lots as shown on the plat marked as Ex \_\_\_\_.

<sup>2</sup> The public hearing on the Application was originally scheduled for July 25, 2019, but by letter dated July 19, 2019 (Ex. 28), the Applicant requested the public hearing be postponed in order to give the Applicant more time to address the comments and questions in the Office of Planning (“OP”) and District Department of Transportation (“DDOT”) reports. The original description of the proposed development and the notice of the public hearing were published in the D.C. Register on May 31, 2019. (Ex. 16.) The notice for the original public hearing dated was mailed to all owners of property located within 200 feet of the subject property and to ANC 6E on September 12, 2018. (Ex. 2N.)

## **Parties**

4. The parties to the case were the Applicant and ANC 6E, the ANC in which the Property is located.

## **Property**

5. The subject property consists of approximately 6.7 acres, within the boundaries of ANC 6E-06 in the northwest quadrant of the city, and is generally bounded by M Street on the north, First Place on the east, L Street on the south, and First Street on the west. The majority of the Property was formerly the site of the Sursum Corda Cooperative, a 199-unit townhouse community. The site was also improved with a 14-unit, four-story apartment building at 76 M Street, and included two adjoining vacant parcels. All of the structures have been demolished.
6. The Property has been subdivided into record lots 252, 253, 254, 255, 904 and 905 (collectively, the “Property”), which correspond to the PUD as follows:
  - a. Lot 252 consists of 6,491 square feet and will be dedicated for the southern segment of the First Street right of way in connection with the development of Phase 1 of the PUD;
  - b. Lot 253 consists of 8,780 square feet and will be dedicated for the northern segment of the First Street right of way in connection with the development of Phase 2 of the PUD;
  - c. Lot 255 (Theoretical Lots 1A and 1B) consists of 2.9 acres and will be developed in Phase 1 – the South Parcel -- of the PUD;
  - d. Lot 254 (Theoretical Lots 2A/2B and 2C/2D) consists of 3.1 acres and will be developed in Phase 2 – the North Parcel -- of the PUD;
  - e. Lot 904 (Theoretical Lot 3A) consists of 6,241 square feet located on the east side of First Place, and will be maintained as open/green space; and
  - f. Lot 905 (Theoretical Lot 3B) consists of 6,347 square feet located on the east side of First Place, and will be maintained as open/green space.

## **First-Stage PUD Approval**

7. Pursuant to ZC Order 15-20, the Zoning Commission granted first-stage PUD approval permitting the redevelopment of the Property with approximately 1,269 square feet of residential use, yielding approximately 1,131 dwelling units, and approximately 49,240 square feet of non-residential uses. The approved PUD has an overall density of 4.02 FAR including the area for Pierce Street, and a density of 5.42 FAR excluding the area for Pierce Street. The building heights for the PUD ranges from 62.5 feet to 110 feet. The PUD was to be developed in at least two phases as follows:

### **South Parcel**

- a. Theoretical Lot / Building 1A: 184,775 square feet of gross floor area yielding 176 dwelling units; maximum of 8 stories; maximum building height of 72.45 feet; and a lot density of 4.13 FAR.
- b. Theoretical Lot / Building 1B: 194,900 square feet of gross floor area yielding 182 dwelling units; maximum of 8 stories; maximum building height of 78 feet; and a lot density of 4.92 FAR.
- c. Theoretical Lot / Building 1C: 101,225 square feet of gross floor area yielding 63 dwelling units, maximum of 6 stories; maximum building height of 65.76 feet; and a lot density of 3.73 FAR.
- d. Theoretical Lot 3A: lot area of 6,241 square feet to be maintained as green/open space.
- e. Theoretical Lot 3B: lot area of 6,367 square feet to be maintained as green/open space.

### **North Parcel**

- a. Theoretical Lot / Building 2A/2B: 4255,225 square feet of gross floor area yielding 348 dwelling units; a range of 6 to 11 stories; building heights ranging from 62.5 feet to 110 feet; and a lot density of 6.50 FAR.
  - b. Theoretical Lot / Building 2C/2D: to be developed with 439,460 square feet of gross floor area yielding 362 dwelling units; a range of 6 to 10 stories; building heights ranging from 68.93 feet to 106.93 feet; and a lot density of 7.06 FAR.
8. As part of the first-stage PUD approval, the Commission granted flexibility from the loading requirements (11 DCMR § 2201.1), the side yard width requirements (11 DCMR § 775.5); and the requirements for the number of buildings on a single record lot (11 DCMR § 2516) in the 1958 Zoning Regulations, consistent with the plans approved under the Order, and a waiver from compliance with the Inclusionary Zoning Regulations set forth in Chapter 26 of the 1958 Zoning Regulations.
9. The Applicant was also granted flexibility with the design of the PUD in the following areas: (a) to be able to provide a range in the number of residential units of plus or minus 10% from the 1,131 proposed for the development; (2) to vary the number, location and arrangement of parking spaces, provided that the maximum number of parking spaces for the PUD does not exceed 746 parking spaces and the minimum number of parking spaces is not reduced below the number required under the Zoning Regulations; and (c) to vary the sustainable design features of the building, provided the project meets a minimum of LEED-Silver certification.

10. The first-stage approval was subject to the PUD achieving numerous public benefits in the following areas: (1) affordable housing, (2) reserved units for the Sursum Corda households, (3) landscape and open space improvements, (4) transportation and pedestrian improvements, (5) employment and training opportunities, (6) environmental benefits, (7) and support of neighborhood uses and organizations. It also required certain transportation mitigation measures.
11. Pursuant to ZC Order No. 15-20B, Condition No. B.2.a. requiring the Applicant to certify to DCRA the list of Sursum Corda Households, and Condition No. B.2.e.i requiring notice to Sursum Corda Households within 10 days of applying for a raze permit, were modified. The full list of PUD Public Benefits, as amended by this application, is provided in the Decision section of this order.
12. Under the Order, the first-stage PUD approval was valid until June 30, 2023, provided that a second-stage PUD application for the South Parcel was filed by June 30, 2017. Pursuant to ZC Order 15-20A, the Zoning Commission granted a two-year extension of the PUD approval, such that a second-stage PUD application for the South Parcel shall be filed no later than June 30, 2019.

### **Application**

13. On November 19, 2018, the Applicant filed an application with the Commission for review of (1) modifications to the first-stage PUD approved for Square 620 pursuant to ZC Order No. 15-20 (the “Order”), and (2) second-stage approval for Phase 1, the South Parcel, of the approved PUD.

### **Modification of First-Stage PUD Approval**

14. As it relates to the first-stage PUD modifications, the Applicant proposed to construct two buildings on the South Parcel instead of three buildings – Building 1A or the Southwest Building and Building 1B or the Southwest Building; change the building heights proposed for the South Parcel; and reallocate the density between the South Parcel and the North Parcel in order to permit the development of the PUD as follows:
  - a. Southwest Building: 167,047 square feet of gross floor area yielding approximately 160 dwelling units; a maximum of 7 stories; a maximum building height of 79.54 feet; and a lot density of 4.22 FAR.
  - b. Southeast Building: 388,096 square feet of gross floor area yielding approximately 365 dwelling units; a maximum of 8 -10 stories; building heights ranging from 88.67 feet to 110 feet; and a lot density of 5.82 FAR.
  - c. Northwest Building: 388,715 square feet of gross floor area yielding approximately 298 dwelling units; ranging from 6 to 11 stories; building heights ranging from 62.5 feet to 110 feet; and a lot density of 6.24 FAR.

- d. Northeast Building: 401,727 square feet of gross floor area yielding approximately 308 dwelling units; a range of 6 to 10 stories; building heights ranging from 68.93 feet to 106.93 feet; and a lot density of 6.45 FAR.
15. Additionally, the Applicant proposed to relocate the locate the loading access from L Street to First Place. Lastly, the Applicant proposed to modify Condition B.7.b. of the Order to allow for the installation of playground equipment prior to the issuance of certificate of occupancy instead of prior to the issuance of a building permit.

### **Second-Stage PUD Approval for Phase 1**

16. The Applicant sought second-stage PUD approval for Phase 1 in accordance with the architectural plans and architectural plans and elevations marked as Ex. 2L1-2L17 of the record. Phase 1 of the PUD includes the following elements:
- a. the South Parcel (Lots 1A and 1B), which is situated between First Street and First Place, and consists of approximately 2.4 acres, excluding the area to be dedicated for the First Street right of way;
  - b. the rectangular parcel of land to the east of First Place (Theoretical Lots 3A and 3B), which consists of 12,608 square feet of land area;
  - c. Pierce Street, except for the parallel parking on the north side of the street, which consists of approximately 34,604 square feet of land area; and
  - d. the dedication of the southern portion of the First Street right of way, as depicted on Sheet 13a of the plans, which consists of approximately 5,118 square feet of land area.

### **Revised Plans**

17. On January 7, 2019, the Applicant filed revised plans with the Zoning Commission. (Ex. 10A1-10A6.). As it related to the modification of the first-stage PUD approval, the revised plans proposed the development of the PUD as follows:
- a. Southwest Building: 222,800 square feet of gross floor area yielding approximately 214 dwelling units; a maximum of 9 stories; a maximum building height of 95.79 feet; and a lot density of 5.63 FAR.
  - b. Southeast Building: 411,708 square feet of gross floor area yielding approximately 339 dwelling units; stepping from 8 stories along L Street up to 10 stories toward Pierce Street; building heights ranging from 79.1 feet to 110 feet; and a lot density of 6.17 FAR.
  - c. Northwest Building: 349,138 square feet of gross floor area yielding approximately 283 dwelling units; a range of 5 to 10 stories; building heights ranging from 62.5 feet to 110 feet; and a lot density of 5.6 FAR.

- d. Northeast Building: 361,939 square feet of gross floor area yielding approximately 295 dwelling units; a range of 6 to 10 stories; building heights ranging from 68.93 feet to 106.93 feet; and a lot density of 5.81 FAR.
18. The January 7<sup>th</sup> submission also included revised architectural drawings and plans providing design details for the Southwest and Southeast buildings in support of the second-stage PUD approval. (Ex. 10AA1-10AA7).

### **Prehearing Statement**

19. By report dated February 15, 2019, OP recommended that the application be set down for a public hearing. (Ex. 11). At its public meeting held on February 15, 2019, the Zoning Commission voted unanimously to set down the application for public hearing.
20. On May 15, 2019, the Applicant filed its Prehearing Statement. (Ex. 15B.) The Prehearing Statement amended the application to include a modification to Condition B.2.c. of the Order relating to the Reserved Unit mix; a modification to Condition B.2.g. of the Order relating to the conversion of Reserved Units; flexibility to revise the GAR checklist so long as the project meets the minimum GAR requirement of .2; and confirmation of the First Source Agreement form applicable to the PUD.
21. Also, the Prehearing Statement addressed the comments raised by OP in its set down report and the Zoning Commission at the set down meeting. Specifically, the Applicant provided details about the uses proposed in the amenity space; confirmed the relocation of the transformers from First Street to Pierce Street; discussed the incorporation of balconies in the building design; provided an updated list of the Sursum Corda Households and confirmation of the affordable units for the PUD; and discussed the LEED-Silver certification and the sustainable design elements for the project. In the Prehearing Statement, the Applicant committed to address comments about signage and provide revised roof plans showing solar panels in a separate filing not less than 20 days prior to the public hearing.
22. The prehearing submission also included revised architectural plans and renderings with a redesign of the Southeast Building with flats along L Street, near First Place, in lieu of a service access and amenity space. (Ex. 15BA.)

### **Comprehensive Transportation Review (“CTR”)**

23. Pursuant to Subtitle Z, Sec. 401.8 of the Zoning Regulations, the Applicant filed a copy of its CTR with the Zoning Commission on June 25, 2019. (Ex. 20-20A.)

### **Supplemental Prehearing Submission**

24. On July 5, 2019, the Applicant submitted a Supplemental Prehearing Submission. (Ex. 22.) This submission included further revised architectural plans and drawings (Ex. 22A1-22A), and further updated the proposed development as follows:

- a. Southwest Building: 239,348 square feet of gross floor area yielding approximately 216 dwelling units; a maximum of 9 stories; a maximum building height of 95.8 feet; and a lot density of 6.04 FAR.
  - b. Southeast Building: 392,316 square feet of gross floor area yielding approximately 346 dwelling units; stepping from 8 stories along L Street up to 10 stories toward Pierce Street; building heights ranging from 79.1 feet to 110 feet; and a lot density of 5.88 FAR.
  - c. Northwest Building: 349,627 square feet of gross floor area yielding approximately 280 dwelling units; a range of 5 to 10 stories; building heights ranging from 62.5 feet to 110 feet; and a lot density of 5.61 FAR.
  - d. Northeast Building: 361,282 square feet of gross floor area yielding approximately 289 dwelling units; a range of 6 to 10 stories; building heights ranging from 68.93 feet to 106.93 feet; and a lot density of 5.80 FAR.
25. The Supplemental Prehearing Submission also restated the proposed amendments to Condition B.2.c. and Condition B.2.g., and proposed a further amendment to Condition B.7.b. to confirm that the required playground equipment will be installed on Lot 904, which is Theoretical Lot 3A.
26. As it relates to the second-stage PUD approval for the South Parcel, the Supplemental Prehearing Submission included the following updates:
- a. Transformer Vaults / Loading and Service. The transformers vaults were relocated from First Street to Pierce Street and nine have a vehicular grade grating cover. Also, one loading space and one service space will be located on Pierce Street; the remaining required loading and service spaces are located within the building at the P1 level with head in - head out access.
  - b. Signage Plan. The Applicant's submitted a signage plan. (Ex. 22C)
  - c. Retail/Commercial Use Option in Southwest Building. The Applicant is studying potential retail/commercial uses for the Southwest building that could activate the park at First and L Streets. As such, on Sheet A-05b of the plans, the Applicant includes an alternative floor plan, which provides for approximately 1,850 square feet of retail/commercial use, in lieu of residential amenity space. The Applicant seeks flexibility to have either use in this portion of the building.
  - d. Element Reflective of History of Property. In its set down report, OP recommended that the Applicant consider integrating within the new community, elements that would tell or be reflective of the history of the Property. In response, the Applicant contacted Cultural Tourism DC, which has agreed to work with the Applicant to fulfill this request. **Specifically, the Applicant agrees to install, prior to the issuance of a certificate of occupancy for Phase 1 of the PUD, a plaque, artwork, mural on an interior courtyard, or similar element that celebrates the history of Sursum Corda.**

- e. Playground on Lot 3A. The OP set down report requested more detailed information as to what equipment would be provided in the playground, and stated that the Applicant should consider a seating area. **The Applicant agreed to install a seating area in the playground proposed for Lot 3A.** While the specific manufacturer or equipment has not been decided on, the equipment shown on Sheet L-04d of the plans, is representative of the type and level of activity that will be available at the playground.
27. In the Supplemental Prehearing Submission, the Applicant also amended its application to include a request for the following flexibility with the second-stage approval for Phase I of the PUD:
- a. Loading. Flexibility to have a 30-foot loading space along Pierce Street with a width of 8 feet where a width of 12 feet is required is, and a 20-foot service/delivery service space with a width of 8 feet where a width of 10 feet is required.
- b. Solar Panels. Flexibility to change the actual location, number and configuration of the solar panels so long as the overall layout of the roof plan, including, but not limited to the location of the penthouses, substantially complies with the plans for the Second-Stage PUD approval, and all of the requirements/standards for the rooftop penthouses and equipment have been met.
- c. Retail/Commercial Option in Southwest Building. Flexibility to have approximately 1,850 square feet of retail/commercial use in lieu of residential amenity space as depicted on Sheet A05-b of the Second-Stage Plans.
- d. Number of Units. To provide a range in the number of residential units for Building 1A of plus or minus 10% from the 216 units proposed for that building; and to provide a range in the number of residential units for Building 1B of plus or minus 10% from the 346 units proposed for that building.
- e. Parking Layout. To vary the number, location, and arrangement of parking spaces, provided that the maximum number of parking spaces for the South Parcel does not exceed 346 parking spaces<sup>3</sup>, and minimum number is not reduced below the number required for the South Parcel under the Zoning Regulations.
- f. Interior Components. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atria, and mechanical rooms, provided that the variations do not change the exterior configuration of the building as shown on the plans approved by the order.
- g. Exterior Materials – Color. To vary the final selection of the colors of the exterior materials based on availability at the time of construction, provided such colors are within the color ranges shown on the plans approved by the order.

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<sup>3</sup> In the submission filed on July 11, 2019, the Applicant agreed to reduce the number of parking spaces to 304.



- h. Exterior Details – Location and Dimension. To make minor refinements to the locations and dimensions of exterior details that do not substantially alter the exterior configuration of the building or design shown on the plans approved by the order. Examples of exterior details would include, but are not limited to, doorways, canopies, railings, and skylights.
- i. Streetscape Design. To vary the location, attributes, and general design of the approved streetscape to comply with the requirements of, and the approval by, the DDOT Public Space Division.
- j. Signage. To vary the font, message, logo, and color of the approved signage, provided that the maximum overall dimensions and signage materials are consistent with the signage on the plans approved by the order and are compliant with the DC signage regulations.
- k. Sustainable Features. To vary the approved sustainable features of the project, provided the total number of LEED points achievable for the project does not decrease below the minimum required for LEED-NC Silver Certification, and to revise the GAR checklist for the project so long as the project meets the minimum GAR requirement of 0.2.

### **Response to DDOT Questions**

28. On July 11, 2019, as a follow up to the Applicant’s meeting with DDOT on July 8, 2019, the Applicant submitted the following documents in support of the application:
- a. A revised building layout relocating the loading area to First Place, and the truck maneuvers for same, and the truck maneuvers for loading on the North Parcel (Ex. 23A);
  - b. Pierce Street Section (Ex. 23B);
  - c. A revised conceptual design for L Street, showing center line for L Street and the curb line in front of the Mount Airy Baptist Church as a post development condition (Ex. 23C);
  - d. Updated public space plans with the L Street section corresponding to the updated civil drawings (Ex. 23D);
  - e. An updated loading management plan, detailing the trash operations for the project (Ex. 23E); and
  - f. A revised parking plan, eliminating the 26 tandem spaces resulting in: (i) a reduction in the number of vehicle parking spaces from 330 spaces to 304 spaces; and (ii) an increase in the number long-term bicycle parking spaces from 188 to 198. (Ex. 23F.)

(Ex. 23.)

## **Second Supplemental Prehearing Submission**

29. On September 6, 2019, the Applicant filed a Second Supplemental Prehearing Submission in response to the OP report dated July 17, 2019. (Ex. 39.) The filing included a revised set of architectural plans and elevations in support of the modification to the first-stage PUD approval (Ex. 39A1 – 39A10), which further updated the proposed development of the PUD as follows:
- a. Southwest Building: 239,348 square feet of gross floor area yielding approximately 216 dwelling units; a maximum of 9 stories; a maximum building height of 95.7 feet; and a lot density of 6.04 FAR.
  - b. Southeast Building: 392,316 square feet of gross floor area yielding approximately 346 dwelling units; stepping from 8 stories along L Street up to 10 stories toward Pierce Street; building heights ranging from 84.5 feet to 110 feet; and a lot density of 5.88 FAR.
  - c. Northwest Building: 351,106 square feet of gross floor area yielding approximately 280 dwelling units; a range of 5 to 10 stories; building heights ranging from 62.5 feet to 110 feet; and a lot density of 5.63 FAR.
  - d. Northeast Building: 362,815 square feet of gross floor area yielding approximately 289 dwelling units; a range of 6 to 10 stories; building heights ranging from 68.93 feet to 106.93 feet; and a lot density of 5.82 FAR.
30. The Second Supplemental Prehearing Submission also included revised architectural plans and elevations in support of the second-stage approval for Phase 1 of the PUD. Specifically, the Applicant submitted revised facades for the Southwest and Southeast buildings; updates to the landscape design; and updates to the loading and parking for the PUD. The Applicant also included modified signage plan.
31. Lastly, the Second Supplemental Prehearing Submission included the following proffers related to the affordable units and the unit mix for the PUD:
- a. Affordable Units. The PUD shall have 199 affordable units reserved for and available to households with incomes not exceeding 80% MFI, provided that the blended affordability limits for the affordable units shall not exceed 60% of MFI (the “Affordable Units”). The Affordable Units shall include the Reserved Units for those Sursum Corda Households with incomes not exceeding 80% MFI.
  - b. Reserved Units Exceeding 80% MFI. Reserved Units for Sursum Corda Households exceeding 80% MFI shall not be counted toward the 199 Affordable Units required for the PUD.
  - c. Approved Reserved Unit Mix. The unit mix originally approved for the project, pursuant to Condition B.2.c. of ZC Order 15-20 was as follows:

<b>Reserved Sursum Corda Units</b>		
<b>No. of Units</b>	<b>No. of Bedrooms</b>	<b>Approximate Unit Size</b>
15	Studio	545 s.f.
31	1 bdrm	715 s.f.
53	2 bdrm	1,100 s.f.
27	3 bdrm	1,390 s.f.
10	4 bdrm	1,580 s.f.

- d. Revised Reserved Unit Mix. Based on an updated list of the Sursum Corda Households provided by Lonnie Duren, chair of the board for the Sursum Corda Housing Cooperative Association, Phase I of the PUD shall have 122 Reserved Units, with the following revised unit mix:

<b>Reserved Sursum Corda Units</b>		
<b>No. of Units</b>	<b>No. of Bedrooms</b>	<b>Approximate Unit Size</b>
0	Studio	545 s.f.
39	1 bdrm	715 s.f.
48	2 bdrm	1,100 s.f.
26	3 bdrm	1,390 s.f.
9	4 bdrm	1,580 s.f.

The Applicant shall have the flexibility to reduce the number of Reserved Units and change the unit mix for the Reserved Units, based on a certified updated list at the time of permitting, in accordance with Condition B.2.f. of the Order.

- e. Minimum Affordable Units for South Parcel. Notwithstanding any reduction in the number of Reserved Units, the South Parcel shall have a minimum of 100 Affordable Units, which may include Reserved Units for Sursum Corda Households not exceeding 80% MFI. The Affordable Units shall be available to households with incomes not exceeding 80% of MFI, so long as the blended

affordability level for the PUD does not exceed 60% of MFI, for the life of the project.

- f. Minimum Two and Three Bedroom Units for South Parcel. The South Parcel shall have a minimum of 52 two-bedroom units and 27 three-bedroom units. Each two-bedroom unit that is not a Reserved Unit shall have a minimum floor area of 850 square feet, and each three-bedroom unit that is not a Reserved Unit shall have a minimum floor area of 1000 square feet.
- g. Affordable Units for North Parcel. The number of affordable units required for the North Parcel shall be the difference between the 199 Affordable Units required for the PUD and the number of affordable units constructed on the South Parcel. The size, mix and location of the units shall be consistent with the inclusionary zoning requirements in effect at the time of the second-stage PUD application. The Affordable Units shall be available to households with incomes not exceeding 80% of MFI, so long as the blended affordability level for the PUD does not exceed 60% of MFI, for the life of the project.
- h. Distribution of Affordable Units. The PUD is exempt from Inclusionary Zoning. Notwithstanding, the Affordable Units shall be dispersed throughout the development such that each building meets the minimum set aside requirements in Subtitle C, Sec. 1003 of the Zoning Regulations.

32. Based on the foregoing proffers, the Applicant requested that Condition Nos. B.1., B.2.a., B.2.c., B.2.g. and B.7.b. of the Order be amended as set forth below.

a. An amendment to Condition B.1. of the Order as follows:

FROM	TO
<p><b>B.1.</b></p> <p>1. <u>Affordable Units.</u> The PUD shall include the construction of 199 new affordable housing units on-site. Affordable units shall be reserved for and available to households with incomes not exceeding 80% AMI, provided that the overall blended affordability limits for the affordable units within the PUD shall not exceed 60% AMI. Further, the PUD shall maintain an overall blended affordability level of 60% AMI for the life of the project.</p>	<p><b>B.1.</b></p> <p>2. <u>Affordable Units.</u> The PUD shall include the construction of 199 new affordable housing units on-site. Affordable units shall be reserved for and available to households with incomes not exceeding 80% <del>AMI</del> MFI, provided that the overall blended affordability limits for the affordable units within the PUD shall not exceed 60% <del>AMI</del> MFI (the "Affordable Units). <u>The Affordable Units shall include the Reserved Units for those Sursum Corda Households with incomes not exceeding 80% MFI. Reserved Units for Sursum Corda Households exceeding 80% MFI shall not be counted toward the 199 Affordable Units.</u> Further, the PUD shall maintain an overall blended affordability level of 60% AMI for the life of the project.</p>

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b. An amendment to Condition B.2.a. of the Order as follows:

FROM	TO
<p><b>B.2.a.</b></p> <p><u>Reserved Units.</u> The Applicant shall construct 136 residential units on the South Parcel during the first phase of development for the PUD, which shall be reserved for current Sursum Corda households currently residing at the Property (“Sursum Corda Households”) (the “Reserved Units”). Upon application of a raze permit for any of the existing structures on the Property, the Applicant shall certify to the DCRA the list of Sursum Corda Households and their contact information;</p>	<p><b>B.2.a.</b></p> <p><u>Reserved Units.</u> The Applicant shall construct <del>136</del> <u>122</u> residential units on the South Parcel during the first phase of development for the PUD, which shall be reserved for <del>current</del> Sursum Corda households <del>currently residing at the Property</del> (“Sursum Corda Households”), <u>including those Sursum Corda Households with incomes exceed 80% of MFI</u> (the “Reserved Units”). Upon application of a raze permit for any of the existing structures on the Property, the Applicant shall certify to the DCRA the list of Sursum Corda Households and their contact information;</p>

c. An amendment to Condition B.2.c. of the Order as follows:

FROM	TO																																										
<p><b>B.2.c.</b></p> <p>The Reserved Unit Mix. The Reserved Units shall be dispersed throughout the South Parcel and shall include the following unit mix:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th colspan="3">Reserved Sursum Corda Units</th> </tr> <tr> <th>No. of Units</th> <th>No. of Bedrooms</th> <th>Approximate Unit Size</th> </tr> </thead> <tbody> <tr> <td>15</td> <td>Studio</td> <td>545 s.f.</td> </tr> <tr> <td>31</td> <td>1 bdrm</td> <td>715 s.f.</td> </tr> <tr> <td>53</td> <td>2 bdrm</td> <td>1,100 s.f.</td> </tr> <tr> <td>27</td> <td>3 bdrm</td> <td>1,390 s.f.</td> </tr> <tr> <td>10</td> <td>4 bdrm</td> <td>1,580 s.f.</td> </tr> </tbody> </table> <p>The unit mix may be adjusted to reflect the actual number of Sursum Corda Households, changes in the composition of the Sursum Corda Households, the number of households that elect not to occupy a reserved unit, and/or HUD standards relating to the number of bedrooms required for each household.</p>	Reserved Sursum Corda Units			No. of Units	No. of Bedrooms	Approximate Unit Size	15	Studio	545 s.f.	31	1 bdrm	715 s.f.	53	2 bdrm	1,100 s.f.	27	3 bdrm	1,390 s.f.	10	4 bdrm	1,580 s.f.	<p><b>B.2.c.</b></p> <p>The Reserved Unit Mix. The Reserved Units shall be dispersed throughout the South Parcel and shall include the following unit mix:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th colspan="3">Reserved Sursum Corda Units</th> </tr> <tr> <th>No. of Units</th> <th>No. of Bedrooms</th> <th>Approximate Unit Size</th> </tr> </thead> <tbody> <tr> <td><del>15</del> <u>0</u></td> <td>Studio</td> <td>545 s.f.</td> </tr> <tr> <td><del>31</del> <u>39</u></td> <td>1 bdrm</td> <td>715 s.f.</td> </tr> <tr> <td><del>53</del> <u>48</u></td> <td>2 bdrm</td> <td>1,100 s.f.</td> </tr> <tr> <td><del>27</del> <u>26</u></td> <td>3 bdrm</td> <td>1,390 s.f.</td> </tr> <tr> <td><del>10</del> <u>9</u></td> <td>4 bdrm</td> <td>1,580 s.f.</td> </tr> </tbody> </table> <p>The <u>number of Reserved Units</u>, the unit mix, <u>and location of Reserved Units</u> may be adjusted to reflect the actual number of Sursum Corda Households, changes in the composition of the Sursum Corda Households, the number of households that elect not to occupy a reserved unit, and/or HUD standards relating to the number of bedrooms required for each household, <u>based upon an updated list of the Sursum Corda Households certified by the Sursum Corda</u></p>	Reserved Sursum Corda Units			No. of Units	No. of Bedrooms	Approximate Unit Size	<del>15</del> <u>0</u>	Studio	545 s.f.	<del>31</del> <u>39</u>	1 bdrm	715 s.f.	<del>53</del> <u>48</u>	2 bdrm	1,100 s.f.	<del>27</del> <u>26</u>	3 bdrm	1,390 s.f.	<del>10</del> <u>9</u>	4 bdrm	1,580 s.f.
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FROM	TO
	<p><u>Cooperative at the time of building permit in accordance with Condition B.2.of the Order.</u></p>

d. An amendment to Condition B.2.g. of the Order as follows:

FROM	TO
<p><b>B.2.g.</b></p> <p><u>Conversion of Reserved Units.</u> In the event that a Sursum Corda Household: (i.) elects not to return to the Property to occupy a Reserved Unit or (ii.) fails to timely enter into an agreement for the occupancy of its Reserved Unit that is also an affordable unit, said unit may be converted to a market rate unit so long as the Applicant sets aside a corresponding amount of gross floor area for affordable unit on the North Parcel.</p>	<p><b>B.2.g.</b></p> <p><u>Conversion of Reserved Units.</u> In the event that a Sursum Corda Household: (i.) elects not to return to the Property to occupy a Reserved Unit or (ii.) fails to timely enter into an agreement for the occupancy of its Reserved Unit that is also an affordable unit, said unit may be converted to a market rate unit <b><u>(or units), or occupied as an affordable unit (or units), not restricted to a Sursum Corda Household.</u></b></p> <p><b><u>Notwithstanding any reduction in the number of Reserved Units, the South Parcel shall have a minimum of 100 Affordable Units, which may include Reserved Units for Sursum Corda Households not exceeding 80% MFI. The Affordable Units shall be available to households with incomes not exceeding 80% of MFI, so long as the blended affordability level for the PUD does not exceed 60% of MFI, for the life of the project.</u></b></p>

- e. An amendment to Condition B.7.b. of the Order as follows:

FROM	TO
<p><b>B.7.b.</b></p> <p>Prior to the issuance of a building permit for the PUD, and subject to approval by the National Park Service or agency having jurisdiction over Lots 896 and 897 in Square 620, the Applicant shall install playground equipment valued at \$28,000 on Lot 896, subject to approval of the National Park Service or the agency having jurisdiction over Lot 896. If the applicant is unable to obtain approval to install the playground equipment, it shall contribute \$28,000 to the National Park Service or the agency having jurisdiction over Lot 896 to install playground equipment at that location.</p>	<p><b>B.7.b.</b></p> <p><del>Prior to the issuance of the first certificate of occupancy for the PUD, and subject to approval by the National Park Service or agency having jurisdiction over Lots 896 and 897 in Square 620,</del> the Applicant shall install playground equipment valued at \$28,000 on Lot 904, <del>subject to approval of the National Park Service or the agency having jurisdiction over Lot 896. If the applicant is unable to obtain approval to install the playground equipment, it shall contribute \$28,000 to the National Park Service or the agency having jurisdiction over Lot 896 to install playground equipment at that location.</del></p>

**Response to Metropolitan Police Department Report**

33. On September 4, 2019, the Applicant filed a letter in response to the Metropolitan Police Department (“MPD”) comments on the application. (Ex. 37.) In the letter, the Applicant discussed the status of the Sibley Townhomes immediately east of the PUD site; the use of the green space proposed east of First Place and the public park proposed at First and L Streets; and security for the development.

**Memorandum of Agreement for L Street Improvements**

34. On September 16, 2019, the Applicant filed with the Zoning Commission a Memorandum of Agreement between the Applicant and MRP Realty related to the design and improvement of L Street. (Ex. 42). In the Memorandum, the Applicant and MRP Realty agreed that the segment of L Street, between North Capitol Street and the private drive proposed for the Northwest One development shall be constructed as described below:

- a. If the Northwest One Development is Constructed First
- i. 50’ ROW dedication for L Street, from the Northwest One site, to re-establish the 90-foot ROW for L Street, from First Place to North Capitol Street.
  - ii. L Street improved as a two-way street from North Capitol to the proposed private drive; 10’ travel lanes; 6’ sidewalk and 8’ of parking on the south side of L Street; 10’ parking lane on the north side of L Street; a striping line between the proposed private drive and the alley adjacent to the church; a sidewalk that is between 8’ and 24.9’ in front of the church. L

Street will function as a one-way street with 12' travel lane westbound from the proposed private drive to First Street, NW.

- iii. Striping along the north side of L Street along the Sursum Corda PUD site from the alley adjacent to the church property to First Street.
- b. If the Sursum Corda PUD is Constructed First
- i. L Street will function as a one-way street with a 12' travel lane from First Place eastbound to North Capitol Street, and as a one-way street with a 12' travel lane from First Place westbound to First Street.
  - ii. 8' wide striped walkway on the north side of L Street in front of Mt. Airy Baptist Church from the alley adjacent to the church to North Capitol Street. The striped walkway will be used to accommodate parking for the church for religious services.
  - iii. Curb on the north side of L Street, from First Place west to First Street. Curb on the north side of L Street, from First Place to the proposed striping in front of the church.
35. The parties also agreed to enter into an agreement to modify the traffic signal at North Capitol Street and L Street, including striping and crosswalk improvements and sharing.

### **Amenity Space Diagram**

36. On September 26, 2019, the Applicant filed an exhibit outlining the activation/programming of the amenity spaces for the building in Phase 1 of the PUD. (Ex. 48-48A.)

### **Comprehensive Plan**

37. The Future Land Use Map designates the site for Moderate Density Residential and Parks, Recreation, and Open Space while the Generalized Policy Map designates the site as a Land Use Change Area. In addition, the Mid-City Small Area Plan identifies high density residential and medium density commercial uses as appropriate for the Property. As specified in the Comprehensive Plan, Small Area Plans supplement the Comprehensive Plan by providing detailed director for focused areas (10 DCMR §104.8). At the first-stage PUD approval, the Zoning Commission found that the requested PUD and accompanying map amendment from the R-4 zone to the C-3-C zone is not inconsistent with the Comprehensive Plan.

### **DDOT Reports**

38. In its report dated July 11, 2019, DDOT indicated that it was unable to make a determination on the application because of the following unresolved issues: heritage tree conflicts; L Street design; proposed curbside loading for the Southwest Building; curbside



loading along Pierce Street; an operation plan for trash service beneath the Southeast Building; and number of parking spaces. (Ex. 25.)

39. In a Supplemental Report dated September 16, 2019, DDOT stated that it was unable to provide a full assessment of the application because there had been no progress to resolve the heritage tree conflicts. (Ex. 44.)
40. DDOT submitted a Second Supplemental Report dated September 23, 2019. (Ex. 47.) The report stated that DDOT has no objection to the second-stage PUD, provided the following conditions are satisfied:
  - a. Finalize the negotiated settlement for the removal of the heritage trees and transmit the payment to DDOT prior to the Certificate of Occupancy for the first building on the site.
  - b. Commit to the L Street commitments outlined in Exhibit 42 of the record in conjunction with the adjacent Northwest One development.
  - c. Commit to pedestrian improvements at the following locations:
    - North side of L Street - The reconfigured L Street with Northwest One developing first enables the creation of a standard sidewalk width on the north side of L Street between First Street and North Capitol Street in the ultimate buildout. If Sursum Corda redevelops first, the Applicant should commit to striping or another treatment to be determined in front of Mt. Airy Baptist Church.
    - First Street - commit to the creation of a standard sidewalk section between L Street and M Street facilitated by the re-establishment of the historic First Street ROW along the site's frontage.
    - Missing or substandard sidewalks along the perimeter - All missing or substandard curb ramps and crosswalks along the perimeter of Phase 1 will be required to be upgraded to DDOT standards as part of the public space permitting process. This includes upgrading the receiving curb ramps on the opposite side of the street as the development.
  - d. Implement the loading management plan as outlined in Exhibit 23E of the record.
  - e. Supplement the TDM plan to include the elements identified in the DDOT report.
  - f. Revise the Pierce Street plans to show a minimum of six (6) bicycle racks.
41. The report also stated that the Applicant is expected to continue to work with DDOT on several items related to the public streets, mitigations, transportation improvements, and elements in the public realm.

42. In its report, DDOT required the following Transportation Demand Management (“TDM”) strategies as part of the first-stage PUD:
  - a. Designate a TDM Coordinator;
  - b. Establish a TDM marketing plan;
  - c. Unbundle all parking costs from the cost of lease and set the cost at no less than the charges of the lowest fee garage located within a quarter-mile of the site;
  - d. Dedicate two (2) parking spaces in each garage for car sharing services to use with the right of first refusal;
  - e. Install electronic displays in each building's residential lobby; and
  - f. Install a 50-foot (19-dock) Capital Bikeshare station within the site as part of the Phase 1 development and include one year's operating expenses.
  
43. In addition, DDOT requested that the Applicant should strengthen its TDM plan by adding the following measures:
  - a. Provide Transportation Coordinators' contact information to goDCgo, conduct an annual commuter survey of employees on-site, and report TDM activities and data collection efforts to goDCgo once per year.
  - b. Transportation Coordinators will develop, distribute, and market various transportation alternatives and options to the residents, including promoting transportation events (i.e., Bike to Work Day, National Walking Day, Car Free Day) on property website and in any internal building newsletters or communications.
  - c. Transportation Coordinators will receive TDM training from goDCgo to learn about the TDM conditions for this project and available options for implementing the TDM Plan.
  - d. Provide welcome packets to all new residents that should, at a minimum, include the Metrorail pocket guide, brochures of local bus lines (Circulator and Metrobus), carpool and vanpool information, CaBi coupon or rack card, Guaranteed Ride Home (GRH) brochure, and the most recent DC Bike Map. Brochures can be ordered from DDOT's goDCgo program by emailing [info@godcgo.com](mailto:info@godcgo.com).
  - e. Provide an annual membership to Bikeshare to each resident of an affordable dwelling unit for five (5) years after the building opens.
  - f. Provide residents who wish to carpool with detailed carpooling information and will be referred to other carpool matching services sponsored by the Metropolitan Washington Council of Governments (MWCOC) or other comparable service if MWCOC does not offer this in the future.

- g. Transportation Coordinator will subscribe to goDCgo's residential newsletter.
- h. Post all TDM commitments on website, publicize availability, and allow the public to see what commitments have been promised.
- i. Provide a free SmarTrip card to every new resident and a complimentary Capital Bikeshare coupon good for one ride.
- j. Long-term bicycle storage rooms will accommodate non-traditional sized bikes including cargo, tandem, and kids bikes.
- k. Will not lease unused residential parking spaces to anyone aside from tenants of Phase L or Phase 2 of the project (e.g., will not lease to other nearby office employees, single-family home residents, or sporting events).
- l. Provide a bicycle repair station in each long-term bicycle parking storage room.
- m. Provide one (1) collapsible shopping cart (utility cart) for every 50 residential units, for a total of 11 to encourage residents to walk to the grocery shopping and run errands.
- n. Hold a transportation event for residents, employees, and members of the community once per year for a total of five (5) years. Examples include resident social, walking tour of local
- o. transportation options, goDCgo lobby event, transportation fair, WABA Everyday Bicycling seminar, bicycle safety/information class, bicycle repair event, etc.).

### **OP Reports**

- 44. In its set down report dated February 15, 2019, OP recommended that the Zoning Commission set down the application. (Ex. 11.) The report recommended that the Applicant address the following issues prior to the public hearing: Provide details about the uses proposed within the spaces identified as “amenity space;” provide details and standards for any signage that would be placed on the buildings; removal of the transformers from the First Street right-of-way; consider adding balconies to the building design; provide an update on the Tenant Relocation and Replacement Plan and details on the required 63 IZ units; and consider the use of solar energy.
- 45. The OP set down report also included the following comments: the Applicant should provide standards for any proposed signage on the building; OP recommended the bedroom mix be included in the Zoning Commission order; requested an update on the tenant relocation and replacement plan and details on the required 63 affordable units; the Applicant should provide detailed drawings on how the transformers within the First Street right-of way would be screened and buffered with landscaping; for the retail and service uses, in addition to the typical coffee shop and restaurants, the Applicant consider uses such as a day care center, a culinary center or other services and uses which would serve the families within the newly created community.

46. In its hearing report dated July 15, 2019 (Ex. 27), OP recommended approval of the application subject to the following conditions being satisfied:
- a. The applicant provides details of the general themes for the signage adding a specified range of fonts and colors that would be used.
  - b. The applicant provides a table showing the unit/bedroom mix and that same bedroom mix noted in the table be explicitly included in the Order.
  - c. That there be a documented commitment to provide a minimum square footage and number of affordable units in South Parcel buildings.
  - d. If the Zoning Commission determines that the First Source Agreement required in the First Stage PUD is no longer valid, the applicant provide a commitment to meeting the employment goals of the First Source Agreement.
  - e. The amenity spaces be programmed with active uses to help maintain eyes on the area particularly along the promenade.
  - f. That the architecture and materials be refined to read more residential especially as it faces the park.

OP also encouraged the Applicant to integrate additional environmental and sustainable measures that would be consistent with and supportive of The Clean Energy DC Plan.

47. OP issued a Supplemental Hearing Report dated September 16, 2019, in response to the Applicant's Supplemental Statement filed on September 6, 2019. (Ex. 43.) The report discussed how the Applicant addressed details on the signage for the building; the unit/bedroom mix for the project; unit sizes; and number of affordable units for the South Parcel; and revisions to the building design. The report also stated that the Applicant did not address OP's comments regarding the First Source Agreement or the programming of the amenity spaces.

### **MPD Report**

48. In its report filed on July 11, 2019, MPD requested that the application address the following (i) how the development would affect the homes located immediately to the east in the 1100 block of First Place, NW; (ii) the intended use and enforcement of the green space; and (iii) security. (Ex. 24.)

### **ANC 6E Report**

49. ANC 6E issued a letter dated, March 22, 2019, stating that it has no objections to the modifications to the first-stage PUD approval or the plans for the second-stage PUD approval for the South Parcel as proposed, and urged the Zoning Commission's approval of the application. (Ex. 14.) The letter did not express any issues or concerns about the application.

## **Public Hearing**

50. The following persons testified on behalf of the Applicant: Paige Hackler, Director of Development for Toll Brothers; Robert Keane of WDG Architects; Dan VanPelt of Gorove Slade Associates. Mr. Keane testified as an expert in the area of architecture, and Mr. VanPelt testified as an expert in the area of transportation planning.
51. Mr. Lonnie Duren, Chair of the Board of the Sursum Corda Cooperative Association, Inc., testified in support of the application. Ms. LaTeasa Hill and Ms. Claudette Morton, members of the Sursum Corda Cooperative Association, Inc. also testified in support of the application.
52. No persons testified in opposition to the application.
53. At the public hearing, **the Applicant requested flexibility from the court and side yard requirements** in the Zoning Regulations for the MU-9 Zone District in order to permit the court and side yard condition along the southern theoretical lot line for the Southwest Building as reflected on the South Parcel Court and Yard Diagram on Sheet A-02 of the plans for the second-stage PUD approval at Ex. 39AA2 of the record.
54. The Zoning Commission requested that the Applicant provide a post-hearing submission that addressed the following issues:
  - a. Comprehensive Plan. The Applicant was asked to discuss the PUD's consistency with the Comprehensive Plan.
  - b. Building Design. The Applicant was asked to provide revised or additional architectural plans and drawings of the following:
    - i. Floor plans that shows the balconies, including the Reserved Units with balconies.
    - ii. For the Southeast Building, a different building material and a darker color.
    - iii. A delineation between the Southwest Building and the public proposed at First and L Streets.
    - iv. Elevations of the courtyard areas.
    - v. A ramp instead of a lift in the loading/service area.
    - vi. Additional solar panels on the roof of the buildings.

The Commission also asked about the program for the amenity spaces for the South Parcel, which was filed by the Applicant on September 26, 2019, and marked as Exhibit 48A of the record.

- c. DDOT Issues. The Applicant was asked to confirm the status of the following DDOT issues:
- i. Removal of the heritage trees.
  - ii. L Street design.
  - iii. The curbside loading.
  - iv. The Pierce Street design.
  - v. The loading management plan for trash removal.
  - vi. TMD plan enhancements.

The Zoning Commission also asked the Applicant to consider including in the project outlets for charging e-bicycles, **which the Applicant agreed to do**.

- d. First Source Agreement. The Zoning Commission asked for clarity on the Applicant's commitment to enter into a First Source Agreement. The Applicant confirmed that it is not seeking a modification to this condition of the Order, and the Applicant committed to making a good faith effort to ensure that 51% of all new hires are District residents.
- e. Response to MPD Report. The Applicant confirmed that its response to the MPD report was filed and marked as Exhibit 48 – 48A of the record.

### **Post-Hearing Submissions**

55. On October 10, 2019, the Applicant filed a Post-Hearing Submission that provided the additional information on the Comprehensive Plan, building design, DDOT issues and First Source as requested by the Zoning Commission at the public hearing. (Ex. \_\_.) The Post-Hearing Submission included the subdivision plat for the PUD property, which was recorded on September 27, 2019, in Book 216, Page 72.
56. On October 10, 2019, the Applicant filed proposed findings of facts and conclusions of law. (Ex. \_\_.)

### **CONCLUSIONS OF LAW**

1. Pursuant to the Zoning Regulations, the purpose of the PUD process is to provide for higher quality development through flexibility in building controls, including building height and density, provided that a PUD: (a) results in a project superior to what would result from

the matter-of-right standards; (b) offers a commendable number or quality of meaningful public benefits; and (c) protects and advances the public health, safety, welfare, and convenience, and is not inconsistent with the Comprehensive Plan. (11-X DCMR § 300.1.)

2. Under the PUD process of the Zoning Regulations, the Commission has the authority to modify the approved first-stage PUD and to consider an application for approval of a second-stage PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, parking and loading, yards, and courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.
3. Development of the property included in this Application carries out the purposes of 11-X DCMR, Chapter 3 of the Zoning Regulations to encourage the development of well planned developments that will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development. The Application is consistent with the purposes and goals of the Commission's approval in the first-stage PUD.
4. The Application complies with the applicable height, bulk, and density standards of the Zoning Regulations and the first-stage PUD. The use is appropriate for the Property. The impact of the project on the surrounding area is not unacceptable. Accordingly, the Application should be approved.
5. The Application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
6. The Applicant's requests for zoning flexibility from those standards, requirements, and limitations of the 1958 Zoning Regulations that are specifically prescribed in this Order are consistent with the Comprehensive Plan, and the flexibility requested for certain design aspects of the project are appropriate. Moreover, the project's benefits and amenities approved as part of the first-stage PUD and as modified by this second-stage PUD are reasonable trade-offs for the flexibility requested.
7. The validity of the Commission's final approval shall be valid for a period of two years from the effective date of this Order. Within such time, an application for a building permit must be filed Phase 1 of the PUD, and construction shall begin within three years of the effective date of this Order.
8. Approval of the PUD is appropriate because the project is consistent with the present character of the area and is not inconsistent with the Comprehensive Plan. In addition, the project will promote the orderly development of the Property in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.

9. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001)), to give great weight to OP’s recommendations. The Commission carefully considered the OP reports in this case and, as explained herein, finds OP’s recommendation to grant the Application persuasive.
10. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the issues and concerns raised in the written report of the affected ANC. ANC 6E’s reports expressed no issues or concerns. Because the written reports of the ANC expressed no issues or concerns, there is nothing for the Zoning Commission to give great weight to. *See* Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment, 141 A.3d 1079, 1087 (D.C. 2016). The Commission considered ANC 6E’s support of the application.
11. The Application for a PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2- 1401 et seq. (2007 Repl.)

## **DECISION**

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of (1) the modification to the first-stage PUD approval granted under ZC Order 15-20 and (2) the second-stage approval for Phase 1 of the PUD, the South Parcel. The approval of the application is subject to the guidelines, conditions, and standards set forth below.

### **A. Modified First-Stage PUD Approval**

1. The PUD shall be developed in accordance with the plans titled “Sursum Corda PUD / Modification to First-Stage PUD Approval in ZC Order No. 15-20C,” prepared by WDG Architecture, PLLC, dated September 5, 2019, and marked as 39A1 – 39A10 of the record, (the “First-Stage Plans”).
2. In accordance with the Zoning Tabulations provided on Sheet A.12 and A.12a of the First-Stage Plans, the PUD shall consist of 1,131 dwelling units, and have an overall density of 4.62 FAR, including the area for Pierce Street, and 5.52 FAR excluding the area for Pierce Street and the right-of-way dedications for First Street. The building heights for the project will range from 62.5 feet to 110 feet.
3. The Southwest Building will be constructed on Theoretical Lot 1A, and will have a gross floor area of 239,348 square feet yielding approximately 216 residential units. It will have a maximum of nine (9) stories and a maximum building height of 95.79 feet. Theoretical Lot 1A, which consists of 39,608 square feet, will be developed at a density of 6.04 FAR.



4. The Southeast Building will be constructed on Theoretical Lot 1B, and will have a gross floor area of 392,316 square feet yielding approximately 346 residential units. It will have a maximum of 10 stories with a maximum building height of 110 feet. That portion of the Southeast Building fronting on L Street will be limited to eight (8) stories and a maximum building height of 84.5 feet. Theoretical Lot 1B, which consists of 66,730 square feet, will be developed at a density of 5.88 FAR.
5. The Northwest Building will be constructed on Theoretical Lot 2A/2B, and will have a gross floor area of 351,106 square feet yielding approximately 280 units. It will have a range of 5 to 10 stories, and heights ranging from 62.5 feet to 110 feet. Theoretical Lot 2A/2B: which consists of 62,314 square feet, will be developed at a density of 5.63 FAR.
6. The Northeast Building will be constructed on Theoretical Lot 2C/2D, and will have a gross floor area of 362,815 square feet yielding approximately 289 units. It will have a range of 6 to 10 stories, and heights ranging from 68.93 feet to 106.93 feet. Theoretical Lot 2C/2D, which consists of 62,314 square feet, will be developed at a density of 5.82 FAR.

**B. Amended and Restated Public Benefits for First-Stage PUD**

The Applicant shall comply with all of the PUD Public Benefits, as amended and restated below.

1. Affordable Units

**For the life of the project**, the PUD shall include the construction of 199 new affordable housing units on-site. Affordable units shall be reserved for and available to households with incomes not exceeding 80% MFI, provided that the overall blended affordability limits for the affordable units within the PUD shall not exceed 60% MFI (the “Affordable Units). The Affordable Units shall include the Reserved Units for those Sursum Corda Households with incomes not exceeding 80% MFI. Reserved Units for Sursum Corda Households exceeding 80% MFI shall not be counted toward the 199 Affordable Units. Further, the PUD shall maintain an overall blended affordability level of 60% MFI for the life of the project.

- a. Reserved Units Exceeding 80% MFI. Reserved Units for Sursum Corda Households exceeding 80% MFI shall not be counted toward the 199 Affordable Units required for the PUD.
- b. Minimum Affordable Units for South Parcel. Notwithstanding any reduction in the number of Reserved Units, the South Parcel shall have a minimum of 100 Affordable Units, which may include Reserved Units for Sursum Corda Households not exceeding 80% MFI. The Affordable Units shall be available to households with incomes not exceeding 80% of MFI,

so long as the blended affordability level for the PUD does not exceed 60% of MFI, for the life of the project.

- c. Affordable Units for North Parcel. The number of affordable units required for the North Parcel shall be the difference between the 199 Affordable Units required for the PUD and the number of affordable units constructed on the South Parcel. The size, mix and location of the units shall be consistent with the inclusionary zoning requirements in effect at the time of the second-stage PUD application. The Affordable Units shall be available to households with incomes not exceeding 80% of MFI, so long as the blended affordability level for the PUD does not exceed 60% of MFI, for the life of the project.
- d. Distribution of Affordable Units. The PUD is exempt from Inclusionary Zoning. Notwithstanding, the Affordable Units shall be dispersed throughout the development such that each building meets the minimum set aside requirements in Subtitle C, Sec. 1003 of the Zoning Regulations.

2. Sursum Corda Households

**Prior the issuance of a Certificate of Occupancy for the South Parcel**, the Applicant shall provide evidence to the Zoning Administrator tht it has completed the following:

- a. Reserved Units. **The Applicant shall construct 122 residential units on the South Parcel during the first phase of development for the PUD,** which shall be reserved for Sursum Corda households (“Sursum Corda Households”), including those Sursum Corda Households with incomes exceed 80% of MFI (the “Reserved Units”). Upon application of a raze permit for any of the existing structures on the Property, the Applicant shall certify to the DCRA the list of Sursum Corda Households and their contact information. Violations of this condition shall not result in the denial of a raze permit, building permit, or certificate of occupancy for the PUD.
- b. Affordability Level. The Reserved Units shall be made available to Sursum Corda Households at their respective income eligibility levels. For those households who qualify for Section 8 vouchers, the household’s contribution to the rent shall be based on the household income and/or changes resulting from the annual income recertification process with the U.S. Department of Housing and Urban Development (“HUD”) and/or the D.C. Housing Authority.
- c. The Reserved Unit Mix. The Reserved Units shall be dispersed throughout the South Parcel and shall include the following unit mix:

<b>Reserved Sursum Corda Units</b>		
No. of Units	No. of Bedrooms	Approximate Unit Size
0	Studio	545 s.f.

39	1 bdrm	715 s.f.
48	2 bdrm	1,100 s.f.
26	3 bdrm	1,390 s.f.
9	4 bdrm	1,580 s.f.

The number of Reserved Units, the unit mix, and location of Reserved Units may be adjusted to reflect the actual number of Sursum Corda Households, changes in the composition of the Sursum Corda Households, the number of households that elect not to occupy a reserved unit, and/or HUD standards relating to the number of bedrooms required for each household, based upon an updated list of the Sursum Corda Households certified by the Sursum Corda Cooperative at the time of building permit in accordance with Condition B.2. of the Order.

- d. Communication Plan. The Applicant shall implement the communication plan in Exhibit 48B of the record for ZC Case No. 15-20.
- e. Notice for Susum Corda Households. **During construction of the first phase of development of the PUD,** the Applicant, or its representative, shall maintain updated contact information for each Sursum Corda Household and shall provide notice, via certified mail or hand delivery, to each household as follows:
  - i. Demolition of Existing Structures. **Within 10 days of applying for a raze permit for any structure on the Property,** the Applicant shall notify the Sursum Corda Households of its raze permit application. Certification of said notice, including a copy of same, **shall be furnished to DCRA prior to the issuance of a raze permit for any structure of the Property.** Violations of this condition shall not result in the denial of a raze permit, building permit, or certificate of occupancy for the PUD.
  - ii. Issuance of a Building Permit. **Within 7 days of the issuance of the first building permit for the above grade construction** (the “Building Permit”), the Applicant shall notify the Sursum Corda Households that the Building Permit has been issued and the date it was issued. Certification of said notice, include a copy of same, **shall be submitted to DCRA within 14 days of the issuance of the Building Permit.** [sic]
  - iii. Assignment of Units. **No more than 12 months from the issuance of the Building Permit,** the Applicant shall notify Sursum Corda Households of the estimated completion date of the first phase of the PUD and the unit that has been assigned to their individual household (including number of bedrooms and unit size). Said notice shall include renderings and floor plans for the development. Each head of household, or designated household member, **shall have 90 days from the date of receiving notice of**

**their assigned unit to inform the Applicant of its intention to occupy the Reserved Unit.** Certification of said notice, including copies of same, shall be furnished to DCRA **no later than 14 months from the issuance of obtaining the Building Permit.**

iv. Occupancy Date. After issuance of the Building Permit, the Applicant shall notify those Sursum Corda Households that elect to return to the Property of the occupancy date for their Reserved Unit (the “Occupancy Date Notice”). Each Sursum Corda Household **shall have at least one year from the date of the Occupancy Date Notice to** (i) walk through a model unit and (ii) enter into an agreement for the occupancy of their Reserved Unit. Certification of the Occupancy Date Notice, including copies of same, shall be furnished to DCRA **prior to the issuance of a certificate of occupancy for the first building within the PUD.**

f. Report to DCRA. **Prior to the issuance of the first certificate of occupancy for the PUD,** the Applicant shall submit to DCRA a list of the Sursum Corda Households that elected to occupy a Reserved Unit, the type/size of unit and unit number, and the affordability level for said household.

g. Conversion of Reserved Units. In the event that a Sursum Corda Household: (i.) elects not to return to the Property to occupy a Reserved Unit or (ii.) fails to timely enter into an agreement for the occupancy of its Reserved Unit that is also an affordable unit, said unit may be converted to a market rate unit (or units), or occupied as an affordable unit (or units), not restricted to a Sursum Corda Household.

h. Minimum Two and Three Bedroom Units for South Parcel. The South Parcel shall have a minimum of 52 two-bedroom units and 27 three-bedroom units. Each two-bedroom unit that is not a Reserved Unit shall have a minimum floor area of 850 square feet, and each three-bedroom unit that is not a Reserved Unit shall have a minimum floor area of 1000 square feet.

3. Landscape and Open Space Improvements

**Prior to the issuance of a Certificate of Occupancy for the South Parcel,** the Applicant shall seek approvals from the National Park Service, its designee, or the agency with jurisdiction over Lot 896 in Square 620, for the construction and long-term maintenance of park space at the corner of First and L Streets, as depicted on Sheets A-16, A-17, L-6, and L-7 of the Plans, and if approved, shall construct the park space.

4. Transportation and Pedestrian Improvements

- a. The Applicant shall create a new pedestrian promenade through the center of the site from M Street to L Street as shown on the plans. Prior to the issuance of a Certificate of Occupancy for the South Parcel, the Applicant shall construct the southern half of the promenade. The northern half of the promenade shall be constructed during Phase 2 of the PUD;
- b. Prior to the issuance of a Certificate of Occupancy for the South Parcel, the Applicant shall construct the extension of Pierce Street, from First Street to First Place. The Applicant shall be responsible for the maintenance of the road for the life of the project;
- c. The Applicant shall improve a 30-foot-wide strip of the Property frontage along First Street in order to effectively modify the existing sidewalk from a variable six to eight feet in width to a sidewalk that is a minimum of six feet with landscaping and street trees. Prior to the issuance of a Certificate of Occupancy for the South Parcel, the Applicant shall improve the segment of the frontage from Pierce Street south shall be improved during Phase 1 of the PUD. Prior to the issuance of a Certificate of Occupancy for the North Parcel, the Applicant shall improve the segment from Pierce Street north. The Applicant shall maintain said improvements for the life of the project;
- d. Prior to the issuance of a Certificate of Occupancy for the South Parcel, the Applicant shall construct the extension of First Place from M Street to L Street;
- e. Prior to the issuance of a Certificate of Occupancy for the South Parcel, the Applicant shall improve the north side of L Street in between First Street and First Place in order for it to function as a two-way drive; and
- f. Prior to the issuance of a Certificate of Occupancy for the South Parcel, the Applicant shall cause the installation of a Capital Bikeshare station in proximity to the Property.

5. Employment and Training Opportunities

**Prior to the issuance of a building permit for Phase 1 of the PUD**, the Applicant shall enter into a First Source Agreement with the Department of Employment Services.

6. Environmental Benefits

- a. **Prior to the issuance of the first certificate of occupancy for each phase of the PUD**, the Applicant shall furnish a copy of its LEED certification application to the Green Building Certification Institute. The PUD shall fulfill or exceed LEED-Silver Certification;
- b. **Prior to the issuance of a certificate of occupancy for Phase 1 of the PUD**, the Applicant shall install two parking spaces reserved for a car-sharing service; and

- c. **Prior to the issuance of a certificate of occupancy for Phase 1 of the PUD**, the Applicant shall install two electric car charging stations in the parking garage.

7. Support of Neighborhood Uses and Organizations

- a. **Prior to the issuance of a building permit for the PUD**, the Applicant shall contribute \$222,000 to the Boys and Girls Club #2 to support the operation of its programs;
- b. **Prior to the issuance of the first certificate of occupancy for the PUD**, the Applicant shall install playground equipment valued at \$28,000 on Lot 904;
- c. **Prior to the issuance of a building permit for the PUD**, the Applicant shall contribute to \$60,000 to the Perry School Community Services Center, Inc. to support the operation of its programs;
- d. **Prior to the issuance of a building permit for the PUD**, the Applicant shall contribute \$25,000 to the Walker-Jones Parent Teacher Association to assist with funding for school activities and the purchase of classroom equipment;
- e. **Prior to the issuance of a building permit for the PUD**, the Applicant shall contribute \$15,000 to the Girls in Action at the Sursum Corda Youth Center, 1175 First Terrace, NW, to support the operation of its programs;
- f. **Prior to the issuance of a building permit for the PUD**, the Applicant shall contribute \$25,000 to the Dunbar High School Parent Teacr [sic] to assist with funding for school activities and the purchase of classroom equipment;
- g. **Prior to the issuance of a building permit for the PUD**, the Applicant shall donate equipment and uniforms valued at approximately \$10,000 to support programming at the RH Terrell Recreation Center; and
- h. **Prior to the issuance of a building permit for the PUD**, the Applicant shall donate \$15,000 to support programming at the Northwest One Library.

8. Historic Preservation

The Applicant shall coordinate with Cultural Tourism DC a plaque, artwork, mural on an interior courtyard, or similar element that celebrates the history of Sursum Corda. **The commemorative element shall be installed prior to the issuance of a certificate of occupancy for Phase 1 of the PUD**

C. **Second-Stage PUD Approval for Phase 1 / South Parcel**

Project Development

1. Phase 1 of the PUD shall be developed on the South Parcel in accordance with the following plans:

“Sursum Corda PUD / Second Stage PUD Application for Phase 1,” prepared by WDG Architecture, PLLC, dated September 5, 2019, and marked as Exhibits 39AA1 – 39AA8 of the record, except as modified by \_\_\_\_\_;

the Supplemental Renderings Package, dated September 5, 2019, and marked as Exhibit 39B of the record;

the Supplemental Unit Matrix prepared by WDG, dated September 5, 2019, and marked as Exhibit 41A of the record;

the diagrams for the amenity area, prepared by WDG, dated September 5, 2019, and marked as Exhibit 48A of the record; and

the Comprehensive Signage Plan, dated \_\_\_\_\_, and marked as Exhibit \_\_\_\_\_ of the record.

(collectively, the “Second-Stage Plans”).

2. Phase 1 of the PUD includes the following elements:
  - a. the South Parcel (Lots 1A and 1B), which is situated between First Street and First Place, and consists of approximately 2.4 acres, excluding the area to be dedicated for the First Street right of way;
  - b. the rectangular parcel of land to the east of First Place (Theoretical Lots 3A and 3B), which consists of 12,608 square feet of land area;
  - c. Pierce Street, except for the parallel parking on the north side of the street, which consists of approximately 34,604 square feet of land area; and
  - d. the dedication of the southern portion of the First Street right of way, as depicted on Sheet 13a of the plans, which consists of approximately 5,118 square feet of land area.
3. In accordance with the Second-Stage Plans, Phase 1 of the PUD shall be developed on the South Parcel and include the construction of two buildings – Building 1A, also referred to as the Southwest Building, and Building 1B, also referred to as the Southeast Building.
4. The Southwest Building will be constructed on Theoretical Lot 1A, and will have a gross floor area of 239,348 square feet yielding approximately 216 residential units. It will have a maximum of nine (9) stories and a maximum building height

of 95.79 feet. Theoretical Lot 1A, which consists of 39,608 square feet, will be developed at a density of 6.04 FAR.

5. The Southeast Building will be constructed on Theoretical Lot 1B, and will have a gross floor area of 392,316 square feet yielding approximately 346 residential units. It will have a maximum of 10 stories with a maximum building height of 110 feet. That portion of the Southeast Building fronting on L Street will be limited to eight (8) stories and a maximum building height of 84.5 feet. Theoretical Lot 1B, which consists of 66,730 square feet, will be developed at a density of 5.88 FAR.
6. Phase 1 of the PUD also includes Theoretical Lot 3A (record Lot 904), which consists of 6,241 square feet, and Theoretical Lot 3B (record Lot 905), which consists of 6,347 square feet, both of which will be maintained as green/open space.
7. Phase 1 of the PUD shall have 304 parking spaces, inclusive of tandem parking spaces; 199 long-term bicycle parking spaces; and 29 short-term bicycle parking spaces.

#### Flexibility

8. The Applicant shall have flexibility with the design of Phase 1 of the PUD in the following areas:
  - a. Court / Side Yard. Flexibility from the court and side yard requirements to permit the court and side yard conditions along the southern theoretical lot line for the Southwest Building as reflected on the South Parcel Court and Yard Diagram on Sheet A-02 of the Second-Stage Plans at Ex. 39AA2 of the record.
  - b. Solar Panels. Flexibility to change the actual location, number and configuration of the solar panels so long as the overall layout of the roof plan, including, but not limited to the location of the penthouses, substantially complies with the plans for the Second-Stage PUD approval, and all of the requirements/standards for the rooftop penthouses and equipment have been met. [TO BE MODIFIED WITH POST HEARING SUBMISSION]
  - c. Retail/Commercial Option in Southwest Building. Flexibility to have approximately 1,850 square feet of retail/commercial use in lieu of residential amenity space as depicted on Sheet A05-b of the Second-Stage Plans at Ex. 39AA3 of the record.
  - d. Number of Units. To provide a range in the number of residential units for Building 1A of plus or minus 10% from the 216 units proposed for that building; and to provide a range in the number of residential units for Building 1B of plus or minus 10% from the 346 units proposed for that building.



- e. Parking Layout. To vary the number, location, and arrangement of parking spaces, provided that the maximum number of parking spaces for the South Parcel does not exceed 304 parking spaces, and minimum number is not reduced below the number required for the South Parcel under the Zoning Regulations.
- f. Interior Components. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atria, and mechanical rooms, provided that the variations do not change the exterior configuration of the building as shown on the plans approved by the order;
- g. Exterior Materials – Color. To vary the final selection of the colors of the exterior materials based on availability at the time of construction, provided such colors are within the color ranges shown on the plans approved by the order;
- h. Exterior Details – Location and Dimension. To make minor refinements to the locations and dimensions of exterior details that do not substantially alter the exterior configuration of the building or design shown on the plans approved by the order. Examples of exterior details would include, but are not limited to, doorways, canopies, railings, and skylights;
- i. Streetscape Design. To vary the location, attributes, and general design of the approved streetscape to comply with the requirements of, and the approval by, the DDOT Public Space Division;
- j. Signage. To vary the font, message, logo, and color of the approved signage, provided that the maximum overall dimensions and signage materials are consistent with the signage on the plans approved by the order and are compliant with the DC signage regulations; and
- k. Sustainable Features. To vary the approved sustainable features of the project, provided the total number of LEED points achievable for the project does not decrease below the minimum required for LEED-NC Silver Certification, and to revise the GAR checklist for the project so long as the project meets the minimum GAR requirement of 0.2.

**D. Public Benefits for Second-Stage PUD Approval**

- 1. The development of Phase 1 of the PUD shall be subject to the Applicant’s compliance with the following conditions listed above under Paragraph B of this section (Public Benefits for First-Stage PUD Approval):
  - B.1.b. Minimum Affordable Units for South Parcel
  - B.1.d. Distribution of Affordable Units

- B.2.a. - h. Sursum Corda Households
  - B.3. Landscape and Open Space Improvements
  - B.4.a.-f. Transportation and Pedestrian Improvements
  - B.5. Employment and Training Opportunities
  - B.6.a-c. Environmental Benefits
  - B.7a.-f. Support of Neighborhood Uses and Organizations
  - B.9. Historic Preservation
2. Playground on Lot 904 / Theoretical Lot 3A. For the playground equipment required in Condition B.7.b., **prior to the issuance of a certificate of occupancy for Phase 1 of the PUD** the Applicant shall install equipment of the type and level of activity depicted on Sheet L-04d of the Second-Stage Plans. Also, the playground shall include a seating area.
  3. The Applicant shall install outlets for charging e-bicycles in Phase 1 of the PUD.
  4. Transportation Mitigation Measures

[POST HEARING SUBMISSION]

**E. Other DDOT Mitigations**

1. First Street ROW Dedication. **Prior to the issuance of a certificate occupancy for Phase 1** of the PUD, the Applicant shall dedicate Lot 252 in Square 620, for the southern segment of the First Street right of way, as depicted on Sheet A.13a of the First-Stage Plans at Ex. 39A2 of the record.
2. L Street Improvements. **Prior to the issuance of the first certificate of occupancy for Phase 1**, the Applicant agrees to construct or cause the construction of the L Street improvements between North Capitol Street and the private drive proposed for the Northwest One development, as reflected in the Memorandum of Agreement between the Applicant and MRP Realty that is marked as Exhibit 42A of the record (the “Memorandum”). Specifically, this segment of L Street shall be constructed as follows:
  - a. **If the Northwest One Development is Constructed First**
    - i. 50’ ROW dedication for L Street, from the Northwest One site, to re-establish the 90-foot ROW for L Street, from First Place to North Capitol Street.

- ii. L Street improved as a two-way street from North Capitol to the proposed private drive; 10' travel lanes; 6' sidewalk and 8' of parking on the south side of L Street; 10' parking lane on the north side of L Street; a striping line between the proposed private drive and the alley adjacent to the church; a sidewalk that is between 8' and 24.9' in front of the church. L Street will function as a one-way street with 12' travel lane westbound from the proposed private drive to First Street, NW.
- iii. Striping along the north side of L Street along the Sursum Corda PUD site from the alley adjacent to the church property to First Street.

**b. If the Sursum Corda PUD is Constructed First**

- i. L Street will function as a one-way street with a 12' travel lane from First Place eastbound to North Capitol Street, and as a one-way street with a 12' travel lane from First Place westbound to First Street.
- ii. 8' wide striped walkway on the north side of L Street in front of Mt. Airy Baptist Church from the alley adjacent to the church to North Capitol Street. The striped walkway will be used to accommodate parking for the church for religious services.
- iii. Curb on the north side of L Street, from First Place west to First Street. Curb on the north side of L Street, from First Place to the proposed striping in front of the church.

3. Pursuant to the Memorandum, **prior to the issuance of a building permit for Phase 1 of the PUD**, the Applicant shall enter into an agreement with MRP Realty to modify the traffic signal at North Capitol Street and L Street, including striping and crosswalk improvements and sharing.

4. As provided in the DDOT report at Ex. 47 of the record, the Applicant shall construct pedestrian improvements at the following locations:

- a. North side of L Street - The reconfigured L Street with Northwest One developing first enables the creation of a standard sidewalk width on the north side of L Street between First Street and North Capitol Street in the ultimate buildout. If Sursum Corda redevelops first, the Applicant should commit to striping or another treatment to be determined in front of Mt. Airy Baptist Church.
- b. First Street – the construction of a standard sidewalk section within the area being dedicated for the re-establishment of the historic First Street ROW along the site's frontage.

- c. Missing or substandard sidewalks along the perimeter - All missing or substandard curb ramps and crosswalks along the perimeter of Phase 1 shall be upgraded to DDOT standards as part of the public space permitting process. This includes upgrading the receiving curb ramps on the opposite side of the street as the development.
5. The Applicant shall implement the Loading Management Plan at Ex. 23E of the record.
6. The Applicant shall install a minimum of six (6) bicycle racks on Pierce Street.

**F. Miscellaneous**

1. No building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division, Department of Consumer and Regulatory Affairs. Such covenant shall bind the Applicant and all successors in title to construct and use the Property in accordance with this Order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
2. The second-stage PUD approved by the Commission shall be valid for a period of two years from the effective date of this Order. Within such time, the Applicant shall file a building permit for the construction of the development, and shall commence construction within three years of the effective date of this order.
3. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., (“Act”) the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant to comply shall furnish grounds for the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

On DATE, upon the motion of Commissioner [REDACTED] as seconded by Commissioner [REDACTED], the Zoning Commission took FINAL ACTION to APPROVE the application by a vote of [REDACTED] (Anthony J. Hood, Robert E. Miller, Peter Shapiro, Peter G. May, and Michael G. Turnbull to approve).

In accordance with the provisions of 11-Z DCMR § 604.9 of the Zoning Regulations, the Order shall become final and effective upon publication in the *D.C. Register*; that is on \_\_\_\_\_.

**BY THE ORDER OF THE D.C. ZONING COMMISSION**

A majority of the Commission members approved the issuance of this Order.

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**ANTHONY HOOD**  
**CHAIRMAN**  
**ZONING COMMISSION**

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