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## **VIA IZIS**

Zoning Commission for the  
District of Columbia  
441 4<sup>th</sup> Street, NW, Suite 210S  
Washington, DC 20001

**Re: Z.C. Case No. 16-11 -- Applicant's Response to Post-Hearing Submission from Park Morton Resident Council**

Dear Members of the Commission:

On behalf of Park View Community Partners and the District of Columbia (together, the "Applicant"), we submit this response to the Park Morton Resident Council's ("Resident Council") October 26, 2021 submission included as Exhibits 363, 363A and 363B in the record of this case. As described below, the Resident Council's arguments are flawed, and the record strongly supports re-approval of Case No. 16-11.

**1. The Zoning Commission's Review of Case No. 16-11 is limited to the facts of Case No. 16-11 and Does Not Require a Re-evaluation of Case No. 16-12**

The Resident Council's primary argument is that in reviewing Case No. 16-11, particularly as it relates to racial equity, the Zoning Commission must also reevaluate Case No. 16-12, and that the Zoning Commission's review of Case No. 16-11 should focus on the alleged impacts of this case on Park Morton residents.

However, the purpose of this proceeding is to respond to the issues identified by the D.C. Court of Appeals opinion regarding the appeal of Case No. 16-11. Given that Case 16-12 was not appealed, there is nothing in the D.C. Court of Appeals opinion that addresses the substance of a completely separate case, Case No. 16-12.

Moreover, Case No. 16-12 is a completely separate case that applies to completely separate land and has different applicants than Case No. 16-11. The Zoning Commission order approving Case No. 16-12 remains valid. There are no pending applications that authorizes the Zoning Commission to reopen and/or reevaluate the merits is Case No. 16-12.

Accordingly, the Zoning Commission should reject the Resident Council's attempts to use Case No. 16-11 as a vehicle to reopen and reevaluate Case No. 16-12.

**2. The PUD is Consistent with and Advances Many Elements of the Comprehensive Plan, including Racial Equity**

The Resident Council argues that the Zoning Commission must apply the "Park Morton Racial Equity Tool" and the "Park Morton Equity Plan" in evaluating this case and to implement Comp Plan policies 2502.11, 2011.14, and Action: IM-1.B. The Resident Council further argues that if the Zoning Commission applies the "Park Morton Racial Equity Tool" and the "Park Morton Equity Plan", and evaluates Case No. 16-11 solely from the perspective of the families of Park Morton, then the Zoning Commission should not approve Case No. 16-11. However, the Resident Council misconstrues what the Comp Plan actually says, and the approved PUD advances racial equity in a number of ways.

**a. Analysis of Additional Comp Plan Provisions**

The Resident Council asserts that the proposed PUD is inconsistent with Sections 2011.14, 2502.11, and Action: IM-1.B of the Comprehensive Plan. As briefly discussed below, certain of these sections are not applicable to the PUD or the Applicant, and the PUD is actually not inconsistent with the other sections.

***i. Mid-City Element – Action: MC-2.1.E: Park Morton New Community (Section 2011.14)***

This action from the Mid-City Element states:

“[c]ontinue redevelopment of Park Morton as a new community, replacing the existing public housing development with an equivalent number of new public housing units, plus new market-rate and moderate-income housing units, to create a new mixed-income community. Ensure that every effort possible is made to avoid permanent displacement of residents. Provide opportunities for Park Morton residents to access ownership opportunities on redevelopment sites and within the community.”

It is clear from the plain language of this action that it is not applicable to the proposed PUD, nor to the Applicant. First, this action pertains to the redevelopment of Park Morton, not to the redevelopment of the Bruce Monroe site. Secondly, like most actions within the Comprehensive Plan, implementation of this action falls to District agencies, not the Applicant. When the Commission has a role in implementing a particular action, the Implementation Element specifically states as such. For this action, the Implementation Element does not identify the Commission as being responsible for this action. Thirdly, although the Bruce Monroe site does not include ownership units, as described by the Coalition for Smarter Growth "[t]he contributions of these new affordable homes in this neighborhood are meaningful from the perspective of retention of Black households in DC's changing demographics" and "[e]nabling the Park Morton households to remain in the neighborhood -- with new, quality homes that match their housing needs, and a new permanent park -- gives these extremely low income families the housing stability so they can pursue their aspirations and take advantage of the potential opportunities for education and employment in the area." **See** Exhibit 278. Finally, Councilmember Brianne Nadeau (Ex. 345), the D.C. Department of Housing and Community Development (Ex. 357), and DMPED (Ex. 361) have all indicated that re-approval of the Project and

the affordability component included as part of the PUD will help to address rising housing costs in an area with insufficient affordable housing production.

***ii. Implementation Element – Action: IM-1.B: Equity Tools for District Agencies, including the Zoning Commission (Section 2501.8)***

Similar to the Mid-City Element action addressed above, implementation of this action within the Implementation Element does not fall to the Applicant. It also does not prohibit the Commission from proceeding with approval of the proposed PUD. As the Office of Planning (“OP”) stated at the hearing, the Comprehensive Plan consistency evaluation provided in its supplemental report was prepared through a racial equity lens. This involved an evaluation of disaggregated demographic and socioeconomic data for the Mid-City Planning Area to determine how the Project, and specifically the Project’s benefits and amenities will help address racial equity. See pages 2 – 3 of Exhibit 273. The Applicant provided a similar analysis in its prehearing statement. See Exhibit 274.

Moreover, this particular action calls for the preparation and implementation of tools and training to assist District agencies in evaluating and implementing Comprehensive Plan policies and actions through a racial equity lens. It does not impose a moratorium on redevelopment of the Bruce Monroe site, or development in general, while additional tools and trainings are developed. As stated at the hearing, OP applied the data and tools currently available to its analysis of the PUD, and is in the process of working with other District agencies to develop other racial equity tools and trainings that could be used by the Commission in the future. While the District continues to develop these additional tools and trainings, which will continue to evolve over time like any analytical tool, the Commission is not in any way barred from approving the proposed PUD in reliance upon the Comprehensive Plan evaluations already provided by OP and the Applicant.

***iii. Implementation Element – Policy IM-1.1.6: Studies Informing Zoning Case Approvals (Section 2502.11)***

This policy calls for zoning case reviews, to the extent relevant, to be informed by specific types of studies, including: (i) transportation and infrastructure studies, (ii) agreements for financing public and private improvements, (iii) agreements to comply with District employment and hiring requirements, and (iv) racial equity reviews. The Project is not inconsistent with this policy. The potential transportation impacts have been analyzed in a Comprehensive Transportation Review (“CTR”) and District agencies and other utility providers have submitted comments to the Commission. This information can be found at Exhibits 33, 237K, 237L, 237M of the case record. The case record also contains executed copies of the Applicant’s First Source and Certified Business Enterprise (“CBE”) agreements. See Exhibits 237H and 2376I.

Further, as discussed above the Project’s consistency with the newly adopted Comprehensive Plan has been evaluated through a racial equity lens, as required under the Implementation Element. The policy’s reference to financing agreements is not relevant to the Commission’s review of the Project. Whether the Applicant currently has the financing needed to construct the Project is not part of the PUD standard of review. Indeed, more often than not a development Project does not obtain full financing in advance of securing entitlements, particularly zoning entitlements. As was stated at the hearing, the proposed Project would have been fully constructed by now if not for the appeal of

the Commission's prior decision. Notwithstanding, assuming the Commission approves the Project the Applicant will secure the financing necessary to construct the Project.

**b. The PUD Advances Racial Equity**

Contrary to the Resident Council's assertions, the racial equity analysis is not limited to reviewing Case No. 16-11 solely from the perspective of families that live at the Park Morton site that is the subject of Case No. 16-12. Rather, the racial equity analysis must take a citywide lens for those impacted by structural racism. Equity exists where all people share equal rights, access, choice, opportunities, and outcomes, regardless of characteristics such as race, class, or gender. It is achieved by targeted actions and investments to meet residents where they are, to create equitable opportunities. An important factor to advancing racial equity is to acknowledge that equity is not the same as equality. "As an outcome, the District achieves racial equity when race no longer determines one's socioeconomic outcomes; when everyone has what they need to thrive, no matter where they live or their socioeconomic status; and when racial divides no longer exist between people of color and their white counterparts. As a process, we apply a racial equity lens when those most impacted by structural racism are meaningfully involved in the creation and implementation of the institutional policies and practices that impact their lives, particularly people of color." 10-A DCMR § 213.9.

Accordingly, in applying the PUD standard of review the Commission may ask how the proposed Project can help eliminate race as a determining factor of socioeconomic outcome, help provide people with what they need to thrive regardless of place of residence or socioeconomic status, and help eliminate racial divides. Based on the guidance provided in the Comp Plan, the approved PUD advances racial equity on a number of ways, including the following:

- The provision of market rate, affordable/workforce, and public housing replacement units, thus providing housing options for people of various financial means, with 70-74 market rate units, 90 public housing units, and 109-113 affordable housing units for households earning up to 60% of AMI. The 90 public housing units are a mix of 54 apartment units, 33 senior units, and 3 townhome units.
- The provision of a variety of housing typologies (senior units, family units, and townhomes) and a mix of unit sizes (1, 2, and 3 bedroom), thus providing housing opportunities for a wider segment of the population.
- The provision of approximately 4,500 square feet of ground-floor retail/community serving space, thus providing space that will be used to serve the diverse needs of the residents and immediate community.
- The inclusion of community/amenity rooms that will provide space for resident meetings, services, and other opportunities for resident and community engagement and social interaction.
- The incorporation of sustainable design and environmentally friendly elements, and the provision of landscaped courtyards and exterior spaces, thus helping to improve the health of people living in the approved housing.

- The execution of a Certified Business Enterprise ("CBE") Agreement with the District Department of Small and Local Business Development ("DSLBD"), which agreement requires that 35% of the construction costs be spent on subcontracting to Small Business Enterprises (SBE) certified by DSLBD, thus improving economic and business development opportunities for underrepresented companies.
- The execution of a First Source Employment Agreement with the District Department of Employment Services, which agreement requires that 51% of all new hires for the Project be District residents, thus improving employment opportunities for District residents, including underemployed companies.
- The implementation of the U.S. Department of Housing and Urban Development's Section 3 requirements, thereby providing job training, employment, and contract opportunities for low-income and very-low income district residents and businesses.
- The incorporation of a variety of Transportation Demand Management ("TDM") measures (such as providing residents either a car sharing or bike sharing membership and providing residents SmartTrip cards), thus assisting with making it easier for residents to access goods, services, and employment locations.
- The Applicant has also agreed, in coordination with the impacted ANCs in this case, to provide youth programming and job training opportunities through The Community Builders' Community Life Division and to provide funding support for neighborhood initiatives to be identified in collaboration with ANC 1A, DMPED, DCHA, and other key stakeholders. These efforts and contributions will help address livability, opportunity, and prosperity for underrepresented District residents.

The Resident Council dismisses a number of these items, stating that: Park Morton residents should not be displaced; the 90 public housing replacement units are a "break even" for existing Park Morton residents; that having a mixed-income community that includes moderate income and market rates units provides "no direct benefit" to Park Morton residents; and that there are no for-sale units in the PUD, which units would have the "greatest benefit for PM residents".

However, given that there currently is no housing on the existing Bruce Monroe site that is the subject of this Case No. 16-11, approval of the application will not result in the displacement of any Park Morton residents (or anyone else) living at the Bruce Monroe site. Moreover, although the public housing replacement units are rental, the Applicant believes the delivery of 90 new public housing replacement units constructed in accordance with current building code and sustainability requirements, will result in a positive addition to the Bruce Monroe site given that there currently is no housing on the Bruce Monroe site. Moreover, the Applicant's commitment to implement CBE, First Source, and Section 3 agreements (with Section 3 specifically applying to low-income and very-low income district residents) will help create opportunities for economic advancement that will help enable people, including those in the public housing replacement units, to potentially move into affordable/workforce housing or market rate housing either at the PUD site or elsewhere in the District.

Thank you for your continued consideration of this important Project

Respectfully submitted,

Holland & Knight, LLP

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Kyrus L. Freeman

cc: Certificate of Service  
Joel Lawson, D.C. Office of Planning (via email)  
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Jonathan D. Rogers, DDOT (via email)

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on November 2, 2021 a copy of the foregoing letter was served on the following via email:

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Kyrus L. Freeman