

Testimony – Meridith H. Moldenhauer, Cozen O’Connor

Good evening, Commissioners. My name is Meridith Moldenhauer from Cozen O’Connor on behalf of the Applicant Wesley Hawaii LLC. We are here tonight to present an application for a consolidated PUD and corresponding map amendment for a 70-unit, all affordable apartment building at 1 Hawaii Avenue NE in the Fort Totten/Pleasant Hill Neighborhood. As part of the application, Wesley Housing is requesting a zoning map amendment from the current RA-1 zone to the RA-2 zone.

Wesley Housing proposes to raze the existing building, which has outlived its useful life, and construct a new building with improved amenities, environmentally sustainable features, significantly more family-sized units, and an additional 36 units of affordable housing over what the existing building provides. You will hear testimony from Chris Marshall on behalf of Wesley Housing regarding the range of affordability levels for the project at 30, 50, 60 and 80% MFI for a minimum period of 40 years. Chris Marshall will also discuss how the project will not displace any tenants because the existing tenants will be relocated during construction, at the Wesley Housing’s expense, and are entitled to return to the new building at substantially similar rents.

Although our expert in planning and land use, Mr. Varga, will speak more about the project’s consistency with the Comprehensive Plan, I did want to address the FLUM’s designation for the property, which is currently “parks, recreation and open space”. We concur with OP’s report that this designation is incorrect because the property has been privately owned and improved with an apartment building that significantly pre-dates the passage of the first Comprehensive Plan in 1984. The “parks, recreation and open space” designation, which is generally intended for federal and District-owned parks, is likely a mistake due to the property’s location directly next to two cemeteries.

The D.C. Court of Appeals has affirmed that the Zoning Commission can find a PUD and map amendment not inconsistent with the Comprehensive Plan where the proposal may conflict with certain recommendations in the Comprehensive Plan. *See Friends of McMillan Park v. D.C. Zoning Commission*, 211 A.3d 139 (D.C. 2019). The Court of Appeals this summer upheld the Commission’s remand approval in the *Friends of McMillan Park II* case.

Quoting from the *Durant* case, the Court noted that “[E]ven if a proposal conflicts with one or more individual policies associated with the Comprehensive Plan, this does not, in and of itself, preclude the Commission from concluding that the action would be consistent with the Comprehensive Plan as a whole.” *See id.* at 144 (quoting *Durant v. D.C. Zoning Commission*, 65 A.3d 1161, 1168 (D.C. 2013)). Thus, “the Commission may balance competing priorities” in determining whether a PUD is consistent with the Comprehensive Plan as a whole. *See id.* (quoting *D.C. Library Renaissance Project/West End Library Advisory Grp. v. D.C. Zoning Commission*, 73 A.3d 107, 126 (D.C. 2013)). “[I]f the Commission approves a PUD that is inconsistent with one or more policies reflected in the Comprehensive Plan, the Commission must recognize these policies and explain why they are outweighed by other, competing considerations.” *See id.* (quoting from *Friends of McMillan Park I*).

To that end, we have outlined in our written submissions that the project furthers a number of policies in the land use, housing, transportation, environmental, urban design and rock creek east elements. Our planning and land use expert, Mr. Steve Varga, will expand on these issues. The project is consistent with the GPM's "neighborhood conservation area" designation and other elements that outweigh the FLUM's incorrect "parks, recreation and open space" designation. Thus, as in these past cases, the Commission can find Wesley Housing's project not inconsistent with the Comprehensive Plan as a whole based on balancing the policies and elements this project is consistent with over the single inconsistency of the FLUM's designation

Before I turn it over to Chris, I did want to briefly mention that Wesley Housing worked extensively with the community both before and after filing this application beginning in May 2018 and wrapping up just a few weeks ago on August 21<sup>st</sup>. Wesley Housing has always placed a high value on community support and collaboration given its mission and long-term ownership perspective. As a result of the design changes, we are pleased to say that we have support for this application from the Fort Totten Civic Association, the ANC, the tenants association as well as OP and DDOT. Thank you in advance for your consideration of this application and with that, I will turn it over to Chris Marshall from Wesley Housing.