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VIA IZIS

Zoning Commission for the
District of Columbia
441 4th Street, N.W., Suite 210S
Washington, D.C. 20001

**Re: Z.C. Case No. 20-12 - Applicant's Post-Hearing Submission
Consolidated PUD and Zoning Map Amendment
Westminster Church at 400 I Street, SW (Square 499, Lot 52)**

Dear Members of the Commission:

On behalf of the Westminster Presbyterian Church, Westminster Community Partners, Bozzuto Development Company, and Bozzuto Homes Inc. (collectively, the "Applicant"), and pursuant to 11-Z DCMR § 401.5, we hereby submit this post-hearing submission in support of Z.C. Case No. 20-12 for a consolidated planned unit development ("PUD") and a related Zoning Map amendment for 400 I Street, SW (Square 499, Lot 52) (the "Site"). The post-hearing submission responds to the information requested by the Zoning Commission at the public hearing on October 4, 2021.

I. Updated Architectural Plans and Elevations

Attached hereto as **Exhibit A** are updated Architectural Plans and Elevation sheets that include the following information.

A. More details regarding the color palette for the East Tower

Based on feedback from the Office of Planning and the Zoning Commission, as shown on Sheets A-4.0A - A-4.3 of the Plans, the East Tower was updated with a warm, darker toned white color as compared to the previous bright white color. The façade colors for all three components of the project have been fine-tuned and now results in a well-balanced material and color palette for the entire project. The Westminster project design incorporates colors that balance a palette of light and darker colors to create a natural, timeless look that and complements the vibrant Southwest neighborhood while creating its own identity.

The proposed fiber cement panels are high density panels with 15 year warranty for panel color. (See Sheet A-11.1). Panels are designed to be resilient against moisture, dirt, wear and tear. Additionally, they are surface treated to resist mold and fungi from developing. Moreover,

construction documents will include details that will help prevent dirt from streaking the face of panels. Panel cleaning will be addressed as part of regular building maintenance.

B. More details regarding the proposed panels at the base of the building

As shown on Sheets A-11.0 and A-4.1 - A-4.3 of the Plans, the selected masonry product offers the rich appearance of stone, featuring lasting natural colors and a smooth finish. The large format unit was selected to match the overall scale of the building. It is a cost effective alternate to natural stone with the aesthetic, strength and durability benefits of quarried stone.

C. More details regarding the light feature on the East Tower

The Applicant provides the following additional information regarding the proposed light element. As shown on Sheets A-11.2 - A-11.5 of the Plans:

- The vertical element is a translucent glazing system with an ambient glow with minimal light fixtures at very low light levels (5 FC).
- The light fixtures will be located behind and fully enclosed within the translucent glass system. The translucent glass will diffuse and soften the light.
- The light fixtures will be evenly spaced within the enclosure to disperse even illumination.
- The lighting will be controlled and dimmed from inside the building, and will be on a time clock to be turned on/off at scheduled times.
- The 5 FC light level from the vertical element is less than the IES recommended light level of a residential unit living space (20 FC) or an office space (30-50 FC).
- The light level should be considered within the surrounding context, its location in an urban area, and the light levels in the nearby neighborhood. The proposed light level will not adversely impact the immediately surrounding uses, such as the vacant DC-owned land to the east of the light feature or the school to the north of the light feature.
- Based on IES illumination recommendations, lighting at a typical building entrance vestibule is 10-15 FC, lobbies at the DCRA building and other offices are at 15-30 FC, the Waterfront Metro entrance area is at 40 FC, the retail spaces along 4th Street are at 40-50 FC. Thus, the light level of the vertical element is much less and will be in minimal contrast with the light levels generated within the surrounding neighborhood. (See attached photos).

The vertical glazing element is a unique feature and the first of its kind in the DC area. This feature element will serve as a symbol for the church and the neighborhood while bringing positive attention to the Southwest neighborhood in the District.

II. Supplemental Comprehensive Plan Analysis

The Applicant agrees with the racial equity analysis included in the Office of Planning's Second Supplemental Report included as Exhibit 47 in the record of this case. The Applicant also included a racial equity analysis as part of addressed racial equity issues in the Applicant's Comprehensive Plan Analysis included as Exhibit 46A in the record of this case. Also, attached hereto as **Exhibit B** is a letter from Westminster Presbyterian Church that describes the church's long-standing commitment to racial equity and inclusion.

At the public hearing on October 4, 2021, the Applicant's expert witness and zoning and land use planning testified to how the proposed PUD was not inconsistent with the Mixed Use (Medium Density Residential / Low Density Commercial) designation on the recently adopted Comprehensive Plan ("Comp Plan") Future Land Use Map ("FLUM"), when interpreted in accordance with the Framework Element and guidance provided by the D.C. Court of Appeals. Mr. Dettman's testimony is supported by the Applicant's Comp Plan evaluations contained in the case record at Exhibits 3E, 15, 15E, and 46A. The Applicant continues to believe the PUD, including the related map amendment to MU-2, is not inconsistent with the FLUM, as well as the Comp Plan overall.

As part of this posthearing submission, the Commission requested the Applicant to include information addressing whether the PUD would remain not inconsistent with the Comp Plan if the Commission deemed it inconsistent with the FLUM. As discussed below, even if the Commission considered the project inconsistent with the FLUM, the PUD would still be overwhelmingly not inconsistent with the Comp Plan when read as a whole.

The FLUM is intended to represent the land use policies set forth in the Land Use Element. As stated in the Framework Element, the FLUM is not a zoning map. 10A DCMR § 228.1(a). By definition, the FLUM is to be interpreted broadly. The FLUM "carries the same legal weight as the text of the Comprehensive Plan" and should be "interpreted in conjunction with the text of the Comprehensive Plan, including the citywide elements and the area elements, as well as approved Small Area Plans." Id. at §§ 200.5 and 228.1(d).

FLUM land use categories describe the general character of development in each area, citing typical [matter-of-right] FARs, as appropriate. The granting of density bonuses (for example, through PUDs) may result in densities that exceed the typical ranges cited. Id. at § 228.1(c). The FLUM designates the PUD site as Mixed Use (Medium Density Residential / Low Density Commercial). Thus, the District envisions the site as appropriate for medium density, mixed-use development with an emphasis on housing. At the hearing, Mr. Dettman stated a Mixed Use FLUM designation is a specific land use category, and is not intended to be strictly interpreted according to the separate land use categories that make up the designation, which in this case is medium density residential and low density commercial. The Framework Element does not provide guidance on typical FARs and appropriate zones for Mixed Use areas, but rather states "[a] variety of zoning designations are used in Mixed Use areas, depending on the combination of uses, densities, and intensities. Id at § 227.23.

Mr. Dettman explained that the proposed MU-2 zone is an appropriate zone for the site's Mixed Use designation. The Zoning Regulations specifically describe the MU-2 zone as being intended for "medium-density areas predominately developed with residential buildings but also permitting non-residential buildings." Emphasis added. 11-G DCMR § 300.3. Despite being a PUD, the Project will be consistent with the MU-2 matter-of-right height and density parameters. Specifically, the Project will have a maximum density 7.06 FAR, of which only approximately 0.60 FAR will be devoted to non-residential use, and a maximum height of 90 feet. Consistent with the manner in which the FLUM is to be interpreted, the proposed height and density of the project is also not inconsistent with the site's Neighborhood Conservation Area designation on the Comp Plan Generalized Policy Map, and consistent with the supplemental guidance contained in the Southwest Neighborhood Plan.

Notwithstanding the above, to the extent the Commission determines that the project density is inconsistent with the FLUM, this does not prevent the Commission from concluding that the project is not inconsistent with the Comp Plan overall, when read as a whole and upon balancing any competing policies and considerations. The D.C. Court of Appeals have provided clear guidance on this very issue, stating:

"[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." *Durant v. District of Columbia Zoning Comm'n*, 65 A.3d 1161, 1168 (D.C. 2013). The Comprehensive Plan reflects numerous "occasionally competing policies and goals," and, "[e]xcept where specifically provided, the Plan is not binding." *Id.* at 1167, 1168 (internal quotation marks omitted). Thus "the Commission may balance competing priorities in determining whether a PUD is consistent with the Comprehensive Plan as a whole." *D.C. Library Renaissance Project/West End Library Advisory Grp. v. District of Columbia Zoning Comm'n*, 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." *Friends of McMillan Park v. District of Columbia Zoning Comm'n*, 149 A.3d 1027, 1035 (D.C. 2016) (brackets and internal quotation marks omitted).

Based on the guidance of the Court, to the extent the Commission finds the proposed PUD inconsistent with the FLUM, such inconsistency is far outweighed by the project's consistency with the GPM, and numerous Comp Plan policies related to the following:

Land Use (LU-1.4.1, LU-1.4.2, LU-1.4.3, LU-1.4.4, LU-2.3.5, LU-2.3.6, LU-2.3.12)

The project will better utilize the site's location in close proximity to Metrorail to provide new housing, including senior affordable housing, while allowing the Church to continue serving the Southwest community.

Transportation (T-1.1.4, T-1.1.7, T-1.1.8)

In addition to the housing program, the project also helps advance racial equity through increased access to transit and numerous neighborhood amenities.

Housing (H-1.1.3, H-1.2.1, H-1.2.11, H-1.2.J, H-4.3.2, H-4.3.3)

The project helps address citywide housing needs and advance racial equity by providing approximately 222 new dwelling units, of which approximately 123 units will be devoted to senior affordable housing. Indeed, the Framework Element identifies the critical need for new affordable housing as a “high-priority public benefit in the evaluation of residential PUDs.” Id at § 224.9. Further, the housing provided by the proposed PUD will satisfy approximately 2.8% of the District’s overall housing goal for the Lower Anacostia Waterfront & Near Southwest Planning Area, as set forth in the District’s Housing Equity Report (October 2019).

III. LEED and Solar Information

The West Tower will be certified at the LEEDv4 Silver level and the East Tower will be certified under Enterprise Green Communities, which is the standard certification for affordable projects given the requirements associated with their funding sources. For the West Tower, the Applicant is pursuing LEED Silver utilizing LEED v4, which is effectively equivalent to LEED Gold under LEED 2009, which was the applicable LEED certification version until recently. There are practical program, design, and cost challenges associated with the West Tower achieving the LEEDv4 Gold level. The additional credits needed to go from Silver to Gold are noted below. These credits are still far from standard practice, making availability, cost, design and construction expertise, and ongoing maintenance true hurdles for a project supporting an overall mix of uses including more than 50% affordable housing and a new and expanded church:

- Energy Performance: The threshold/requirements for points here has notably increased;
- Enhanced Commissioning: This was typically not a credit pursued in the past given it is quite onerous and costly;
- Materials Credits (Building Life-Cycle Impact Reduction, Environmental Product Declarations, Sourcing of Raw Materials, Material Ingredients): This category was revamped and the credits are much more difficult to achieve. For this category in particular, there are practical product availability and reporting issues that the industry is still catching up on, making the ability to source building products both difficult and extremely costly; and
- Indoor Air Quality: Enhanced indoor air quality, assessment testing, and advanced thermal comfort control credits have not typically been pursued in the past due to significant added cost. This is especially true for residential projects. Further, the energy conservation and indoor air goals have an inherent conflict in working to balance towards climate control and fresh air, so the further a project advances in one category, the harder it is to achieve the other, thus compounding the difficulty in achieving either.

With respect to solar panels, the Applicant has explored the feasibility of adding solar panels, but cannot do so for the following reasons:

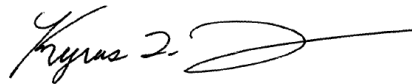
- The upper roof levels lack adequate space due to the space required for the rooftop mechanical units;
- Sun path studies demonstrate that the low roof will be in shade most of the time throughout the year (*see* pp. A-10.0 and A-10.1 of the architectural drawings at Exhibit 23A); and
- The relatively small areas of green roof would allow for the installation of solar panels, but the DOEE requirements for installation/clearance of solar above green roof would result in a very small number of panels, which would generate less than 2% of the building's energy consumption. Moreover, providing solar over green roof comes at a cost premium compared to traditional solar panels. Thus, although technically feasible, given the negligible impact and substantial cost implications for a project that is 52.9% affordable, the Applicant does not propose to add more solar to the project.

Overall, the project has been designed to integrate a host of sustainable features. Sustainable elements will include the planting of new trees and other landscape elements, providing a green roof that will reduce stormwater runoff and help to insulate the building and reduce energy usage, and installing bioretention areas planted with native and adaptive plant species to capture runoff from the roof. The project will also include energy efficient light fixtures and Energy Star appliances to reduce the building's energy demand and low-flow fixtures to reduce water usage.

The Applicant appreciates the Zoning Commission's continued review of this project and looks forward to the Zoning Commission taking proposed action on this application at the October 28, 2021 virtual public meeting.

Sincerely,

HOLLAND & KNIGHT LLP



Kyrus L. Freeman

Enclosures

cc: Steve Cochran, D.C. Office of Planning (with enclosures via email)
Aaron Zimmerman, DDOT (with enclosure via email)
Advisory Neighborhood Commission 6D (with enclosures via email at 6d@anc.dc.gov)

CERTIFICATE OF SERVICE

I hereby certify that on October 15, 2021, a copy of the foregoing Post-Hearing Submission in support of Z.C. Case No. 20-12 was served on the following via email:

D.C. Office of Planning

Ms. Jennifer Steingasser

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Advisory Neighborhood Commission 6D

c/o Commissioner Edward Daniels, Chair

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