

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Zoning Commission**



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 23-29**  
**Z.C. Case No. 23-29**  
**Martin's View, LLC**  
**(Consolidated Planned Unit Development and Related Zoning Map Amendment**  
**@ Parcels 252/0082, 252/0083, 252/0092, and 252/0086)**  
**December 19, 2024**

Pursuant to notice, at its December 19, 2024 public meeting, the Zoning Commission for the District of Columbia (the "Commission") considered the application (the "Application") of Martin's View, LLC (the "Applicant") requesting review and approval of the following:

- (i) A consolidated Planned Unit Development ("PUD") and related Zoning Map Amendment from the RA-1 zone to the RA-2 zone for the property located at 4337-4347 and 4353-4363 Martin Luther King Jr. Avenue, S.W. and 201-211 and 200-210 Elmira Street, S.W. (Parcels 252/0082, 252/0083, 252/0092, and 252/0086) (the "Property") to construct four residential multifamily buildings with underground parking, a child daycare, and a community service center (the "Project");
- (ii) A variance from the maximum mechanical penthouse height limit of Subtitle X § 303.18;
- (iii) Flexibility for the phasing of the Project and validity of the zoning order;
- (iv) Flexibility to permit a 1,000 square foot community service center use; and
- (v) Such other design flexibility as is set forth in the Conditions hereof.

The Commission considered the Application pursuant to the Commission's Rules of Practice and Procedures, which are codified in Subtitle Z of the Zoning Regulations. For the reasons stated below, the Commission **APPROVES** the Application.

**FINDINGS OF FACT**

**I. BACKGROUND**

**PARTIES**

1. Pursuant to Subtitle Z § 403.5(a), the Applicant is automatically a party to the Application.
2. Pursuant to Subtitle Z §§ 101.8 and 403.5(b), Advisory Neighborhood Commission ("ANC") 8D is the "affected ANC" and automatically a party to the Application as the ANC in which the Property is located.
3. The Commission received no requests for party status.

#### **NOTICE AND SETDOWN**

4. Pursuant to Subtitle Z §§ 300.7 and 300.8, on or around October 4, 2023, the Applicant mailed a Notice of Intent to file the Application to all property owners within 200 feet of the Property and to ANC 8D (Exhibit [“Ex.”] 2B).
5. Pursuant to Subtitle Z § 300.9, subsequent to the mailing of such notice but prior to filing the Application with the Commission, the Applicant presented the Application to ANC 8D at its October 26, 2023, public meeting (Ex. 2, 2C).
6. Pursuant to Subtitle Z §§ 400.9-400.12, on March 28, 2024, at its duly noticed public meeting, the Commission voted to set the case down for a public hearing (Transcript of March 28, 2024 Regular Public Meeting [“Mar. 28 Public Meeting Tr.”] at 14-24).
7. Pursuant to Subtitle Z §§ 402.1-402.2 and 402.6, on May 22, 2024, the Office of Zoning (“OZ”) mailed notice of the July 22, 2024, public hearing concerning the Application to:
  - Applicant;
  - ANC 8D;
  - ANC 8D06 and 8D07 Single Member District Commissioners;
  - Office of ANCs;
  - Ward 8 Councilmember, in whose district the Property is located;
  - Office of Planning (“OP”);
  - District Department of Transportation (“DDOT”);
  - Department of Buildings (“DOB”);
  - OZ Legal Division (“OZLD”);
  - District Department of Energy and Environment (“DOEE”);
  - Chairman and At-Large Members of the D.C. Council; and
  - Owners of property within 200 feet of the Property.(Ex. 15, 16).
8. Pursuant to Subtitle Z § 402.1(a), OZ published notice of the July 22, 2024, public hearing concerning the Application in the May 31, 2024, issue of the *District of Columbia Register* (71 DCR 006493 *et seq.*) as well as on the calendar on OZ’s website (Ex. 14, 15).
9. Pursuant to Subtitle Z §§ 402.3-402.4, 402.8-402.10, on June 12, 2024, the Applicant submitted evidence that it had posted notices of the public hearing on the Property on June 11, 2024, and, on July 17, 2024, submitted evidence that it had thereafter maintained said notices (Ex. 17, 25).

#### **PROPERTY AND SURROUNDING AREA**

10. The Property is located in the Southwest quadrant of the District in the Bellevue neighborhood in Ward 8 (Ex. 2).
11. The Property consists of approximately 4.9 acres (213,748 square feet) of land area and is bisected by Elmira Street, S.W. The Property is bounded on the north by Leckie Elementary

School; on the south by BridgePoint Hospital National Harbor; on the east by Martin Luther King Jr. Avenue, S.W.; and on the west by Fort Greble Park (*Id.*).

12. The Property is currently improved with four, two to three story apartment buildings containing a total of 156 apartments, referred to herein as the “Martin’s View” apartments (*Id.*).
13. The surrounding area is characterized primarily by a mix of moderate density residential, public education, institutional, and parks/open space uses. Immediately north of the Property is Leckie Elementary School, which is four stories. The property to the south is BridgePoint Hospital National Harbor, a three-story 178-bed facility serving Washington, D.C., Maryland, and Virginia. A variety of moderate- and low-rise residential buildings—consisting mostly of semi-detached and row dwellings—are to the east of the Property, with some multifamily buildings to the southeast. Further east is Patterson Elementary School. Fort Greble Park is adjacent to and immediately west of the Property (*Id.*).
14. The surrounding area is zoned primarily R-2 and RA-1, creating a circle of low-rise apartments with a diverse array of single-family residential buildings at the center. Properties further south beyond the hospital are zoned PDR-1 (*Id.*).

#### **CURRENT ZONING**

15. The Property is currently zoned RA-1. The RA-1 zone is designed for predominantly developed areas with low- to moderate-density developments, including detached dwellings, rowhouses, and low-rise apartments (Subtitle F § 101.4).
16. Buildings in the RA-1 zone may be constructed to a maximum height of 40 feet and three stories, with a maximum density of 0.9 Floor Area Ratio (“FAR”) (or 1.08 FAR for Inclusionary Zoning [“IZ”] developments), and up to 40% lot occupancy<sup>1</sup> (Subtitle F §§ 201.1, 203.2, 210.1). Penthouses may be constructed to a height of 12 feet/one story (Subtitle F § 205.1).

#### **COMPREHENSIVE PLAN (TITLE 10-A DCMR, THE “CP”)**

17. The Comprehensive Plan’s Future Land Use Map (“FLUM”) designates most of the Property as Moderate Density Residential. The Framework Element describes the Moderate Density Residential land use category as defining “neighborhoods generally, but not exclusively, suited for row houses as well as low-rise garden apartment complexes. The designation also applies to areas characterized by a mix of single-family homes, two- to four-unit buildings, row houses, and low-rise apartment buildings...Density in Moderate Density Residential areas is typically calculated either as the number of dwelling units per minimum lot area, or as a FAR up to 1.8, although greater density may be possible when complying with Inclusionary Zoning or when approved through a [PUD]. The R-3, RF, and

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<sup>1</sup> Public Libraries in the RA-1 zone are allowed a maximum FAR of 2.0 (Subtitle F § 201.1). Public Recreation and Community Centers are allowed a maximum lot occupancy of 20%; and Places of Worship and Public Libraries are allowed a maximum lot occupancy of 60% (Subtitle F § 210.1).

RA-2 Zone Districts are consistent with the Moderate Density Residential category, and other zones may also apply.” (See Subtitle 10-A DCMR § 227.6).

18. A small portion of the western side of the Property is designated Parks, Recreation, and Open Space on the FLUM. This category “includes a mix of passive open space (for resource conservation and habitat protection) and active open space (for recreation)...Zoning designations for these areas vary. The federal parklands are generally unzoned, and District parklands tend to be zoned the same as surrounding land uses.” (10-A DCMR § 227.19).
19. The Comprehensive Plan’s Generalized Policy Map (“GPM”) designates most of the Property as a Neighborhood Conservation Area. The Comprehensive Plan’s Framework Element provides that Neighborhood Conservation Areas “have little vacant or underutilized land” and are “generally residential in character.” (10-A DCMR § 225.4). The guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods, but not preclude development, particularly to address city-wide housing needs (10-A DCMR § 225.5). “Approaches to managing context-sensitive growth in Neighborhood Conservation Areas may vary based on neighborhood socio-economic and development characteristics. In areas with access to opportunities, services, and amenities, more levels of housing affordability should be accommodated. Areas facing housing insecurity and displacement should emphasize preserving affordable housing and enhancing services, amenities, and access to opportunities.” (*Id.*).
20. A portion of the southern side of the Property is also designated Institutional on the GPM. This designation “includes land and facilities occupied and used by colleges and universities, large private schools, hospitals, religious organizations, and similar institutions...Zoning designations vary depending on surrounding uses. Institutional uses are also permitted in other land use categories.” (See 10-A DCMR § 227.18).
21. The Comprehensive Plan includes the Property within the Far Southeast/Southwest (“FSS”) Area Element (Ex. 2F).
22. The Property is located in the Bellevue Small Area Plan (“Bellevue SAP”). The Bellevue SAP focuses on affordable rental and homeownership housing development, enhancing commercial development in the Bellevue neighborhood, promoting a self-sustaining community with educational and career development activities, and providing a mix of land uses and establishing visual consistency and compatible development along the South Capitol Street Corridor (Ex. 2F).
23. The Comprehensive Plan also requires the Commission to evaluate all zoning actions through a racial equity lens (10-A DCMR § 2501.8). Consideration of equity is intended to be based on the policies of the Comprehensive Plan and part of the Commission’s consideration of whether the PUD in this case is “not inconsistent” with the Comprehensive Plan, rather than a separate determination about a zoning action’s equitable impact.

24. The Comprehensive Plan’s Framework Element states that equity is achieved by targeted actions and investments to meet residents where they are, to create equitable opportunities, but is not the same as equality (10-A DCMR § 213.6). Further “[e]quitable development is a participatory approach for meeting the needs of underserved communities through policies, programs and/or practices [and] holistically considers land use, transportation, housing, environmental, and cultural conditions, and creates access to education, services, healthcare, technology, workforce development and employment opportunities.” (10-A DCMR § 213.7). The District applies a racial equity lens by targeting support to communities of color through policies and programs focusing on their needs and eliminating barriers to participate and make informed decisions (*See* 10-A DCMR § 213.9).
25. The Comprehensive Plan’s Implementation Element provides guidance for the Commission in applying a racial equity lens to its decision making. Specifically, the Implementation Element states that “[a]long with consideration of the defining language on equity and racial equity in the Framework Element, guidance in the Citywide Elements on District-wide equity objectives, and the Area Elements should be used as a tool to help guide equity interests and needs of difference areas in the District.” 10-A DCMR § 2501.6. In addition, the Implementation Element suggests to prepare and implement tools to use as a part of the Commission’s evaluation process. 10-A DCMR § 2501.8. Consistent with Comprehensive Plan guidance, the Commission utilizes a Racial Equity Analysis Tool in evaluating zoning actions through a racial equity lens; the Commission released a revised Tool on February 3, 2023. The revised Tool requires submissions from applicants and the Office of Planning analyzing the zoning action’s consistency with the Citywide and Area Elements of the Comprehensive Plan, and Small Area Plans, if applicable (Part 1); a submission from applicants including information about their community outreach and engagement efforts regarding the zoning action (Part 2); and a submission from the Office of Planning including disaggregated race and ethnicity data for the Planning Area affected by the zoning action (Part 3).

## II. THE APPLICATION

### THE PROJECT

26. The Project proposes to raze all four existing apartment buildings in phases and replace them with four new five-story apartment buildings to accommodate current and future residents with updated units and amenities. The Project provides:
- A maximum building height of 60 feet, plus a mechanical penthouse with a maximum height of 18.5 feet;
  - A maximum FAR of 2.592;
  - Approximately 821 residential units;
  - Approximately 276 below-grade vehicular parking spaces;
  - Approximately 276 long-term bicycle spaces and 43 short-term bicycle spaces;<sup>2</sup>
  - An interior courtyard (“Social Garden”) located at the center of the site;

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<sup>2</sup> The Applicant originally proposed 275 long-term and 42 short-term bicycle spaces. However, as discussed below, the Applicant agreed to increase the number of bicycle spaces to 276 and 43 long- and short-term spaces, respectively, in response to DDOT’s recommendation in its report (Ex. 24).

- LEED Gold design;
  - A 5,500 square foot child daycare;
  - A 1,000 square foot community service center space;
  - An IZ affordable set-aside of 17% of the Project's residential floor area reserved for households at or below 60% of the Median Family Income ("MFI"), in addition to the 50% MFI IZ units that are required for the penthouse habitable space; and
  - A minimum of 8% of the total units as three-bedroom units.
- (Ex. 2, 21A, 21B1-21B9).

### **PROPOSED ZONING**

27. As part of the Application, the Applicant seeks a PUD-related Zoning Map Amendment from the RA-1 zone to the RA-2 zone to support the proposed buildings and site configuration. The proposed RA-2 zone would allow the following development parameters in comparison to the existing RA-1 zone (Ex. 2, 2F):

	<b>RA-1<sup>3</sup></b>	<b>RA-2</b>	<b>RA-2 PUD</b>	<b>Proposed Project</b>
<b>Density (FAR)</b>	0.9 (1.08 with IZ)	1.8 (2.16 with IZ)	2.592 (20%+)	2.592
<b>Height</b>	40' (60' PUD)	50' (60' PUD)	60' PUD	60'
<b>Penthouse Height</b>	12'	12'; 15' mech.	12'; 15' mech.	12'; 15' mech.; 18.5' for elevator overrun
<b>Lot Occupancy</b>	40%	60%	60%	54%

(See Subtitle F, Chapter 2; see also Subtitle X § 303.7)

### **PROJECT DESIGN**

28. The Project includes landscaping, trees, and other plantings and bioretention features. Notably, the Project will take advantage of its proximity to Fort Greble Park by highlighting the park with signage at the corner of Martin Luther King Jr. Avenue, S.W. and Elmira Street, S.W. and improve the streetscape leading to the park's entrance with new signage. Furthermore, the Project will create a one-way pedestrian friendly private driveway to encourage both pedestrian foot traffic and vehicular egress through the Project (Ex. 2, 12-12E, 21A, 21B1-21B9, 40-40B).
29. The Project will transform the existing site by replacing the existing apartment buildings surrounded by surface parking lots with new, amenitized residential buildings. These new buildings will take advantage of Fort Greble Park by not only encouraging additional pedestrian foot traffic with inviting landscaping but also creating a central outdoor amenity space for residents that will highlight the importance of indoor-outdoor living. This emphasis on porosity and movement between the new residential building's stems from the adjacent residential neighborhood, proximity to Fort Greble Park, and site configuration.

<sup>3</sup> As noted above, Public Libraries in the RA-1 zone have a maximum FAR of 2.0. Subtitle F § 201.1. Public Recreation and Community Centers have a maximum lot occupancy of 20%; and Places of Worship and Public Libraries have a maximum lot occupancy of 60% (Subtitle F § 210.1).



The Project will continue to respect the neighborhood's character and offer a public benefit by offering onsite child day care (*Id.*).

30. The Project also achieves many other desirable public policy objectives: in furtherance of the Mayor's housing production goals, the Project adds approximately 665 net new residential units to this location. At least 17% of the new units will be affordable (at 60% MFI), and at least eight percent of the new units will be family-sized three-bedroom units. The streetscape and landscaping improvements enhance and advance the collective vision for Bellevue as set forth in the Bellevue SAP (*Id.*).
31. Furthermore, in consultation with HousingToHome ("HTH"), the Applicant has developed a comprehensive phasing, relocation, and return plan. Under the plan, current residents at the Property will be offered the opportunity to return to the new Project at their current rents, which may increase annually only as permitted under rent control laws. Current residents also will be given assistance with packing and moving, and with permanently relocating to elsewhere if that is what they choose (Ex. 2G).
32. The Project has a total of approximately 553,937 square feet of GFA including the flexibility requested below, resulting in an FAR of 2.592 with an overall lot occupancy of approximately 54% (below the 60% permitted in the RA-2 zone). All four buildings will be five stories plus cellars and habitable penthouses. The Project will offer an array of studio, one-, two-, and three-bedroom units. The Project will have a total of approximately 821 units, and the total unit count for each building ranges between 195 and 213. The maximum height of each building is 60 feet. The Project ultimately includes a mix of: (i) approximately 548,128 square feet of residential GFA distributed across four buildings; (ii) up to approximately 66,955 square feet of penthouse habitable space across four buildings to be allocated among a mix of amenity space for the building (including a lounge and grilling areas) and residential units; and (iii) approximately 5,500 square feet for a child daycare. A vast majority of the Project's amenities are accommodated at the center of the Project in the Social Garden, immediately surrounded by two buildings but available and accessible to residents of all four buildings. Outside of that, each building will have its own entrance and offer rooftop recreation space as well as grills and lounge seating (Ex. 2, 12-12E, 21A, 21B1-21B9, 40-40B).
33. The Project's site plan organizes the four buildings with a common frontage on Martin Luther King Jr. Avenue, S.W., with Elmira Street, S.W. and a private driveway separating the buildings. South of Elmira Street, S.W. is one new building with its own underground parking and at-grade loading ("Building 1"). Immediately north of Elmira Street, are two buildings connected by the central courtyard and Project's amenity space—the Social Garden—and child daycare ("Buildings 2 & 3") that front on Martin Luther King Jr. Avenue. Loading facilities will be shared by Buildings 2 & 3. To the north of Building 3 is a private driveway with landscaping and pedestrian facilities that serves as a vehicular exit from parking and loading facilities to Martin Luther King Jr. Avenue and pedestrian access to Fort Greble Park. North of the private driveway is the fourth new building ("Building 4"), which has its own loading facilities. One common underground parking level is below Buildings 2, 3, & 4 and the private driveway. Each Building will have its own lobby and

entrance, but the lobbies will be visually connected across the Project to reinforce the overall connectivity of the Project (*Id.*).

34. The Project will offer a range of unit types from studios to three-bedrooms. With this, the Project introduces a unit type distribution that does not currently exist at the Property. The Project offers studios and three-bedroom units, which are not offered or are very limited, respectively, at the existing buildings. A minimum of eight percent of the units in the Project, approximately 63 units, will be three-bedroom units (*Id.*).
35. At grade, the Project's site plan activates the public realm and creates a special place to connect pedestrians on Martin Luther King Jr. Avenue, S.W. to Fort Greble Park through the Property. The Project's site plan responds to its context, activates the surrounding public realm, and relegates all vehicular parking below grade. The Project does not include any new curb cuts (*Id.*).
36. Further, the Project features a variety of landscape improvements at street level and makes additions to the entrance of Fort Greble Park. This will create an inviting and pedestrian friendly environment for residents and community members alike. The overall focus is to use vegetation that is varied, robust, and layered. The landscape design is intended to extend the park feeling through the Property along both Elmira Street and the private driveway to Martin Luther King Jr. Avenue, S.W. (*Id.*).
37. The Project is horizontally and vertically segmented with the buildings, oriented east-west to create porosity from Martin Luther King Jr. Avenue, S.W. to Fort Greble Park to the west. The Project's central amenity area—the Social Garden—is housed in a large, partially sunken area between Buildings 2 & 3. This unique and dynamic space will house the amenities for all four buildings and includes a theatre, leasing office, business center, gym, basketball court, fitness studio, and outdoor amphitheater. Furthermore, the central social garden offers space for both the daycare users and residents to gather, play, and socialize (*Id.*).
38. In all four buildings, residential use begins on the cellar floor and continues to the penthouse. The number of units per floor and the unit types vary between each building. For example, Building 1 has the most one-bedroom units, Building 3 has the most two-bedroom units, and Building 4 has the most three-bedroom units. Still, each building has a similar distribution of total units throughout and offers a diverse set of options to current and future residents. The penthouse levels on Buildings 2 & 3 include approximately 1,389 and 1,689 square feet of exterior amenity space, respectively, plus a rooftop terrace and residential units. The roof is also designed to accommodate mechanical equipment, solar panels, green roofs, and vegetation. Approximately 2,000 square feet of solar panels will be on the roof of each building for a total of approximately 8,000 square feet of solar arrays (*Id.*).
39. Providing sufficient automobile parking, bicycle parking, and loading are important elements of the Project, and the Project includes a focus on bicycle parking spaces to minimize traffic impacts in the neighborhood. The Project contains approximately 276



vehicular parking spaces on a single level of below-grade parking to serve the Project. The below-grade garage in Building 1 includes approximately 53 vehicular parking spaces and a secure bicycle storage room for 65 long term bicycle spaces. The below-grade garage for Buildings 2-4 includes approximately 223 vehicular parking spaces and a secure bicycle storage room for 182 bicycle spaces. Building 1, Buildings 2 & 3, and Building 4 each have loading facilities: one 30-foot berth and one 20-foot service/delivery space (*Id.*).

40. The Project will dedicate at least 17% of the residential floor area as IZ units set aside at 60% MFI. This IZ commitment translates to approximately 111,809 gross square feet of affordable units, exceeding the IZ requirements for a matter-of-right project. The proffered 60% MFI IZ units are in addition to the 50% MFI IZ units that would be required from the residential units being located in the penthouses. In addition, all existing tenants at the Property will have the option to return to the Project at the same rents they pay now—which are below market rates for the Project—and their rents may be increased annually only as much as allowed by rent control laws and regulations (*Id.*).
41. The Project’s architectural design and detailing are intended to be bold and distinctive while taking cues from the surrounding neighborhood’s existing fabric. The proposed massing has been designed with the streetscape experience, neighboring buildings, and nearby Fort Greble Park in mind. The siting and design elements have been selected to integrate the Project in with its surrounding context of institutional buildings, a park, and single-family houses (*Id.*).
42. All four residential buildings are designed by the same architect: Eric Colbert and Associates. Each building will have a unique identity to distinguish itself but also work together to create a common fabric and place for a new residential community. A red masonry palette will be used to bring more warmth to each building’s façade and blend with the neighboring residential buildings (*Id.*).
43. The Project’s detailing and materiality underscore its design. At the street level, where pedestrians interact with the buildings, it has a rich texturing of materials intended to create a tactile connection between passersby and the buildings themselves. A significant investment in greenery at the ground floor streetscape, façade, and canopy above helps to soften the ground plane and encourage pedestrians to linger (*Id.*).
44. The Project has been designed to fit into the existing residential community. For example, each building’s façade includes a mix of masonry and metal to mirror the residential buildings across Martin Luther King Jr. Avenue. S.W. Furthermore, the Project uses red masonry to bring more warmth and appeal to each building’s façade. It also creates a more residential feel and highlights the limited metal accents. Balconies are distributed evenly throughout the Project to offer outdoor space to residents, and the use of prefabricated balconies provides a consistent appearance between buildings. The Project’s material selection and façade arrangements establish a cohesive and welcoming residential community across the entirety of the site and integrate seamlessly into the existing neighborhood context (*Id.*).

45. The Project has been carefully configured to provide ample open space for both Project residents and residents of the surrounding neighborhood, as well as to highlight Fort Greble Park. To achieve this, the Project has an overall lot occupancy (54%) that is less than the maximum permitted in the proposed R-2 zone (60%), and the rear and side yards are wider than required. Notably, the Project will be separated from existing residential uses to the east by Martin Luther King Jr. Avenue, which has a right-of-way width of 110 feet (*Id.*; Ex. 40).
46. The Project features a variety of landscape improvements at street level and makes improvements and additions to the entrance of Fort Greble Park. This will create an inviting and pedestrian friendly environment for residents and community members alike. The overall focus is to use vegetation that is varied, robust, and layered. The landscape design is intended to extend the park through the Project down both Elmira Street, S.W. and the private driveway to Martin Luther King Jr. Avenue, S.W. The streetscape along Elmira Street, S.W. will offer mature plantings with seasonal variety, as well as benches and other hardscape features. The private driveway to the north will have a similar design, while still respecting its more pedestrian friendly nature. Both spaces will frame Buildings 2 & 3 and the central amenity space housed at the center of them, which will also offer an array of foliage and greenery to complement the varied indoor and outdoor uses (*Id.*).
47. The Project is designed to satisfy the standards for LEED Gold. Specific sustainable design features include approximately 2,000 square feet of solar panels on each of the four buildings for a total of 8,000 square feet of solar arrays; and full electrification throughout each building (*Id.*).

#### **APPLICANT'S SUBMISSIONS AND TESTIMONY**

48. Initial Application. On December 22, 2023, the Applicant filed its initial application materials (Ex. 1-2I7).
49. Prehearing Submission. On April 17, 2024, the Applicant filed a prehearing submission and supporting materials responding to the issues and comments raised by the Commission at the March 28, 2024, public meeting to consider setdown and by OP in its March 18, 2024 setdown report (*see* Ex. 10) and providing additional and updated information regarding the Application (Ex. 12-12G). Specifically, the prehearing submission included:
  - Tenant Relocation Plan and Project Phasing. In response to the Commission's and OP's request, the Applicant provided additional information on the tenant relocation plan and project phasing and clarified that all existing Martin's View residents will have advisory services, packing and relocation assistance, and the right to return to the Project at current rents (that may increase only in accordance with what rent control allows). In addition, the Applicant summarized its relocation plan and stated that all residents in the existing Building 1 will be relocated to existing Buildings 2-4 while the new Building 1 is constructed. Then, residents in existing Buildings 2-4 will be relocated to new Building 1 while new Buildings 2-4 are constructed. Once the entire Project is complete, original residents of the prior Buildings 2-4 will be given the option, at the Applicant's cost, to relocate from new Building 1 to the corresponding new Buildings 2-4. To accommodate this relocation plan, the Applicant has requested

flexibility (as further discussed herein) to construct the Project in phases and stagger the validity periods of this Order based on the phasing plan;

- Community Engagement and Public Outreach. In response to the Commission's request, the Applicant provided additional information on the ongoing community engagement efforts and outreach, which included meetings with current residents and ANC 8D beginning in fall 2023 and a timeline to illustrate continuing outreach to neighbors and community stakeholders from the initial filing of the application until the July 2024 public hearing (Ex. 12B);
- Relocation Plan for Two Heritage Trees.<sup>4</sup> The Applicant stated it has begun consulting with the Department of Parks and Recreation about relocating the two heritage trees on the Property to Fort Greble Park, in consultation with the DDOT Urban Forestry Administration and a licensed arborist to be selected by the Applicant;
- Central Courtyard Experience. The Applicant provided renderings of and more details about the central courtyard between Buildings 2 & 3 and stated that it will include approximately 27,170 square feet of space including 5,845 square feet of outdoor amenity space (*See* Ex. 12C1, 12C2);
- Inability to Comply with the Mechanical Penthouse Height Limit. The Applicant provided additional information in support of its request for flexibility from the mechanical penthouse height limit<sup>5</sup>;
- Possibility of Adding Three-Bedroom Units. The Applicant provided additional information about why it was not feasible to add additional three-bedroom units to the Project primarily because it will reduce the overall unit count in the Project;
- Creation of a Park Gateway and Renderings of Any Signage Directing Visitors to Fort Greble Park from Martin Luther King Jr. Avenue, S.W. The Applicant provided additional information on and renderings of the proposed signage at the intersection of Elmira and MLK Jr., subject to approval from DDOT public space, and at the entrance to Fort Greble Park, subject to approval by the Department of Parks and Recreation (*See* Ex. 12D);
- Programming and Activation of Public Space Adjacent to the Project. The Applicant provided additional information on how it will activate the public space adjacent to the Project by adding patios, benches, and lighting along the streetscapes (*See* Ex. 12D);
- Depiction of Landscaping "Through the Seasons." The Applicant provided a planting palette and renders to showcase the plants through all four seasons (*See* Ex. 12D);
- Stormwater Management Plan. The Applicant provided additional information on the stormwater management plan for the Project. Notably, the stormwater retention for all four buildings exceeds that required by the District of Columbia's Department of Energy and Environment (*See* Ex. 12E); and

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<sup>4</sup> As further discussed below, DDOT's Urban Forestry Division subsequently examined the two heritage trees and recommended they be removed instead of relocated since they were found to be in a state of decay. Therefore, the Applicant stated in its Supplemental Pre-Hearing Submission that it will remove the trees instead of relocating them.

<sup>5</sup> As further discussed below, in its Supplemental Pre-hearing Submission, the Applicant subsequently changed its request for flexibility to a request for a variance from Subtitle X § 303.18, which limits the mechanical penthouse height for a PUD in the RA-2 zone to 15 feet, to allow a mechanical penthouse height of 18.5 feet for the elevator overruns.

- Confirmation of Satisfaction of the Minimum Requirements for Bicycle Parking Spaces. The Applicant confirmed that the Project will provide the minimum number of required bicycle parking spaces, which is 274 long-term spaces, and 41 short-term spaces based on a unit count of 821.

(Ex. 12-12G).

50. Applicant's Transportation Report. On June 18 and 20, 2024, the Applicant filed a Comprehensive Transportation Review ("CTR"), prepared by Gorove Slade, regarding the Project. The CTR highlighted several positive design elements that minimize potential transportation impacts, including: the Project's proximity to transit service and bicycle infrastructure; the Project's location within a generally adequate pedestrian network along major walking routes; the Project's loading facilities, which maintain loading activity within private property and provide loading circulation that allows head-in/head-out truck movements at all loading curb cuts from the public roadway network; the inclusion of secure long-term bicycle parking spaces that meet or exceed zoning requirements; the inclusion of short-term bicycle parking spaces along the frontage of the site that meet zoning requirements; and a Transportation Demand Management Plan ("TDM") that reduces the demand of single occupancy, private vehicles during peak period travel times and shifts single-occupancy vehicular demand to off-peak periods. The Project is proposing to implement a TDM plan consistent with DDOT's guidance. Some TDM proposals include unbundling the cost of vehicle parking from the lease for each residential unit; identifying transportation coordinators for the planning, construction, and operation phases of development; and providing at least 42 short- and 275 long-term bicycle parking spaces (Ex. 19A1-A2).<sup>6</sup>

51. Applicant's Supplemental Pre-Hearing Submission. On July 2, 2024, the Applicant filed a supplemental submission with updated information regarding the Application as follows (Ex. 21):

- Mechanical Penthouse Flexibility and Variance Relief. The Applicant added a new request for a variance from Subtitle X § 303.18, which limits the mechanical penthouse height for a PUD in the RA-2 zone to 15 feet, to allow a mechanical penthouse height of 18.5 feet for only the elevator overruns. The Applicant explained that it previously requested flexibility to permit a penthouse height of 18.5 feet, but that variance relief was needed based on the requirements of Subtitle X § 303.18. The Applicant provided a rationale for the variance relief, as summarized in detail below in Finding of Fact 62. In addition, the Applicant provided evidence regarding the limitations of hydraulic elevators to demonstrate that the Project requires a cable elevator with overhead pulleys and the additional elevator overrun height to accommodate the corresponding elevator mechanical equipment; the evidence provided shows that the three types of hydraulic elevators manufactured do not allow for the 85 feet of travel distance required for the Project—thus the need for a cable elevator with overhead pulleys (Ex. 21C1-21C3);

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<sup>6</sup> As discussed below, DDOT requested in its report (Ex. 24) that the Applicant increase the minimum number of short- and long-term bicycle parking spaces to 43 and 276, respectively. The Applicant agreed to this request at the July 22, 2024 public hearing.

- Updated Plans. The Applicant provided updated plans reflecting further refinements to the Project design (*See* Ex. 21B1-21B9);
  - Additional Benefits and Amenities Proffer. The Applicant proposed to offer a new public benefit proffer in the form of a mid-block crossing on Elmira Street. The Applicant stated that the mid-block crossing will provide safe pedestrian access for Building 1 residents to the central courtyard amenity space and daycare located north of Elmira Street, in between Buildings 2 & 3. The mid-block crossing will be further coordinated with DDOT during the public space permitting process;
  - Heritage Trees. The Applicant provided additional information on the status of both heritage trees. After the Urban Forestry Division visited and diagnosed both trees, they recommended removal instead of relocation, which the Applicant will carry out as part of the Project; and
  - Community Outreach. The Applicant provided updated and supplemental information regarding its outreach with the surrounding community, including the neighboring residents and ANC 8D with a list of its outreach efforts from April to July 2024.
52. Clarification of IZ Proffer. On July 11, 2024, the Applicant clarified and refined its request for flexibility to provide the proffered amount of IZ in response to further discussions with OP. The Applicant previously requested flexibility to allow a Building to receive a building permit even if the residential floor area devoted to IZ units in that particular Building is less than 17%, as long as the entire Project, upon completion, devotes at least 17% of its residential floor area to IZ units. However, after discussions with OP, the Applicant refined this flexibility to add language stating that “at least 13% of the residential floor area per Building” will be devoted to IZ units (Ex. 22).
53. Community Benefit Agreement. On July 19, 2024, the Applicant submitted an executed community benefit agreement (“CBA”) between the Applicant and ANC 8D, which includes a development and construction management plan (Ex. 26, 26A).
54. Applicant’s Hearing Presentation and Testimony. In advance of the July 22, 2024, public hearing for the Application, the Applicant filed a presentation (Ex. 32A1-A5). At the public hearing, the Applicant presented the Application and proposed Project and addressed questions raised by the Commission:
- The Applicant provided testimony from four witnesses:
    - Jesse Kaye of Martin’s View, LLC, on behalf of the Applicant;
    - JB Lallement of Eric Colbert & Associates, as the Project’s architect, admitted as an expert in architecture;
    - Gabriela Canamar of LandDesign, the Project’s landscape architect, admitted as an expert landscape architecture;
    - Will Zeid of Gorove Slade, the Project’s transportation consultant, admitted as an expert in transportation planning and engineering; and
    - Shane Dettman of Goulston & Storrs, the Project’s urban planner, admitted as an expert in urban planning (Ex. 21D);
  - The Applicant’s presentation included a summary of the Project background; the Applicant’s outreach with OP, DDOT, and other District agency staff, and with the



community, neighboring residents, and ANC 8D; the requested zoning and design flexibility; the proffered public benefits and amenities; the building design, site planning, and landscaping features; and information in response to the Commission's questions during the hearing; and

- The Applicant's presentation also included expert testimony from the Applicant's community engagement consultant. This portion of the presentation highlighted a focus on integrating current residents of the Property into the process, which allowed those residents to provide their feedback and have a meaningful impact on the development. The community engagement consultant also addressed concerns related to relocation of current residents and the Project's overall density.

(Transcript of July 22, 2024 Public Hearing ("July 22 Hearing Tr.") at 9-136).

55. Applicant's Post-Hearing Submission. On August 30, 2024, the Applicant submitted a post-hearing submission which included responses to comments and questions raised by the Commission during the July 22, 2024 public hearing. Specifically, the Applicant provided revised conceptual images of the wayfinding signage at the proposed Fort Greble Park (*see* Ex. 40A) and confirmation that the current occupancy rate at the Martin's View apartment buildings is 143 out of 156 units. The Applicant's post-hearing submission also included a request for zoning flexibility pursuant to Subtitle X § 303.1(b) to permit a 1,000 square foot community service center for Workforce/Job Training Space to allow a locally based nonprofit organization to provide job search and job training assistance to residents. The Applicant also provided an update on community engagement efforts, including a summary of numerous engagements with the Bellevue Neighborhood Civic Association ("BNCA"), which testified in opposition to the Application at the public hearing, as further discussed below (Ex. 40, 40A, 40B).

56. In addition, the Applicant's post-hearing submission provided the Applicant's rebuttal arguments to the following concerns raised by opponents of the Project (Ex. 40-40B):

- Density and Scale of Project. In response to concerns raised by those in opposition about the Project's size and scale, the Applicant stated that the density and scale of the Project are appropriate and will not cause adverse impacts. In addition to the RA-2 zone, the height and density being not inconsistent with the FLUM and the GPM, the Project will help address citywide housing needs through preservation and creation of affordable housing and provision of new market rate housing in a manner that is compatible with the existing scale and character of the surrounding area. The density and scale of the Project are also not inconsistent with Comprehensive Plan policy guidance that speaks to refurbishment of deteriorating housing; increases in density to address citywide housing goals and affordable housing needs; increases in density to promote mixed-income neighborhoods; and context sensitive design to avoid overpowering contrasts in scale. The Project balances the need for greater density that is essential to addressing citywide housing needs without causing physical and economic displacement. This is accomplished through the placement of greater height and density on a site that is already planned and zoned for moderate density multi-family development in a manner that takes into consideration the scale of adjacent buildings, aligns with existing streets and sightlines, and takes advantage of separation provided by adjacent rights-of-way. Due to these factors, the Project will not have



unacceptable impacts on light, air flow, and the character of the existing neighborhood. To the extent there is any potential for impacts to the lower-scale residential area to the east, such impacts will be minimal due to the design of the Project and the width of Martin Luther King Jr. Avenue, S.W. and the Project's open space. The Project will include open space to ensure that ample light and air are available to the Project and the surrounding properties. While the height of the Project (60 feet) represents an increase compared to the existing buildings on the site, the proposed height will not overwhelm the lower-scale residential uses due to the proposed site plan (i.e., shorter facades of buildings facing lower scale residential and ample open space around the buildings). Any impacts will be further mitigated by separation provided by Martin Luther King Jr. Avenue, S.W., which has a right-of-way width of approximately 110 feet;

- Parking Congestion. In response to concerns raised by those in opposition about the Project's potential impact on parking, the Applicant stated that the Project will not have an unacceptable impact on parking availability and congestion in the neighborhood. The Project proposes a total of 276 below-grade vehicular parking spaces, which satisfies that required by the Zoning Regulations while providing a few spaces less than the maximum number of spaces recommended by DDOT (291 spaces). The Zoning Regulations would allow the Project to provide as few as 137 spaces—approximately half of the number of spaces proposed—so the Project will provide more than the zoning minimum to ensure sufficient on-site parking availability to Project residents. The Project's IZ set-aside indicates that automobile ownership and the associated need for parking will be less than for a similar project with more market rate units. Finally, the as part of the Community Benefits Agreement with the ANC, the Applicant has committed to supporting the adjacent neighborhood with seeking Residential Parking Permit ("RPP") parking restrictions for neighborhood public streets, and the Project's residents would not be eligible to receive RPP permits per the terms of the Community Benefits Agreement;
- Traffic Congestion. In response to concerns raised by those in opposition about the Project's potential impact on traffic and congestion in the neighborhood, the Applicant stated that as found by the Applicant in its CTR and supported by DDOT in its report (see Exhibit 24 in the case record), the Project's impacts on traffic, including those from the proposed daycare, in the surrounding area can be adequately mitigated with the TDM plan and other mitigation measures to which the Applicant has committed. The Applicant worked with DDOT to develop a robust TDM plan for the Project that will reduce reliance on vehicle ownership/use and mitigate traffic congestion near the Project resulting from this development. An updated TDM plan submitted to DDOT (consistent with that the Applicant agreed to during the July 22, 2024 public hearing) includes pedestrian improvements—including installing a missing crosswalk, a raised mid-block crossing on Elmira Street, S.W.<sup>7</sup>, curb ramps, and permanent curb extensions and pedestrian refuge islands on Martin Luther King Jr. Avenue, S.W.—that will be funded and constructed by the Applicant to further mitigate any traffic impacts from

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<sup>7</sup> In a submission on July 2, 2024, the Applicant stated that the installation of a mid-block crossing on Elmira Street was a proffered public benefit (Ex. 21); and in its testimony at the July 22, 2024, public hearing, the Applicant characterized the mid-block crossing on Elmira Street as a public benefit as opposed to a mitigation.

the Project. Moreover, the proposed daycare will be relatively small at 5,500 square feet, meaning that traffic impacts will be limited in any event. With approximately 821 dwelling units in the Project, it is likely that a large portion of the daycare's students will come from within the Project, which will result in the majority of pick-up/drop-off occurring as pedestrians rather than with automobiles. Otherwise, in order to mitigate any automobile traffic impacts from the daycare during pick-up/drop-off times, a short-term parking zone is proposed along the Martin Luther King Jr. Avenue, S.W. frontage of the Project; this zone is proposed for only pick-up/drop-off times and will be available for other uses during the day. Further, the proposed curb extensions requested by DDOT are part of the mitigations to which the Applicant agreed will frame in the curbside space to provide more efficient parking operations along the side of the road that will further mitigate any potential traffic congestion impacts;

- Water and Sewer Infrastructure. In response to concerns raised by those in opposition about the Project's potential impact on water and sewer infrastructure, the Applicant stated that based on the Applicant's civil engineer's analysis, the current stormwater, sanitary, and water infrastructure system can sustain Project and the expected residents, and it will not overburden the system. Further, the DOEE stormwater requirements that will be incorporated into the Project will retain and detain water to reduce the flow exiting the site into the sanitary sewer system. There is a 10" sanitary sewer line under the sidewalk on the west side of Martin Luther King Jr. Avenue, S.W. and an additional 10" sanitary sewer line on the east side of Martin Luther King Jr. Avenue, S.W. The Project site is generally the only property that will drain into the existing 10" sanitary sewer on the west side, so this sanitary sewer line can accommodate the expected number of residents in the Project; and
- Costs To Returning Residents. The Applicant noted that some residents and neighbors objected over expected cost increases for current Property residents returning to the Project. However, the Applicant maintained that the returning Martin's View residents will not assume significantly greater costs than they currently have, and the Applicant and the Project will minimize any additional costs. Their rents will be the same as they are currently paying, with annual increases only as permitted by rent control laws. Utility costs will not be high because the utility bills for residents are expected to be affordable due to the energy efficiency of the LEED Gold design (*see* Ex. 40B) and energy generated by the solar panels. Further, D.C. offers utility discount programs, and the Applicant will assist eligible residents in applying for these programs. Following post-hearing discussions with neighbors and community groups in opposition, as further discussed below, the Applicant has agreed to provide all returning Martin's View residents aged 65 or older with a utility subsidy up to \$100 per month; and all returning residents will be offered parking at a discounted rate that is 50% less than will otherwise be charged to new residents in the Project. The Project will be a mixed income community with market rate and affordable units, but this will not result in materially higher costs to current residents who return or to residents in the broader community. As described above, current rents for returning residents will be retained while utility and parking costs will be limited. Furthermore, the Project's additional commitment to 17% of residential floor area devoted to IZ units will ensure that ample affordable and below-market rate units—a total of approximately 36% of the units when combined with the units for returning residents—are available in the Project for

many Bellevue residents. Accordingly, there is no basis to conclude that property taxes or other costs to current Martin's View and/or Bellevue residents will materially increase.

57. The Applicant filed two additional post-hearing submissions, which are discussed in greater detail in Finding of Fact 91 and summarized below (Ex. 43, 47):
- First, a submission on September 30, 2024, providing updates on the Applicant's meetings with opponents, Frederick Nelson, Anna Hamilton, and Wanda Nettles, and its responses to their various opposition concerns; and stating the Applicant's agreement to pay up to \$100 per month in utility costs for all 65+ year old returning Martin's View residents and to pay the cost of residential parking permits for residents within 200 feet of the Project for three years (Ex. 43). The Applicant further stated that recent meetings with Bellevue Neighborhood Civic Association ("BNCA"), an opponent to the Application, had been unproductive as the Applicant refuses to agree to the payment requested by BNCA; and (*Id.*)
  - Second, a submission on October 22, 2024, providing a response to BNCA's post-hearing submissions (at Ex. 46) stating several clarifications about the Applicant's September 28, 2024 meeting with BNCA; listing all communications the Applicant has had with BNCA since the July 22, 2024 public hearing; stating that the Applicant has responded to BNCA's concerns regarding the Project density and restating the Applicant's commitments to subsidize utility costs by up to \$100 per month for 65+ year old Martin's View returning residents, to reduce onsite parking costs by 50% for all returning Martin's View residents, and to pay for residential parking permits for all residents within 200 feet of the Project for three years (Ex. 47). The Applicant also stated that it still refuses to agree to the payment amount requested by BNCA (*Id.*).
58. Draft Findings of Fact and Conclusions of Law. Pursuant to Subtitle Z § 601.1, on October 17, 2024, the Applicant submitted its proposed findings of fact and conclusions of law (Ex. 45).
59. Draft Conditions. Pursuant to Subtitle X § 308.2, on October 31, 2024, the Applicant submitted its draft proffers and Conditions (Ex. 49).
60. Final Conditions. Pursuant to Subtitle X § 308.6, on November 12, 2024, the Applicant submitted its final proffers and conditions (Ex. 50).

### III. JUSTIFICATION FOR RELIEF

#### RELIEF REQUESTED

61. Additional Height and Density Under PUD Standards. The Application requested the Commission approve a PUD and related Zoning Map Amendment to the RA-2 zone to redevelop the Property with four residential multifamily buildings. As a result of the PUD-related map amendment to the RA-2 zone, the Project can achieve additional height and density as follows:
- Height: The Project proposes a height of approximately 60 feet. The existing RA-1 zone permits a maximum height of 40 feet, or 60 feet for a PUD. The proposed RA-2

zone permits a maximum height of 50 feet, or 60 feet for a PUD. Therefore, the Project's 60-foot height is at the maximum allowable height for a PUD development in the existing RA-1 zone as well as the proposed RA-2 zone; and

- Density: The Project proposes a density of approximately 2.592 FAR. The existing RA-1 zone permits a density of 0.9 FAR (2.0 FAR for Public Libraries), or 1.08 FAR for an IZ development. The proposed RA-2 zone permits a density of 1.8 FAR (2.0 FAR for Public Libraries), or 2.16 FAR for an IZ development, with up to 2.592 FAR allowed for a PUD development. Therefore, the Project's density of approximately 2.592 FAR is at the maximum allowable density for a PUD development with IZ bonus density in the proposed RA-2 zone; and it represents an increase of approximately 1.51 FAR over the maximum 1.08 FAR density allowed for an IZ development in the existing RA-1 zone.

62. Zoning Relief Requested – Variance Request. The Application further requested additional PUD-related zoning relief pursuant to Subtitle X § 303.14 for a variance from the maximum mechanical penthouse height limit of Subtitle X § 303.18 to permit a mechanical penthouse height of 18.5 feet for the Project's elevator overruns. The Applicant provided the following evidence for why the request satisfies the Subtitle X, Chapter 10 standards for area variance relief:

- Property is affected by an exceptional situation or condition. Several factors contribute to an exceptional and extraordinary condition in that the Property is prime for redevelopment given its size, the age and deterioration of existing structures, and the essential community facilities nearby. In addition, the Property's FLUM and GPM designations position the Property uniquely to provide a large amount of new residential units in an area surrounded by community amenities such as a school, park, and hospital. In addition, the Applicant states that a PUD in the RA-2 zone is unique in that additional height is not permitted for a mechanical penthouse, unlike PUDs in numerous other zones. These categories, along with the maximum permitted PUD height of 60 feet, encourage the site to be redeveloped from the existing 156 residential units to the proposed 821 units;
- Strict application of the Zoning Regulations will result in a practical difficulty to the Applicant. There are practical difficulties in complying with the mechanical penthouse requirement because a building height of 60 feet—which is consistent with the goals of the Zoning Regulations and the Comprehensive Plan—cannot accommodate an elevator system that fits within a 15-foot mechanical penthouse height. The Project requires an elevator with overhead pulleys, the only viable option for the necessary travel distance. (See Finding of Fact 51) The additional height for the elevator overruns is necessary to accommodate the elevator mechanical equipment as well as space above the elevator cab to accommodate equipment maintenance workers. The maximum 15-foot height permitted in the RA-2 zone does not allow for the necessary space atop the cab of the elevator to perform maintenance work. Without this elevator overrun, the Applicant would have to modify the Project to eliminate the residential units on the penthouse because the elevator could not provide access to those unit, and this would result in a loss of 50% MFI IZ units; and

- The granting of the variance will not cause substantial detriment to the public good nor substantially impair the intent, purpose, or integrity of the zone plan. The elevator shafts are set back from the building roof at least 1:1 on both the courtyard and rear yard sides. In addition, the elevator shafts are even further setback at least 2:1 from the building roof edges facing the public streets, private driveways, and the public park. Thus, any potential visual impact of the additional 3.5 feet of elevator overrun is more than adequately mitigated by exceeding the necessary setbacks. The intent of the penthouse setback requirements and height limit is to decrease visibility and reduce visual clutter. The more than adequate setbacks of the mechanical penthouses along with the minor relief requested of only 3.5 feet, is therefore consistent with the intent of the Zoning Regulations.

(Ex. 21).

63. Zoning Relief Requested – Community Service Center Use. The Application also requested approval of a community service center use pursuant to Subtitle X § 303.1(b). As noted above, the Applicant is proffering as a public benefit a 1,000 square foot space in the Project to be occupied by a locally based jobs partner nonprofit organization that will provide job-search and job-training assistance to residents of the Project and the broader neighborhood. The Applicant states the use is compatible with the PUD because it offers a public benefit that has been identified by the ANC as an asset to the community. In addition, the provision of job-search and job-training assistance furthers the goals of the Comprehensive Plan, particularly the Economic Development Element, by providing a workforce development program at the neighborhood level (Ex. 40).
64. Zoning Relief Requested – Phasing and Validity of Order. The Application also requested flexibility for the phasing of the Project and validity of this Order because of the multi-building character of the Project and the Applicant's desire to keep residents on-site throughout the redevelopment. Accordingly, the Applicant seeks approval of a phasing plan for the Project. The phasing plan begins with all residents in the Existing Building 1 relocating to vacant units Existing Buildings 2-4, to the extent available. Once new Building 1 is constructed, all residents in Existing Buildings 2-4 will relocate to the newly built Building 1. From there, Existing Buildings 2-4 will be razed, and construction of new Buildings 2 & 3 will commence. Building 4 will be constructed after Buildings 2 & 3 are completed. Finally, the original tenants from Existing Buildings 2-4 now living in new Building 1 will be given the option to relocate to other units in the Project (Ex. 12).
65. Design Flexibility Requested. The Applicant also requested various design flexibility, including flexibility to satisfy the Project's IZ commitment across each Building, as described above (Ex. 2, 22).

**CONSISTENCY WITH THE COMPREHENSIVE PLAN AND OTHER ADOPTED PUBLIC POLICIES AND ACTIVE PROGRAMS RELATED TO THE SUBJECT SITE (SUBTITLE X § 304.4(a))**

66. Comprehensive Plan. The Applicant provided evidence that the Application complies with Subtitle X § 304.4(a) and is not inconsistent with (i) the Comprehensive Plan as a whole, including its maps, Citywide Element policies, and Area Element policies, including when viewed through a racial equity lens, or (ii) other public policies related to the Property:



- FLUM. The Project is not inconsistent with the FLUM’s Moderate Density Residential designation<sup>8</sup> for the Property (Ex. 2, 2F):
  - The Framework Element describes the Moderate Density Residential designation as: “[N]eighborhoods generally, but not exclusively, suited for row houses as well as low-rise garden apartment complexes. The designation also applies to areas characterized by a mix of single-family homes, two- to four-unit buildings, row houses, and low-rise apartment buildings...Density in Moderate Density Residential areas is typically calculated either as the number of dwelling units per minimum lot area, or as a FAR up to 1.8, although greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The R-3, RF, and RA-2 zones are consistent with the Moderate Density Residential category, and other zones may also apply.” (*See* 10-A DCMR § 227.6); and
  - Through the PUD process, the Applicant proposes to rezone the Property to the RA-2 Zone, which is specifically referred to in the Framework Element as being consistent with the Moderate Density Residential FLUM designation for the Property. Moreover, the density of the Project is within the range that is contemplated in an RA-2 PUD. Specifically, the maximum density permitted in the RA-2 zone is 1.8 FAR (2.16 FAR with IZ) and 2.592 for a PUD. The Project has a maximum density of 2.592 FAR;
- GPM. The Project is not inconsistent with the Property’s Neighborhood Conservation Area designation on the GPM (Ex. 2, 2F, 40):
  - The Framework Element describes Neighborhood Conservation Areas category as those that “have little vacant or underutilized land” and “are generally residential in character.” (*See* 10-A DCMR § 225.4). The Framework Element further provides that “[m]ajor changes in density over current (2017) conditions are not expected but some new development and reuse opportunities are anticipated, and these can support conservation of neighborhood character where guided by Comprehensive Plan policies and the [FLUM].” (*Id.*). “The guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods, but not preclude development, particularly to address city-wide housing needs . . . The diversity of land uses and building types in these areas should be maintained and new development, redevelopment, and alterations should be compatible with the existing scale, natural features, and character of each area . . . Densities in Neighborhood Conservation Areas are guided by the [FLUM] and Comprehensive Plan policies.” (*Id.*; *see* 10-A DCMR § 225.5);
  - The Project is compatible with the diversity of land uses and building types found in the surrounding area, as well as with the scale and character of the neighborhood. Generally, the prevailing character and scale of the area surrounding the Property is residential with several institutional buildings within the vicinity. Consistent with

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<sup>8</sup> As noted above, a small portion of the Property is designated Parks, Recreation, and Open Space on the FLUM and Institutional on the GPM. However, in its presentation and testimony at the July 22, 2024, public hearing, the Applicant maintained that these designations were “presumed to be a cartographic drafting error” and focused its Comprehensive Plan consistency analysis on the Moderate Density Residential designation on the FLUM and Neighborhood Conservation Area designation on the GPM.



the established character of the area, the Project consists of four multifamily residential buildings that contain approximately 821 units, which, consistent with the Neighborhood Conservation Area designation, will enhance the neighborhood with appropriately scaled development that will address citywide housing needs, particularly affordable housing; and

- Consistent with the Framework Element's guiding principle for Neighborhood Conservation Areas, the Project will help address citywide housing needs through preservation and creation of affordable housing and provision of new market rate housing in a manner that is compatible with the existing scale and character of the surrounding area. The Project will maintain the diversity of uses in the neighborhood, avoid displacement of existing residents, and broaden the socio-economic characteristics of the area that can help attract long sought after basic neighborhood amenities;
- Land Use Element. The Project will support the growth and revitalization of the Bellevue neighborhood and Martin Luther King Jr. Avenue, S.W. corridor by providing increased housing along a designated priority bus corridor and within walking distance to several neighborhood amenities and community facilities near the mixed-use node at South Capitol Street and Atlantic Street. The new housing will provide greater sustainability and improve healthy living conditions for residents through a LEED Gold designed project that incorporates site-specific climate resilience design strategies. The Project will facilitate redevelopment of the Property at a height and density that is consistent with the FLUM, and compatible with the use and scale of the surrounding context. The Project will maintain the moderate density residential character of the Property, while adding several elements that will positively contribute to the identity and design character of the site and the Bellevue neighborhood. The increased housing on the site will accommodate expected population growth and the desire for greater mixed-income housing in Ward 8. The new market rate housing will help relieve pressure on the existing housing stock, namely naturally occurring affordable housing stock, while the increase in affordable housing on the Property will advance affordability, racial equity, and access to opportunity. In addition, the provision of child daycare will assist working families living in the Project and in the neighborhood. The Project will provide high-quality, modern housing for existing and new residents that will foster an inclusive neighborhood. The density and scale of the Project are consistent with Land Use Element policies regarding development along corridors and neighborhood conservation, enhancement, and revitalization. As discussed below, the Project respects the character, scale, and integrity of the adjacent neighborhood through building design, open space, and buffers while balancing against the District's broader need for housing, and especially affordable housing (*See Land Use Element Policies LU-1.1.2, LU-1.1.A, LU-1.4.6, LU-1.5.1, LU-2.1.1, LU-2.1.3, LU-2.1.8; Ex. 2, 2F, 40*).
- Transportation Element. The Project takes advantage of a priority bus corridor by increasing density for new housing. Further, the Project will support bicycle travel by providing a substantial amount of secure on-site bicycle parking within the Project's ground-floor and below-grade parking garage. Also, the Project will encourage the deployment of EV charging stations by installing the infrastructure necessary to make a minimum of five below-grade parking spaces EV ready. The Project proposes a total

- of 276 below-grade vehicular parking spaces, which satisfies that required by the Zoning Regulations while providing a few spaces less than the maximum number of spaces recommended by DDOT. Therefore, the Project provides the optimal number of parking spaces, as found by the Applicant in its CTR (and supported by DDOT), to address the Project's parking need and prevent adverse parking impacts in the surrounding neighborhood (*See* Transportation Element Policies T-1.1.2, T-1.1.7, T-2.3.B, T-3.1.1, T-3.2.D, T-3.4.1, and T-5.2.2; *Id.*);
- Housing Element. The Project will facilitate the redevelopment of an underutilized site along a priority bus corridor and in walking distance to neighborhood amenities with new mixed-income housing while minimizing displacement of existing residents. The production of housing that results from the Project will aid the District in achieving its housing production targets and equity goals for the Far Southeast/Southwest Planning Area, as set forth in the Housing Element and the 2019 Housing Equity report. The additional market rate housing facilitated by the proposal has the potential to increase the socioeconomic diversity of the Far Southeast/Southwest Planning Area and help provide a balance of housing opportunities. At the same time, the new dedicated IZ affordable housing, which will exceed the number of IZ units that would otherwise be required under existing zoning on the Property, will help offset the rising cost of housing and minimize the potential for displacement of District residents in the Far Southeast/Southwest Planning Area. Notably, the Project will contain approximately 63 three-bedroom units, an increase of approximately 525% in the number of family-sized units on the Property. The Project also considers potential housing for older adults with approximately 123 (i.e., approximately 15%) of the new constructed units being ANSI A accessible (*See* Housing Element Policies H-1.1.1, H-1.1.2, H-1.1.3, H-1.1.5, H-1.1.9, H-1.2.1, H-1.2.2, H-1.2.3, H-1.2.7, H-1.2.9, H-1.2.10, H-1.2.11, H-1.3.1, H-1.3.2, H-1.4.6, H-2.1.1, H-2.1.2, H-2.1.3, H-2.1.4, H-2.1.6, H-2.1.9, H-4.3.2, and H-4.3.3; *Id.*);
  - Environmental Protection Element. The Project design will mitigate potential impacts on the natural environment and help advance District's overall resilience to climate change through LEED Gold design and integration of several climate resilient design strategies. The Project will help mitigate urban heat island effect by reducing the overall amount of impervious surface on the site – which contains large surface parking areas – most notably through the relocation of all existing surface parking on the site to below-grade parking and the introduction of landscaping throughout the redeveloped site. The proposed buildings will contain numerous sustainability measures that will improve the overall environmental quality of housing, and the sustainability of the site and the District. The Project will promote the efficient use of energy through high-efficiency building systems and substantial use of rooftop solar panels. The Project will also result in substantial improvements to the quality of the public space surrounding the Property, which from an environmental protection perspective means improvements to street trees and implementation of sustainable landscape practices that will increase the overall amount of planted space and reduce the amount of impervious space on the Property (*See* Environmental Protection Element Policies E-1.1.1, E-1.1.2, E-2.1.2, E-2.1.3, E-3.2.3, E-3.2.6, E-3.2.7, E-4.2.1, E-4.2.1, E-4.4.1, E-5.1.6, E-5.1.9, and E-6.7.2; *Id.*);

- Educational Facilities Element. The Project will contain space devoted to a new child daycare facility within the ground floor of Building 2, facing Martin Luther King Jr. Avenue, S.W. The new day care use will provide residents, both on-site and in the neighborhood, with convenient access to a quality child development facility in an area needing more childcare and that is immediately adjacent to the high-priority bus corridor that directly connects to Metrorail. Further, the Applicant is proffering as a public benefit to reserve a 1,000 square foot space in the Project to be occupied by a locally based jobs partner nonprofit organization that will provide job-search and job-training assistance to residents of the Project and the broader neighborhood (*See Educational Facilities Element Policies EDU-4.1.1, EDU-4.1.2, and EDU-4.1.3; Id.*);
- Urban Design Element. The Project will facilitate the Applicant's effort to redevelop the existing buildings on the Property with new, sustainably designed multi-family buildings with amenities that will greatly enhance the urban design quality of the site. The Project, and associated improvements to the adjacent public space/streetscape, will reinforce the form and identity of Martin Luther King Jr. Avenue, S.W., which is one of Washington's primary long-established roads. The overall site plan of the Project will remove multiple curb cuts along Martin Luther King Jr. Avenue, S.W. and align a proposed private driveway into the site with the right-of-way of Darrington Street, which exists on the east side of Martin Luther King Jr. Avenue, S.W. The streetscape design along Martin Luther King Jr. Avenue, S.W., and along the proposed private drive and segment of Elmira Street that traverse the site, continue to reflect the moderate-density residential character of the surrounding area (narrow sidewalks, building setbacks and landscaped public parking area, street trees and landscaped areas). The Project will also strengthen the visual quality of the Martin Luther King Jr. Avenue, S.W. corridor. The orientation, massing, and articulation of the proposed buildings are responsive to the lower-scale residential uses to the east of Martin Luther King Jr. Avenue, S.W., and to Fort Greble Park to the west while also being consistent with the institutional buildings to the north and south. The Project design maintains the general site plan of the existing Martin's View development while accommodating additional height and density that will allow the Applicant to preserve existing affordable housing, and deliver new affordable and market rate housing (UD-2.2.1: Neighborhood Character and Identity). The Project's density and scale are similar to the scale and massing of the existing school to the north and hospital to the south, and will be substantially separated from existing residential uses to the east by Martin Luther King Jr. Avenue, which has a right-of-way width of 110 feet (*See Urban Design Element Policies UD-1.4.1, UD-2.1.2, UD-2.1.6, UD-2.2.1, UD-2.2.3, UD-2.2.4, UD-2.2.5, UD-2.2.7, UD-2.3.5, UD-3.2.1, UD-4.2.1, and UD-4.2.4; (Id.)*);
- Parks, Recreation and Open Space Element. The Property's adjacency to Fort Greble Park played a role in the overall development of the Project's site plan. Specifically, the east-west orientation of the proposed buildings will increase physical and visual connectivity to the park from Martin Luther King Jr. Avenue, S.W. While vehicular and pedestrian access to the park is provided along Elmira Street, there currently is no signage or wayfinding along Martin Luther King Jr. Avenue, S.W. to help direct park visitors on how to access the park and recreation facilities that exist at Fort Greble. As part of the Project, the Applicant will install wayfinding signage at the intersection of Martin Luther King Jr. Avenue, S.W. and Elmira Street, S.W., and it will work with the

DPR to design and install signage at the Elmira Street entrance to the park. Further, the extensive landscaping and hardscaping along Elmira Street is intended to be a park-like extension of Fort Greble Park (See Parks, Recreation and Open Space Element Policies PROS-1.2.2 and PROS-3.1.6; *Id.*);

- Bellevue Small Area Plan. The Project is consistent with the housing recommendation of the Bellevue SAP. The Project will provide new market-rate and affordable housing opportunities for new and existing Bellevue residents, including residents that currently reside on the Property. The Project has been designed in coordination with OP, and with the community through an extensive engagement process (*Id.*); and
- Far Southeast/Southwest Area Element. The Project will replace a dated 1940s apartment complex lacking modern amenities with new, sustainably designed apartment buildings with numerous amenities. Specifically, the Project will replace the existing buildings with a LEED Gold design project that will include on-site storm water retention and rooftop, extensive use of green roofs, and rooftop solar panels. The Project will also incorporate several resilient design strategies that protect residents against extreme heat and power outages, including, but not limited to, building form and envelope measures that maximize thermal insulation, cool or reflective roof materials, maximization of natural daylighting and ventilation, passive solar shading, 100% building electrification, and use of gardens and other drought-tolerant landscaped areas (See Far Southeast / Southwest Area Element Policies FSS-1.1.14, FSS-R-1.1.16, FSS-2.6.3; *Id.*).

67. Project Not Inconsistent with the Comprehensive Plan When Viewed Through a Racial Equity Lens. The Applicant provided the following information about the community and its outreach in its responses to the Community Outreach and Engagement component of the Commission's revised Racial Equity Analysis Tool:

- Community Outreach and Engagement: Before and during the public hearing process for this Application, the Applicant has participated in community outreach and engagement with the community. The Applicant states it has engaged in a 13+ month community engagement and Project dissemination process that began with current residents. With respect to current Property residents, this engagement included nine virtual meetings/presentations, six scheduled in-person events, multiple virtual office hours, calls and emails, and door-to-door knocking. In addition, the Applicant prepared and updated a Project website that includes meeting and hearing information and video recordings available at all times. Further, the Applicant hosted multiple virtual meetings for the broader community and presented the Project and solicited feedback at no less than three ANC 8D public meetings. This community engagement resulted in meaningful input regarding the Project, including the incorporation of two senior spaces within the Social Garden in response to community input as well as support from the ANC and a CBA. From the onset, the Applicant met with current residents and interested members of the nearby community to inform and refine the Project and the package of public benefits ahead of filing this Application. The Applicant believed it was essential to have current Property resident and ANC buy-in in order to proceed with this filing. The current Property resident support is indicated by the petition in support, support letters as well as the fact that the Applicant solicited and responded to specific feedback from current residents (feedback that the Applicant specifically

- identified and responded to). Furthermore, following the public hearing, the Applicant engaged those in opposition to discuss their concerns, and reported on how those concerns were addressed. Also, after the public hearing, the Applicant engaged with BNCA to work toward resolving their stated concerns. While the Applicant did not reach agreement with BNCA, it did try to address all of their stated concerns; and
- Displacement: The Project will replace four currently existing apartment buildings containing 156 apartments. To mitigate the risk of displacement, the Applicant has developed a phasing, relocation, and return plan, whereby existing residents of the Martin's View apartments would be relocated on-site while the buildings are razed and constructed in phases. Under this plan, current residents will not only be given the option to remain onsite during construction, but they will be offered the opportunity to return to the new buildings at current rents. Current residents also will be given assistance with packing and moving, and with permanently relocating elsewhere if that is what they choose. In addition, the Applicant has agreed to provide all returning Martin's View residents aged 65 or older with an up to \$100 per month utility subsidy as well as a discounted rate for parking to all returning Martin's View residents that is 50% less than will otherwise be charged to new residents in the Project. (Ex. 2, 2F, 2G, 12, 12B, 21, 40).

68. Mayor's Housing Order. The Project advances the Mayor's Order 2019-036 on housing which sets a goal of creating 36,000 new housing units by 2025, including 12,000 affordable housing units.

**NO UNACCEPTABLE PROJECT IMPACTS ON THE SURROUNDING AREA OR THE OPERATION OF CITY SERVICES (SUBTITLE X § 304.4(B))**

69. The Applicant provided evidence that the Application complies with Subtitle X § 304.4(b); that is, the Project will not create unacceptable impacts on the surrounding area or on the operation of city services and facilities:
- Zoning and Land Use Impacts. The Project will not have unacceptable zoning or land use impacts on the surrounding area, and any impacts are instead either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the Project. The PUD-related Zoning Map amendment to the RA-2 zone is consistent with the Property's Moderate Density Residential designation on the FLUM. The proposed residential use is appropriate for the site given its location and neighborhood context. The scale, configuration of the development, and traditional material selections, consisting primarily of red masonry, are also appropriate for the neighborhood. It also accomplishes objectives of the GPM designation mostly as a Neighborhood Conservation Area, which encourages maintenance of neighborhoods and redevelopment consistent with the existing scale and character of the area. The density and scale of the Project are also not inconsistent with Comprehensive Plan policy guidance that speaks to refurbishment of deteriorating housing; increases in density to address citywide housing goals and affordable housing needs; increases in density to promote mixed-income neighborhoods; and context sensitive design to avoid overpowering contrasts in scale. For example, the Far Southeast / Southwest Area Element specifically encourages the replacement of deteriorating apartment complexes in the Bellevue neighborhood with mixed-income housing that minimizes resident



- displacement. The density and scale of the Project are consistent with Land Use Element policies regarding development along corridors and neighborhood conservation, enhancement, and revitalization. The Project successfully balances the need for greater density that is essential to addressing citywide housing needs without causing physical and economic displacement, with the need to preserve the scale and character of lower-density areas. This is accomplished through the sensible placement of greater height and density on a site that is already planned and zoned for moderate density multi-family development in a manner that takes into consideration the scale of adjacent buildings, aligns with existing streets and sightlines, and takes advantage of considerable separation provided by adjacent rights-of-way (namely, 110-foot wide MLK Jr. Avenue). The Project's height, open space, and orientation/site plan will not overwhelm or cause unacceptable impacts on any nearby properties, especially the residential properties to the east. Due to these factors, the Project will not have unacceptable impacts on light, air flow, and the character of the existing neighborhood;
- Housing Market Impacts. The Project's addition of new housing is a favorable impact. The Project adds new, high-quality housing, including family-sized units, to an existing stabilized neighborhood. The Project's provision of larger units, including approximately 63 three-bedroom units, serves the important goal of better meeting the need for family-sized units in this area and in the District as a whole. By implementing a robust relocation, phasing, and return plan, the Project will minimize displacement of any existing residents and is unlikely to create any adverse impacts on the surrounding housing market. Instead, the addition of the Project's new rental units will help buffer increasing housing costs, as increases in supply are widely understood to dampen price increases. Furthermore, it will create additional housing opportunities for Ward 8 residents in a neighborhood that may otherwise have been unavailable to them. The mixed income nature of the Project – with a 17% IZ set-aside commitment – will ensure that this new housing will be available to all District and Bellevue residents;
  - Construction-Period Impacts. During the construction period for the Project, impacts on the surrounding area are capable of being mitigated. The Applicant has experience successfully completing construction projects without disturbing neighbors. The Applicant will work closely with nearby property owners and residents to manage and mitigate any construction impacts associated with the Project's development and will maintain regular communication and coordination throughout the Project's construction. Furthermore, as part of the CBA with the ANC, the Applicant has committed to a construction management plan to mitigate construction impacts;
  - Open Space, Urban Design and Massing Impacts. The Project has been configured to provide open green space for current and new residents as well as highlight Fort Greble Park. To achieve this, the Project encourages vehicular and pedestrian traffic through the existing Elmira Street, S.W. and egress through the proposed private driveway to the north. The Project's extensive landscaping and tree plantings along Elmira Street, S.W. and the private driveway are intended to extend the park eastward and will transform the site from its current state to have a favorable impact on the overall area. In addition, the Social Garden in the center of the Project will provide ample outdoor recreation and gathering space with lush plantings and improvements for an enhanced experience for residents and their guests;



- Transportation and Mobility Impacts. The Project will not have any unacceptable impacts on the public transportation facilities or roadways that it relies on for service. Instead, the Project's transportation impacts are either capable of being mitigated or acceptable given the quality of public benefits arising from the Project. In consultation with DDOT, the Applicant undertook a CTR for the Project. Notably, in its report, DDOT found that the Project meets zoning requirements for vehicle parking and is in line with DDOT's preferred parking maximum for a project of this size, mix of uses, and distance from transit (up to 291 spaces). Further, DDOT found that the TDM Plan is sufficiently robust to support non-automobile ownership lifestyles and encourage alternatives to auto travel subject to minor revisions to which the Applicant agreed to implement, including funding and constructing pedestrian safety improvements such as installing a missing crosswalk, a raised mid-block crossing, and permanent curb extensions and pedestrian refuge islands in the immediate vicinity of the Project. While certain impacts were identified, these impacts can successfully be mitigated. The Project's vehicular traffic impacts will be mitigated by nearby transit and be further mitigated by the Applicant's TDM plan, which incorporates several measures recommended by DDOT and agreed to by the Applicant that are designed to enhance the pedestrian experience and mitigate traffic impacts. The Property is well-served by transit and vehicular infrastructure. The Project also contains enough parking to accommodate the parking demand of residents without over-parking the site given its location and proximity to transit options. Furthermore, the Project makes reasonable accommodation for those who choose to or must own cars and ensures that parking demand does not adversely interfere with the on-street parking supply. Bicycle usage is also thoughtfully integrated into the design of the Project. The Applicant has also committed to assisting the nearby residential neighborhood establish RPP and exclude the Project from RPP eligibility, to ensure an absence of on-street parking impacts;
- Economic Impacts. The Project will have favorable economic impacts on the neighborhood and the District more generally. The Project will have a stabilizing and positive effect on the economy of Ward 8 and the District as a whole by providing housing for additional residents. The Project will provide approximately 821 new high-quality rental units, including approximately 63 three-bedroom units, that will help meet the existing housing shortfall in the District, including the need for family-sized and affordable housing. The Project's moderate and site-appropriate intensification of land use on the Property has positive tax revenue effects for the District. Density is a key factor to attracting higher-quality retail and service amenities to a neighborhood. For the current residents who opt to return to the Project, they will not assume significantly greater costs than they currently have for the reasons described above. To the extent there are any adverse economic effects from the Project, such effects are more than offset by the Project's numerous public benefits;
- Cultural and Public Safety Impacts. The Project will have favorable impacts on the culture of the surrounding area. The Project adds new residents from a mix of income levels who will contribute to the immediate neighborhood and the District in diverse and meaningful ways. The redevelopment of the Property helps revitalize the neighborhood and signifies investment and stewardship of the neighborhood with new residents. The Project itself represents an improvement in public safety by creating

more “eyes on the street” for Martin Luther King Jr. Avenue, S.W. and Elmira Street, S.W., which will have a positive effect on crime deterrence;

- Public Facilities and/or District Services Impacts. The Applicant submitted evidence that the Project will not result in any negative impacts to public facilities and infrastructure or District services. Furthermore, in addition to being reviewed by OP and DDOT, the Application was circulated by OP to numerous other District agencies and authorities for review, including the Metropolitan Police Department, the DHCD, the Washington Metropolitan Area Transit Authority, the Fire and Emergency Medical Services Department (“FEMS”), DOEE, DC Water, the Department of Parks and Recreation, the Department of Public Works, DC Public Library, and DC Public Schools, all of which were also invited to submit written comments on the Project. No agency comments were submitted raising issues or concerns regarding the Project’s impact on public facilities or services. The average daily water demand for the Project can be met by the existing District water system. The proposed sanitary sewer connections for the Project are from within the existing distribution system and will be coordinated with DC Water during the permitting process. The Project has been designed to achieve high levels of on-site stormwater retention. The requisite inlets and closed pipe system are designed and constructed to be in compliance with the standards set by DOEE, DC Water, and DDOT. Based on the Applicant’s civil engineer’s analysis, the current stormwater, sanitary, and water infrastructure system can sustain the Project and the expected residents, and it will not overburden the system. Further, the DOEE stormwater requirements that will be incorporated into the Project will retain and detain water to reduce the flow exiting the site into the sanitary sewer system. Solid waste and recycling materials generated by the Project will be collected regularly by the District Department of Public Works. Electricity for the Project will be provided by the Potomac Electric Power Company (“Pepco”) in accordance with its usual terms and conditions of service. All electrical systems are designed to comply with the D.C. Energy Code. Transformers will be installed on the Property or covered in the adjacent public space in accordance with Pepco’s and DDOT’s design guidelines. The Applicant further provided evidence that the Project will not have an unacceptable impact on area schools or public parks, recreation centers, or library services;
- Environmental Impacts. The Project will not have any unacceptable impacts on the environment, and instead will have mostly favorable impacts. The Project is designed to achieve high levels of environmental performance as evidenced by its satisfaction of the LEED Gold design standards. The Project will include bioretention, significant tree and other plantings, and rooftop solar in furtherance of sustainability objectives. The Project’s delivery of high-quality environmental design as well as usable outdoor spaces is a net improvement to the existing residential use;
- Public Schools. The Project will not have an unacceptable impact on schools in the District given the size of the Project, its mix and type of units, and the capacity for the District’s nearby schools to take on additional students. The Project is within the boundaries of Leckie Education Campus at 4201 MLK Jr. Avenue, S.W.; Hart Middle School at 601 Mississippi Avenue, S.E.; and Ballou High School at 3401 4th Street, S.E. DCPS data for nearby neighborhood public schools as of the 2021-22 school year (the latest year for which data are publicly available) are as follows: Leckie Elementary has a capacity for 530 students and enrollment of 303 students; Hart Middle School has

a total capacity for 1105 students and enrollment of 421 students; Ballou High School has a capacity for 914 students and enrollment of 636 students. In addition, several private and charter schools are near the Project, all offering educational options to residents who may seek alternatives to the neighborhood public schools. The Applicant expects that the school network will be able to accommodate, without any unfavorable impacts, the school-age children that may reside at the Project; and

- Parks/Recreation Centers/Library Services/Emergency and Health Services. The Project will have no adverse impacts on District services, such as parks, recreation centers, public library, and emergency and health services. To the extent the Project's future residents are new to the District, they will be contributing new tax dollars, both in the form of income taxes and through the indirect payment of property taxes associated with the Project, that facilitate the provision of District-run services. To the extent the Project's future residents are existing District residents, they have no net new impact. The Project will include open green space in the form of the central amenity space/Social Garden and streetscape design along Elmira Street, S.W. and the proposed private driveway. More broadly, Fort Greble Park is to the west of the Project and offers ample recreational and outdoor space for existing and future residents. In addition, DPR plans to renovate Fort Greble Park and Recreation Center shortly before the Project commences construction. On balance, the Project is unlikely to have any adverse impacts on the District's park services and is instead likely to be a net positive contributor to park services, especially with the Elmira Street improvements leading to the park and the signage for the park. William O. Lockridge / Bellevue Neighborhood Library is a nearby library. There are approximately 26 public library branches or other public facilities in the District. That equates to roughly one library branch per 26,000 residents. It is not likely that an additional 665 residential units (many of which will likely be occupied by existing District residents) would result in any adverse over-use or other adverse impacts on the District's library resources. The calculus for recreation centers is similar. There are approximately 70 public recreation centers in the District, for a ratio of approximately one center per 9,600 residents. It is similarly unlikely that the Project's additional 665 residential units would result in any adverse over-use or other adverse impacts on the District's recreation centers. The District has approximately 33 engine companies spread around the District. As stated above, the Project alone does not require any increase in the number of stations or FEMS personnel. Both FEMS and the Metro Police Department were invited to the interagency meeting hosted by OP, neither agency attended, nor did they submit any written comments to OP.

(Ex. 2, 12, 21, 40).

**INCLUDES PUBLIC BENEFITS AND PROJECT AMENITIES THAT ARE NOT INCONSISTENT WITH THE COMPREHENSIVE PLAN] OR OTHER ADOPTED PUBLIC POLICIES AND ACTIVE PROGRAMS RELATED TO THE PROPERTY (SUBTITLE X § 304.4(c))**

70. The Applicant provided evidence that the Application complies with Subtitle X § 304.4(c). The Applicant also provided evidence that the Project's public benefits and project amenities are not inconsistent with the Comprehensive Plan or other public policies and such benefits and amenities satisfy the criteria of Subtitle X § 305. As discussed in detail below, the proffered benefits exceed what could result from a matter-of-right development,

are tangible, measurable, and able to be delivered prior to issuance of the certificate of occupancy, and benefit either the immediate neighborhood or address District-wide priorities. *Id.* §§ 305.2, 305.3. The majority of the benefits accrue to the benefit of the area of ANC 8D, the ANC in which the Project is located (*Id.*; Subtitle X § 305.4; Ex. 2, 12, 21, 40).

71. The Application, as amended, enumerated the following benefits and amenities, superior to a matter-of-right project, organized under the categories defined by Subtitle X § 305.5:
- Superior Urban Design and Architecture (*Id.*) Subtitle X § 305.5(a)). The Project's high-quality design carefully echoes and respects the traditional design qualities of the existing residential development in the surrounding neighborhood to create a natural extension of the residential and institutional community (*Id.*);
  - Superior Landscaping (*Id.*) § 305.5(b)). The Project offers extensive landscaping and streetscape improvements along Martin Luther King Jr. Avenue, S.W. and Elmira Street, S.W. (*Id.*);
  - Affordable Housing (*Id.*) § 305.5(g)(1)). Seventeen percent of the Project's residential floor area (approximately 111,809 square feet) is devoted to IZ units reserved for households earning up to 60% MFI. This is in addition to the IZ units reserved for households earning up to 50% MFI derived from the residential units in the habitable penthouse, as well as the guaranteed below-market existing rent for returning existing residents. This is greater than a matter of right development in the existing RA-1 zone which would only require ten (10%) percent of residential GFA development for IZ units (*Id.*);
  - Three Bedroom Units (*Id.*) § 305.5(f)(3)). At least eight percent of the total units (approximately 63 units) are three-bedroom units (*Id.*);
  - On Site Daycare (*Id.*) § 305.5(i)). The Project will devote 5,500 square feet to a child daycare that will serve the public and operate during normal business hours at least five days each week for at least 50 weeks per calendar year (*Id.*);
  - Environmental and Sustainability Benefits (*Id.*) § 305.5(k)(5)). The Project has been designed to meet environmental design standards at the LEED Gold level, and the Project will achieve the minimum GAR requirement. The Project includes bioretention, extensive tree and landscape plantings, and approximately 8,000 square feet rooftop solar<sup>9</sup> (*Id.*);
  - Signage and Wayfinding for Fort Greble Park (*Id.*) § 305.5(q)). The Project takes advantage of its proximity to Fort Greble Park by highlighting the park as a community resource and recreation space. The Project includes wayfinding signage at the corner of Martin Luther King Jr. Avenue, S.W. and Elmira Street, S.W. and at the park's entrance to highlight the park's location; (*Id.*)
  - Mid-Block Crossing on Elmira Street (*Id.*) § 305.5(o)). The Project will provide a mid-block crossing on Elmira Street from Building 1 to the central courtyard amenity space and daycare located between Buildings 2 & 3. This will facilitate and encourage safe pedestrian access and be further coordinated with DDOT during the public space

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<sup>9</sup> Initially, the Applicant also proffered to relocate two heritage trees on the Property to Fort Greble Park; however, After the Urban Forestry Division visited and diagnosed both trees, they recommended removal instead of relocation, which the Applicant will carry out as part of the Project (Ex. 21; *see* Finding of Fact 51).

- permitting process. (Ex. 21) However, although the Applicant characterized the mid-block crossing on Elmira Street as a public benefit, the Commission believes it is not a public benefit but instead a mitigation measure, as further discussed below; and
- Community Service Center (Jobs Partner Space) (*Id.*) § 305.5(q)). The Project will provide a 1,000 square foot community service center space to be occupied by a locally based jobs partner nonprofit organization that will provide job-search and job-training assistance to residents and the broader neighborhood (Ex. 40).

#### IV. RESPONS.E.S TO THE APPLICATION

##### OP

72. Pursuant to Subtitle Z §§ 400.5 and 405.3, on March 18, 2024, OP filed a setdown report recommending that the Commission set the Application down for a public hearing (the “OP Setdown Report”) (Ex.10). The OP Setdown Report stated that the Project would be not inconsistent with the maps and policies of the Comprehensive Plan, including when viewed through a racial equity lens, and the Bellevue Small Area Plan.<sup>10</sup>
73. The OP Setdown Report also included the following comments for the Applicant to address prior to the public hearing, all of which the Applicant responded to in its prehearing submission as summarized above:
- OP recommended that the Applicant create a park gateway at the intersection of Elmira St. and Martin Luther King Jr. Avenue for Fort Greble Park, for which the Applicant provided renderings submitted with its prehearing submission and with its landscape plans attached to its supplemental prehearing submission (Ex. 12D, 21B6, 21B7);
  - OP requested additional details on the tenant relocation plan, which the Applicant provided in its prehearing submission (Ex. 12);
  - OP recommended that the Applicant provide some outdoor amenities outside the confined courtyard, which the Applicant incorporated into the updated plans submitted with its prehearing submission (*Id.*);
  - OP expressed concerns about the interior sunken courtyard, including how residents from all four buildings will access the space and how much light and air will be able to reach the space at various times of the year, which the Applicant responded to in its prehearing submission with additional drawings and an explanation (*Id.*); and
  - OP requested confirmation that the number of bicycle parking spaces will meet the minimum requirements for the proposed use, which the Applicant responded to in its prehearing submission (*Id.*).
- OP also noted that it would review the requested IZ flexibility further and provide a recommendation prior to the hearing (Ex. 10).

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<sup>10</sup> In response to Part 3 of the revised Racial Equity Analysis Tool, the OP Setdown Report provided disaggregated race and ethnicity data taken from the 2012-2016 and the 2017-2021 American Community Survey (“ACS”) 5-Year Estimates, which are available via the OP State Data Center. After the OP Setdown Report was filed, the OP State Data Center was updated to include more current ACS data from 2018-2022. The updated data, which includes the 2018-2022 ACS 5-Year Estimates, is provided in the OP Hearing Report and is summarized in Finding of Fact 75 below.



74. Pursuant to Subtitle Z § 405.6, on July 12, 2024, OP filed a hearing report recommending that the Commission approve the Application (the “OP Hearing Report” [Ex. 23], and together with the OP Setdown Report, the “OP Reports”). The OP Hearing Report included the following findings:
- FLUM: The proposed PUD and related map amendment to the RA-2 zone is not inconsistent with the FLUM’s designation of Moderate Density Residential for most of the site and Parks, Recreation, and Open for a narrow portion on the western end of the site. OP noted that the proposal addresses this designation well in terms of how it relates to and supports the neighboring Fort Greble Park;
  - GPM: The proposed PUD and related map amendment to the RA-2 zone is not inconsistent with the GPM’s Neighborhood Conservation Area designation for most of the site. OP acknowledged that a portion of the site appears to be designated Institutional on the GPM, but concluded that it does not believe this designation is intended “to promote a conversion of this portion of the site from residential to institutional, particularly given the clear direction on the FLUM that the subject site is appropriate for moderate density residential use.”;
  - Citywide Elements: The Project furthers various policies of the Comprehensive Plan Land Use, Transportation, Housing, Environmental Protection, Parks, Recreation and Open Space, Urban Design, and Educational Facilities Elements;
  - Area Element: The Project furthers the Far Southeast/Southwest Area Element by replacing the existing apartments “originally constructed in the 1940s with a new development comprised of 821 units and a daycare.” OP acknowledged that the Project would not directly further certain policies associated with the provision of affordable owner-occupied opportunities in the area; however, OP concluded that this was mitigated by the proposed affordable housing proffers and commitment to allow existing residents to remain on-site;
  - SAP: The Project would not be inconsistent with the Bellevue SAP by contributing to the SAP’s housing goal and reinforcing the desired east-west connectivity of Darrington Street, S.W. with the proposed private driveway;
  - The OP Hearing Report stated that the Applicant’s proposed public benefits and project amenities, principally the affordable housing and replacement housing, three-bedroom unit commitment, site design, and Fort Greble signage improvements, are commensurate with the requested PUD-related map amendment and zoning flexibility;
  - The OP Hearing Report also stated that any “potential impacts of the additional density would be outweighed by the significant benefits of the project, including replacement housing for existing residents and the provision of new housing and affordable housing opportunities, enhancements to the public realm, and improved environmental performance. In addition, the project would not result in unacceptable impacts on the surrounding area in terms of its built form.”;
  - OP did not object to the requested zoning flexibility, including a variance from the penthouse height requirements of Subtitle X § 303.18 and flexibility for the Applicant to construct the Project in phases; and
  - OP did not object to the requested design flexibility, including the Applicant’s revised flexibility pertaining to the provision of IZ units across the entire Project as opposed to individual phases or buildings.



(Ex. 23).

75. The OP Reports included a racial equity analysis with the following findings in response to the revised Racial Equity Analysis Tool:

- Disaggregated Race and Ethnicity Data: The OP Setdown Report provided disaggregated race and ethnicity data for the Far Southeast/Southwest Planning Area, which showed that during the 2012-2016 period, Black residents formed the largest portion of the population at 91% of the area's residents, which is significantly higher than District-wide. In the 2018-2022 period, Black residents continued to make up the largest portion of the population but the number of Black residents decreased, and the percentage fell to 87.75%. Most other groups saw an increase or retained their percentage of the population, particularly people who identified as "two or more races". The median income of the Planning Area was significantly lower than that of the District in both the 2012-2016 and 2018-2022 time periods. Between 2012-2016 and 2018-2022, the percentage of owner occupancy in the Planning Area increased from 18.8% to 23.4%. However, the homeownership rates for Black and "Two or more races" households are the lowest in the Planning Area. In 2012-2016, the unemployment rate in the Planning Area was at 22.8%, which was more than twice the rate of the District at 8.7%. The cost burden for housing in the Planning Area was approximately 18 percentage points higher than that of the District in 2012- 2016 time period, though it remains at over 50% of all households in the 2018-2022 time period it is decreasing at a slightly faster pace than the District as a whole;
- Based on the foregoing data, the OP Setdown Report inferred that Black households would make up a higher percentage of cost burdened households in the Planning Area, and correspondingly, would be more likely to benefit from the retention and replacement of existing affordable units, and the provision of new affordable housing that this proposal would provide; and
- Displacement: The OP Setdown Report noted that the site is currently developed with residential uses but the existing residents would not be displaced, temporarily or permanently, by this PUD. The owner of the Property has been in discussions with the existing residents and has submitted a proposed tenant relocation plan and construction phasing plan that would allow existing residents to remain on the site during redevelopment and following redevelopment. OP generally agrees with the Applicant's on-site tenant relocation strategy. The ability to provide on-site tenant relocation and the right to return to the new buildings are important. It will both prevent an overconcentration of the preserved units while also giving tenants some choice in where they will be residing in the proposed development as it progressed towards completion.

76. At the July 22, 2024, public hearing, OP testified in support of the Application and summarized its comments in its prior reports (July 22 Hearing Tr. at 78-79).

### **DDOT**

77. On July 12, 2024, DDOT filed a report (the "DDOT Report") (Ex. 24) expressing no objection to the Application subject to the following conditions:

- Fund and construct pedestrian safety improvements in the immediate vicinity of the site to minimize pedestrian exposure to crash risk and to ensure safe roadway crossings for residents and daycare students and parents, subject to DDOT approval. At a minimum, this should include:
  - Install the missing crosswalk and curb ramps on the northern leg of the Martin Luther King Jr. Avenue and Darrington Street, S.W. intersection;
  - Install a raised mid-block crossing on Elmira Street, S.W. between Buildings 1 and 2 and incorporate high-contrast materials in the midblock crossing of the curbless private driveway between Buildings 3 and 4; and
  - Construct permanent curb extensions and pedestrian refuge islands at the Martin Luther King Jr. Avenue, S.W. intersections with Darrington and Elmira Streets.
- Implement the TDM Plan as proposed in the June 10, 2024, CTR, for the life of the Project, unless otherwise noted with the following revisions:
  - Increase the minimum number of short- and long-term bicycle parking to 43 and 276, respectively;
  - Increase the minimum number of spaces in the long-term bicycle storage rooms designed with electrical outlets for the charging of electric bikes and scooters to 28;
  - Also, increase the minimum number of spaces placed horizontally on the floor to 138; and
- Provide the truck turning diagrams referenced in the CTR to demonstrate that trucks can enter and exit the public roadway network with head-in and head-out movements, consistent with DDOT standards.

At the July 22, 2024, public hearing, the Applicant agreed to the above conditions and stated that it had submitted the requested truck turning diagrams to DDOT (Ex. 32A1-32A5; July 22 Hearing Tr. at 62).

78. The DDOT Report included separate comments from DDOT's Urban Forestry Division, which noted that three large trees may qualify for relocation or preservation and that further coordination with the Applicant's team would be necessary to determine if such trees need to be relocated in accordance with District law (Ex. 24). At the July 22, 2024, public hearing, the Applicant stated it has an arborist and will work with DDOT to ensure that all trees on site will be protected as required by District law (July 22 Hearing Tr. at 47-48).
79. At the July 22, 2024, public hearing, DDOT testified in support of the Application and confirmed the Applicant's coordination with DDOT on the Project's transportation impacts and agreement on the proposed TDM plan and traffic calming measures and that they continued to have no objection to approval of the Application (July 22 Hearing Tr. at 80-83).

#### **OTHER DISTRICT AGENCIES**

80. The OP Hearing Report stated that OP had referred the Application to relevant government agencies for comment and had convened an interagency meeting with Applicant, which was attended by DHCD, DOEE, DC Water, DPR, and DDOT. No other agency comments were submitted in OP's report (Ex. 23).

#### **ANC**

81. On June 24, 2024, ANC 8D submitted a letter in general support of the Application. The letter stated that the ANC has “a few lingering reservations” with respect to expansiveness, traffic congestion, and the overall impact of the full Project on the community. In addition, the letter noted that returning residents might incur additional fees (for utilities, parking, etc.) that may hinder them from remaining on site. The ANC also noted that the Bellevue community is a “food desert” and that adding more residents may exacerbate strains on basic amenities and city services (Ex. 20).
82. On July 23, 2024, ANC 8D submitted a report<sup>11</sup> (Ex. 37, “ANC Report”) stating that at its properly noticed public meeting on June 27, 2024, at which a quorum was present, the ANC voted 4-2-0 in support of the Application. The report states that as the ANC supports the Application, but as previously expressed in its letter at Exhibit 20, the ANC remains concerned about the size and scope of the Project and its impact on traffic and travel in the community, as well as potential added rental costs (Ex. 37).
83. On September 19, 2024, ANC 8D Chair Rev. Wendy Hamilton submitted a public statement from the ANC which clarified its engagement process and its support for the Application, by highlighting its efforts to engage the community and “capture the voices of as many Martin View’s tenants and community residents” as possible, while affirming support of the Project despite community concerns. The letter acknowledged that the ANC was disheartened, but understanding, of the fact that its efforts had not fully met the expectations of some members of the community. The letter also stated that the \$175,000 the developer offered in the Community Benefits Agreement is to be awarded to local non-profits that provide vital services to the Bellevue community (Ex. 41).

#### **ORGANIZATIONS AND INDIVIDUALS IN SUPPORT**

84. On July 19, 2024, Living World Church submitted a letter stating that it supported the Project and its “sustainable investment” in the Bellevue community (Ex. 31).
85. Also on July 19, 2024, current residents of the Property submitted a petition with signatures from 13 individuals in support of the Project (Ex. 33).
86. The following nearby residents of the Property submitted letters in support of the Application: Lexieann Smith, Zina Moore, Michael Reed, and Jonathan Steel. These letters highlight the addition of housing units, particularly affordable housing units, improvements to Fort Greble Park, and the addition of amenity spaces as positive contributions to the Bellevue community (Ex. 27-30).

#### **ORGANIZATIONS AND INDIVIDUALS IN OPPOSITION (CONTESTED ISSUES)**

87. On July 22, 2024, Wanda Nettles submitted a letter and provided testimony in opposition that expressed concerns over the increase of units from 159 to 821 and the lack of parking in relation to the number of proposed units. Ms. Nettles also stated that the Project would

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<sup>11</sup> ANC 8D previously submitted a report at Exhibit 35, which did not provide the ANC’s recorded vote on the motion to adopt the report as required by Subtitle Z § 406.2. ANC 8D submitted a revised report which includes the recorded vote (Ex. 37).

exacerbate traffic on Martin Luther King Jr. Avenue, S.W. Ms. Nettles expressed concern about the impact on the mental health of those living in “overcrowded, compacted living space[s].” Ms. Nettles further stated that she opposes the Project’s design and believes the “community should remain one with low rise apartments and green spaces” (Ex. 34).

88. On July 23, 2024, Sheila Bunn, representing BNCA, submitted testimony in opposition. In her letter, Ms. Bunn expressed the following concerns about the Project:
- Increased traffic congestion and limited parking due to the fact that the Project provides only 276 parking spaces for 821 residential units;
  - The Project would obstruct neighbors’ skyline views and encroach upon existing green space, thereby affecting the preservation of the community’s character;
  - Concerns about the relocation of long-term residents and whether returning Martin’s View residents would be forced to pay additional costs for utilities and parking;
  - The lack of clarity about the number of affordable and market rate units and data to evidence that there is a market for 665 additional units; and
  - Additional strain on infrastructure and public services, given that the Bellevue neighborhood is in a food desert, is lacking in many basic amenities, and often endures delayed city services.
- (Ex. 36).
89. On July 24, 2024, Anna Hamilton submitted written testimony in opposition. In her letter, Ms. Hamilton highlighted the following concerns:
- The lack of clarity about the number of affordable housing units and whether they would include those reserved for returning Martin’s View residents;
  - The low amount of available on-street parking and whether returning residents would have to pay a high fee for parking in the Project;
  - Light and noise impacts resulting from the Project’s height and density;
  - The displacement of current Martin’s View residents and homeowners in the surrounding area because of increases in property taxes;
  - The affordability levels of the IZ units are not realistically affordable for Ward 8 residents to qualify and there should be more IZ units proffered in the Project;
  - The removal of green space;
  - The strain on public infrastructure;
  - The ANC provided support of the Application without adequately voicing community concerns and input; and
  - Commented on how some of the Applicant’s interactions during meetings were insensitive to the overall community.
- (Ex. 38).
90. At the July 22, 2024, hearing, the following individuals provided testimony in opposition to the Project: Frederick Nelson, Anna Hamilton, Wanda Nettles, and Sheila Bunn on behalf of BNCA. Anna Hamilton, Ms. Nettles, and Ms. Bunn largely reiterated their concerns as outlined in their written submissions summarized above. Mr. Nelson expressed concerns about the potential added costs for returning Martin’s View residents and indirect

displacement that would result from higher income residents moving into the Project (Ex. 39; July 22 Hearing Tr. at 87-98).

91. Following the July 22, 2024, hearing, and as requested by the Commission, the following submissions were filed to the record regarding the continued dialogue between the Applicant and the individuals and organizations in opposition:
- In an email submission dated September 20, 2024 (Ex. 42), Mr. Nelson states that he continues to oppose the Application along with several Martin's View residents because of the increase in costs that returning residents would face after the Project is completed. Mr. Nelson states he is continuing to engage with Martin's View residents, ANC 8D, and the Applicant;
  - In a letter dated September 30, 2024 (Ex. 43), the Applicant provided the following updates on its post-hearing discussions with the individuals and organization in opposition:
    - The Applicant states it met twice with Mr. Nelson and, in response to his concerns about potential added costs for returning residents, has agreed to subsidize utility costs, up to \$100 per month, for all senior returning Martin's View residents 65 years of age or older;
    - The Applicant states it met or talked with Ms. Hamilton several times and, in response to her concerns about potential impacts on parking in the neighborhood, has agreed to cover the cost of RPP for residents within 200 feet of the Property where RPP is established for three years after the first phase of the Project opens;
    - The Applicant states it met with Ms. Nettles and will ensure construction workers do not use on-street parking and will assist nearby residents with obtaining RPP. In response to Ms. Nettles' concerns about project size, potential impacts on mental health caused by living in apartment buildings, obscuring her views, the amount of parking, and traffic, the Applicant referred to its response in its post-hearing submission (*see* Ex. 40) addressing those concerns; and
    - The Applicant states it has continued to meet and communicate with BNCA numerous times but cannot reach agreement with BNCA on its various requests, including a cash payment from the Applicant of \$2.75 million;
  - In an email submission dated September 30, 2024 (Ex. 44), Anna Hamilton restated concerns regarding ANC 8D's lack of transparency in voicing community concerns, lack of community input in negotiating the various commitments in the CBA signed between the ANC and the Applicant, displacement of Martin's View residents due to increased utility and parking costs, and potential parking impacts particularly for homeowners within 200 feet of the Project;
  - In a submission dated October 21, 2024 (Ex. 46-46C),<sup>12</sup> BNCA provided an update on a September 28, 2024, community meeting held to discuss the Project, which was

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<sup>12</sup> Prior to the acceptance of the October 21, 2024 BNCA statement into the record, BNCA submitted a statement that originally included several additional pages which were not accepted into the record by the Commission and were therefore redacted from the filing because those pages introduced new information and new arguments that were outside the scope of what the Commission requested from BNCA at the conclusion of the July 22, 2024 public hearing. In its redacted filing, BNCA raised the argument that notice of the public hearing was not received by some



attended by the Applicant, Martin's View tenants, Bellevue residents, and an ANC 8D Commissioner. BNCA's submission stated the following:

- BNCA states that opponents continued to express concerns about the Project's size and scope as well as impacts on traffic, parking, and increased costs to Martin's View residents;
- BNCA claims that the Applicant's representative stated at the meeting that they would reimburse the cost of utilities to all senior (age 60+) returning Martin's View tenants, but later added conditions including a \$100 per month cap on the reimbursement and a 65 and older age limit; and
- BNCA also states it tried to negotiate an alternative CBA directly with the Applicant which would include a \$3 million micro-loan program for Bellevue residents.
- The BNCA filing also attached various press releases and flyers announcing the September 28, 2024 BNCA meeting; and
- In a filing dated October 22, 2024 (Ex. 47), the Applicant submitted a response to BNCA's October 21, 2024, filing which stated the following:

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property owners within 200 feet of the Property and some Martin's View tenants in accordance with Subtitle Z § 402.1(d) and (e), respectively, and that the Commission should reopen the hearing to allow further testimony; and the argument that the Applicant had not demonstrated site control of the Property which BNCA claimed is a requirement of D.C. law for a PUD. Within its discretion, the Commission struck the pages from the record containing these arguments; however, the Commission is providing a discussion of its rationale for doing so herein out of an abundance of caution. Regarding the notice argument, the case record reflects that the July 22, 2024, public hearing for this case was noticed in accordance with Subtitle Z § 402.1, including publication of notice in the *District of Columbia Register*, notice to the affected ANC, notice to property owners within 200 feet, and notice on the OZ website (See Ex. 14, 15, 16, 17; see also Findings of Fact 7 and 8). While there is no evidence in the case record to demonstrate that each Martin's View tenant was provided with notice of the public hearing in accordance with Subtitle Z § 402.1(e), the requirements of Subtitle Z § 402.1(d) and (e), respectively, do not require public hearing notice to be received by every 200-footer or every tenant of the property in order for the hearing to proceed. Had BNCA raised this notice argument simultaneous with or prior to the July 22, 2024 public hearing, the Commission still would have been justified in proceeding with the public hearing based on the criteria set forth in Subtitle Z § 402.12, which authorizes the Commission to hold a public hearing as scheduled when a notice defect is alleged and proven based on specific considerations, including the nature and extent of the actual notice received by the parties and the public from all sources and attendance at the public hearing. However, since the notice argument was raised following the public hearing in a post hearing submission, the Commission did not have an opportunity to consider and rule on it immediately prior to the public hearing. Nevertheless, based on the Applicant's community outreach efforts, which included presentations and individual meetings with Martin's View residents (see Finding of Fact 67) as well as the posting of 10 notices of the public hearing around the Property (see Ex. 17, 25), and the attendance and testimony during the July 22, 2024 public hearing, the Commission was not persuaded during its October 2024 deliberations on this case that Martin's View tenants did not have adequate notice of the public hearing or that further testimony in opposition would result in new arguments beyond the concerns already raised by opponents who attended the public hearing. Therefore, the Commission did not reopen the hearing to allow further testimony as requested by BNCA. For all these reasons, the Commission felt justified in striking BNCA's notice argument from the record. However, out of an abundance of caution, the Commission waives the requirements, under Subtitle Z § 402.1(d) and (e), respectively, that notice of the public hearing be provided to owners of all property within 200 feet of the Property and each person having a lease with the owner of the Property. The Commission finds these waivers can be granted, pursuant to Subtitle Z § 101.9, because the July 22, 2024, public hearing was well attended, forms of notice were provided, and notices of the public hearing were posted and maintained around the Property (Ex. 17, 25). Regarding the site control argument, the Commission does not believe any Zoning Regulations require demonstration of site control by an Applicant to obtain PUD relief; therefore, the Commission felt justified in striking BNCA's site control argument from the record.

- The Applicant provided some clarifications about the September 28, 2024, BNCA community meeting.<sup>13</sup> The Applicant reiterated that, in addition to the September 28 meeting, it has had six calls with BNCA between July 2024 and September 2024 and engaged in extensive email contact with BNCA including 180+ emails exchanged since July 22, 2024; and
- In response to BNCA's concerns about the Project, the Applicant reiterated that it cannot reduce the size of the Project and have it remain financially feasible; the Applicant has agreed to mitigate the costs to returning Martin's View residents through an up to \$100 utility reimbursement for seniors aged 65+ and that the Applicant never committed to providing the reimbursement to persons aged 60 and older; and the Applicant cannot agree to make a contribution to BNCA and has already agreed to a Community Benefits Agreement with ANC 8D.

### **NCPC**

92. The Commission referred the Application to NCPC on October 24, 2024, for the 30-day review period required by § 492(b)(2) of the District Charter (Dec. 24, 1973, Pub. L. 93-198, title IV, § 492(b)(2); D.C. Official Code 6-641.05)) (Ex. 48).
93. On December 6, 2024, NCPC staff filed a letter stating that it found the proposed PUD and related map amendment to be not inconsistent with the Comprehensive Plan for the National Capital and would not adversely impact any other identified federal interests (Ex. 51).

## **CONCLUSIONS OF LAW**

### **AUTHORITY**

1. Pursuant to the authority granted by the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2018 Repl.)), the Commission may approve: (a) a PUD consistent with the requirements of Subtitle X, Chapter 3, and Subtitle Z; (b) a PUD-related amendment to the Zoning Map pursuant to Subtitle X § 303.12; and (c) related zoning flexibility pursuant to Subtitle X §§ 303.1.

### **STANDARD OF REVIEW FOR APPROVAL OF A PUD AND RELATED ZONING MAP AMENDMENT**

2. Public Review. Pursuant to Subtitle X § 300.5, "A comprehensive public review by the Zoning Commission of a PUD is required in order to evaluate the flexibility or incentives requested in proportion to the proposed public benefits."
3. Land Area and Contiguity. Pursuant to Subtitle X §§ 301.1 and 301.5, the minimum area for a PUD in the applicable RA-2 zone is one acre, all of which must "be contiguous, except that the property may be separated only by public streets, alleys, or rights-of-way."

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<sup>13</sup> Specifically, the Applicant clarified the following: (1) there were three supporters in attendance including one Martin's View tenant; (2) there is no Martin's View tenant's association and no one is authorized to speak for all tenants; and (3) DDOT did not call the Project's proposed daycare dangerous, but instead said the Applicant should implement a TDM program which the Applicant has committed to do (*See* Ex. 47, p. 1).

4. PUD Purpose. Pursuant to Subtitle X §§ 300.1 and 300.2, 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 project amenities; (c) protects and advances the public health, safety, welfare, and convenience, and is not inconsistent with the Comprehensive Plan; and (d) does not circumvent the intent and purposes of the Zoning Regulations, or result in action that is inconsistent with the Comprehensive Plan.
5. PUD Flexibility. Pursuant to Subtitle X § 303.1, as part of the PUD process, the Zoning Commission may grant relief from any building development standard or other standard referenced in the zone reference table with the exception of use regulations. Housing and arts credits are considered use regulations and are not eligible for flexibility through the PUD process. Pursuant to Subtitle X § 303.12, a PUD-related zoning map amendment shall be considered flexibility against which the Zoning Commission shall weigh the benefits of the PUD.
6. Zoning Relief. Pursuant to Subtitle X § 303.14, as a part of any PUD, the applicant may request the Commission grant an area variance to permit additional height and density beyond that permitted by this section. The Zoning Commission shall apply and not deviate from the variance standard stated at Subtitle X, Chapter 10.
7. Comprehensive Plan. Pursuant to Subtitle X §§ 300.1, 300.2, and 304.4(a), the Commission must find that the PUD “is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site.” The Commission is directed to review the Application against the Comprehensive Plan “as a whole.”<sup>14</sup> The Comprehensive Plan Act of 1984 (D.C. Law 5-75; D.C. Official Code § 1-306.01(b)) established the Comprehensive Plan’s purposes are:
  - To define the requirements and aspirations of District residents, and accordingly influence social, economic and physical development;
  - To guide executive and legislative decisions on matters affecting the District and its citizens;
  - To promote economic growth and jobs for District residents;
  - To guide private and public development in order to achieve District and community goals;
  - To maintain and enhance the natural and architectural assets of the District; and

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<sup>14</sup> *Friends of McMillan Park v. District of Columbia Zoning Comm’n*, 149 A.3d 1027, 1035 (D.C. 2016) (“The Comprehensive Plan is a broad framework intended to guide the future land use planning decisions for the District. Even 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*. The Comprehensive Plan reflects numerous occasionally competing policies and goals and except where specifically provided, the Plan is not binding. Thus, the Commission may balance competing priorities in determining whether a PUD is consistent with the Comprehensive Plan as a whole. If 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.”) (internal citations and quotations omitted).

- To assist in conservation, stabilization, and improvement of each neighborhood and community in the District.
8. Impacts. Pursuant to Subtitle X § 304.4(b), the Commission must find the Application “does not result in unacceptable project impacts on the surrounding area or on the operation of city services and facilities but instead shall be found to be either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the project.”
  9. Benefits and Amenities. Pursuant to Subtitle X § 304.4(c), the Commission must find the PUD “[i]ncludes specific public benefits and project amenities of the proposed development that are not inconsistent with the Comprehensive Plan or with other adopted public policies and active programs related to the subject site.” Pursuant to Subtitle X §§ 305.2, 305.3, 305.4, and 305.12, the PUD’s benefits and amenities must “benefit the surrounding neighborhood or the public in general to a significantly greater extent than would likely result from development of the site under the matter-of-right provisions,” in majority part “relate to the geographic area of the Advisory Neighborhood Commission in which the application is proposed,” and “meet the following criteria: (a) Benefits shall be tangible and quantifiable items; (b) Benefits shall be measurable and able to be completed or arranged prior to issuance of a certificate of occupancy; (c) Benefits may primarily benefit a particular neighborhood or area of the city or service a critical city-wide need; and (d) Monetary contributions shall only be permitted if made to a District of Columbia government program or if the applicant agrees that no certificate of occupancy for the PUD may be issued unless the applicant provides proof to the Zoning Administrator that the items or services funded have been or are being provided.” Moreover, a PUD “may qualify for approval by being particularly strong in only one (1) or a few categories [of public benefits] but must be acceptable in all proffered categories and superior in many.”
  10. PUD Balancing Test. Pursuant to Subtitle X § 304.3, in reviewing a PUD application, the Commission must: “[J]udge, balance, and reconcile the relative value of the public benefits and project amenities offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case.” Pursuant to Subtitle X § 303.11: “The amount of flexibility from all other development standards not addressed by this section shall be at the discretion of the Zoning Commission.”
  11. Evidentiary and Evaluative Standards. Pursuant to Subtitle X § 304.2, “the applicant shall have the burden of proof to justify the granting of” the Application according to the applicable standards. Moreover, “the Commission must address each material contested issue of fact.”<sup>15</sup>

#### **SATISFACTION OF PUD ELIGIBILITY STANDARDS**

12. Land Area and Contiguity. The minimum area included in a PUD in the RA-2 zone must be no less than one acre (43,560 square feet), and all such area must be contiguous or separated by a public street or alley. The Property constitutes approximately 4.9 acres (213,748 square feet) which is contiguous or separated by a public street. Accordingly, the Commission concludes that the Application satisfies the contiguity requirements and

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<sup>15</sup> *Barry Farm Tenants and Allies Ass’n. v. D.C. Zoning Comm’n.*, 182 A.3d 1214, 1224 (D.C. 2018) (citations omitted).

minimum area requirement of Subtitle X §§ 301.1 and 301.5 for a PUD (Finding of Fact [“FF”] ¶ 11).

13. Public Review. Based on the July 22, 2024, public hearing (*see* July 22 Hearing Transcript) and the Commission’s review of the record, the Commission undertook “[a] comprehensive public review . . . of [the Application] . . . to evaluate the flexibility or incentives requested in proportion to the proposed public benefits” in satisfaction of Subtitle X § 300.5 (FF ¶ 54, 76, 79, 90-91).
14. PUD Purpose. The Commission concludes that the Project satisfies the purposes of a PUD:
  - The Project is superior to a matter-of-right development because it provides more housing and affordable housing than what could be constructed on the Property without a PUD and related Zoning Map Amendment. The existing RA-1 zoning imposes greater site constraints with respect to height and lot occupancy that would foreclose the proposed development configuration. The amount of housing and affordable housing included in the Project exceed the amount and depth of affordability that would be required in a matter-of-right development pursuant to the Zoning Regulations’ IZ requirements. The Project’s construction supports a package of public benefits and project amenities as outlined above, which exceed what would be provided in any matter-of-right development. Finally, the Project underwent a thorough public review process with opportunities for existing resident, neighbor, community group, and public agency participation. Those opportunities would not exist for a matter-of-right development of the Property (FF ¶ 27, 67, 70-71);
  - The Project offers a commendable number and quality of meaningful public benefits and project amenities. The Project’s design echoes and respects the traditional design qualities of the existing residential and institutional development in the surrounding neighborhood to create a natural extension of the residential community. The Project features gardens along Martin Luther King Jr. Avenue, S.W. and Elmira Street, S.W. and includes tree and other landscape plantings throughout the site, including in the central courtyard amenity space. The Project offers landscaping and streetscape improvements along Martin Luther King Jr. Avenue, S.W. and Elmira Street, S.W. Specifically, the landscape plan incorporates mature plantings and diverse vegetation to encourage pedestrian traffic and highlight the Project’s proximity to Fort Greble Park. The Project provides permanent affordable rental housing. Seventeen percent of the Project’s residential GFA (approximately 111,809 square feet) is devoted to IZ units reserved for households earning up to 60% MFI. This is greater than a matter of right development in the existing RA-1 zone, which would only require 10% of residential GFA development for IZ units. This IZ commitment is in addition to the IZ units at 50% MFI that are required from the penthouse habitable space. The Project provides family-sized rental units to the Bellevue neighborhood and the District at large. At least eight percent of the total units (approximately 63 units) are three-bedrooms. This not only increases the housing stock generally but increases the ability of families to live, work, and play in the District. Furthermore, all returning residents will be guaranteed their existing rent rates (with increases allowed by rent control laws), which is below market rate for the rest of the building, adding another dimension of affordability to the Project. The Project is also committed to providing an on-site child daycare.



Approximately 5,500 square feet are reserved for the daycare, which will serve residents and community members as well as members of the public. Currently, the daycare is expected to operate during normal business hours at least five days per week and 50 weeks per calendar year. In addition, the Project is reserving at least 1,000 square feet for a community service center to provide job services for residents and neighbors. Further, the Project has been designed to meet environmental design standards at the LEED Gold level. Specific sustainable benefits in the Project include extensive tree and landscape plantings, and approximately 8,000 square feet of rooftop solar. The Project takes advantage of its proximity to Fort Greble Park by highlighting the park as a community resource and recreation space. The Project includes wayfinding signage at the corner of Martin Luther King Jr. Avenue, S.W. and Elmira Street, S.W. and at the park's entrance to mark the park's location. The Project will also include a mid-block crossing on Elmira Street, S.W., which the Applicant characterized as a public benefit. However, the Commission does not believe the mid-block crossing is a public benefit; rather, the Commission believes it is a mitigation measure that will help minimize the risk to residents and other pedestrians as they make mid-block crossings between Buildings 1 and 2 to access the Project and its daycare facility (FF ¶ 70-71, 77);

- The Project protects and advances the public health, safety, welfare, and convenience. The Project redevelops dated housing stock with new housing and affordable housing with amenities and life-enhancing features in an established but underdeveloped area of the District (FF ¶ 28-47); and
- The Project does not circumvent the intent or purposes of the Zoning Regulations. The Project and proposed PUD-related Zoning Map Amendment to the RA-2 zone are consistent with the purposes of the Zoning Regulations. The RA-2 zone is intended to permit moderate density residential development, Subtitle F § 101.5, and the RA-2 zone is appropriate for the Property, which is located within an existing moderate density residential neighborhood. The RA-2 zone allows for a broad mix of residential uses and thus is suitable for the proposed multifamily residential use. The Project's proposed use, height, and density are consistent with the character of the RA-2 zone, while also maintaining the intensity of development reflected in the existing surrounding rowhome community (FF ¶ 27, 61).

**CONSISTENCY WITH THE COMPREHENSIVE PLAN AND OTHER ADOPTED PUBLIC POLICIES RELATED TO THE PROPERTY (SUBTITLE X § 304.4(a))**

15. The Commission concludes that pursuant to Subtitle X §§ 300.1, 300.2, and 304.4(a), the Application is not inconsistent with the Comprehensive Plan and with other public policies and active programs, when the Comprehensive Plan is considered as a whole, for the following reasons:

- FLUM. The Project is not inconsistent with the FLUM's Moderate Density Residential designation for most of the Property. Through the PUD process, the Applicant proposes to rezone the Property to the RA-2 zone, which is specifically referred to in the Framework Element as being consistent with the Moderate Density Residential FLUM designation. The Project's density of 2.592 FAR exceeds the up to 1.8 FAR contemplated in the Moderate Density Residential FLUM category, but greater density is possible in these factual circumstances because the Project both complies with IZ

- and is a PUD. The Project's density also exceeds the matter-of-right density allowed in the RA-2 zone (i.e., 1.8 FAR, or 2.16 FAR with IZ bonus density), but it is within the range of up to 2.592 FAR permitted for an RA-2 PUD. Likewise, the Project's 60-foot height, while it is more than the 50-foot height allowed for a matter-of-right development in the RA-2 zone, is equal to the 60-foot height permitted for a PUD in the RA-2 zone. The Commission acknowledges that the Project maximizes the allowable density and height for a PUD in the RA-2 zone, which results in buildings that exceed the heights of the existing Martin's View apartment buildings; however, the Commission finds any potential Comprehensive Plan inconsistency, including policy guidance encouraging development of a scale, context, and character consistent with the surrounding neighborhood and buildings, to be outweighed, specifically, by competing Comprehensive Plan policies of the Citywide and Far Southeast / Southwest Area Elements that encourage the creation of more housing and affordable housing, as discussed in more detail below. The Commission notes that a small portion of the western side of the Property is designated Parks, Recreation, and Open Space on the FLUM. The Commission believes the Project is not inconsistent with this designation as it incorporates landscaping that extends from the existing Fort Greble Park along Elmira Street, S.W., as well as wayfinding signage along Martin Luther King Jr. Avenue, S.W. to direct residents and visitors to the park (FF ¶ 17, 18, 66, 74);
- GPM. The Project is not inconsistent with the GPM's Neighborhood Conservation Area designation for most of the Property. The Project is compatible with the range of land uses (institutional, park, and residential) and building types found in the surrounding area and with the scale and character of the neighborhood. The prevailing character and scale of the area surrounding the Property is residential with several institutional buildings within the vicinity. The redevelopment of the Property for primarily residential use is consistent with the GPM designation since it enables more levels of housing affordability to be developed, which could create more opportunities for neighborhood serving retail and other amenities. In addition, the Commission notes that a portion of the southern side of the Property is designated Institutional on the GPM. The Commission believes the Project is not inconsistent with this designation because it incorporates design features that are compatible with the surrounding institutional uses, including a school and hospital. The Commission notes OP's finding in its reports that this Institutional designation does not appear to be intended to promote a conversion of the site to institutional use "given the clear direction on the FLUM that the subject site is appropriate for moderate density residential use." (FF ¶ 19, 20, 66, 74);
  - Land Use Element. The Project is not inconsistent with the Land Use Element, which is the Element that should be given the greatest weight (10-A DCMR § 300.3). The Project redevelops an underutilized site in an established neighborhood. The Project contributes to the area's housing and affordable housing stock, including the need for larger, family-sized units, and promotes sustainability objectives as called for in the Land Use Element (FF ¶ 66, 74);
  - Other District-Wide Elements. The Application is also not inconsistent with other Citywide Elements, including the Transportation, Housing, Environmental Protection, Educational Facilities, Urban Design, and Parks, Recreation and Open Space Elements, by creating more housing and affordable housing than can currently be accommodated

on the site as a matter-of-right as well as incorporating transportation-related improvements and sustainable design (FF ¶ 66, 74);

- Far Southeast/Southwest Area Element. The Application is also consistent with the Far Southeast/Southwest Area Element. The Project will redevelop an underutilized site with a residential development containing approximately 821 rental units with public space improvements and a sustainable design. The additional housing should help mitigate increasing housing costs and bring new residents to an established neighborhood (FF ¶ 66, 74);
- Potential Inconsistencies. The Commission acknowledges that OP stated the Project would not directly further certain policies and action statements of the Far Southeast/Southwest Area Element associated with the provision of affordable owner-occupied opportunities in the area, since the Project is providing rental as opposed to ownership units. However, the Commission believes that any potential inconsistency with this policy or others is outweighed by the Project's overall consistency with the policies and action statements described above, particularly those related to the creation of more housing and affordable housing overall (FF ¶ 66, 74);
- Bellevue SAP. The Application is not inconsistent with the Bellevue Small Area Plan. The Project will provide new market-rate and affordable housing opportunities for new and existing Bellevue residents, including residents that currently reside on the Property. The Project has been designed in coordination with OP, and with the community through an extensive engagement process (FF ¶ 66, 74); and
- Mayor's Housing Order. The Application is not inconsistent with the Mayor's Housing Order to add units and affordable units to the Far Southeast/Southwest Planning Area (FF ¶ 68, 74).

16. The Commission concludes that the Project is not inconsistent with Comprehensive Plan when viewed through a racial equity lens. The Commission reaches its conclusion based on the racial equity analyses provided by the Applicant, inclusive of community outreach and engagement information, and the OP reports, inclusive of disaggregated race and ethnicity data for the Far Southeast/Southwest Planning Area, as discussed below (FF ¶ 67, 75).

17. Applicant's Racial Equity Analysis. The Commission finds that the Applicant's racial equity analysis addresses the components of the revised Racial Equity Analysis Tool. The Commission notes the following from the Applicant's analysis:

- Community Outreach and Engagement: The Applicant's racial equity analysis indicates that it conducted community outreach and engagement, including multiple meetings with ANC 8D, current residents of the Martin's View apartment buildings, neighbors, and community organizations, including BNCA. As a result of these meetings, the Applicant states it modified the Project to include an on-site space dedicated to older residents and the Social Garden area; and the Applicant entered into a CBA with ANC 8D which includes various commitments to the community requested by the ANC. In addition, as the result of continued dialogue with individuals in opposition and BNCA following the July 22, 2024, public hearing, the Applicant agreed to partially subsidize the cost of parking (50%) for returning Martin's View residents as well as the cost of utilities (up to \$100 per month) for returning residents ages 65 and older. The

Commission understands that several community members and BNCA continue to be opposed to the Application due to various issues and concerns, which are further addressed below (*See Conclusion of Law* [“COL”] ¶ 32). However, the Commission believes that the Applicant has adequately responded to the community outreach and engagement component of the revised Racial Equity Analysis Tool, and that community feedback has been incorporated into the Project design and configuration. The Commission notes that the affected ANC and multiple community members filed letters in support of the Application (FF ¶ 81-86); and

- Displacement: The Commission recognizes that current residents of the Martin’s View apartments will have to be relocated to accommodate the construction of the Project in phases. However, as discussed herein, the Applicant has submitted a phasing, relocation, and return plan, which the Commission believes will mitigate potential displacement impacts by offering current Martin’s View residents the option to be relocated on-site during construction and the right to return at current rents (which may increase as permitted under rent control laws) following construction as well as financial and logistical assistance with moving elsewhere if they do not decide to remain on-site (FF ¶ 31, 49, 67, 75).

18. OP’s Racial Equity Analysis. The Commission finds that OP’s racial equity analysis addresses the components of the revised Racial Equity Analysis Tool. The Commission notes the following from OP’s analysis:

- Disaggregated Race and Ethnicity Data: OP’s racial equity analysis included disaggregated race and ethnicity data for the Far Southeast / Southwest Planning Area showing it has a majority Black population of 87.75%, which has been experiencing a continual decrease between 2012 and 2022 similar to District-wide trends during this period; the Planning Area population is becoming slightly more diverse. Although the average income for Black residents increased significantly over the 2012-2022 time period, it did not increase to the level that it has District-wide. The data also shows that the Far Southeast / Southwest Planning Area has a higher unemployment rate and cost burden for households compared to the District as a whole. Based on this data, the Commission is hopeful that the Project will help create more family-sized housing and affordable housing units that will provide a diverse range of housing opportunities and ease housing cost burdens for Planning Area residents, which may be inferred are primarily Black families given the high Black population in the Planning Area (FF ¶ 75).

#### **PROJECT IMPACTS – FAVORABLE, MITIGATED, OR ACCEPTABLE (SUBTITLE X § 304.4(b))**

19. The Commission concludes that for the reasons given below and pursuant to Subtitle X § 304.4(b), the Application does not result in any unacceptable impacts on the surrounding area or District services or facilities that cannot be mitigated or that are not acceptable given the Project’s benefits and amenities:

- Zoning and Land Use Impacts. The Commission concludes that the Project has no unacceptable zoning or land use impacts on the surrounding area. The PUD-related Zoning Map amendment to the RA-2 zone is consistent with the Property’s Moderate Density Residential designation on the FLUM, as discussed above. The proposed moderate density residential use on a large site adjacent to a park is appropriate for the

- site given its location and neighborhood context. The apartment building scale, configuration of the development, and traditional material selections, consisting primarily of red masonry, are also appropriate for the surrounding neighborhood. It also accomplishes objectives of the GPM designation mostly as a Neighborhood Conservation Area, which encourages redevelopment consistent with the existing scale and character of the area in order to provide more housing for the District (FF ¶ 69);
- Housing Market Impacts. The Commission concludes that the Project's addition of new housing is a favorable impact by replacing dated housing stock with new rental housing units in an existing established neighborhood. The Project will contribute new permanently affordable housing that will allow residents from varied income levels to remain in or relocate to the neighborhood without straining the existing housing market. The Project's provision of larger units, including approximately 63 three-bedroom units, serves the important goal of better meeting the need for family-sized units in this area and in the District as a whole. By implementing a relocation and return plan, the Project will mitigate the displacement of existing residents and is unlikely to create any adverse impacts on the surrounding housing market. Instead, the addition of the Project's new rental units should help buffer increasing housing costs, as increases in supply are understood to dampen price increases. The Commission acknowledges that there may be additional costs for returning residents, but the sustainability features of the building (LEED Gold), the Applicant's commitments to offset/subsidize some of those costs, and the District programs to assist with utilities and related costs will mitigate any potential adverse impact on these returning residents (FF ¶ 69);
  - Construction-Period Impacts. The Commission concludes that any potential construction-related impacts that the Project may generate on the surrounding area during the development period are capable of being mitigated. The Commission credits the Applicant's statement that it has experience successfully completing construction projects without disturbing neighbors and that the Applicant will work closely with abutting property owners and residents to manage and mitigate any construction impacts associated with the Project's development and will maintain regular communication and coordination throughout the Project's construction. Further, the Applicant's commitment to a construction management plan will provide assurance that construction impacts will be mitigated to the greatest extent possible (FF ¶ 69);
  - Open Space, Urban Design and Massing Impacts. The Commission concludes that the Project's reconfiguration to provide open green space, reduce impervious surfaces, and highlight Fort Greble Park is a favorable impact. The Project encourages vehicular and pedestrian traffic through the existing Elmira Street, S.W. and egress through the proposed private driveway to the north. The Project's landscaping and tree plantings along Elmira Street, S.W. and the private driveway are intended to extend the park eastward and will have a favorable impact on the overall area, in addition to the landscaping that will be included along Martin Luther King Jr. Avenue, S.W. Furthermore, the Project's open space, its site planning, its moderate height and massing commensurate with its surroundings, in addition to its wide separation from the nearest residential properties, means that impacts on light and air available to neighboring properties will be minimized and not unacceptable (FF ¶ 69);



- Transportation and Mobility Impacts. The Commission concludes that the Project will not have any unacceptable impacts on the transportation and parking facilities that surround the Property and that, to the extent there are any potential transportation impacts, such impacts are capable of being mitigated by the Applicant's TDM plan and other commitments. The Property is well-served by transit and vehicular infrastructure. Multiple Metrobus lines also service the Bellevue neighborhood, and it is expected that many of the Project's residents will use public transit. The Project's favorable pedestrian, bicycle, and transit access help mitigate any expected traffic concerns. The Project also contains approximately 276 underground parking spaces to accommodate the parking demand of residents without over-parking the site given its location and proximity to transit options. The Commission notes that the Applicant could provide as few as 137 vehicular parking spaces under the Zoning Regulations, and that the DDOT Report set a maximum number of vehicular parking spaces at 291 spaces. Bicycle usage is also thoughtfully integrated into the design of the Project, with long- and short-term bicycle parking conveniently provided underground and adjacent to roadways. While some of those in opposition expressed concern about the Project's impacts on traffic and parking, as further discussed below, the Commission believes such impacts are either mitigated through the Project's provision of parking and the Applicant's commitment to reimburse the costs for residents within 200 feet to obtain RPP permits and make transportation-related improvements along Martin Luther King Jr. Avenue, S.W. and Elmira Street, S.W., or acceptable given the Project's public benefits. The Commission notes that, as discussed previously, the Applicant's commitment to provide a mid-block crossing on Elmira Street is a mitigation measure which will enhance pedestrian safety for those who will be accessing the Project and its daycare facility (FF ¶ 69, 77);
- Economic Impacts. The Commission concludes that the Project will have favorable economic impacts on the neighborhood and District more generally. The Project will have a positive effect on the economy of Ward 8 by providing housing for residents at a mix of income levels, which includes many permanently affordable units. The Project will provide approximately 821 new rental units, including approximately 63 three-bedroom units, that will help meet the existing housing shortfall in the District, including the need for family-sized and affordable housing. In addition, the mix of market rate, IZ affordable, and returning resident units will ensure a mix of incomes necessary for retail and other benefits to the neighborhood overall. The Project's moderate and site-appropriate intensification of land use on the Property has positive tax revenue effects for the District. To the extent there are any adverse economic effects from the Project, such effects are offset by the Project's significant public benefits (FF ¶ 69);
- Cultural and Public Safety Impacts. The Commission concludes that the Project will have favorable impacts on the culture of the surrounding area. The Project adds new residents who will contribute to the immediate neighborhood. The redevelopment of the Property helps revitalize the neighborhood and signifies investment in the neighborhood with new residents. The Project itself represents an improvement in public safety by creating more "eyes on the street" for Martin Luther King Jr. Avenue, S.W. and Elmira Street, S.W. (FF ¶ 69);

- Public Facilities and/or District Services Impacts. The Commission concludes that the Project will not result in any unacceptable negative impacts to public facilities and infrastructure or District services. The Project was reviewed by numerous District agencies—specifically, OP, DDOT, and the Metropolitan Police Department. For the reasons described above, the infrastructure and city services that will serve this Project are adequate, and no agency that did or had the opportunity to review the Project identified any adverse impacts on public facilities or District services from the Project. As further discussed below, the Commission acknowledges objections from certain individuals in opposition in this regard, but the Commission finds that the evidence supports the conclusion that there will not be adverse impacts on public infrastructure and facilities (FF ¶ 69);
- Environmental Impacts. The Commission concludes that the Project will have mostly favorable impacts on the environment. The Project is designed to achieve high levels of environmental performance as evidenced by its satisfaction of the LEED Gold design standards. The Project will include bioretention, tree and other plantings, and rooftop solar in furtherance of sustainability objectives. The Project’s delivery of modern environmental design as well as usable outdoor spaces is a net improvement to the existing residential use in a dated building with large impervious surface parking (FF ¶ 69);
- Public Schools. The Commission concludes that, due to the Project’s size, mix, and type of units and the capacity for the District’s nearby schools to take on additional students, the Project will not have any unacceptable impacts on schools in the District. The Commission credits the Applicant’s testimony that the school network will be able to accommodate, without any unfavorable impacts, the school-age children that may reside at the Project (FF ¶ 69);
- Parks/Recreation Centers/Library Services/Emergency and Health Services. The Commission concludes that the Project will have no adverse impacts on District services, such as parks, recreation centers, public library, and emergency and health services. To the extent the Project’s future residents are existing District residents, they have no net new impact. The Project will include open green space in the form of the central amenity space/social garden and streetscape design along Elmira Street, S.W. and the proposed private driveway. More broadly, Fort Greble Park is to the west of the Project and offers recreational and outdoor space for existing and future residents. On balance, the Project is unlikely to have any adverse impacts on the District’s park services and is instead likely to be a net positive contributor to park services. As stated above, no agency identified adverse impacts on emergency or health services (FF ¶ 69); and
- Overall. In summary, the Commission concludes that, taken as a whole, the Project is unlikely to result in unacceptable impacts and any resulting adverse impacts are fully capable of being mitigated. None of the impacts are unacceptable in light of the proposed mitigation, particularly when considered against the public benefits and project amenities proffered by the Project.

#### **PUD BENEFITS AND AMENITIES (SUBTITLE X § 304.4(c))**

20. The Commission concludes that for the reasons given below the Project's benefits and amenities satisfy the criteria of Subtitle X §§ 304.4(c), 305:
- Specific Benefits and Amenities. Each of the Project's benefits and amenities is specifically described (FF ¶ 71);
  - Not Inconsistent with the Comprehensive Plan. As described above, the Application is not inconsistent with the Comprehensive Plan nor are the benefits and amenities inconsistent with the Comprehensive Plan or other public policies applicable to the Property (FF ¶ 66, 71);
  - Relative to Matter-of-Right Development. The Project's benefits are superior to a significantly greater extent than would likely result from a matter-of-right development on the Property. The Project provides more affordable units and more family-sized units than would be possible or required as a matter-of-right. Likewise, the Project's sustainability features are superior to any matter-of-right development, and the Project's other benefits would not be required as part of a matter-of-right development (FF ¶ 71);
  - Relate to Geographic Area of ANC. The Project's benefits relate primarily to the area of ANC 8D (FF ¶ 71);
  - Tangible and Quantifiable. Each of the Project's benefits is tangible and/or quantifiable (FF ¶ 71);
  - Measurable and Satisfied Prior to Certificate of Occupancy. Each of the Project's benefits is capable of being delivered or arranged prior to the issuance of a full Certificate of Occupancy for the proposed multifamily residential use (FF ¶ 71);
  - Primarily Benefiting Neighborhood or Serving a Critical City-Wide Need. The Project's benefits primarily benefit the neighborhood around the Property (e.g., by providing sustainable buildings), but some benefits serve a critical city-wide need (e.g., affordable housing open to all residents of the District) (FF ¶ 71);
  - Acceptable in All and Superior in Many. The Project's design, landscaping, site planning, affordable housing, sustainability, and other benefits are superior. All of the Project's benefits are acceptable (FF ¶ 71); and
  - Overall. In sum, the Commission concludes that the Project's benefits and amenities satisfy the applicable criteria.
21. The Commission concludes that the Project offers a commendable number and quality of meaningful public benefits and project amenities, including superior architecture and design, landscaping and streetscape improvements, IZ affordable housing units, three-bedroom family sized units, a child daycare, and a community service center providing job services for residents, among others (FF ¶ 71). These public benefits and project amenities and the others are discussed in further detail under COL 14 and COL 26.

#### **AREA VARIANCE FOR MECHANICAL PENTHOUSE HEIGHT**

22. Subtitle X §§ 1000.1 and 1000.3 authorize the Commission to grant variances from the Zoning Regulations "[w]here, by reason of . . . extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation . . . would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize . . . a variance. . . provided that the relief can

be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.”

23. An applicant for an area variance must prove that an extraordinary condition of the property would result in “peculiar and exceptional practical difficulties” by demonstrating first that compliance with the area restriction would be unnecessarily burdensome; and second, that the practical difficulties are unique to the particular property (*Gilmartin v. D.C. Bd. of Zoning Adjustment*, 579 A.2d 1164, 1170 (D.C. 1990); Subtitle X § 1002.1(a)).
24. Based on the case record and the Findings of Fact herein, the Commission concludes that the Applicant has satisfied the area variance standards for relief from the maximum mechanical penthouse height limit of Subtitle X § 303.18, to permit a mechanical penthouse height of 18.5 feet for the Project’s elevator overruns, for the following reasons:
  - The Commission finds that the Property is affected by an exceptional situation or condition because it is exceptionally large at approximately five acres yet improved with small apartments buildings; and it is identified on the FLUM of the Comprehensive Plan as suitable for moderate density residential use but surrounded by non-residential uses including a park, school, and hospital. It is unusual for a residential property to be surrounded by three essential community amenities. Therefore, the Commission concludes that the Property is “uniquely positioned.” In addition, Subtitle X § 303.18 permits additional height for penthouse mechanical space for a PUD in several zones, including the RA-1 and RA-3 zones, but not the RA-2 zone proposed for the Property. Altogether, these circumstances present an exceptional situation or condition;
  - Strict application of the Zoning Regulations would result in a practical difficulty in that the Project’s 60-foot height requires a mechanical penthouse height of greater than 15 feet to accommodate the elevator equipment and space for maintenance workers. The Applicant has attested to the fact that only cable elevators with overhead pulleys are feasible for the Project given the travel distance between the parking garage and penthouse. Without the requested overrun, the Project would have no residential units at the penthouse level, resulting in the loss of IZ units required for the penthouse residential space; and
  - Granting the requested variance would not pose a substantial detriment to the public good nor substantially impair the intent, purpose, and intent of the Zoning Regulations. The Project incorporates setbacks for the elevator shafts of at least 1:1 on the courtyard and rear sides; and setbacks of 2:1 facing the public streets, private driveways, and public park. Therefore, the elevator overrun should not decrease visibility or result in visual clutter.(FF ¶ 51, 62, 74).

#### **PUD BALANCING (SUBTITLE X § 304.3)**

25. Based on the case record and the Findings of Fact above, the Commission concludes that the Application satisfies the balancing test under Subtitle X §§ 304.3 and 304.4(c) because the Project includes specific public benefits and project amenities that are not inconsistent with the Comprehensive Plan or other public policies and active programs related to the

Property. Furthermore, the public benefits of the Project outweigh the degree of development incentives requested as well as any potential adverse impacts of the Project that are not otherwise favorable or adequately mitigated and therefore justify approval of the Application (FF ¶ 71).

26. The Commission concludes that the Applicant's proffered public benefits and amenities, including superior urban design and architecture, superior landscaping, housing and affordable housing, three-bedroom units, an on-site daycare, environmental and sustainability benefits, and uses of special value including signage and wayfinding and a community service center, are commendable (FF ¶ 71; *see also* COL 14).
27. The Commission concludes that the requested flexibility for a PUD-related map amendment from the current RA-1 zone to the RA-2 zone is appropriate because the Property is currently underutilized given its improvement with dated apartment structures, and the proposed RA-2 zoning is consistent with the Property's moderate density residential FLUM designation. The map amendment will allow the Property to be redeveloped with a Project at a density and height that can produce substantial new housing, including affordable housing and three-bedroom units, and is not inconsistent with the Comprehensive Plan when taken as a whole, for the reasons discussed above (FF ¶ 27, 61, 66, 74).
28. The Commission concludes that the requested variance relief from the mechanical penthouse height limit requirement of Subtitle X § 303.18 to permit a height of 18.5 feet for only the elevator overruns, satisfies the applicable criteria and is balanced by the proffered benefits and amenities resulting from the Project (FF ¶ 62, 74).
29. The Commission concludes that the requested design flexibility, flexibility for the phasing of the Project and validity of the zoning order, and flexibility to permit a 1,000 square foot community service center use, are balanced by the proffered benefits and amenities resulting from the Project (FF ¶ 65, 74).
30. The Commission concludes that the Project was reviewed in a public process, and that the Applicant engaged in meaningful outreach with current Property residents, the surrounding community, community organizations (including BNCA), and the ANC (FF ¶ 67).
31. The Commission concludes that the Applicant has carried its burden of justifying the request set forth in the Application by providing substantial evidence, reasonably acceptable, as to each element of the Commission's review of the Application as set forth above (FF ¶ 61-71).

#### **OPPOSITION ARGUMENTS (CONTESTED ISSUES)**

32. The Commission acknowledges the letters and testimony in opposition to the Application, which raised the arguments listed below (FF ¶ 87-91). The Commission's responses to each of the opposition arguments/contested issues are also listed below:
  - The Project's height, density, and massing are excessive and inconsistent with the neighborhood's character and surrounding low-rise buildings:



- Commission's Response: The Commission believes the Project's height, density, and massing are not inconsistent with what the Comprehensive Plan maps envision for the Property, as discussed above (COL ¶ 15). The Applicant's request for a PUD-related map amendment to the RA-2 zone is suitable given the Property's FLUM designation of Moderate Density Residential on most of the site. While the Project will replace the existing two- to three-story Martin's View apartments with taller buildings, these buildings will have a height of 60 feet and overall FAR of 2.592, which is permitted for a PUD in the RA-2 zone. Importantly, the added height and density facilitated by this PUD will enable the Project to provide additional housing and affordable housing, including several family-sized units, in proximity to transit and such amenities as a hospital, a school, and a public park, which is encouraged by numerous Comprehensive Plan policies and goals. While the Applicant has requested a variance for the mechanical penthouse height, the Commission believes such additional penthouse height is not excessive given the elevator shafts are set back at least 2:1 when viewed from public streets, private driveways, and the public park (FF ¶ 62). Therefore, the Commission believes the Project's overall size and massing are appropriate given the Property's location and designations on the Comprehensive Plan maps;
- The Project will eliminate existing green space and will have negative light, noise, and air impacts on neighboring properties:
  - Commission's Response: The Commission understands the Property is adjacent to Fort Greble Park and is currently occupied by the Martin's View apartment buildings. The Project respects the surrounding green space by incorporating wayfinding signage where none currently exists at the intersection of Martin Luther King Jr. Avenue, S.W. and Elmira Street, S.W. directing visitors to the park (FF ¶ 55). In addition, the PUD features landscaping and hardscaping along Elmira Street that connects to Fort Greble Park. While the Project represents a higher intensity development compared to the existing Martin's View apartments, the Property is separated from the residential uses to the east by the 110-foot-wide Martin Luther King Jr. Avenue, S.W., which will mitigate any potential impacts on neighbors due to light, noise, and air (FF ¶ 56). The Project also incorporates massing, setbacks, and landscaping to minimize its visual bulk. During construction, impacts will be mitigated by the Applicant's construction management plan which it has entered into as part of the CBA with ANC 8D (FF ¶ 53);
- The Project will exacerbate traffic and parking in the neighborhood and strain existing infrastructure and public services:
  - Commission's Response: The Commission acknowledges that the Project proposes a substantial increase in the number of residents on the site when compared to existing conditions. The Commission believes the Project provides an appropriate amount of parking based on its proximity to transit. With approximately 276 vehicular parking spaces, the Project provides nearly the maximum number of spaces (291) recommended by DDOT. The Commission notes that the Applicant has committed to adhere to a robust TDM plan, which was reviewed by DDOT, and incorporates conditions and mitigation measures suggested by DDOT (FF ¶ 77). In addition, the Applicant has agreed in its CBA to restrict RPP permits for Project

residents; the Applicant has agreed as a condition of this Order that it will include a restriction in all residential leases at the Project prohibiting tenants from obtaining RPPs or parking at on-street locations where RPPs are established; and the Applicant has committed to reimburse the cost of RPP for residents living within 200 feet of the Project for the first three years of the Project (FF ¶ 91). Therefore, the Project should not have an unacceptable impact on parking in the neighborhood. While some individuals in opposition voiced concerns about potential impacts on infrastructure and public services, the Applicant has provided testimony and evidence from its civil engineer stating that the Project can be accommodated by the current infrastructure system (FF ¶ 56). In addition, the Commission notes that the Project was shared by OP with multiple District agencies, none of which expressed any concerns about the Project's potential impacts on public infrastructure and services (FF ¶ 80);

- There is uncertainty around the Project's affordability level and whether returning Martin's View residents may face increased costs:
  - Commission's Response: As summarized above, the Project will dedicate at least 17% of its residential floor area to IZ units for families earning up to 60% MFI; and provide the 50% MFI unit(s) required by the penthouse habitable space (FF ¶ 52). This affordable housing proffer exceeds the 10% set-aside that would be required for a matter-of-right development and the Commission finds the proffer sufficient, despite opposition calls for more affordable units within the Project. The Applicant has also explained that the affordable units will not include those units reserved for returning Martin's View residents. The Applicant has acknowledged that returning residents will continue to pay current rents (which may increase as permitted under rent control laws) and should not face significantly higher utility costs due to the Project's more modern and energy-efficient design. In addition, the Applicant has committed to providing a utility cost subsidy of up to \$100 per month for returning Martin's View residents ages 65 and older; and a 50% subsidy on the cost of parking for returning Martin's View residents (FF ¶ 91). The Commission believes these commitments in conjunction with the Applicant's comprehensive phasing, relocation, and return plan should sufficiently mitigate the potential increased costs to returning Martin's View residents;
- The Project will result in the displacement of existing residents in the neighborhood by increasing property taxes and making the neighborhood less affordable:
  - Commission's Response: The Commission believes the Project's creation of more market-rate and affordable housing will have a beneficial impact on the surrounding neighborhood by increasing the supply of housing and providing more housing opportunities for Ward 8 residents. In addition, the Applicant has agreed to a comprehensive relocation plan that will allow existing residents of the Property to remain on site during construction and move directly into a newly constructed unit. The Commission acknowledges that the Project could potentially result in indirect displacement impacts, including increased property taxes; however, the Commission finds these potential impacts to be outweighed both by the proffered benefits and amenities of the Project and the Comprehensive Plan policies that would be advanced by allowing the proposed increased density on this Property site. The Commission again notes the Applicant's relocation and return plan, which

will proactively mitigate direct displacement of existing Martin's View residents (FF ¶ 31). The Commission acknowledges that some of those in opposition have characterized the immediate neighborhood as a "food desert" and are concerned that the influx of residents will exacerbate scarcity for local services; however, the Commission is hopeful that the Project's addition of new residents will help bring more commercial activity and demand to the area and improve the likelihood for new businesses to open and thrive in Bellevue; and

- Neither the Applicant's team nor ANC 8D engaged in sufficient or transparent community outreach and engagement:
  - Commission's Response: The Commission believes the Applicant engaged in substantial and meaningful community outreach and engagement including multiple meetings with the ANC and community members and continued such outreach to opponents of the Project and BNCA following the public hearing, as requested by the Commission (FF ¶ 67). The Commission acknowledges that several neighbors continue to be opposed to the Project; however, the Commission notes the Applicant has provided responses to each of the opposition concerns and refined its Application in good faith to incorporate mitigations to address concerns, such as a utility and parking subsidy for returning Martin's View residents and reimbursements for the cost of RPP for immediate neighbors (FF ¶ 91). Therefore, the Commission believes the Applicant's community outreach and engagement achieved the primary objective of Part 2 of the Commission's Racial Equity Analysis Tool, which is community participation in the overall Application process. The Commission acknowledges that some of those opposed to the Application also raised various issues with how ANC 8D held its public meetings. The Commission has no role in dictating how an ANC conducts its public meetings procedure and only looks to the testimony and report of the affected ANC. In this case, the ANC did not provide testimony at the July 22, 2024, public hearing, but did submit a report in general support of the Application, as further discussed below.

33. The Commission has made findings on "each material contested issue of fact." In particular, the Commission notes that it is not its function to consider all the possible alternatives to development of the Property, but rather to evaluate whether the PUD satisfies the applicable standards for the Application (including whether the Project "results in unacceptable project impacts on the surrounding area").<sup>16</sup> Still, the Commission has evaluated the Project's potential impacts and the interpretation and application of various provisions of the Comprehensive Plan and Zoning Regulations, as discussed above.

#### **GREAT WEIGHT TO RECOMMENDATIONS OF OP**

34. The Commission is required to give "great weight" to the recommendation of OP pursuant to Section 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 (2018 Repl.)) and Subtitle Z § 405.9

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<sup>16</sup> See *Spring Valley-Wesley Heights Citizens Ass'n v. District of Columbia Zoning Comm'n*, 88 A.3d 697, 715 (D.C. 2013) ("It was not the function of the Commission to consider all the possible alternatives to development of the East Campus; its only task was to evaluate whether the proposed site will become objectionable to neighboring properties.").

(*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)).

35. The Commission finds OP's detailed analysis of the Application, its overall conclusion that the Application satisfied the PUD requirements and is not inconsistent with the Comprehensive Plan, including when viewed through a racial equity lens, and its ultimate recommendation to approve the Application persuasive and concurs with OP's recommendation. The Commission also concurs with OP's recommendation to approve the Applicant's request for a variance from the maximum mechanical penthouse height limit of Subtitle X § 303.18 as well as the Applicant's requested zoning and design flexibility (FF ¶ 72-76).

#### **GREAT WEIGHT TO THE WRITTEN REPORT OF ANC 8D**

36. The Commission must give "great weight" to the issues and concerns raised in the written report of the affected ANC pursuant to Section 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) (2012 Repl.) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances (*Metropole Condo. Ass'n*, 141 A.3d at 1087). The District of Columbia Court of Appeals has interpreted the phrase "issues and concerns" to "encompass only legally relevant issues and concerns." (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted)).
37. The ANC 8D Report states that ANC 8D voted to support the Application, with a few "lingering concerns" with respect to the Project's size and impact on the community; traffic congestion; and potential added costs to returning Martin's View residents (FF ¶ 81-83). The Commission responds to these concerns as follows:
- ANC Issue/Concern: The Project is expansive and may strain existing services and amenities in the neighborhood:
    - Commission's Response: As discussed above, the Project will replace the lower-intensity Martin's View apartments with new multifamily residential buildings that are 60 feet tall. The Commission believes the increase in height and density is appropriate given the Property's Moderate Density Residential designation on the FLUM; and that the Project's height and density of 2.592 FAR is permitted under the proposed RA-2 zone (FF ¶ 66). Furthermore, the Commission is persuaded by the Applicant's civil engineering analysis which shows that the Project can be accommodated by the existing public infrastructure and services (FF ¶ 56). Therefore, the Commission acknowledges the ANC's concerns about height and size, but ultimately believes the Project is suitable and appropriate given the Property's location and designations on the Comprehensive Plan maps;
  - ANC Issue/Concern: The Project will have an impact on parking and traffic congestion in the area:
    - Commission's Response: As discussed above, the Project will contain approximately 276 vehicular parking spaces which was deemed sufficient by DDOT. The Applicant has also agreed to various mitigation measures, including a

robust TDM plan and a commitment to restrict Project residents from obtaining RPP permits, which will further minimize the Project's impact on the neighborhood's traffic and congestion (FF ¶ 56, 77). Therefore, the Commission acknowledges the ANC's concerns about potential impacts on traffic, but ultimately believes the Project provides an adequate amount of parking and will not result in unacceptable impacts on existing congestion in the area; and

- ANC Issue/Concern: The Project may result in additional costs to returning Martin's View Residents.
  - Commission's Response: As discussed above, the Applicant has acknowledged the potential increase in costs for Martin's View residents and has addressed such risks by agreeing to provide a 50% subsidy for parking to returning Martin's View residents as well as a subsidy of up to \$100 per month to cover the cost of utilities for returning Martin's View residents who are ages 65 and older (FF ¶ 91). The Commission believes the Applicant's comprehensive relocation plan provides assurances that the returning Martin's View residents will continue to pay their current rents, with increases that are allowed under current rent control laws (FF ¶ 31). Therefore, the Commission acknowledges the ANC's concerns about potential costs to returning Martin's View residents but ultimately concludes that such potential costs have been addressed and mitigated by the Applicant.

## **DECISION**

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission concludes that the Applicant has satisfied its burden of proof and, therefore, **APPROVES** the Application, subject to the following guidelines, conditions and standards for:

- (a) A consolidated PUD and related Zoning Map Amendment to the RA-2 zone;
- (b) A variance from the mechanical penthouse maximum height requirements of Subtitle X § 303.18;
- (c) Flexibility to permit a 1,000 square foot community service center use for a jobs training and assistance nonprofit organization;
- (d) Flexibility for the phasing of the Project and validity of the zoning order to permit the Project to be constructed in phases; and
- (e) Such other design flexibility as is set forth in the Conditions hereof.

A. **Project Development**

- 1. The Project shall be built in accordance with the plans and elevations dated June 21, 2024 (Ex. 21B1-21B9), as updated by the plans dated August 30, 2024 (Ex. 40A) (collectively, the "Final Plans"), and as modified by the guidelines, conditions, and standards herein.
- 2. The Property shall be developed with four multifamily residential buildings with a daycare and community service center (for a jobs partner nonprofit organization) with a total of approximately 821 residential units and approximately 276 underground parking spaces, and having a maximum height of 60 feet (excluding penthouses) and overall FAR of 2.592.



3. The Project shall be developed pursuant to the RA-2 zone, as permitted through a PUD, except as set forth herein or modified hereby as shown in the Final Plans, and with variance relief from the mechanical penthouse height limit of Subtitle X § 303.18, as shown on Sheets A21-A22 of the Final Plans, and zoning flexibility to allow a community service center use.
4. The Project shall have design flexibility as follows:
  - a. 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 buildings as shown on the plans approved by the Order;
  - b. 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;
  - c. 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 include, but are not limited to, doorways, canopies, railings, and skylights;
  - d. Number of Residential Units. To provide a range in the approved total number of residential dwelling units plus or minus 10%, provided that (1) the total square footage of the Project’s residential dwelling units shall not be reduced, and (2) the percentage of gross floor area square footage reserved for affordable housing shall not be reduced;
  - e. Parking Layout. To make modifications to the parking configuration, including layout, and to vary the number of parking spaces plus or minus 10% so long as the number of automobile and bicycle parking spaces is at least the minimum number of spaces required by the Zoning Regulations;
  - f. 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 Review Division or the Public Space Committee;
  - g. 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 Gold;
  - h. GAR Calculation and Satisfaction. To vary the features to satisfy the GAR requirement and to satisfy the GAR requirement across the entire Project as opposed to individual phases or Buildings, and satisfaction of the GAR requirement shall be determined upon completion of all four Buildings in the Project;
  - i. Unit Type Distribution. To vary unit types and sizes contained in the Project and in individual Buildings, provided that at least eight percent of all units in the Project are three-bedrooms; and
  - j. Inclusionary Zoning (“IZ”) Units. To satisfy the IZ development standards under Subtitle C § 1005 and the IZ floor area set aside requirements across the

entire Project as opposed to individual phases or Buildings, provided that at least 13% of the residential floor area per Building is devoted to IZ units.

**B. Public Benefits**

1. **For the life of the Project**, the Applicant shall set aside at least 17% of the residential floor area as affordable housing (Inclusionary Zoning units) reserved for households earning at or below 60% MFI;
2. **For the life of the Project**, the affordable housing for the Project shall be administered by the DC Department of Housing and Community Development through the IZ program. The affordable housing shall comply with all development standards, tenancy regulations and implementation requirements for IZ units as set forth in DCMR Chapter 10 of Title 11-C and Chapter 22 of Title 14;
3. **For the life of the Project**, the Inclusionary Zoning units in the Project shall be in accordance with the following chart, subject to the flexibility noted herein [*see chart below*]:

Residential Unit Type	Residential GFA/% of Total	Income Type	Affordable Control Period	Affordable Unit Type	Notes
Total	657,700 SF (includes 119,764 SF of residential floor area in cellars and projections)		Life of Project	Rental	NA
	66,955 SF of habitable penthouse		Life of Project	Rental	NA
Market Rate	545,891 SF (excludes penthouses)	Market	Life of Project	Rental	This includes the units for returning residents that will be rented at current rents (below market) for as long as those returning residents live in them.
IZ	111,809 SF / 17%	60% MFI	Life of Project	Rental	NA
	6,696 SF / 10% of PH	50% MFI	Life of Project	Rental	NA

The Inclusionary Zoning Covenant required by D.C. Official Code § 6-1041.05(a)(2) (2012 Repl.) shall include a provision or provisions requiring compliance with all the terms of this Condition;

4. **For the life of the Project**, the Applicant shall devote at least eight percent of the total units in the Project as three-bedroom units;
5. **For the life of the Project**, the Applicant shall reserve at least 5,500 square feet in Buildings 2 & 3 for a child daycare, which will serve the public and operate during normal business hours at least five days each week for at least 50 weeks per calendar year; and
6. **For the life of the Project**, the Applicant shall reserve at least 1,000 square feet in the Project for a locally based jobs training and jobs assistance nonprofit organization (i.e., community service center), that will provide job-search and job-training assistance to residents of the Project and the broader neighborhood, at no cost to the organization.
7. Martin's View – Senior Residents:

- a. **Prior to the issuance of the first building permit for the Project**, the Applicant shall provide to the Zoning Administrator a list of all current Martin's View residents aged 65 and above (as of the date that the Applicant files its first raze permit application) (the "Senior Residents List"); and
  - b. **Prior to the issuance of the first Certificate of Occupancy for the Project**, the Applicant shall provide a copy of the lease for all returning residents from the Senior Residents List who will live in the Project, and such lease shall include a provision that the Applicant will provide a utilities subsidy, up to \$100 per month, to the lessee for the duration of the lessee's residence in the Project.
8. Martin's View – Current Residents:
  - a. **Prior to the issuance of the first building permit for the Project**, the Applicant shall provide to the Zoning Administrator a list of all current Martin's View residents (as of the date that the Applicant files its first raze permit application) (the "Current Residents List"); and
  - b. **Prior to the issuance of the first Certificate of Occupancy for the Project**, the Applicant shall provide a copy of the lease for all returning residents from the Current Residents List who will live in the Project, and such lease shall include a provision that automobile parking will be available to those lessees at a price that is 50% less than otherwise available to other Project residents for the duration of the lessee's residence in the Project.
9. **For three years after the issuance of the first Certificate of Occupancy for the Project**, the Applicant will reimburse the cost of Residential Permit Parking ("RPP") for residents living within 200 feet of the Project site (Ex. 2D). Eligible residents must provide proof of payment of the RPP fee to the Applicant or the Applicant's agent to receive the reimbursement.
10. **For the life of the Project**, the Applicant shall include a provision in all leases for the Project that residents who have cars are required to park them in the Project's underground garage or at another off-street location and are not permitted to park at nearby on-street locations where RPPs are established; and that residents are not allowed to apply for RPPs.
11. **Prior to the issuance of a final certificate of occupancy for the Project**, the Applicant shall install a wayfinding sign for Fort Greble Park at the corner of MLK Jr. Avenue, S.W. and Elmira Street, S.W. and an entrance sign at the west end of Elmira Street, S.W. at the entrance to Fort Greble Park. The final designs and locations of the signs are subject to final review and approval by DDOT public space permitting authorities and the Department of Parks and Recreation, as applicable.
12. **Prior to the issuance of a final certificate of occupancy for the Project**, in accordance with the requirements in Subtitle X § 305.5(k)(5), the Applicant shall provide the Zoning Administrator with evidence that the Project will meet the minimum standards necessary for LEED Gold certification.
13. **Prior to the issuance of a final certificate of occupancy for the Project**, the Project shall include at least 8,000 square feet of rooftop solar panels.

C. **Transportation Management**

1. **Prior to issuance of the final Certificate of Occupancy for the Project and for the life of the Project**, the Applicant shall adhere to the following Transportation Demand Management plan measures:
  - a. Unbundle the cost of vehicle parking from the lease or purchase agreement for each residential unit or commercial lease and charge a minimum rate based on the average market rate within a quarter mile. Only hourly, daily, or weekly rates will be charged. Free parking, validation, or discounted rates will not be offered;
  - b. Identify Transportation Coordinators for the planning, construction, and operations phases of development. The Transportation Coordinators will act as points of contact with DDOT, goDCgo, and Zoning Enforcement and will provide their contact information to goDCgo;
  - c. Transportation Coordinator will conduct an annual commuter survey of building employees and residents onsite, and report TDM activities and data collection efforts to goDCgo once per year;
  - d. Transportation Coordinator will subscribe to goDCgo's residential newsletter and receive TDM training from goDCgo to learn about the transportation conditions for this project and available options for implementing the TDM Plan;
  - e. Provide welcome packets to all new residents that, 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);
  - f. Post all transportation and TDM commitments on building website, publicize availability, and allow the public to see what has been promised;
  - g. Transportation Coordinator will develop, distribute, and market various transportation alternatives and options to residents, employees, and customers, 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;
  - h. Provide residents and employees 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 (MWCOG) or other comparable service if MWCOG does not offer this in the future;
  - i. Provide a SmarTrip card and one complimentary Capital Bikeshare coupon good for a free ride to every new resident or employee;
  - j. Long-term bicycle storage rooms will accommodate nontraditional sized bikes including cargo, tandem, and kids bikes, with a minimum five percent of spaces (14 for this project) being designed for longer cargo/tandem bikes (10' x 3'), a minimum of 10% of spaces (28 for this project) will be designed with electrical outlets for the charging of electric bikes and scooters, and a minimum of 50% of required spaces (138 for this project) will be placed horizontally on the floor. There will be no fee to the residents or employees for usage of the bicycle storage room and strollers will be permitted to be stored in the bicycle storage room;

- k. Install a minimum of five electric vehicle (EV) charging stations;
- l. Following the issuance of a Certificate of Occupancy for the Project, the Transportation Coordinator will submit documentation summarizing compliance with the transportation and TDM conditions of the Order (including, if made available, any written confirmation from the Office of the Zoning Administrator) to the Office of Zoning for inclusion in the IZIS case record of the case;
- m. Following the issuance of a Certificate of Occupancy for the Project, the Transportation Coordinator will submit a letter to the Zoning Administrator, DDOT, and goDCgo every five years (as measured from the final Certificate of Occupancy for the Project) summarizing continued substantial compliance with the transportation and TDM conditions in the Order, unless no longer applicable as confirmed by DDOT. If such letter is not submitted on a timely basis, the building shall have 60 days from date of notice from the Zoning Administrator, DDOT, or goDCgo to prepare and submit such letter; and
- n. Provide at least 43 short- and 276 long-term bicycle parking spaces in accordance with the minimums required by the Zoning Regulations.

- 2. **Prior to issuance of the final Certificate of Occupancy for the Project and for the life of the Project**, the Applicant shall provide evidence to the Zoning Administrator demonstrating completion of the following public space improvements subject to DDOT public space permitting, review, and approval where necessary subject to public space permitting and draining and design limitations:
  - a. Install the missing crosswalk and curb ramps on the northern leg of the Martin Luther King Jr. Avenue and Darrington Street, S.W. intersection;
  - b. Construct permanent curb extension and pedestrian refuge island at the MLK Jr. Avenue, S.W. intersections with Darrington and Elmira Streets, S.W.; and
  - c. Install a raised mid-block crossing on Elmira Street, S.W. between Buildings 1 and 2, as shown on Sheet L03 of the Final Plans, and incorporate high-contrast materials in the mid-block crossing of the curbless private driveway between Buildings 3 and 4.

D. **Miscellaneous**

- 1. No building permit shall be issued for the Project until the Applicant has recorded a covenant binding the Property in the land records of the District of Columbia by the Applicant for the benefit of the District of Columbia that is satisfactory to the Office of Zoning Legal Division and to the Zoning Administrator (the “PUD Covenant”). The PUD Covenant shall bind the Applicant and all successors in the title to construct and use the Property in accordance with this Order, as may be amended by the Commission. The Applicant shall file a certified copy of the PUD covenant with the Office of Zoning.
- 2. The PUD shall be valid for a period of two years from the effective date of this Order within which time an application shall be filed for a building permit for Building 1. Construction on Building 1 must begin within three years of the



effective date of this Order. Then, within two years after the completion of Building 1, defined as the date of issuance of a final certificate of occupancy, an application shall be filed for a building permit for Buildings 2 & 3. Construction on Buildings 2 & 3 must begin within three years after the completion of Building 1. Finally, within two years after the completion of Buildings 2 & 3, defined as the date of issuance of a final certificate of occupancy, an application shall be filed for a building permit for Building 4. Construction on Building 4 must begin within three years after the completion of Buildings 2 & 3.

3. In accordance with the DC Human Rights Act of 1977, as amended, DC Official Code § 2-1401.01 et al (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 identify or expression, familial status, familial responsibilities, matriculation, political affiliation, genetic information, disability, source of income or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.


On October 24, 2024, upon the motion of Commissioner Stidham, as seconded by Chairman Hood, the Zoning Commission took Proposed Action to approve the Application at its public meeting by a vote of 4-0-1 (Tammy Stidham, Anthony J. Hood, Robert E. Miller, and Joseph Imamura to approve; Gwen Wright, not voting, having not participated).

On December 19, 2024, upon the motion of Chairman Hood, as seconded by Commissioner Stidham, the Zoning Commission took Final Action to approve the Application at its public meeting by a vote of 3-0-2 (Anthony J. Hood, Tammy Stidham and Robert Miller to approve; Gwen Wright, not voting, having not participated; Joseph S. Imamura not present, not voting).

In accordance with the provisions of Subtitle Z § 604.9 of the Zoning Regulations, this Order shall become final and effective upon publication in the *District of Columbia Register*; that is, on May 16, 2025.

**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 J. HOOD**  
**CHAIRMAN**  
**ZONING COMMISSION**

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