

Applicant's Proposed Findings of Fact and Conclusions of Law

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

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 24-12
Z.C. Case No. 24-12
Harrison Wisconsin Owner, LLC
(Consolidated Planned Unit Development and Related Zoning Map Amendment
@ Square 1666, Lot 810 and a Portion of Lot 809)
September 11, 2025**

Pursuant to notice, at its September 11, 2025, public meeting, the Zoning Commission for the District of Columbia (the "Commission") considered the application (the "Application") of Harrison Wisconsin Owner, LLC (the "Applicant") requesting review and approval of the following:

- A consolidated Planned Unit Development ("PUD") and related Zoning Map Amendment from the R-2 zone to the RA-3 zone for the property consisting of Lot 810 and a portion of Lot 809 in Square 1666 (the "PUD Site") to construct a residential building with 126 units;
- Zoning flexibility from the penthouse side setback requirement of Subtitle C § 1504.1(c)(2) and the rear yard requirement of Subtitle F § 207.1;
- Such other design flexibility as is set forth in the Conditions hereof; and
- Special exception relief pursuant to Subtitle X § 303.13 to allow off-site accessory parking spaces as a special exception and subject to the conditions set forth in Subtitle U § 203.1(k).

The Commission considered the Application pursuant to Subtitles X and Z of the District of Columbia Zoning Regulations of 2016 ("Zoning Regulations" or "ZR16") (Title 11 of the District of Columbia Municipal Regulations ["DCMR"]), to which all references are made unless otherwise specified). 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") 3E is automatically a party to the Application as the "affected ANC" in which the PUD Site is located.
3. The Commission received no other requests for party status.

Z.C. Order No. 24-12
Z.C. Case No. 24-12

ZONING COMMISSION
District of Columbia
CASE NO. 24-12
EXHIBIT NO. 92A

Applicant's Proposed Findings of Fact and Conclusions of Law

NOTICE AND SETDOWN

4. Pursuant to Subtitle Z §§ 300.7 and 300.8, on April 12, 2024, the Applicant mailed a Notice of Intent to file the Application to all property owners within 200 feet of the PUD Site and to ANC 3E. (Exhibit ["Ex."] 3G)
5. Pursuant to Subtitle Z § 300.9, following the mailing of the Notice of Intent but before filing the Application with the Commission on September 16, 2024, the Applicant presented refined plans for the Application to ANC 3E at its regularly scheduled monthly meeting on June 25, 2024. The Applicant had previously presented initial plans for the Project to ANC 3E at its regularly scheduled monthly meeting on March 14, 2024, prior to mailing the Notice of Intent. (Ex. 3, 3F, 81)
6. On November 14, 2024, at its duly noticed public meeting, the Commission considered the Application and voted to set down the case for a public hearing.
7. Pursuant to Subtitle Z § 402.1, on May 20, 2025, the Office of Zoning ("OZ") sent notice of the public hearing on the Application scheduled for July 14, 2025, to:
 - (a) Applicant;
 - (b) ANC 3E;
 - (c) ANC Single Member District Commissioner ("SMD") 3E-03 and 3E-04;
 - (d) Ward 3 Councilmember, in whose district the PUD Site is located;
 - (e) Office of ANCs;
 - (f) Office of Planning ("OP");
 - (g) Department of Buildings "DOB";
 - (h) District Department of Energy and Environment ("DOEE");
 - (i) District Department of Transportation ("DDOT");
 - (j) OZ Legal Division ("OZLD");
 - (k) Owners of property within 200 feet of the PUD Site; and
 - (l) Chairman and At-Large Members of the D.C. Council.(Ex. 17, 18)
8. OZ published notice of the July 14, 2025 public hearing, concerning the Application in the May 30, 2025, issue of the *District of Columbia Register* (72 DCR 006316 *et seq.*) as well as on the calendar on OZ's website. (Ex. 16, 17)
9. Pursuant to Subtitle Z §§ 402.3-402.4 and 402.8-402.10, on May 27, 2025, the Applicant submitted evidence that it had posted notices of the public hearing on the PUD Site and on July 10, 2025, submitted evidence that it thereafter maintained such notices. (Ex. 19, 53)

PUD SITE AND SURROUNDING AREA

10. The PUD Site is located in the Northwest quadrant of the District in the Friendship Heights neighborhood in Ward 3. (Ex. 3)

Applicant's Proposed Findings of Fact and Conclusions of Law

11. The PUD Site consists of approximately 40,357 square feet of land area in Square 1666. The square is generally bounded by Wisconsin Avenue, N.W. to the west, Harrison Street, N.W. to the north, 42nd Street, N.W. to the east, and Garrison Street, N.W. to the south. (*Id.*)
12. The PUD Site is significantly underutilized, as it is currently improved with a surface parking lot and a 705-foot television tower that is not leased, not in use, and contains no active equipment. (*Id.*)
13. The square within which the PUD Site is located, Square 1666, is currently subdivided as one record lot (Lot 3) (the "Record Lot"). At the time the Application was filed, Square 1666 included three overlying assessment and taxation lots: Lots 804, 809, and 810. Lot 804 is improved with a commercial office building at 5101 Wisconsin Avenue, N.W. The northwest portion of Lot 809, which has an address of 5151 Wisconsin Avenue, N.W. (formerly the WTTG/Fox 5 DC headquarters), is approved for redevelopment with a new mixed-use building pursuant to BZA Order No. 20638 (the "5151 Wisconsin Project"). The PUD Site comprises Lot 810 and a portion of Lot 809 not included in the building footprint of the 5151 Wisconsin Project, and includes the underutilized surface parking lot and inactive television tower described above. (*Id.*)
14. A private alley separates the PUD Site from the commercial office building at 5101 Wisconsin Avenue, N.W., and from the BZA-approved mixed-use development to the west. (*Id.*)
15. The PUD Site is located immediately east of the Wisconsin Avenue corridor in Upper Northwest. Development along the corridor to the north, south, and west of the PUD Site is primarily composed of low- and moderate-density mix of commercial and non-residential uses. Lower density residential development is primarily found to the immediate east, north, and south of the PUD Site. Some institutional and moderate-density residential uses are interspersed within the broader neighborhood. (Ex. 3)
16. Notable locations and developments in proximity to the PUD Site include Fort Reno Park (0.25 miles southeast), Georgetown Day School Campus (0.3 miles south), and the Chevy Chase Pavilion and former Mazza Gallerie developments (0.25 miles north). The Friendship Heights Metrorail station is located approximately 0.1 miles to the north of the Property, and the Tenleytown Metrorail is located approximately 0.6 miles to the south. Given the PUD Site's location, walkscore.com identifies the PUD Site as having "excellent transit" (score of 73/100), and also describes the PUD Site as being "very walkable" (score of 89/100) and gives it a "very bikeable" (score of 73/100). (Ex. 3)

CURRENT ZONING

17. The PUD Site is currently split-zoned. The western portion of the PUD Site (approximately 11,703 square feet of land area) is in the Mixed Use (MU)-4 zone, and the eastern portion

Applicant's Proposed Findings of Fact and Conclusions of Law

of the PUD Site (approximately 28,654 square feet of land area) is in the Residential (R)-2 zone. (*Id.*)

18. The MU-4 zone is intended to (a) permit moderate-density mixed-use development; (b) provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside the central core; and (c) be located in low- and moderate-density residential areas with access to main roadways or rapid transit stops, and include office employment centers, shopping centers, and moderate bulk mixed-use centers. (Subtitle G § 101.9)
19. The R-2 zone is intended to provide for areas predominantly developed with semi-detached houses on moderately sized lots that also contain some detached houses. (Subtitle D § 101.7) The R-2 zone does not have a prescribed maximum Floor Area Ratio ("FAR"); however one principal dwelling unit and one accessory apartment shall be permitted per lot of record, subject to Subtitle U, Use Permissions. (Subtitle D § 201.1) The maximum building height is 40 feet and 3 stories, and the maximum lot occupancy is 40% for structures that are not public recreation and community centers or places of worship. (Subtitle D §§ 203.1 and 210.1)

PROPOSED ZONING

20. As part of the Application, the Applicant seeks a PUD-related Zoning Map Amendment to rezone the R-2-zoned portion of the PUD Site, which consists of approximately 28,654 square feet of land area, from the R-2 zone to the RA-3 zone. (Ex. 3, 3A1)
21. The Residential Apartment (RA) zones are intended to, among other things, (i) permit flexibility by allowing all types of residential development; (ii) promote stable residential areas while permitting a variety of types of urban residential neighborhoods; (iii) promote a walkable living environment; and (iv) encourage compatibility between the location of new buildings or construction and the existing neighborhood. (Subtitle F § 101.2) The RA-3 zone specifically "provides for areas developed with predominantly medium-density residential" uses. (Subtitle F § 101.6)
22. The RA-3 zone permits a maximum FAR of 3.0, which may increase to 3.6 FAR with Inclusionary Zoning ("IZ") bonus density. (Subtitle F §§ 201.1, 201.4) The maximum building height in the RA-3 zone is 60 feet, with no limit on the number of stories. (Subtitle F § 203.2) The maximum height for a penthouse or rooftop structure is 12 feet and one story, or up to 18.5 feet and two stories if it includes penthouse mechanical space. (Subtitle F § 205.1) The maximum lot occupancy is 75% (or 20% for public recreation and community centers). (Subtitle F § 210.1) For a PUD in the RA-3 zone, the maximum permitted density is 4.32 FAR, the maximum building height is 75 feet, and the maximum penthouse height is 20 feet. (Subtitle X §§ 303.3(b), 303.7)

Applicant's Proposed Findings of Fact and Conclusions of Law

COMPREHENSIVE PLAN (TITLE 10-A DCMR)

23. The Comprehensive Plan's Future Land Use Map ("FLUM") designates the western and southwestern portions of the PUD Site as Mixed Use (Medium Density Residential / Moderate Density Commercial), and the eastern and northeastern portions as Moderate Density Residential:
- (a) According to the Comprehensive Plan Framework Element, the Medium Density Residential designation is used to define neighborhoods or areas generally, but not exclusively, suited for mid-rise apartment buildings. The Medium Density Residential designation also may apply to taller residential buildings surrounded by large areas of permanent open space. Pockets of low and moderate density housing may exist within these areas. Density typically ranges from 1.8 to 4.0 FAR, although greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The RA-3 Zone District is consistent with the Medium Density Residential category, and other zones may also apply.;(10-A DCMR § 227.7)
 - (b) According to the Comprehensive Plan Framework Element, the Moderate Density Commercial designation is used to define shopping and service areas that are somewhat greater in scale and intensity than the Low-Density Commercial areas. Retail, office, and service businesses are the predominant uses. Areas with this designation range from small business districts that draw primarily from the surrounding neighborhoods to larger business districts uses that draw from a broader market area. Buildings are larger and/or taller than those in Low Density Commercial areas. Density typically ranges between a FAR of 2.5 and 4.0, with greater density possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The MU-5 and MU-7 Zone Districts are representative of zone districts consistent with the Moderate Density Commercial category, and other zones may also apply; (10-A DCMR § 227.11) and
 - (c) According to the Comprehensive Plan Framework Element, the Moderate Density Residential designation is used to define 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. In some neighborhoods with this designation, there may also be existing multi-story apartments, many built decades ago when the areas were zoned for more dense uses (or were not zoned at all). 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 RA-2 Zone Districts are consistent with the Moderate Density Residential category, and other zones may also apply. (10-A DCMR § 227.6)
24. The Comprehensive Plan's Generalized Policy Map ("GPM") designates the large majority of the PUD Site as a Neighborhood Conservation Area. According to the Comprehensive

Applicant's Proposed Findings of Fact and Conclusions of Law

Plan Framework Element, Neighborhood Conservation Areas have little vacant or underutilized land. They are generally residential in character. Maintenance of existing land uses and community character is anticipated over the next 20 years. Where change occurs, it will typically be modest in scale and will consist primarily of infill housing, public facilities, and institutional uses. Major 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 Comp Plan policies and the FLUM. 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. Limited development and redevelopment opportunities do exist within these areas. 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. In areas with access to opportunities, services, and amenities, more levels of housing affordability should be accommodated. (10-A DCMR §§ 225.4, 225.5)

25. The PUD Site is also within the boundaries of a Future Planning Analysis Area on the Comprehensive Plan's GPM. According to the Comprehensive Plan's Implementation Element, this designation covers "[a]reas of large tracts or corridors where future analysis is anticipated to ensure adequate planning for equitable development. Boundaries shown are for illustrative purposes. Final boundaries will be determined as part of the future planning analyses process for each area. Planning analyses generally establish guiding documents. Such analyses shall precede any zoning changes in this area. The planning process should evaluate current infrastructure and utility capacity against full build out and projected population and employment growth. Planning should also focus on issues most relevant to the community that can be effectively addressed through a planning process. Individual planning analyses may study smaller areas than the Analysis Area. For the purposes of determining whether a planning analysis is needed before a zoning change, the boundaries of the Future Planning Analysis Areas shall be considered as drawn. The evaluation of current infrastructure and utility capacity should specify the physical or operational capacity both inside the boundaries and any relevant District-wide infrastructure available." (10-A DCMR § 2503.2)
26. 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.
27. 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,

Applicant's Proposed Findings of Fact and Conclusions of Law

housing, environmental, and cultural conditions, and creates access to education, services, healthcare, technology, workforce development and employment opportunities.” (*Id.* at § 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. (*Id.* at § 213.9)

28. 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. (*Id.* At § 2501.8) Consistent with Comprehensive Plan guidance, the Commission utilizes a Racial Equity Analysis Tool (the “REA Tool”) in evaluating zoning actions through a racial equity lens; the Commission released a revised Tool on February 3, 2023. The REA 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).
29. The Comprehensive Plan also includes the Property within the Rock Creek West Area Element, which includes the following development priorities and actions that are relevant to the PUD Site:
 - (a) Preserve the low-density residential neighborhoods west of Rock Creek Park. Future development in both residential and commercial areas should be carefully managed to address the existing scale, function, and character of these neighborhoods. Updates to zoning regulations offer the opportunity to create more accessory dwelling units for this area to help absorb a share of the District's growth and provide a more proportional portion of affordable and moderate- income housing sensitive to existing neighborhood context; (10-A DCMR § 2308.2)
 - (b) Recognize the opportunity for infill development within the areas designated for commercial land use on the Future Land Use Map. When such development is proposed, work with ANCs, residents, and community organizations to encourage mixed-use projects that combine housing, including affordable housing, neighborhood-serving retail, and commercial uses. Design transitions between large- and small-scale development to ameliorate the appearance of overwhelming scale and to relate to context of lower-scale surrounding neighborhoods; (10-A DCMR § 2308.5)
 - (c) Pursue the opportunity for additional housing, including affordable and moderate-income housing, with some retail and limited office space on Wisconsin Avenue

Applicant's Proposed Findings of Fact and Conclusions of Law

- and underdeveloped sites west of the Friendship Heights Metro station; (10-A DCMR § 2312.7)
- (d) Future development along Wisconsin Avenue, N.W. should be architecturally sensitive to adjoining residential neighborhoods. Use a variety of means to improve the interface between mixed-use districts and lower-scale residential uses, such as architectural design, the stepping down of building heights away from the avenue, landscaping and screening, and additional green space improvements; and (10-A DCMR § 2312.11)
 - (e) Continue to work with the community, the ANCs, and local property owners to address concerns regarding building density and height, PUDs and related density bonuses, and architectural design in the Planning Area. Zoning techniques should be considered to break up the auto-oriented commercial appearance of much of Wisconsin Avenue, N.W., and instead create a more pedestrian-oriented street, distinct in function and visual character from adjacent residential areas. (10-A DCMR § 2312.13)
30. The Property is located within the area covered by the Wisconsin Avenue Development Framework (“Wisconsin Ave DF”), which provides planning guidance for zoning changes consistent with the Comprehensive Plan. The Wisconsin Ave DF applies to over 100 development sites along a 1.5-mile segment of Wisconsin Avenue, N.W., with a focus on the Friendship Heights and Tenleytown–AU Metro station areas. Among other objectives, the Wisconsin Ave DF includes the following recommendations relevant to the PUD Site:
- (a) Promoting a corridor of well-designed blocks that create walkable urban places with new mixed-income housing and active ground floor uses; (Wisconsin Ave DF, p. 4)
 - (b) Designing and activating new public spaces that are inclusive of people of all ages, backgrounds, and abilities; (*Id.*)
 - (c) Breaking down Friendship Heights’ larger blocks with pedestrian connections and activating vacant and transitioning spaces in Friendship Heights, with the PUD Site specifically referenced as part of this vision; (Wisconsin Ave DF, pp. 22, 26)
 - (d) Applying a new “Friendship Heights Transition Zone” to the eastern portion of the PUD Site, intended to facilitate residential redevelopment on blocks between Garrison and Harrison Streets, provide a transition to adjacent lower-scale residential neighborhoods, and support a maximum height of 50 feet plus a penthouse and a total FAR of 2.16; (Wisconsin Ave DF, pp. 42, 46)
 - (e) Applying a new “Mixed-Use Corridor Zone” to the western portion of the PUD Site, intended to enable medium-density, infill redevelopment along Wisconsin Avenue with small open spaces such as plazas or pocket parks, neighborhood-serving retail and cafes, and a recommended height of 75 feet plus a penthouse and a total FAR of 5.4; and (Wisconsin Ave DF, pp. 42, 48)
 - (f) Establishing guiding principles for building design along the corridor, including but not limited to: prioritizing housing as the principal use along the Wisconsin Avenue Corridor; designing open spaces to encourage social interaction and inclusive gatherings; and shaping and orienting buildings to maximize energy efficiency,

Applicant's Proposed Findings of Fact and Conclusions of Law

improve access to light and air, and capture interesting views or vistas. (Wisconsin Ave DF, pp. 16–19)

II. THE APPLICATION

31. The Application, as amended, proposes to redevelop the PUD Site with a new mixed-income residential project (the “Project”) designed to maximize compatibility with the surrounding area by distributing density across the entire PUD Site. As such, the Project would be arranged to give the appearance of four distinct buildings, interspersed with private courtyards, and would be constructed as follows:
- (a) A building height of approximately 50 feet, 3 inches, as measured from a building height measuring point on 42nd Street, N.W., located at the midpoint of the Project’s façade closest to the street lot line, at an elevation of 345 feet, 3 inches;
 - (b) A maximum habitable penthouse height of 12 feet, with a mechanical penthouse stacked above, not to exceed a total height of 18 feet;
 - (c) An FAR of approximately 4.308 based on the RA-3-zoned portion of the PUD Site subject to the PUD-related map amendment; however, an “apparent” or perceived FAR of approximately 3.06 when calculated across the entire PUD Site;
 - (d) A lot occupancy of approximately 69.2% when calculated across the entire PUD Site;
 - (e) A total of 126 residential units, all of which will be for rent, including a minimum of nine units with three bedrooms;
 - (f) Approximately 42 affordable housing units, comprising 33% of the Project’s total residential unit count. These include:
 - IZ Units: Affordable units required under the District’s IZ regulations, based on the combined total of 75% of the bonus density utilized and 10% of the Project’s habitable penthouse space. These units will be reserved for households earning no more than 60% and 50% of the Median Family Income (“MFI”) and will include at least two three-bedroom units; and
 - HANTA Units: Additional affordable units provided under the District’s High-Needs Area Tax Abatement Program (“HANTA”), in the number necessary to ensure that 33% of the Project’s total units are reserved as affordable housing. These units will be reserved for households earning up to 80% of the MFI, with a 40-year affordability control period;
 - (g) A total of approximately 82 vehicle parking spaces;
 - (h) Approximately 42 long-term and 6 short-term bicycle parking spaces;
 - (i) A minimum Green Area Ratio (“GAR”) of 0.3;
 - (j) A building design that will achieve the points equivalent to the LEED Gold standard; and
 - (k) Sustainable features including vegetated or green roofs, rooftop solar panels, at least six EV-ready parking spaces, all-electric appliances in residential units, and dedicated areas for composting and recycling.
- (Ex. 3, 14, 23, 23A1-23A5, 81, 88)

Applicant's Proposed Findings of Fact and Conclusions of Law

32. The Application includes a proposed PUD-related Zoning Map Amendment to rezone the east/northeastern portion of the PUD Site from the R-2 to the RA-3 zone, enabling the Project and its optimal configuration. All of the Project's density will be generated from the RA-3-zoned portion of the PUD Site, resulting in a technical FAR of 4.308. Although no density is derived from the MU-4-zoned portion, the configuration of the PUD Site boundary allows the building mass to be distributed across the entire land area (comprising the PUD Site). This yields a perceived FAR of approximately 3.06, which is below the 4.32 FAR permitted under the proposed RA-3 zoning. The resulting massing is compatible with the scale and rhythm of the surrounding neighborhood and avoids the appearance of a single, oversized building out of character with its context. (Ex. 3, 3E, 14, 23, 23A1–23A5, 81)
33. The Project's layout enhances compatibility with the surrounding context and provides a appropriate transition from the Wisconsin Avenue corridor. Four distinct massings are arranged along 42nd Street N.W., creating the appearance of a moderately scaled, incremental residential development. While unified in rhythm and overall character, each pavilion features a unique architectural expression and material palette, reflecting a design approach successfully applied in other transitional zones throughout the District. (Ex. 3, 14, 23, 23A1-23A5, 81)
34. To further ensure compatibility with the low-density residential uses to the east of the PUD Site, the footprint of the habitable penthouse is limited to the west side of the building, which reduces its visibility from the street and concentrates the Project's density as close to the Wisconsin Avenue commercial corridor as possible. (*Id.*)
35. Certain architectural elements have been incorporated to reflect the residential character of the Project and to complement the surrounding context. The design includes articulated bays, balconies, and private entry stoops that support a residential appearance. A combination of pitched roofs, cornices, and varied three- and four-story bays contributes to a diverse roofline and helps convey the impression of multiple, incremental residential buildings across the PUD Site. Brick has been selected as the primary façade material based on its traditional character and durable appearance. (*Id.*)
36. The primary residential lobby is located on Garrison Street, N.W., where the grade of the PUD Site is lowest. The residential loading area and parking garage are accessed from a private alley along the west side of the PUD Site. Because the grade slopes downward from north to south, the parking garage will be almost entirely below grade and fully screened from view along Harrison, 42nd, and Garrison Streets. Three landscaped courtyards fronting 42nd Street, N.W. will offer direct access to ground-floor residential units and help activate the streetscape. (*Id.*)
37. In addition to the standard design flexibility requested for the Project, as set forth in the Conditions herein, the Application requests two areas of zoning flexibility:

Applicant's Proposed Findings of Fact and Conclusions of Law

- (a) Penthouse Side Setback – West Elevation: Flexibility from the side setback requirement of Subtitle C § 1504.1(c)(2), to allow the penthouse on the west elevation, adjacent to a private alley, to be located closer to the edge of the roof than a distance equal to its height; and
- (b) Rear Yard – PUD Site Boundary: Out of an abundance of caution, flexibility from the rear yard requirement of Subtitle F § 207.1 to allow a noncompliant rear yard when measured from the building to the rear lot line of the PUD Site (approximately 17 feet required; 10 feet, 9 inches proposed).

(Ex. 3)

38. The Application also requested special exception relief pursuant to Subtitle X § 303.13 to allow off-site accessory parking as a special exception, specifically to permit six (6) accessory parking spaces located within the underground parking garage that fall outside the PUD Site boundary, as shown on the proposed plans for the Project (Sheet A02). These six parking spaces are located within an R-2 zoned portion of the abutting property, where accessory parking on a lot other than the lot occupied by the principal use is permitted only by special exception pursuant to Subtitle U § 203.1(k). (*Id.*)
39. As part of the Project, the Applicant proffered public benefits and amenities, as set forth in detail in the Conditions of this Order. The Applicant's proffered public benefits and amenities are as follows:¹
- (a) **Superior Urban Design and Architecture (Subtitle X § 305.5(a))**. The Applicant proffered superior urban design and architecture as a public benefit because:
 - The Project is designed for strong compatibility with its surroundings and to serve as a refined transition from Wisconsin Avenue. Four distinct “buildings” are planned along 42nd Street NW, creating the impression of a moderately scaled, incremental residential development, which represents a proven approach in other transitional zones in the District. Each pavilion features its own architectural style and materials while maintaining an overall consistent character and rhythm.
 - Features such as detailed bays, balconies, and private stoops emphasize the residential feel, while elements like pitched roofs, cornices, and varied bay projections add visual interest. These design choices help integrate the Project into the adjacent lower-density neighborhood. The Project's high-quality urban design and architecture provide significant PUD benefits through thoughtful massing, human-scale details, traditional residential elements, and active streetscape engagement, all contributing to a context-sensitive and cohesive addition to the area.

¹ Finding of Fact No. 38 incorporates the description of each public benefit as required by Subtitle X § 308.3, which mandates that the language used must be identical to that in the Applicant's proposed order, unless a revision is necessary for clarity or to reflect a substantive change. Accordingly, the text below integrates the language from the Applicant's final list of proffers and corresponding conditions, as set forth in Exhibit 91A of the record.

Applicant's Proposed Findings of Fact and Conclusions of Law

- (b) **Site Planning and Efficient Land Utilization (Subtitle X § 305.5(c))**. The Applicant proffered site planning and efficient and economical land utilization as a public benefit of the PUD because:
- The Applicant is proffering site planning and efficient and economical land utilization as a public benefit of the PUD. The Project will transform a significantly underutilized, transit-accessible site into a vibrant mixed-income residential community, bringing new market-rate and affordable housing to an area that currently lacks residential presence and sustained economic activity.
 - The PUD Site's boundary configuration allows the development to be distributed in a way that gives the appearance of four separate buildings, even though no density comes from the MU-4-zoned portion of the site. This design produces an "apparent" or average FAR of about 3.06 when calculated across the entire PUD Site, well below the 4.32 FAR permitted under the proposed RA-3 zoning. Spreading the building mass across the site helps the Project match the scale and rhythm of the surrounding neighborhood and avoids creating a single, large multifamily structure that might be out of character with nearby residential uses. These strategies demonstrate efficient site planning and a thoughtful, context-sensitive approach to land use.
- (c) **New Housing (Subtitle X § 305.5(f)(1) and (3))**. The Applicant proffered new housing as a public benefit of the PUD because:
- Subtitle X § 305.5(f)(1) identifies housing that exceeds the amount permitted as a matter of right under existing zoning as a public benefit. The Project will deliver approximately 123,444 square feet of residential gross floor area, creating 126 new units in a high-opportunity, transit-accessible location.
 - The residential mix will include studios (i.e., junior one-bedroom units), as well as one-, two-, and three-bedroom layouts, offering options for a range of household sizes and living needs. Among these units, nine will be three-bedroom residences, thoughtfully distributed across the first, second, and third floors of the Project. The inclusion of three-bedroom units, incorporated at the ANC's request, is separately recognized as a PUD benefit under Subtitle X § 305.5(f)(3).
 - Overall, the proposed residential density significantly exceeds what is allowed under the existing R-2 zoning, which would permit only about 12 semi-detached or 8 detached homes, per Subtitle F § 202.1. Collectively, these features ensure that the Project's housing component offers a substantial and meaningful public benefit within the PUD.
- (d) **Affordable Housing (Subtitle X § 305.5(g))**. The Applicant proffered significant affordable housing as a benefit of the PUD by dedicating approximately 33% of the overall number of residential units as affordable housing, which amounts to approximately 42 units. The Project's affordable housing commitment is comprised of IZ units and those provided through the District's HANTA program, as follows:
- IZ – A portion of the affordable units will fulfill the District's IZ requirements for rental housing. Specifically, the IZ set-aside is based on the combined total of (i) 75% of the bonus density utilized will be set aside for households earning

Applicant's Proposed Findings of Fact and Conclusions of Law

no more than 60% MFI and (ii) at least 10% of the Project's penthouse habitable space will be reserved for households earning no more than 50% of MFI, as required by Subtitle C §§ 1003.1, 1003.7(a), and 1003.8. Additional details regarding the IZ component are as follows:

- The IZ component, which is part of the overall 33% affordable housing commitment, will comprise approximately 13,990 square feet of GFA, or 11.2% of the Project's total GFA. This translates to approximately 13 IZ units, substantially exceeding the requirements under matter-of-right development, which would permit at most 1 IZ unit in the existing R-2 zone or 12 units in the proposed RA-3 zone.
- Of the total net residential floor area set aside for IZ, approximately 8,097 square feet will be reserved for households earning no more than 60% of MFI, pursuant to Subtitle C § 1003.7(a), and approximately 2,314 square feet will be reserved for households earning no more than 50% of MFI, pursuant to Subtitle C § 1003.8. Although the required set-aside at the 60% MFI level based on the 75% bonus density calculation is approximately 9,277 square feet, the Applicant is electing to shift a portion of that floor area to serve households at the 50% MFI level. This approach results in deeper affordability and increases the number of units available to lower-income households, as further explained below.
- In response to community input, one of the units reserved at the 50% MFI level will be a three-bedroom unit. Furthermore, although only 1,096 square feet of IZ set-aside is required pursuant to Subtitle C § 1003.1(b) based on the Project's habitable penthouse space, the Project will provide three units totaling 2,314 square feet, all at the 50% MFI level. This is more than twice the minimum required and reflects the Project's commitment to deeper and more inclusive affordability.
- HANTA – The balance of the units needed to meet the proffered 33% affordability threshold will be delivered as non-IZ affordable dwelling units through the HANTA program, which promotes affordable housing in high-needs areas of the District. While the HANTA program allows affordability levels of up to 100% of MFI for a 40-year control period, the Applicant, through agreement with the Department of Housing and Community Development (DHCD), committed to deeper affordability levels. Specifically, the Project's HANTA-designated units will be reserved for households earning no more than 80% of MFI for 30 years, or longer, as may be required by DHCD via separate agreement. DHCD approved the Applicant's participation in the HANTA program in November 2024. By leveraging this program, the Applicant is able to deliver more impactful affordability and contribute to creating an inclusive, mixed-income community in a desirable location.
- In conclusion, the Applicant's affordable housing proffer constitutes a significant public benefit and advances numerous Comprehensive Plan policies aimed at promoting accessible, affordable housing for residents of all income levels.

Applicant's Proposed Findings of Fact and Conclusions of Law

- (e) **Environmental and Sustainable Benefits (Subtitle X § 305.5(k)).** The Applicant proffered environmental and sustainable public benefits as part of the PUD because:
- Pursuant to Subtitle X § 305.5(k)(5), the Applicant committed to incorporating sustainable features that will benefit residents, the immediate community, and the District as a whole. Specifically, the Project will feature an energy-efficient, all-electric design for the residential units, and it will incorporate green roofs, rooftop solar panels, at least six (6) electric vehicle (EV)-ready charging spaces in the underground parking garage, and dedicated areas for composting and recycling.
 - In response to the Zoning Commission's request, the Applicant committed to design the Project to achieve the minimum number of points equivalent to the LEED Gold standard under the LEED v4 BD+C: Multifamily Midrise.
- (f) **Streetscape Plans (Subtitle X § 305.5(l)).** The Applicant proffered a range of streetscape improvements as a public benefit of the PUD. Subject to DDOT approval, the Applicant will provide new plantings along the PUD Site's public frontages and include sidewalk paving and perimeter landscaping, per Sheets L1-L5 of the Approved Plans. These improvements will help accentuate the residential character of the Project and its compatibility with the lower-density residential context surrounding the PUD Site. The Applicant has also committed to enlarging the existing tree pits along public space frontages of the Project, where necessary and subject to DDOT approval, and to installing new street trees in coordination with DDOT/UFD. The Applicant has committed to plant trees, following completion of construction, in any gaps in the tree boxes per DDOT's Urban Forestry Division's specifications within Square 1666 as well as across the street from Square 1666 on all four sides, subject to approval.
- (g) **Park Maintenance (Subtitle X § 305.5(n)).** The Applicant proffered its funds, time, and effort to enhance Fessenden Park, a DPR-managed park located one block south of the PUD Site and generally bounded by Wisconsin Avenue, 42nd Street, and Fessenden Street, N.W., as a public benefit of the PUD because:
- Under Subtitle X § 305.5(n), park improvements qualify as a public benefit.
 - In response to community feedback and in coordination with DPR and the affected Advisory Neighborhood Commission (ANC), currently ANC 3E, the Applicant has committed to spend at least \$10,000, and up to \$20,000, on enhancements to Fessenden Park. Planned improvements include the design and construction of two bocce courts, the installation of one park bench, and associated landscaping, all subject to approval by DPR and DDOT. The Applicant will complete these improvements prior to the issuance of the final certificate of occupancy for the PUD.
 - The Applicant will also consult with ANC 3E on the landscaping plans, present the proposed improvements upon request, and maintain the landscaping for three years after installation. These enhancements will improve the park's functionality and appearance for the benefit of the surrounding community.
- (h) **Non-Mitigation Transportation Infrastructure (Subtitle X § 305.5(o)).** Subtitle X § 305.5(o) identifies transportation infrastructure that is not strictly necessary to

Applicant's Proposed Findings of Fact and Conclusions of Law

mitigate potential adverse impacts as a public benefit. As summarized in the Applicant's Transportation Statement (Ex. 23B) and as set forth in the Conditions hereof, the Applicant committed to implementing an enhanced TDM Plan to address potential impacts associated with the proposed parking supply and projected trip generation. However, the Applicant proffered transportation improvements that exceed standard mitigation requirements, as follows:

- Specifically, the Applicant will use best efforts, in coordination with DDOT, to improve pedestrian safety at the intersection of Garrison Street, N.W. and 42nd Street, N.W. by narrowing the intersection to shorten pedestrian crossings, slow vehicular traffic, and prevent parking in the crosswalks. To that end, the Applicant proposes to work with DDOT on the design and to advocate for the implementation of DDOT-funded bulb-outs incorporating bioretention features, where feasible, at all four corners of the intersection, to be installed prior to the issuance of the final certificate of occupancy for the Project.
- If DDOT has committed funds but has not yet constructed the bulb-outs by the time the final certificate of occupancy is issued, the Applicant proposes to coordinate with DDOT to install temporary bulb-outs (i.e., daylighting) at all four corners at the intersection, using flex posts and pavement markings, and to maintain them until permanent construction occurs. If funding for permanent construction has not been approved before that time, the Applicant proposes to expend up to \$20,000 to install permanent hardened bulb-outs on the northwest and southwest corners of the intersection, subject to review and approval by DDOT and ANC 3E.
- In the event that permanent bulb-outs are constructed at all four corners prior to the issuance of the final certificate of occupancy, the Applicant proposes, in lieu of installing bulb-outs, to either donate \$20,000 to a local nonprofit organization, with the consent of the affected ANC, for specific additional improvements in the public right of way or to provide specific additional improvements in the public right-of-way, which may include "daylighting" at the intersection of Harrison Street, N.W. and 42nd Street, N.W. as identified in DDOT's recommendation (see Ex. 36 at p. 2), subject to the review and consent of the affected ANC and the review and approval of DDOT.
- Following installation of any bulb-outs, whether temporary or permanent, the Applicant proposes to keep the bulb-outs free of trash and to maintain any landscaping in accordance with DDOT standards for the life of the Project.

- (i) **Uses of Special Value to the Neighborhood or the District of Columbia as a Whole (Subtitle X § 305.5(q)).** The public benefits associated with the Project extend beyond those delivered at full build-out. A notable early benefit is the removal of the existing 705-foot television tower on the property. The uses associated with the tower have been relocated to Maryland, and the tower now stands as a visually intrusive structure that is out of scale with the surrounding neighborhood and detracts from the area's character. Its removal will significantly enhance the local streetscape and directly respond to concerns raised by nearby residents.

Applicant's Proposed Findings of Fact and Conclusions of Law

- (j) **Other Public Benefits and Project Amenities that Substantially Advance the Comprehensive Plan (Subtitle X § 305.5(r)).** Pursuant to Subtitle X § 305.5(r), public benefits may include “other ways in which the proposed PUD substantially advances the major themes and other policies and objectives of any of the elements of the Comprehensive Plan.” The Project substantially advances several of the Comprehensive Plan’s major themes, including expanding housing supply, increasing housing affordability, and encouraging growth in high-opportunity, transit-accessible locations, consistent with the Framework Element’s direction to focus new development around transit nodes and equity-driven growth. See, e.g., 10-A DCMR §§ 213.7, 219.7. The Rock Creek West (RCW) Area Element of the Comprehensive Plan identifies a substantial unmet need for affordable housing, making increased supply in RCW a key policy priority. See 10-A DCMR § 2300.9. The Project directly advances this goal by delivering new affordable housing in an area historically limited by high land costs, with 33% of its units reserved as affordable to promote equity and inclusion. Beyond housing, the Project supports urban design and land use objectives in the Comprehensive Plan and the Wisconsin Ave DF by enabling compatible infill, appropriate scale transitions, walkable blocks, and activation of underused sites along Wisconsin Avenue, N.W. Collectively, these elements represent a significant public benefit under Subtitle X § 305.5(r).
- (Ex. 3, 14, 23, 89A, 91A)

APPLICANT’S REVISIONS, SUBMISSIONS, AND TESTIMONY

40. **Initial Application.** Pursuant to Subtitle Z §§ 300.1-300.4, 300.6, and 300.10-300.13 on September 16, 2024, the Applicant filed its initial application materials. (Ex. 1-3H)
41. **Prehearing Submission.** Pursuant to Subtitle Z §§ 401.1 and 401.3-401.4, on April 16, 2025, the Applicant filed a prehearing submission and supporting materials responding to the questions and comments raised by the Commission at the November 14, 2024, public meeting. (Ex. 13-14F) Specifically, the prehearing submission included:
- (a) **Affordable Housing Proffer.** In response to the Commission’s request, the Applicant provided a breakdown of the 33% set-aside, detailing the IZ and HANTA components, submitted a preliminary IZ plan showing proposed square footage and unit distribution, and noted it would continue working with OP and DHCD and submit an updated plan with any supplemental filing;
 - (b) **Design Compatibility.** In response to the Commission’s request, the Applicant further explained that the Project draws from the surrounding residential context by using traditional brick façades, incorporating courtyards and setbacks, and presenting the appearance of four modest buildings to promote compatibility with nearby homes;
 - (c) **Activation of Open Spaces and Landscaping.** In response to the Commission’s request, the Applicant stated that it would continue to explore strategies to enhance the functionality and residential character of the Project’s open spaces and would include related information in a supplemental submission.

Applicant's Proposed Findings of Fact and Conclusions of Law

- (d) Neighborhood Impact Analysis. In response to the Commission's request for additional information on the Project's potential impact on the neighborhood and demographic trends, the Applicant stated that it was preparing an evaluation for inclusion in a supplemental submission.
 - (e) Prehearing Materials. The Applicant provided additional prehearing materials required under the Commission's Rules of Practice and Procedure and certification of the Applicant's compliance with filing requirements.
42. Applicant's Supplemental Pre-Hearing Submission. On June 13, 2025, the Applicant filed a supplemental submission with updated information regarding the Application. (Ex. 22-23E) Specifically, the supplemental submission included:
- (a) Updated Plans. The Applicant submitted updated plans reflecting minor design adjustments and revised floor plans since the initial submission, including refinements to the building façades, revised planting arrangements, and additional information confirming that proposed projections along 42nd and Garrison Streets comply with building code requirements.
 - (b) Updated IZ Plan. Along with the updated plans, the Applicant submitted a revised IZ plan, developed in response to ANC feedback and as part of its commitment to dedicate 33% of the Project's residential units as affordable, which confirmed compliance with the District's IZ requirements for rental housing, provided more than twice the required square footage at the 50% MFI level based on the penthouse floor area, and included a three-bedroom unit qualifying as a specific housing benefit;
 - (c) Transportation Considerations and Transportation Statement. The Applicant noted that on May 15, 2025, its traffic expert submitted the Transportation Statement to DDOT and included it as part of the supplemental submission in accordance with Subtitle Z § 401.8 (Ex. 23B) The Transportation Statement concluded that the Project is well-served by transit options, would generate minimal peak-hour vehicle trips, and would not adversely impact traffic or parking with implementation of the Transportation Demand Management plan (hereinafter the "TDM Plan"). In response to the proposed parking supply, DDOT recommended enhancements to the TDM Plan, including unbundled parking, long- and short-term bicycle parking, and off-site improvements such as a micromobility corral, differentiated crosswalks, and a pedestrian refuge along Garrison Street, N.W. The Applicant committed to implementing all TDM measures, subject to DDOT approval.
 - (d) Sustainability Features and Environmental Commitments. The Applicant refined the Project's sustainability strategy to reduce environmental impact with features such as all-electric units, green roofs, solar panels, EV charging spaces, composting areas, and other high-efficiency systems.
 - (e) Additional Responses to the Commission. The Applicant provided additional responses to the questions and comments raised by the Commission at the November 14, 2024, public meeting, as follows:
 - In response to the Commission's request, the Applicant provided additional information on the landscape treatment and character of the open spaces, noting

Applicant's Proposed Findings of Fact and Conclusions of Law

that the courtyards would be modest in scale, reserved for residents, and designed to complement the surrounding residential context and perimeter landscaping.

- The Applicant committed to enhancing public space through perimeter plantings, rain gardens, and enlarged tree pits, and to installing new street trees within and around Square 1666 in coordination with DDOT and subject to approval of abutting property owners and DDOT.
- The Applicant submitted a supplemental narrative on demographic trends and neighborhood transformation (Ex. 23C), outlining the Project's anticipated positive impacts in supporting a diverse mix of residents, advancing sustainable and equitable development, and contributing to the continued revitalization of the Wisconsin Avenue corridor.

- (f) Community Outreach. The Applicant provided updated information on its engagement with ANC 3E and other stakeholders, including the Harrison Condominium Homeowners' Association. The Applicant provided updates on its commitments to the ANC, which were reflected in a draft Memorandum of Understanding (Ex. 23D), which ANC 3E unanimously supported at its June 12, 2025, public meeting, and which were also incorporated into the updated plans and the amended proffered benefits and amenities.
- (g) Public Benefits and Amenities. The Applicant's supplemental submission included an amended and restated list of public benefits and amenities. (Finding of Fact ["FF"] ¶ 39)

43. Applicant's Hearing Presentation and Testimony. In advance of the July 14, 2025, public hearing for the Application, the Applicant filed a presentation. (Ex. 81) At the public hearing, the Applicant presented the Application and proposed Project and responded to questions from the Commission:

- (a) The Applicant provided testimony from five (5) witnesses:
- James A. "Jad" Donohoe, IV, on behalf of the Applicant;
 - Sarah Alexander of Torti Gallas Urban, as the Project's architect, admitted as an expert;
 - Jami L. Milanovich of Wells + Associates, the Project's transportation consultant, admitted as an expert;
 - Brandice N. Elliott of Holland & Knight LLP, the Project's land use and urban planning consultant, admitted as an expert; and
 - Tim Bragan of MKSK, the Project's landscape architect, admitted as an expert.
- (b) The Applicant's presentation included the following: (i) a summary of the Project background; (ii) the Applicant's outreach with OP, DDOT, and other District agency staff, as well as with the community, neighboring residents, and ANC 3E; (iii) the requested zoning, the configuration of the PUD Site boundary, zoning flexibility, and special exception relief; the proffered public benefits and amenities; (iv) the building design, site planning, and landscaping features; an overview of transportation considerations and the proposed TDM plan; and (v) an evaluation of how the Project satisfies the PUD evaluation criteria set forth in Subtitle X §§ 304.3

Applicant's Proposed Findings of Fact and Conclusions of Law

and 304.4, including an assessment of the Project's consistency with the Comprehensive Plan when evaluated through a racial equity lens.
(Transcript of July 14, 2025 Public Hearing ("Hearing Tr.") at pp. 10-35)

44. Post-Hearing Submission. On July 21, 2025, and at the request of the Commission, the Applicant submitted a post-hearing submission that included the following:
- (a) Responses to testimony and questions from immediately adjacent neighbors (Ex. 80), addressing several topics, including clarification of the Project's building height measuring point and confirmation that the maximum height is being measured in accordance with the Zoning Regulations. The Applicant also stated that the Project is not inconsistent with the Comprehensive Plan, noting that height-related concerns are, in its view, outweighed by Rock Creek West and citywide policies that prioritize housing production and affordability. Additional responses addressed the enforceability of the PUD-related map amendment; an analysis of shadow studies (Ex. 88A), which indicated that the Project's shadows would have limited impacts on residential homes along 42nd Street, N.W.; the eligibility of Project residents for Residential Permit Parking; and issues related to maintenance of the 705-television tower and construction management.
 - (b) Responses to testimony from The Committee of 100 on the Federal City (Ex. 81), stating that the affordable housing proffer, particularly the IZ component, exceeds what could be achieved under a matter-of-right development and may be considered a public benefit of the PUD. The Applicant also explained that the Project is being processed as a separate zoning entitlement from the adjacent property, which is subject to a BZA-approved entitlement and is currently under construction, primarily for reasons related to timing and efficiency.
 - (c) Additional details, provided at the request of OP, regarding the proffered environmental and sustainable benefits of the PUD, along with a commitment, as encouraged by the Commission, to design the Project so it could achieve the minimum number of points equivalent to the LEED Gold standard, as reflected in the updated LEED scorecard (Ex. 88B);
 - (d) A copy of the fully executed Memorandum of Understanding with ANC 3E (Ex. 88C), indicating that all benefits and commitments would be memorialized in the Applicant's draft proffers and corresponding conditions.
(Ex. 88-88C)
45. Draft Proffers and Corresponding Conditions. Pursuant to Subtitle X §§ 308.2 and 308.4, on July 21, 2025, the Applicant submitted its draft proffers and Conditions. (Ex. 89-89A)
46. Final Proffers and Corresponding Conditions. Pursuant to Subtitle X § 308.6, on August 1, 2025, the Applicant submitted its final proffers and corresponding conditions, incorporating revisions made in response to comments from the OZLD. These revisions primarily clarified the scope and implementation of the IZ component within the proffered affordable housing benefit. (Ex. 91-91A)

Applicant's Proposed Findings of Fact and Conclusions of Law

47. Draft Findings of Fact and Conclusions of Law. Pursuant to Subtitle Z § 601.1, on August 18, 2025, the Applicant submitted its proposed findings of fact and conclusions of law. (Ex. 92-92A)

III. JUSTIFICATION FOR RELIEF

RELIEF REQUESTED

48. The Applicant requested that the Commission approve a PUD and related Zoning Map Amendment to rezone the Property to the RA-3 zone to permit redevelopment with a residential building containing 126 units. With the PUD-related Map Amendment to the RA-3 zone, which would be the only portion of the PUD Site generating density for the Project, the Project would achieve the following height and density:
- (a) Height: The Project proposes a height of approximately 50 feet, 3 inches; and
 - (b) Density: The Project proposes a density of approximately 4.308 FAR.
49. The Application requested additional PUD-related zoning flexibility pursuant to Subtitle X § 303.1 from:
- (a) The penthouse side setback requirement of Subtitle C § 1504.1(c)(2), to allow the penthouse on the west elevation, adjacent to the private alley, to be located closer to the edge of the roof than a distance equal to its height; and
 - (b) The rear yard requirement of Subtitle F § 207.1, to allow a noncompliant rear yard when measured from the building to the rear lot line of the PUD Site, where approximately 17 feet is required and 10 feet, 9 inches is proposed.
- (Ex. 3)
50. The Application requested design flexibility consistent with Subtitle Z § 702.8, as set forth in the Conditions herein. (*Id.*)
51. The Application requested a special exception to permit off-site accessory parking spaces within the underground parking garage for the Project, but located outside the PUD Site boundary and on adjacent property located in the R-2 zone. (*Id.*)

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

52. 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, District Element policies, and Area Element policies, or (ii) other public policies related to the Property.
- (a) **FLUM**. The Project is not inconsistent with the FLUM's Moderate Density Residential and Mixed Use (Medium Density Residential / Moderate Density Commercial) designations for the PUD Site because:
 - The existing R-2 zoning is inconsistent with the FLUM's Moderate Density Residential and Mixed Use designations, as it aligns with the now-outdated Low Density Residential category.

Applicant's Proposed Findings of Fact and Conclusions of Law

- The Application proposes to rezone only the R-2 zoned portion of the PUD Site to the RA-3 zone, which is not inconsistent with that portion's Moderate Density Residential designation on the FLUM.
 - The proposed RA-3 zone is not inconsistent with the Framework Element, which states that "greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development," and that while the "R-3, RF, and RA-2 Zone Districts are consistent with the Moderate Density Residential category, ... other zones may also apply." Although the RA-3 zone permits a matter-of-right density of 3.0 FAR, which exceeds the 1.8 FAR recommended for Moderate Density Residential, the additional density is supported by the PUD process and IZ requirements. (*See* 10-A DCMR § 227.6).
 - Higher density permitted under the RA-3 zone supports citywide goals to increase housing supply and affordability, as set forth in the Mayor's Housing Equity Report (2019), the Rock Creek West Roadmap (2021), the D.C. Comeback Plan (2023), and the Wisconsin Avenue Development Framework (2024). This outcome remains consistent with the purpose of Moderate Density Residential areas, which is to promote "neighborhood character, walkable neighborhoods, housing affordability, aging in place, preservation of housing stock, and improvements to the overall environment." (*See* Subtitle E §§ 101.2(a)–(b))
 - By virtue of the proposed RA-3 zone, the proposed PUD advances key Comprehensive Plan objectives by using the flexibility of the PUD process to provide more total housing and a greater share of affordable housing than would be permitted under matter-of-right development in either the existing R-2 zone or the proposed RA-3 zone. By reserving 33% of all units as affordable, the Project directly responds to the District's critical housing needs. The Comprehensive Plan allows greater height and density through a PUD when balanced by public benefits that support public health, safety, welfare, and convenience. The Plan also identifies the creation of affordable housing beyond legal requirements as a high-priority public benefit in the evaluation of residential PUDs. (*See* 10-A DCMR §§ 224.7, 224.9.)
 - In summary, although the RA-3 zone permits higher density than typically envisioned by the Moderate Density Residential FLUM designation, the Project's use of the PUD process, transitional location, compatible design, policy alignment, and contextual fit support a conclusion that the proposed PUD and Zoning Map amendment are not inconsistent with the Comprehensive Plan. (Ex. 3, 3F, 81)
- (b) **GPM.** The Project is not inconsistent with the Neighborhood Conservation Area designation for the PUD Site. These areas are predominantly residential, with limited vacant land, and are intended to be conserved and enhanced while allowing modest infill development to meet citywide housing needs. (10-A DCMR §§ 225.4–225.5) The Project advances these objectives by introducing new housing, including affordable units, on an underutilized site near a high-priority transit

Applicant's Proposed Findings of Fact and Conclusions of Law

corridor. Its height, scale, and massing are designed to respect and transition to the lower-density residential context east of 42nd Street, N.W., consistent with the GPM. The Project also supports Comprehensive Plan goals by providing affordable housing in an area with strong existing access to transit, services, and amenities, which the Comprehensive Plan identifies as appropriate for expanded housing opportunities. Overall, the PUD balances neighborhood conservation with the District's housing needs. The PUD Site is located within a Future Planning Analysis Area, which requires the completion of a planning analysis that includes a development framework. (10-A DCMR §§ 2310.4, 2503.2) The Wisconsin Avenue Development Framework satisfies this requirement, thereby providing the type of planning analysis anticipated by the Implementation Element and supporting the Commission's consideration of the proposed PUD and Zoning Map Amendment. (*Id.*)

- (c) **Land Use Element.** The Project supports the policy objectives of the Land Use Element, which is the Element that should be given the greatest weight. (10-A DCMR § 300.3) By delivering 126 residential units, 33% of which will be reserved as affordable housing near the Friendship Heights Metro station, the Project advances key Land Use Element policies. The PUD Site's transit-oriented location promotes walkability, reduces car dependence, and supports mixed-income housing. The Project leverages this location by providing the required number of bicycle parking spaces and incorporating off-site improvements to enhance the pedestrian experience and improve connectivity within the neighborhood. In addition to revitalizing an underutilized site, the development strengthens corridor activity along Wisconsin Avenue and offers public benefits, including removal of the 705-foot television tower and streetscape improvements. The Project remains compatible with the surrounding residential context through thoughtful design and incorporates neighborhood beautification measures, such as streetscape and landscaping improvements, developed in response to community feedback and reflected in the Memorandum of Understanding negotiated with ANC 3E. (*See* Land Use Element Policies LU-1.4.1, LU-1.4.2, LU-1.4.6, LU-1.5.1, LU-2.1.3, LU-2.1.5, LU-2.1.13, LU-2.2.4; Ex. 3F, 81, 88C)
- (d) **Transportation Element.** The Project supports the Transportation Element by advancing transit-oriented development near the Friendship Heights Metro station and enhancing pedestrian infrastructure. Streetscape improvements, including upgraded sidewalks and safer crossings, improve last-mile connectivity and encourage walking and biking. By providing affordable housing near transit, the Project promotes equitable transportation access and reduces reliance on cars through thoughtful transportation demand strategies. These features align with the District's goals for safety, sustainability, and accessibility. (*See* Transportation Element Policies T-1.1.4, T-1.1.7, T-2.4.1, T-2.4.2, T-3.1.1; Ex. 3F)
- (e) **Housing Element.** The Project advances key Housing Element goals by delivering 126 residential units, including a mix of market-rate and affordable units with family-sized options, in a high-cost, transit-accessible location. Through the PUD process, the Project uses zoning incentives to expand affordable housing, helping

Applicant's Proposed Findings of Fact and Conclusions of Law

to meet production targets and support demographic diversity and equity. (See Housing Element Policies H-1.1.1, H-1.1.2, H-1.1.5, H-1.1.8, H-1.1.9, H-1.2.2, H-1.2.3, H-1.2.7, H-1.2.9, H-1.2.11; Ex. 3F, 81)

- (f) ***Environmental Protection Element.*** The Project supports the Environmental Protection Element by pursuing a building design that will achieve the minimum number of points equivalent to the LEED Gold standard. The Project also incorporates all-electric residential units, energy- and water-efficient features, green roofs, solar readiness, EV-ready parking, and transit access to reduce emissions and utility costs. Permeable landscaping, new trees, and stormwater controls replace existing paving to mitigate heat island effects and development impacts. (See Environmental Protection Policies E-1.1.2, E-2.1.2, E-2.1.3, E-3.1.1, E-3.2.3, E-3.2.5, E-4.1.1, E-4.1.2, and E-4.4.1; Ex. 3F, 81, 88)
- (g) ***RCW Area Element.*** The Project is not inconsistent with the RCW Area Element, which emphasizes the need for increased affordable housing and context-sensitive infill development. Located in a high-cost area with limited affordable options, the Project delivers 126 new residential units, 33% of which would be reserved as affordable housing. The design provides a thoughtful transition from the higher-density uses along Wisconsin Avenue to the single-family homes east of 42nd Street, N.W. Redevelopment of the PUD Site also removes a 705-foot television tower, a longstanding community concern, improving views and enhancing the corridor's character. By revitalizing underutilized land, adding green space, and aligning with neighborhood scale and design, the Project supports the Area Element's housing production and conservation objectives. (See RCW Area Element Policies. (See RCW-1.1.1, RCW-1.1.4, RCW-2.2.1, RCW-2.2.5; Ex. 3F, 81)

53. **Racial Equity.** The Applicant provided the following information regarding the community, the Project's potential impacts, and related outreach in its responses to the Community Outreach and Engagement component of the Commission's REA Tool:

- (a) ***Community Outreach and Engagement:*** The Applicant stated that it has engaged extensively with stakeholders since 2018, including ANC 3E, the Harrison Condominium Homeowners' Association, and neighboring residents, through dozens of meetings and ongoing communication. The Applicant began presenting the redevelopment concept at public ANC meetings in May 2018 and continued outreach through 2024, including updated presentations in March and June 2024 ahead of filing the Application. Community feedback directly shaped key elements of the Project, including the inclusion of family-sized units in response to a demand for housing that accommodates larger households, the decision to make all residential units fully electric to reflect sustainability goals, and the provision of HANTA-based units to promote affordability. Parking was among the issues raised by the community, but stakeholders also expressed support for the Project's efforts to enhance the neighborhood and respond to local priorities; and

Applicant's Proposed Findings of Fact and Conclusions of Law

- (b) **Displacement:** The Project would not displace any residents or businesses, as the PUD Site is paved and used for parking, and contains a 705-foot-high inoperable television tower that would be removed.
 - (c) **Demographic Trends and Neighborhood Impact:** The Applicant provided an assessment of demographic trends in Friendship Heights, noting stagnant population growth, aging demographics, and limited housing production. The Project's 126 new residential units, with 33% reserved as affordable at varying income levels, are intended to expand housing access, diversify household types, and attract a broader range of residents. The Applicant also described design features that will enhance livability, support neighborhood revitalization, and align with the Wisconsin Ave DF's vision for a more inclusive, walkable, and vibrant community.
(Ex. 3F, 23C, 81)
54. Potential Comprehensive Plan Inconsistencies. The Applicant identified three Comprehensive Plan policies with which the Project may be viewed as potentially inconsistent: Transportation Element Policy T-1.1.8, which seeks to minimize off-street parking but may be implicated by the Project's provision of 82 spaces where only 37 are required; Housing Element Policy H-1.6.5, which encourages net-zero, energy-efficient housing and sets ambitious sustainability goals that the Project does not yet fully achieve; and Environmental Protection Element Policy E-3.2.2, which calls for net-zero buildings, a standard the Project supports in principle through renewable energy and green features but does not currently meet. However, the Applicant believes that any such inconsistencies are outweighed by the Project's overall consistency with the FLUM, GPM, and a broad range of other Comprehensive Plan policies related to transit-oriented development, new housing, and environmental sustainability. (Ex. 3F, 81)
55. Wisconsin Avenue Development Framework. The Applicant discussed how the Project furthers the objectives and recommendations of the Wisconsin Ave DF, which provides a coordinated strategy to guide zoning changes and support new housing, including affordable units, along the Wisconsin Avenue corridor. The Project aligns with this vision by delivering a high-quality residential building with a significant affordable housing set-aside, pedestrian-oriented design, and a scaled transition to adjacent low-density neighborhoods. The Project is also consistent with both the Friendship Heights Transition Zone and Mixed-Use Corridor Zone recommendations, helping to activate underutilized land, enhance the public realm, and support inclusive, transit-oriented development. The Applicant also discussed how the Project would advance the guiding principles for the corridor that are relevant to the PUD Site, as follows:
- (a) **Develop housing as the principal use:** Provides a 126-unit multifamily residential building.
 - (b) **Design open spaces for social interaction:** Includes landscaped courts and tree-lined streets to support gathering.
 - (c) **Minimize parking and locate it below grade:** Places parking below grade and includes a TDM plan to mitigate impacts.

Applicant's Proposed Findings of Fact and Conclusions of Law

- (d) **Activate streetscape with pedestrian amenities:** Improves street edges with landscaping and potential seating elements.
 - (e) **Design streetwall with transparency and articulation:** Features a streetwall of just over 50 feet along Garrison Street, N.W. with a canopy, Juliet balconies, and articulated bays and stoops that enhance the residential character and activate the sidewalk.
 - (f) **Transition building scale near low-density areas:** Breaks up massing into four pavilion features along 42nd Street, N.W. to reduce scale.
 - (g) **Maximize energy efficiency and access to light/air:** Uses efficient systems, high-performance windows, and open layouts.
 - (h) **Provide private outdoor spaces:** Offers Juliet balconies, full balconies, terraces, and ground-level courts.
 - (i) **Modulate massing to allow for larger units:** Project's configuration creates more corners and optimizes layouts, allowing for additional two- and three-bedroom units suitable for larger households.
 - (j) **Design for a range of households:** Mix of unit types and proximity to transit, schools, and parks supports diverse residents.
 - (k) **Use courtyards/terraces to add vegetation and light:** Open courts and rooftop terraces enhance livability and greenery.
 - (l) **Prioritize rooftops for residential and green use:** Rooftops include units, green roofs, solar panels, and amenity spaces.
- (Ex. 3F, 81)

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

56. The Applicant provided evidence that the Application complies with Subtitle X § 304.4(b); that is, the Project does not create unacceptable impacts on the surrounding area or on the operation of city services and facilities but instead would be either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the Project, as outlined below:
- (a) **Land Use Impacts.** The Applicant asserted that the Project's land use impacts would be favorable. The current use of the PUD Site does not align with the District's transit-oriented development goals. In contrast, the proposed residential use will revitalize and activate a severely underutilized property, replacing the existing 705-foot radio tower and surface parking with a more efficient, transit-oriented development. The Project will deliver approximately 126 new residential units, including affordable housing that significantly exceeds matter-of-right requirements. Its scale and design are appropriate for the Site's location between the mixed-use Wisconsin Avenue corridor and a lower-density residential neighborhood, and it aligns with the District's vision for the Site and surrounding area.
 - (b) **Zoning Impacts.** The Applicant asserted that any zoning-related impacts would be favorable or acceptable given the quality of public benefits. The proposed rezoning of the R-2 zoned portion of the PUD Site to the RA-3 zone will allow for increased

Applicant's Proposed Findings of Fact and Conclusions of Law

residential density, but any potential adverse impacts are minimal. Density will be generated only from the RA-3 zoned portion but distributed across the entire PUD Site, including the MU-4 portion, which will remain unchanged. The proposed building height of 50 feet, 3 inches is below the RA-3 maximum of 60 feet and only modestly exceeds the 40-foot limit in the R-2 zone. Additionally, the Project will not render any other improvements on the Record Lot noncompliant with zoning.

- (c) ***Urban Design and Aesthetic Impacts.*** The Applicant asserted that urban design and aesthetic impacts would be favorable. The PUD Site is currently visually unappealing due to the inactive 705-foot television tower and surface parking lot. The Project will replace these features with four small-scale residential buildings that relate well to the surrounding lower density neighborhood. Although the Project achieves a maximum FAR of 4.308, it presents a more compatible apparent FAR of 3.06 when considered across the full PUD Site. Overall, the Project will significantly improve the visual character of the PUD Site and its relationship to adjacent development.
- (d) ***Housing Impacts.*** The Applicant asserted that the Project will result in favorable housing impacts by delivering 126 new residential units, including a significant amount of affordable housing, on a site that currently contains no housing. The affordable units will be reserved at a range of income levels, supporting the creation of a diverse residential community in a highly desirable location.
- (e) ***Transportation and Mobility Impacts.*** The Applicant asserted that transportation and mobility impacts would be capable of being mitigated or acceptable given the quality of public benefits and its commitments under the Memorandum of Understanding with ANC 3E. The PUD Site is located in a transit-oriented area with existing infrastructure that supports multimodal access. The Project will enhance pedestrian and bicycle connectivity through streetscape improvements and increased access to the Wisconsin Avenue corridor. Vehicular access to the underground parking garage will be limited to the private alley, reducing potential conflicts with pedestrians and cyclists. The proposed TDM Plan includes measures to address potential impacts associated with providing 82 parking spaces at the PUD Site. Additional on-site and off-site improvements, as provided in the Memorandum of Understanding with ANC 3E, including bulb-outs with bioretention at Garrison and 42nd Streets, N.W. that will be provided as a benefit of the PUD, further ensure that transportation impacts are capable of being mitigated or are otherwise acceptable.
- (f) ***Environmental Impacts.*** The Applicant asserted that environmental impacts would be favorable. The existing conditions at the PUD Site, which include a nonoperating 705-foot television tower and a surface parking lot, provide little environmental benefit. The Project will incorporate rooftop solar panels, green roof systems over the underground parking garage and building roof, and other sustainable measures.
- (g) ***Economic Development Impacts.*** The Applicant asserted that environmental impacts would be favorable. The existing conditions at the PUD Site, which include a nonoperating 705-foot television tower and a surface parking lot, provide little environmental benefit. The Project will incorporate rooftop solar panels, green roof

Applicant's Proposed Findings of Fact and Conclusions of Law

systems over the underground parking garage and building roof, and other sustainable measures. Environmental impacts are further favorable because of the Applicant's commitment to designing a building that will achieve the minimum number of points equivalent to the LEED Gold standard, which promotes reduced energy use.

- (h) **Educational Facilities Impacts.** The Applicant asserted that impacts to educational facilities would be capable of being mitigated or acceptable given the quality of public benefits. The PUD Site is within the boundaries of Janney Elementary School, Deal Middle School, and Jackson-Reed High School, which are projected to be highly utilized by School Year 2027–2028. DC Public Schools is considering boundary adjustments or an addition for Janney, has planned an addition for Deal in its Fiscal Year 2024–2029 Capital Improvement Plan, and is monitoring enrollment at the recently opened MacArthur High School to ease pressure on Jackson-Reed. Additional improvements may be pursued as needed to address capacity and facility needs.
- (i) **Cultural and Public Safety Impacts.** The Applicant asserted that public safety and cultural impacts would be favorable. The addition of many new residents promotes “eyes on the street” and, coupled with the design of the Project, will establish a neighborhood-like feel at this transitional location between the Wisconsin Avenue corridor and lower density residences surrounding the PUD Site. New residents may also support cultural activity in Friendship Heights.
- (j) **Construction Impacts.** The Applicant asserted that construction impacts would be acceptable given the quality of public benefits or capable of being mitigated. With experience delivering similar projects, including initiating construction of the adjacent development at 5151 Wisconsin Avenue, N.W., the Applicant indicated that it is familiar with the site and well-positioned to manage construction responsibly. The Applicant also negotiated construction management-related commitments in the Memorandum of Understanding with ANC 3E.

(Ex. 3, 23B, 81, 88C)

INCLUDES PUBLIC BENEFITS AND PROJECT AMENITIES THAT ARE NOT INCONSISTENT WITH THE COMPREHENSIVE PLAN, SMALL AREA PLAN. OR OTHER ADOPTED PUBLIC POLICIES RELATED TO THE PUD SITE (SUBTITLE X § 304.4(c))

57. The Applicant provided evidence that the Application complies with Subtitle X § 304.4(c). The Applicant also submitted evidence that the Project's public benefits and project amenities are not inconsistent with the Comprehensive Plan or other public policies, and that such benefits and amenities satisfy the criteria of Subtitle X § 305. The Applicant asserted, particularly with respect to the affordable housing proffer, that the proffered benefits exceed what could be achieved through matter-of-right development, are tangible and measurable, can be delivered prior to the issuance of a certificate of occupancy, and benefit either the immediate neighborhood or address District-wide priorities. (*Id.* at §§ 305.2, 305.3) The majority of the benefits accrue to the area of ANC 3E, the ANC in which the Project is located. (*Id.* at § 305.4; Ex. 3, 14, 23, 81, 89A)

Applicant's Proposed Findings of Fact and Conclusions of Law

58. The Application, as amended, enumerated a range of benefits and amenities that are superior to what could be provided through a matter-of-right project. These benefits and amenities, which are described in detail in FF ¶ 39 and organized according to the categories set forth in Subtitle X § 305.5, are as follows:
- (a) Superior Urban Design and Architecture (*Id.* § 305.5(a));
 - (b) Site Planning and Efficient and Economical Land Utilization (*Id.* § 305.5(c));
 - (c) New Housing (*Id.* § 305.5(f)(1) and (3));
 - (d) Affordable Housing (*Id.* § 305.5(g));
 - (e) Environmental and Sustainability Benefits (*Id.* § 305.5(k));
 - (f) Streetscape Plans (*Id.* § 305.5(l));
 - (g) Park Maintenance (*Id.* § 305.5(n));
 - (h) Non-Mitigation Transportation Improvements (*Id.* § 305.5(o));
 - (i) Uses of Special Value (*Id.* § 305.5(q)); and
 - (j) Other Public Benefits and Project Amenities that Substantially Advance the Comprehensive Plan (*Id.* § 305.5(r))
- (Ex. 3, 23, 81, 91A)

SATISFACTION OF THE PUD ELIGIBILITY STANDARDS AND ZONING FLEXIBILITY

59. The Applicant demonstrated that the Project meets the purposes and requirements for a PUD and justified the requested zoning flexibility, as set forth in FF ¶¶ 60-64 below.
60. PUD Purposes (*Id.* at §§ 300.1 and 300.2).
- (a) ***Superior to matter-of-right development.*** The Project is superior to a matter-of-right development because it delivers significantly more housing and affordable housing than what could otherwise be built on the site. Rezoning a portion of the PUD Site to the RA-3 zone allows multifamily development that is not feasible under the existing R-2 zoning, which would result in detached or semi-detached townhomes and only one IZ unit. Even under RA-3 zoning, a matter-of-right development could yield at most 12 IZ units. In contrast, the PUD includes 42 affordable units, representing 33% of the total 126 multifamily units. This includes approximately 13 IZ units at 50 and 60% MFI, along with 29 additional units at 80% MFI through the District's HANTA program. This mix provides both a greater number of affordable units and a wider range of affordability levels than would be possible without the PUD. These commitments, combined with the redevelopment of a severely underutilized site and a comprehensive package of public benefits and amenities, would not be achievable without the PUD and related Zoning Map Amendment.
 - (b) ***Protects and advances the public health, safety, welfare, and convenience.*** The Project protects and advances the public policies underlying the Zoning Regulations by redeveloping currently underutilized land with housing and affordable housing in a centrally-located, transit-rich area of the District. The development of underutilized property with new housing and affordable housing advances the public health, safety, welfare, and convenience goals of the District

Applicant's Proposed Findings of Fact and Conclusions of Law

by converting an underutilized lot into a more productive and context-appropriate use; and

- (c) ***Does not circumvent the intent and purposes of the Zoning Regulations.*** The Project and proposed Zoning Map Amendment to RA-3 are consistent with the purposes of the Zoning Regulations and the PUD process. While the FLUM designates a portion of the site as Moderate Density Residential, the RA-3 zone is appropriate given the Project's design, housing production, and alignment with District goals. The PUD results in a higher quality development than would be possible as a matter-of-right, provides meaningful public benefits including deep and broad affordability, and promotes public health, safety, welfare, and convenience in a manner that is not inconsistent with the Comprehensive Plan. The site's configuration allows all density to be generated from the RA-3-zoned portion while spreading massing across the entire site, resulting in an apparent FAR of 3.06 compared to the 4.32 FAR permitted. This approach ensures the Project fits within its context and fulfills the purpose of the PUD process under Subtitle X § 300.1.

(Ex. 3, 3F, 14, 23, 81, 88)

61. Minimum Land Area (*Id.* at § 301.1). The PUD Site includes land in both the MU-4 and RA-3 zones, each of which requires a minimum of 15,000 square feet for a PUD. With a total area of approximately 40,357 square feet, the Site meets the minimum land area requirement for both zones. (Ex. 3, 23A1)
62. PUD Flexibility (*Id.* at §§ 303.3, 303.7). The PUD includes a full allocation of IZ units and generates all density from the 28,654 square feet of RA-3-zoned land, allowing a maximum FAR of 4.32 (123,785 square feet of GFA). The proposed FAR for the Project is 4.308, with 123,444 square feet of GFA and a building height of 50 feet, 3 inches, which is within the 75-foot limit for PUDs in the RA-3 zone. Accordingly, the Application satisfies the applicable PUD guidelines. (Ex. 3, 23A1)
63. PUD-Related Map Amendment (*Id.* at § 303.12). The Application includes a PUD-related Zoning Map amendment to rezone the R-2 portion of the Site to RA-3, which is considered flexibility to be weighed against the PUD's public benefits. The R-2 zone permits one principal dwelling and one accessory apartment per lot, with a maximum height of 40 feet and three stories. The RA-3 zone permits up to 3.6 FAR with IZ and a height of 60 feet. The Project proposes a total FAR of 4.308 and a building height of 50 feet, 3 inches, consistent with RA-3 PUD standards. (Ex. 3, 23A1, 81)
64. Additional PUD-Related Zoning Flexibility (*Id.* at § 303.1(a)). The Applicant requests two areas of PUD-related zoning flexibility pursuant to Subtitle X § 303.1(a), even though the Project otherwise complies with RA-3 development standards across both the PUD Site and the Record Lot. The requested flexibility relates to:
- (a) ***Penthouse Side Setback (West Elevation)*** – Relief from the 1:1 setback required under Subtitle C § 1504.1(c)(2) is warranted, as the penthouse is intentionally located on the west side of the building to reduce visibility and shift massing away

Applicant's Proposed Findings of Fact and Conclusions of Law

from the adjacent single-family neighborhood. The noncompliant elevation faces a private alley and will not be visible from public streets. A compliant setback would compromise the penthouse layout, reduce affordable housing, and create structural and code challenges for wood-frame construction. Flexibility would also preserve rooftop area for green roof and solar installations; and

- (b) **Rear Yard (PUD Site Boundary)** – While the Project complies with rear yard requirements when measured from the Record Lot under Subtitle B § 318.8, the Applicant seeks flexibility as a precaution when measuring from the PUD Site boundary. In that case, the Project provides 10 feet, 9 inches where 17 approximately feet is required. The Applicant asserted that the deviation is de minimis given the approximately 25.5 feet of separation from the abutting building at 5151 Wisconsin Avenue, N.W., which includes the width of the private alley, and that this distance is sufficient to avoid adverse impacts. (Ex. 3, 23A1, 81)

SPECIAL EXCEPTION TO PERMIT OFF-SITE ACCESSORY PARKING

65. The Applicant requested special exception relief to permit off-site accessory parking spaces within the underground garage serving the Project but located outside the PUD Site boundary. The proposed plans for the Project show that six (6) spaces are within R-2 zoned property abutting the PUD Site to the north and form part of the adjacent parcel at 5151 Wisconsin Avenue, N.W., which is included in the Record Lot but excluded from the PUD Site. The Applicant cited the Commission's authority under Subtitle X § 303.13 and Subtitle U § 203.1(k) to grant such relief and provided information demonstrating compliance with all applicable conditions of Subtitle U § 203.1(k)(1)–(11). The Applicant also asserted that the relief satisfied the general special exception standards under Subtitle X § 901.2(a) and (b), noting that the parking would serve a residential use, remain fully below grade, and be imperceptible from public view. As such, the request was in harmony with the Zoning Regulations and Map and would not result in adverse impacts on neighboring properties. (Ex. 3, 81)

IV. RESPONSES TO THE APPLICATION

OP

OP Setdown Report

66. On November 4, 2024, OP submitted a report (the "OP Setdown Report") recommending that the Commission set the Application down for a public hearing. (Ex. 11) The OP Setdown Report stated that the Application would not be inconsistent with the maps and policies of the Comprehensive Plan and, specifically, would not be inconsistent with the Property's Neighborhood Conservation Area designation on the GPM and its Moderate Density Residential and Mixed-Use (Medium Density Residential / Moderate Density Commercial) designations on the FLUM. OP also found the Application to further racial equity and policies from the Land Use, Housing, Transportation, Environmental Protection, and Urban Design Elements, as well as the RCW Area Element and the Wisconsin Avenue DF. The OP Setdown Report also included the following comments:

Applicant's Proposed Findings of Fact and Conclusions of Law

- (a) OP stated that the proposal would not be inconsistent with the PUD Site's FLUM designations because the Comprehensive Plan anticipates added density through a PUD or IZ, and the proposed PUD exceeds IZ requirements and yields a 3.06 FAR across the site, consistent with the Moderate Density Residential designation;
- (b) OP found that the proposal would not be inconsistent with the GPM's Neighborhood Conservation Area designation, which supports infill that addresses citywide housing needs, and that the Project advances this goal by delivering new and affordable housing;
- (c) In its evaluation of the Project's consistency with the Land Use Element, OP stated that the Project would replace a surface parking lot and defunct radio tower with new housing, including 33% affordable, and serve as transitional infill that advances housing diversity along a major corridor;
- (d) OP found that the Project would not be inconsistent with the Wisconsin Ave DF, which envisions moderate-density residential use through a PUD, and aligns with goals for transitional scale, housing diversity, sustainability, and pedestrian access.
- (e) OP stated that it would review the requested zoning flexibility further and provide a recommendation prior to the hearing;
- (f) OP found that the Applicant's proposed public benefits and amenities package, including superior design, site planning, new and affordable housing, environmental features, streetscape improvements, and removal of the obsolete tower, would generally satisfy the standards of Subtitle X § 305.5, and stated that it would provide additional analysis following the Applicant's final submission;
- (g) **Potential Inconsistencies** – OP identified potential inconsistencies with Comprehensive Plan policies related to parking near transit and sustainability, noting that the proposed parking exceeded requirements and may have conflicted with policies discouraging excessive off-street parking near Metro stations (Policies LU-1.4.7, LU-2.1.11, and T-1.1.8), while also noting that the Applicant had committed to working with DDOT to study and mitigate potential impacts. OP also found that although the Project included several sustainable features, it did not yet fully align with the District's net-zero energy and water efficiency goals (Policy H-1.6.5); and
- (h) **Racial Equity** – OP stated that the Application is not inconsistent with the Comprehensive Plan when evaluated through a racial equity lens, citing its application of the Zoning Commission's REA Tool and analysis of disaggregated race and ethnicity data for the RCW Planning Area, and noted that the Applicant provided background on how exclusionary land use and lending practices have historically limited housing access in the area.

OP Hearing Report

67. On July 3, 2025, OP filed a hearing report recommending that the Commission approve the Application, and on July 21, 2025, submitted a follow-up report outlining four corrections.² (Ex. 35, 87, together the "OP Hearing Report", and collectively with the OP

² OP's follow-up report corrected the land area subject to the PUD-related map amendment (28,654 square feet), noted that the Project is separated from adjacent structures by a private rather than public alley, and clarified that the

Applicant's Proposed Findings of Fact and Conclusions of Law

Setdown Report the “OP Reports”). The OP Hearing Report also included the following comments:

- (a) OP summarized its prior comments on the Application and the Applicant's responses to the Commission's comments given at the November 14, 2024, public meeting;
- (b) OP did not object to the zoning flexibility requested by the Applicant. OP found the reduced penthouse setback on the west elevation acceptable given its orientation toward the alley and away from residential areas. OP also supported the rear yard relief, noting the building's sufficient separation from adjacent structures;
- (c) OP supported the special exception for the off-site accessory parking spaces in the underground garage extending into the R-2 zone, finding the request met all conditions of Subtitle U § 203.1(k);
- (d) The OP Hearing Report summarized OP's analysis of the Project under the Citywide Elements and the RCW Area Element of the Comprehensive Plan, reaffirmed that the Project is not inconsistent with the Comprehensive Plan, and reiterated that it would not be inconsistent with the Wisconsin Avenue Development Framework;
- (e) OP restated that the Project is not inconsistent with the Comprehensive Plan, including when viewed through a racial equity lens, and concluded that it is not expected to result in adverse impacts on city services, traffic, or parking, and that the proposed public benefits are commensurate with the degree of flexibility requested;
- (f) OP supported the Applicant's requested design flexibility, but did not support flexibility for sustainable features due to insufficient detail and commitment; and
- (g) Regarding the proffered environmental and sustainable benefits pursuant to Subtitle X § 305.5(k), the OP Hearing Report noted that while the Application references green roofs, rooftop solar panels, EV-ready parking, and enhanced stormwater management, it provides limited detail or commitment. OP encouraged the Applicant to provide greater clarity regarding these features to pursue a building design that can achieve the minimum number of points equivalent to the LEED Gold standard.

68. The OP Hearing Report included a racial equity analysis with the following findings in response to the REA Tool:

- (a) ***Guidance Regarding the Comprehensive Plan*** – OP reiterated that the proposal is not inconsistent with the Comprehensive Plan's FLUM and GPM designations, is not inconsistent on balance with the Citywide Elements—including Land Use, Transportation, Housing, Environmental Protection, and Urban Design—and is not inconsistent with the RCW Area Element, citing policies RCW-1.1.1, RCW-2.2.1, RCW-2.2.5, and RCW-2.2.A, while also acknowledging the four potential inconsistencies previously raised in the OP Setdown Report.
- (b) ***Community Outreach and Engagement*** – OP cited to the Applicant's outreach efforts described in its Comprehensive Plan evaluation (Ex. 3F), noting ongoing

request for accessory off-site parking in the R-2 zone is being pursued as a special exception rather than PUD-related zoning flexibility.

Applicant's Proposed Findings of Fact and Conclusions of Law

engagement since 2018 with neighbors, the Harrison Condominium Homeowners Association, and ANC 3E. OP stated that community input led to changes such as more family-sized units, improved environmental features, removal of the television tower, and dedicated affordable housing, and that the Applicant finalized a memorandum of understanding with ANC 3E on June 12, 2025.

- (c) ***Disaggregated Race and Ethnicity Data*** – The OP Hearing Report provided disaggregated race and ethnicity data for the RCW Planning Area, which has the highest percentage of White residents and the lowest percentage of Black residents among all ten planning areas. OP noted that median income for Black residents in the area declined over time, a trend observed in only one other planning area. OP also found that the area has relatively high homeownership rates, lower poverty and unemployment than the District average, and a limited supply of dedicated affordable housing, with only 355 affordable units produced as of September 2024, representing 11.6% of the District's target for the area. OP concluded that the Project, which would deliver 126 new residential units, 33% of which would be dedicated affordable housing, would help advance the District's housing equity goals by expanding access to affordable housing in a high-opportunity area with historically limited availability.
- (d) ***Zoning Commission Evaluation Factors*** –The OP Hearing Report addressed the factors under the REA Tool, including displacement, housing, physical environment, access to opportunity, and community engagement. OP found that the Project would not cause direct or indirect displacement, would provide positive changes to housing, improve public space and neighborhood character, and was responsive to community input. While the Project would not directly deliver new services as an all-residential building, it would support and improve access to existing opportunities in Friendship Heights.

(Ex. 35)

69. At the July 14, 2024, public hearing, OP testified in support of the Application and summarized its comments in its prior reports. (Hearing Tr. at pp. 70-74)

DDOT

70. On July 3, 2025, DDOT filed a report (Ex. 36) expressing no objection to the Application with the following conditions in the Order:
- (a) Implement the TDM Plan as proposed in the Applicant's May 15, 2025, Transportation Statement (Ex. 23B) for the life of the Project, unless otherwise noted with the following revisions:
- Specify the minimum number of long-term bicycle parking spaces to be located horizontally on the floor (50% would be at least 21) and the amount to be designed with electrical outlets for e-bikes/scooters (10% would be at least 4). Also, specify that at least two (2) spaces will be designed with the larger 10 feet by 3 feet design for cargo and larger bikes; and
 - Install a minimum of three (3) additional inverted U bike racks near the building entrance instead of an in-street micromobility corral.

Applicant's Proposed Findings of Fact and Conclusions of Law

- (b) Implement the following infrastructure improvements in public space, subject to DDOT approval:
- Add intersection “daylighting” at all four corners of the Garrison Street, N.W. and 42nd Street, N.W. intersection to increase visibility of pedestrians and slow down vehicles traveling to and from the site (or Harrison Street, N.W. and 42nd Street, N.W., if subsequent improvements are made at Garrison Street, N.W.); and
 - Construct a speed hump on 42nd Street, N.W. between Garrison and Harrison Streets, N.W.
71. At the July 14, 2025, public hearing, DDOT testified in support of the Application and confirmed the Applicant’s coordination with DDOT regarding the Project’s transportation impacts. DDOT also confirmed agreement on the proposed TDM Plan, as well as the agreed-upon off-site improvements and traffic calming measures. (Hearing Tr. at pp. 69-70)

OTHER DISTRICT AGENCIES

72. The OP Hearing Report stated that OP had referred the Application to relevant government agencies for comment and had convened an interagency meeting with the Applicant, which was attended by DOEE, DHCD, DDOT, FEMS, MPD, and DC Water. DOEE provided comments in support of the application that were included as Attachment II of the OP Hearing Report. (Ex. 35)
73. The Office of the Attorney General Equitable Land Use Section (“OAG”) submitted comments on the Application in a letter dated July 3, 2023, and also testified at the July 14, 2025, public hearing (Ex. 34-34A, 47; Hearing Tr. at pp. 64-68). OAG’s written comments and testimony stated that OAG supported the Application based on the Applicant’s significant affordable housing proffer and elaborated on its support based on provisions of the Comprehensive Plan.

ANC 3E

74. Pursuant to Subtitle Z § 406.2 on July 7, 2025, ANC 3E submitted a resolution (the “ANC Resolution”) stating that at its properly noticed meeting on June 12, 2025, at which a quorum was present, the ANC voted 5-0-0 in support of the Application. (Ex. 38) ANC 3E expressed support for the Application and summarized the public benefits memorialized in a Memorandum of Understanding with the Applicant (Ex. 88C), along with aspects of the PUD that the ANC believed would positively impact both existing and future residents of the surrounding community.

ORGANIZATIONS AND INDIVIDUALS IN SUPPORT

75. On July 11, 2025, the Coalition for Smarter Growth (“CSG”) submitted a letter stating that it supported the Project and that the PUD represented “a rare change to create more affordable homes and give people the option to live in [a] high-opportunity neighborhood.” (Ex. 79) Additionally, CSG’s letter commended the proposed design and the Applicant’s

Applicant's Proposed Findings of Fact and Conclusions of Law

- engagement with ANC 3E but also expressed concern about the proposed parking. CSG testified in support at the July 14, 2025, public hearing. (Hearing Tr. at pp. 75-77)
76. The following individuals submitted letters in support of the Application: Rachel Davis, Barbara Kraft, Jacob Barker, Louise Brodnitz (2x), Peter Zorc, Matthew Bank, Paul Brown, Susan C. Price, Jennine Carmichael, Jamie Butler, Steven Segerlin, Tim Abrams, Parrie Henderson, Dr. Lawrence Martin, Kevin O'Halloran, Larry Cohen, Ellen Jones, Jose de Arteaga, Caroline O'Shea, Douglas Stallworth, Elizabeth Vaden, Dennis Jing, Rachel Warner, Shalom Flank, Lucia Pollock, Dennis Sendros, Joey Biaetti, Justin Schor, Valerie Wheeler, Jared Alves, Francis Dandrea, Tom Lalley, Kateri Spear, Louisa Farley, Regi Sellote, Randall Keesler, Elizabeth Floyd, Anna Marie Yombo, Elizabeth Borkowski, Ileana Schinder, Dr. Declan Cullen, Elizabeth Belair, Matt Erickson, Scott Burger, Rick Rybeck, Chuck Elkins, Rosalyn Doggett, and Jesse Abraham. (Ex. 25-33, 37, 39, 41-45, 48-52, 54-78, 82-84)

INDIVIDUALS IN OPPOSITION

77. On July 13, 2025, residents of the 5100 block of 42nd Street, N.W. (collectively, the "Adjacent Neighbors"), who directly face the PUD Site, submitted written testimony and questions for the Commission's consideration. (Ex. 80) The Adjacent Neighbors raised concerns regarding consistency with the Comprehensive Plan, the proposed building height, and potential impacts to light and air, among other issues. The Adjacent Neighbors, including Jedd Skibo, Andrea Fishman, and Jake Van Leer, testified in opposition during the public hearing held on July 14, 2025.³ (Hearing Tr. at pp. 77-79; 83-90)

OTHER ORGANIZATIONS

78. On July 10, 2025, Shelly Repp, Chair of the Committee of 100 on the Federal City ("C100"), filed written comments in the record that commended the Applicant's efforts to generate new affordable housing, but raised issue with the IZ component of the Applicant's affordable housing proffer. Mr. Repp testified on behalf of the C100 at the public hearing held on July 14, 2025. (Hearing Tr. at pp. 79-83)

NATIONAL CAPITAL PLANNING COMMISSION ("NCPC")

79. On July 17, 2025, the Commission referred the Application to NCPC 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. 86)
80. On August [REDACTED], 2025, NCPC filed a letter stating _____. [insert to summarize NCPC review]

³ During the public hearing, Mr. Van Leer raised a concern regarding notice. (Hearing Tr. at p. 83.) The Commission finds no issue with notice and concludes that the Application complied with the public notice requirements set forth in Subtitle Z §§ 402.3 and 402.4. Any non-receipt of notice is reasonably attributed to an outdated mailing address in the records of the Office of Tax and Revenue. (Ex. 20)

Applicant's Proposed Findings of Fact and Conclusions of Law

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 consolidated 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) PUD-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-3 zone is 15,000 square feet, all of which must “be contiguous, except that the property may be separated only by public streets, alleys, or rights-of-way.”
4. PUD Purposes. 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 to result in action that is inconsistent with the Comprehensive Plan.
5. 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.”⁴ 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:

⁴ *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.)

Applicant's Proposed Findings of Fact and Conclusions of Law

- (a) To define the requirements and aspirations of District residents, and accordingly influence social, economic and physical development;
 - (b) To guide executive and legislative decisions on matters affecting the District and its citizens;
 - (c) To promote economic growth and jobs for District residents;
 - (d) To guide private and public development in order to achieve District and community goals;
 - (e) To maintain and enhance the natural and architectural assets of the District; and
 - (f) To assist in conservation, stabilization, and improvement of each neighborhood and community in the District.
6. 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.”
7. 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 or a few categories [of public benefits] but must be acceptable in all proffered categories and superior in many.
8. 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 and 303.12: “The amount of flexibility from all other development standards not addressed by this section shall be at the discretion of the Zoning Commission”, and “[a] PUD-related zoning map amendment shall be considered flexibility against which the Zoning Commission shall weigh the benefits of the PUD.”

Applicant's Proposed Findings of Fact and Conclusions of Law

9. Special Exception Relief. Pursuant to Subtitle X § 303.13, “[a]s part of any PUD, the applicant may request approval of any relief for which special exception approval is required.” The Commission “shall apply the special exception standards applicable to that relief, unless the applicant requests flexibility from those standards.” Any such flexibility is considered the type of development flexibility against which the Commission shall weigh the PUD benefits.
10. 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.”⁵

SATISFACTION OF PUD ELIGIBILITY STANDARDS

11. Public Review. Based on the July 14, 2025, public hearing (*see* Hearing Tr.) 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 benefits in satisfaction of Subtitle X § 300.5.
12. Land Area and Contiguity. The minimum area included in a PUD in the MU-4 zone and the RA-3 zone is 15,000 square feet, and all such area must be contiguous. The PUD Site consists of approximately 40,357 square feet of land area, all of which is contiguous. The Commission concludes that the Application satisfies the minimum land area required under Subtitle X § 301.1 *et seq.* (FF ¶¶ __, __, __)
13. PUD Purposes. Based on the evidence in the record, the Commission concludes that the Project satisfies the purposes of a PUD because:
 - (a) The Project is superior to a matter-of-right development because it provides substantially more housing and affordable housing than could be constructed on the PUD Site without the PUD and related Zoning Map Amendment. The existing R-2 zoning on a portion of the PUD Site does not allow multifamily residential use and imposes greater restrictions on height, density, and lot occupancy that would prevent the proposed development configuration, which distributes density across the entire site to create the appearance of four distinct buildings. Even under RA-3 zoning, a matter-of-right development would yield at most 12 IZ units. In contrast, the Project provides 126 rental units, including approximately 42 affordable units, representing 33% of the total unit count and reserved at a mix of 50%, 60%, and 80% MFI levels, with a minimum of nine three-bedroom units. The IZ component exceeds applicable requirements under a matter-of-right scenario, and the overall affordable housing proffer represents a substantial public benefit that, together with the other amenities proffered with the Application, could not be achieved without the PUD and related Zoning Map Amendment; (FF ¶¶ 31, 60)
 - (b) The Project offers a commendable number and quality of public benefits and project amenities, as further discussed in FF ¶ 39. The Project’s design incorporates

⁵ *Barry Farm Tenants and Allies Ass’n. v. D.C. Zoning Comm’n.*, 182 A.3d 1214, 1224 (D.C. 2018) (citations omitted).

Applicant's Proposed Findings of Fact and Conclusions of Law

four distinct “pavilions” along 42nd Street, N.W., each with varied materials, human-scale detailing, and active streetscape engagement, which together create a refined transition to the surrounding neighborhood and achieve a level of urban design and architecture superior to a matter-of-right development. The Project’s site planning transforms a significantly underutilized property into a mixed-income residential community, distributing density to achieve an apparent FAR of 3.06 while avoiding a single, out-of-scale mass. In addition to the Applicant’s substantial housing commitment described above, which reserves 33% of the Project’s total units for affordable housing, the Project incorporates an all-electric design, vegetated roofs, rooftop solar panels, EV-ready spaces, and a building design that will achieve the minimum number of points equivalent to the LEED Gold standard, together with streetscape improvements including plantings, sidewalk paving, enlarged tree pits, and new trees. Other benefits include enhancements to Fessenden Park, pedestrian safety improvements at the intersection of Garrison and 42nd Streets, N.W., and removal of the existing 705-foot television tower. Collectively, these features constitute a package of benefits and amenities that far exceed what would be provided in any matter-of-right development; (FF ¶ 39)

- (c) The Project protects and advances the public health, safety, welfare, and convenience. The Project redevelops currently underutilized land with housing and affordable housing in a centrally located, transit-rich area of the District, thereby converting an underutilized site into a productive and context-appropriate use that advances the District’s housing, equity, and sustainability goals; (FF ¶ 31, 60)
- (d) The Project does not circumvent the intent or purposes of the Zoning Regulations. The Project and proposed Zoning Map Amendment to the RA-3 zone are consistent with the purposes of the Zoning Regulations and the PUD process. The RA-3 zone is intended to permit medium-density residential development, Subtitle F § 101.6, and is appropriate for the PUD Site given the Project’s design, housing production, and consistency with District goals. The Project’s use, height, and density are consistent with the character of the RA-3 zone, while the distribution of density across the entire PUD Site yields an apparent FAR of 3.06 compared to the 4.32 FAR permitted, ensuring compatibility with the surrounding neighborhood. The development of currently underutilized land commensurate with RA-3 standards advances neighborhood stability and contributes to the vitality of the surrounding area; (FF ¶¶ 31, 60)

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

14. 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:

- (a) FLUM. The Project is not inconsistent with the FLUM’s Moderate Density Residential and Mixed Use (Medium Density Residential / Moderate Density Commercial) designations for the PUD Site. The Commission finds that, in this

Applicant's Proposed Findings of Fact and Conclusions of Law

case, the proposed RA-3 zoning is appropriate for the Moderate Density Residential category when applied through the PUD process because it allows multifamily development at a scale compatible with the Wisconsin Avenue corridor and the surrounding lower-density neighborhoods, and provides the flexibility to deliver meaningful public benefits. The existing R-2 zoning is inconsistent with these designations because it aligns with the Low Density Residential category and does not permit multifamily residential use. The Application proposes to rezone only the R-2 portion of the PUD Site to RA-3, with a proposed height of approximately 50 feet, 3 inches and a density of 4.308 FAR on the RA-3 portion, but an “apparent” FAR of 3.06 when calculated across the entire PUD Site, both within the height and density parameters permitted for a PUD in the RA-3 zone. The Project provides the required full IZ allocation and supplements it with additional affordable units through the HANTA program, reserving 33% of all units as affordable, including deeper affordability levels and larger family-sized units. The additional density made possible through the PUD process is distributed among four “pavilions” separated by private courtyards, creating a scale and rhythm that transition compatibly to the surrounding neighborhood. In light of the transitional location, compatible design, and substantial housing and affordability commitments, the Commission concludes that the proposed RA-3 zoning, and PUD are not inconsistent with the FLUM when considered with the Comprehensive Plan as a whole; (FF ¶¶ 17-23, 52, 56)

- (b) GPM. The Project is not inconsistent with the Neighborhood Conservation Area designation for the PUD Site, which encourages preservation of neighborhood character while allowing modest infill to meet housing needs. The Project introduces new market-rate and affordable housing on an underutilized site in a high-opportunity location along the Wisconsin Avenue corridor. Its height, scale, and massing transition compatibly to the lower-density residential context east of 42nd Street, N.W., while strengthening the pedestrian environment along Wisconsin Avenue. By reserving 33% of all units as affordable, including deeper affordability levels and larger family-sized units, the Project advances Comprehensive Plan goals for expanding affordable housing in areas with strong access to transit, services, and amenities. The PUD Site's location within a Future Planning Analysis Area, and the fact that the Wisconsin Ave DF satisfies the planning analysis requirement of the Comprehensive Plan's Implementation Element (10-A DCMR §§ 2310.4, 2503.2), further support the Commission's consideration of the proposed PUD and Zoning Map Amendment.; (FF ¶¶ 24-25, 30, 52)
- (c) 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 a transit-rich location into a mixed-income residential community with a substantial affordable housing component. By delivering 126 total units, 33% of which will be reserved as affordable housing with a range of MFI levels and family-sized options, the Project advances policies that encourage infill development, promote transit-oriented growth, and expand

Applicant's Proposed Findings of Fact and Conclusions of Law

housing choice in high-opportunity areas. The site's location along Wisconsin Avenue supports walkability and corridor activation, while the design transitions in scale to the adjacent lower-density neighborhood. The Project also incorporates public realm improvements, including new trees, plantings, and sidewalk upgrades, and removes the existing 705-foot television tower. (FF ¶ 52; *see also* Land Use Element Policies LU-1.4.1, LU-1.4.2, LU-1.4.6, LU-1.5.1, LU-2.1.3, LU-2.1.5, LU-2.1.13, LU-2.2.4)

- (d) Transportation Element. The Project is not inconsistent with the Transportation Element. Concentrating new housing, including a substantial affordable component, near the Friendship Heights Metro station and high-capacity bus service advances the District's goals for sustainable, multimodal transportation. Pedestrian safety and connectivity are improved through upgraded sidewalks, enhanced crossings, and new landscaping. The Project also provides secure long-term and short-term bicycle parking and a TDM Plan to encourage non-automobile trips, reducing reliance on private vehicles and supporting equitable access to transit. (FF ¶ 52; *see also* Transportation Element Policies T-1.1.4, T-1.1.7, T-2.4.1, T-2.4.2, T-2.4.3)
- (e) Housing Element. The Project is not inconsistent with the Housing Element. Delivery of 126 new units, with approximately 33% reserved at 50%, 60%, and 80% MFI levels through IZ and the HANTA program, exceeds matter-of-right requirements by providing deeper affordability and larger family-sized units in a high-cost, transit-accessible neighborhood. This commitment promotes income diversity, supports equitable growth, and advances the District's housing goals for the RCW planning area. The affordable housing proffer represents a significant public benefit under the PUD process and contributes to citywide and area production targets. (FF ¶ 52; *see also* Housing Element Policies H-1.1.1, H-1.1.3, H-1.1.5, H-1.1.8, H-1.1.9, H-1.2.1, H-1.2.2, H-1.2.7, H-1.2.11, H-1.3.1, H-1.3.2, H-3.1.1)
- (f) Environmental Protection Element. The Project is not inconsistent with the Environmental Protection Element, particularly because it will be designed to achieve the minimum number of points equivalent to the LEED Gold standard. All-electric units and high-performance systems will reduce greenhouse gas emissions and utility costs, while green roofs, solar readiness, and EV-ready parking support cleaner energy use. New trees, landscaping, and permeable surfaces will replace paving to reduce runoff and mitigate heat island effects. (FF ¶ 52; *see also* Environmental Protection Element Policies E-1.1.2, E-2.1.2, E-2.1.3, E-3.1.1, E-3.2.3, E-3.2.5, E-4.1.1, E-4.1.2, E-4.4.1)
- (g) RCW Area Element. The Application is not inconsistent with the RCW Area Element, which calls for more affordable housing and context-sensitive infill. In a high-cost area with limited affordable options, the Project delivers 126 units, 33% of which are affordable, and transitions from Wisconsin Avenue to adjacent single-family homes. Redevelopment removes the 705-foot television tower, improves views, and adds green space, supporting housing production and conservation

Applicant's Proposed Findings of Fact and Conclusions of Law

goals. (FF ¶ 52; *see also* RCW Area Element Policies RCW-1.1.1, RCW-1.1.4, RCW-2.2.1, RCW-2.2.5)

- (h) Potential Inconsistencies. The Commission acknowledges that the Project may be viewed as potentially inconsistent with certain Comprehensive Plan policies, including Transportation Element Policy T-1.1.8, which encourages minimizing off-street parking, given the provision of 82 spaces where 37 are required; Housing Element Policy H-1.6.5, which calls for net-zero and highly energy-efficient housing; and Environmental Protection Element Policy E-3.2.2, which seeks new development to achieve net-zero building performance. With respect to parking, the Commission notes that the number of spaces responds to requests from ANC 3E and neighboring stakeholders during the Applicant's multi-year engagement process and is intended to address community concerns regarding potential on-street parking impacts. The Commission finds that these potential inconsistencies are outweighed by the Project's overall consistency with the FLUM and GPM, its substantial housing and affordability commitments, its transit-oriented location near the Friendship Heights Metro station, and its context-sensitive design. When considered as a whole, the Project remains not inconsistent with the Comprehensive Plan. (FF ¶¶ 52, 54)
 - (i) Wisconsin Avenue DF. The Project is not inconsistent with the Wisconsin Ave DF, which calls for zoning changes and new housing, including affordable units, along the Wisconsin Avenue corridor. Within the Friendship Heights Transition Zone and Mixed-Use Corridor Zone, it delivers 126 units with 33% reserved as affordable, features a pedestrian-oriented design, and transitions in scale to nearby low-density neighborhoods. Housing is the principal use, parking is below grade, and the building form is divided into four distinct volumes to reduce mass. Landscaped courts, balconies, and green roofs further support the Wisconsin Ave DF's emphasis on livability and inclusive, transit-oriented growth. (FF ¶¶ 52, 55)
15. The Commission concludes that the Project is not inconsistent with the Comprehensive Plan when evaluated through a racial equity lens. This conclusion is based on the racial equity analysis submitted by the Applicant, which includes details on community outreach and engagement, and the OP Reports, which provide disaggregated race and ethnicity data for the RCW Planning Area. As discussed below, the Project's substantial affordable housing commitment in a high-cost, high-opportunity neighborhood meaningfully advances housing equity and access for households historically underrepresented in this area. (FF ¶ 52, 54-55)
16. Applicant's Racial Equity Analysis. The Commission finds that the Applicant's racial equity analysis addresses the components of the revised REA Tool. The Commission notes the following from the Applicant's analysis:
- (a) Community Outreach and Engagement: The Applicant has engaged in sustained outreach with stakeholders since 2018, including ANC 3E, the Harrison Condominium Homeowners' Association, and nearby residents, through numerous public meetings, small-group discussions, and ongoing communications. The

Applicant's Proposed Findings of Fact and Conclusions of Law

Commission finds that community feedback has been meaningfully incorporated into the Project, resulting in specific design and programmatic changes such as the inclusion of larger family-sized units, the commitment to all-electric residential systems, and the provision of HANTA-based affordable units. While parking was identified as a concern, the Commission acknowledges that the Applicant's parking program reflects community input while balancing broader planning goals.

- (b) Displacement: The Commission finds that the Project will not result in the displacement of any existing residents or businesses, as the PUD Site is currently improved with surface parking and a non-operational television tower. The removal of these existing conditions will enable redevelopment without adverse displacement impacts.
- (c) Demographic Trends and Neighborhood Impact: The Commission credits the Applicant's analysis identifying stagnant population growth, an aging demographic profile, and constrained housing production in Friendship Heights. Drawing on this information and the full record, the Commission finds that the addition of 126 new residential units, with 33% reserved as affordable at multiple income levels, will broaden housing opportunities, attract a more varied mix of households, and stimulate neighborhood reinvestment. The Commission also concludes that the Project's design features will strengthen livability and advance the Wisconsin Avenue Development Framework's vision for a more inclusive, walkable, and dynamic community.

(FF ¶ 53)

- 17. OP's Racial Equity Analysis. The Commission finds that OP's racial equity analysis addresses the components of the revised REA Tool. (FF ¶¶ 66-68) OP's analysis included disaggregated race and ethnicity data for the RCW Planning Area, which has the highest share of White residents, the lowest share of Black residents, and is one of only two planning areas in the District where median income for Black households has declined over time. The area also has high homeownership rates, low poverty, and a limited supply of dedicated affordable housing. OP concluded that the Project's delivery of 126 new units, one-third of which are affordable, would expand access to housing in a high-opportunity location with historically limited affordability, helping to address income disparities and advance the District's equity goals for the Planning Area.

POTENTIAL IMPACTS – FAVORABLE, MITIGATED, OR ACCEPTABLE (SUBTITLE X § 304.4(b))

- 18. The Commission concludes that, consistent with Subtitle X § 304.4(b), the Project will not create any adverse impacts on the surrounding area or the operation of District services or facilities that cannot be mitigated, and that any potential impacts are acceptable in light of the Project's overall benefits and amenities. In reaching this conclusion, the Commission relies on the evidence in the record, including the Applicant's submissions and testimony, and notes the following:
 - (a) Land Use Impacts. The Commission concludes that land use impacts will be favorable. The Project will replace the existing 705-foot radio tower and associated surface parking at the PUD Site with a more efficient and transit-oriented use,

Applicant's Proposed Findings of Fact and Conclusions of Law

delivering approximately 126 new residential units, including affordable housing that significantly exceeds matter-of-right requirements. The redevelopment aligns with the District's vision for the PUD Site and surrounding area and introduces an appropriate scale of development given the PUD Site's location between the mixed-use Wisconsin Avenue corridor and a lower-density residential neighborhood.

- (b) Zoning Impacts. The Commission concludes that zoning-related impacts will be favorable or acceptable given the quality of public benefits. The rezoning of the R-2 portion of the PUD Site to RA-3 will permit increased residential density, but potential adverse impacts are minimal. Height remains below the RA-3 maximum, density is distributed across the full site, and no existing improvements on the Record Lot will be rendered noncompliant.
- (c) Urban Design and Aesthetic Impacts. The Commission concludes that urban design and aesthetic impacts will be favorable. The Project will replace the inactive 705-foot tower and surface parking with four residential buildings scaled to the surrounding neighborhood. While developed to a maximum FAR of 4.308, the Project presents an apparent FAR of 3.06 across the full site and will substantially enhance the site's visual character and compatibility with adjacent development.
- (d) Housing Impacts. The Commission concludes that the Project will result in favorable housing impacts by delivering 126 new residential units, including a significant amount of affordable housing, on a site that currently contains no housing. The affordable units will be reserved at a range of income levels, supporting the creation of a diverse residential community in a highly desirable location.
- (e) Transportation and Mobility Impacts. The Commission concludes that transportation and mobility impacts will be capable of being mitigated or acceptable given the quality of public benefits. The PUD Site is located in a transit-oriented area with existing infrastructure that supports multimodal access. The Project will further enhance pedestrian and bicycle connectivity through streetscape improvements and increased access to the Wisconsin Avenue corridor. Vehicular access to the underground parking garage will be limited to the private alley, reducing potential conflicts with pedestrians and cyclists. The proposed TDM Plan also includes measures to address any potential impacts associated with providing 82 parking spaces at the PUD Site.
- (f) Environmental, Economic, and Safety Impacts. The Commission concludes that these impacts are favorable or acceptable. The Project will be designed to achieve the minimum number of points equivalent to the LEED Gold standard and will enhance environmental performance over existing conditions through green roofs, rooftop solar panels, EV-ready parking, and upgraded stormwater management. By introducing new residents to the area, the Project will support nearby businesses, strengthen the economic vitality of the Wisconsin Avenue corridor, and improve neighborhood safety by increasing activity and establishing a stronger residential presence in the public realm.

Applicant's Proposed Findings of Fact and Conclusions of Law

- (g) Educational Facilities Impacts. The Commission concludes that while the PUD Site is served by schools with high utilization, DCPS is pursuing planned capacity improvements and boundary adjustments to address enrollment needs.
- (h) Construction Impacts. The Commission concludes that construction impacts will be acceptable given the quality of public benefits or capable of being mitigated. With experience delivering similar projects, including initiating construction of the adjacent development at 5151 Wisconsin Avenue, N.W., the Applicant indicated that it is familiar with the site and well-positioned to manage construction responsibly. The Applicant also negotiated construction management-related commitments in the Memorandum of Agreement entered into with ANC 3E.

(FF ¶ 56)

BENEFITS AND AMENITIES (SUBTITLE X § 304.4(c))

19. The Commission concludes that for the reasons given below the Project's benefits and amenities satisfy the relevant criteria:
- (a) Specific Benefits and Amenities: Each of the Project's benefits and amenities is specifically described;
 - (b) 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 PUD Site;
 - (c) Relative to Matter-of-Right Development. The Project's benefits are superior to a matter-of-right development of the PUD Site. The Project will deliver significantly more housing and affordable housing, at deeper levels of affordability, than would be possible or required as a matter of right, and its environmental features and public realm enhancements would not be provided under a matter-of-right scenario.
 - (d) Relative to Geographic Area of ANC. The Project's benefits primarily relate to the area of ANC 3E, including direct improvements to the surrounding streetscape, Fessenden Park, and neighborhood-serving transportation infrastructure.
 - (e) Tangible and Quantifiable. Each of the Project's benefits is tangible and/or quantifiable;
 - (f) 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 final Certificate of Occupancy for the proposed multifamily residential use;
 - (g) Primarily Benefitting Neighborhood or Serving a Critical City-Wide Need. The Project's benefits primarily benefit the surrounding neighborhood by delivering a high-quality, sustainable building, enhancing the public realm, and improving pedestrian safety. At the same time, some benefits, such as the substantial provision of affordable housing, serve a critical city-wide need;
 - (h) Acceptable in All and Superior in Many. All of the Project's benefits are acceptable, and many are superior. In particular, the Commission concludes that the Project will provide affordable housing benefits (Subtitle X § 305.5(g)) that exceed matter-of-right requirements in both quantity and depth of affordability. The Project reserves approximately 33% of its total units as affordable, with a portion set aside

Applicant's Proposed Findings of Fact and Conclusions of Law

for households earning no more than 50% and 60% of MFI pursuant to the District's IZ regulations for rental units, and additional units at no more than 80% of MFI through the HANTA program.

- (i) Overall. In sum, the Commission concludes that the Project's benefits and amenities meet the criteria of Subtitle X § 304.4(c) and justify the development incentives requested.

(FF ¶ 39, 91A)

PUD BALANCING (SUBTITLE X § 304.3)

20. The Commission concludes that the requested PUD-related map amendment to the RA-3 zone is appropriate for the Property. The Project's proposed height of 50 feet, 3 inches and proposed density of 4.308 FAR are within the PUD limits for the RA-3 zone and are compatible with the Property's transitional location between the Wisconsin Avenue corridor and the adjacent lower-density neighborhood. The Project generates density only from the RA-3-zoned portion of the PUD Site and distributes it across the full site, resulting in an apparent FAR of 3.06, which supports compatibility with the surrounding development. The Commission finds that the proposed zoning change is not inconsistent with the Comprehensive Plan, including the FLUM and GPM, and advances citywide housing and affordability goals. (FF ¶¶ 48, 52–55, 59–63)
21. The Commission concludes that the requested zoning flexibility from the penthouse side setback requirement of Subtitle C § 1504.1(c)(2) and the rear yard requirement of Subtitle F § 207.1, as well as the requested design flexibility under Subtitle Z § 702.8, are justified and balanced by the Project's public benefits and amenities. The Commission finds persuasive that the penthouse location reduces visibility and shifts massing away from the single-family neighborhood, the affected elevation faces only a private alley, compliance would compromise layout and reduce affordable housing, and the rear yard reduction is minor given the separation from adjacent buildings. These requests are also offset by the PUD benefits including superior design, efficient site planning, new housing and affordable housing, environmental and sustainability features, streetscape and park improvements, and non-mitigation transportation enhancements, all of which exceed what could be achieved through matter-of-right development. (FF ¶¶ 49–50, 56–58, 60–64)
22. The Commission concludes that the Project's benefits and amenities more than outweigh the requested zoning flexibility, the PUD-related map amendment, and any potential adverse effects of the Project that are not otherwise favorable or capable of being mitigated. The Commission finds that the Project will deliver substantial affordable housing in a high-cost, transit-accessible location, improve neighborhood connectivity and public space, and advance multiple District planning and policy objectives, thereby satisfying the balancing test set forth in Subtitle X § 304.3. (FF ¶¶ 52–58, 60–64)

SPECIAL EXCEPTION RELIEF (SUBTITLE X § 303.13)

23. The Commission concludes that a special exception to permit the off-site accessory parking spaces within the underground garage serving the Project but located outside the PUD Site

Applicant's Proposed Findings of Fact and Conclusions of Law

boundary is warranted. The Commission finds that the Application satisfies the specific conditions of Subtitle U § 203.1(k)(1)–(11) and the general special exception standards of Subtitle X § 901.2(a) and (b). The Commission credits evidence that the spaces will serve the residential use, remain fully below grade, and be imperceptible from public view, such that the relief is in harmony with the Zoning Regulations and Map and will not result in adverse impacts on neighboring properties. (FF ¶ 65)

CONTESTED ISSUES (SUBTITLE X § 304.2)

24. The Commission finds that four issues raised by the Adjacent Neighbors and the Committee of 100 have been fully address and resolved. Based on the full record, the Commission addresses each as follows:

- (a) Building Height – The Commission credits the Applicant's evidence, including plans and sections, demonstrating that the building height measuring point is established in accordance with Subtitle B § 308.2. The resulting height of 50 feet, 3 inches complies with the Zoning Regulations and facilitates a compatible transition from the taller Wisconsin Avenue corridor to the lower-scale residential neighborhood to the east.
- (b) Light and Air Impacts – The Commission finds that the Project will not cause undue adverse effects on light and air. The Commission credits the shadow studies in the record, which show that shadows will reach the confronting residences on 42nd Street, N.W. only during limited times of the year and primarily in the late afternoon. Overall, these impacts are minimal and occur mainly in the winter months, when the sun is low and sets earlier, and in the spring and fall months during evening hours when the sun is lower in the western sky. The Commission also notes that single-family homes in the surrounding area cast shadows on adjacent properties during these same periods.
- (c) Comprehensive Plan Consistency – The Commission finds that any inconsistencies cited by the Adjacent Neighbors, particularly regarding scale, are outweighed by Rock Creek West Area Element and citywide policies that prioritize housing production, affordable housing, and compatible infill in high-opportunity, transit-accessible locations. As discussed in Conclusions of Law Nos. 13–15, and consistent with direction from the District of Columbia Court of Appeals (Fn. 4), the PUD delivers substantial public benefits, including significant affordable housing and high-quality urban design, that advance multiple Comprehensive Plan objectives. The PUD, when balancing potentially competing policies, is not inconsistent with the Comprehensive Plan as a whole.
- (d) IZ - The Commission credits the Applicant's evidence that the affordable housing commitment, particularly the IZ set-aside, meaningfully exceeds what could be achieved as a matter-of-right and qualifies as a public benefit under Subtitle X § 305.5(g). The Commission agrees with the Applicant that IZ Plus does not apply to PUD-related map amendments, as set forth in Subtitle X § 502.2(a) and as previously concluded (Z.C. Order No. 22-29, Conclusion of Law No. 19(e)). The PUD's IZ set-aside will provide approximately 13 units, including two three-bedroom units at 60% and 50% MFI, and more than double the IZ required to be

Applicant's Proposed Findings of Fact and Conclusions of Law

generated by habitable penthouse space at the 50% MFI level. Combined with the HANTA-supported units, this commitment delivers a substantial and enhanced affordable housing benefit that advances District housing goals.

(FF ¶¶ 44, 77-78)

GREAT WEIGHT TO RECOMMENDATIONS OF OP

25. 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. (See *Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016))
26. The Commission finds OP’s detailed analysis of the Application, its overall conclusion that the Application satisfies 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 support for the requested zoning flexibility, special exception relief, and design flexibility. While OP did not support the Applicant’s requested design flexibility for sustainable features, the Applicant’s post-hearing submission provided concrete details and commitments and updated the building design such that it will achieve the minimum number of points equivalent to the LEED Gold standard. Thus, the Commission finds this flexibility acceptable. (FF ¶¶ 66–69, 44(c))

GREAT WEIGHT TO THE WRITTEN REPORT OF ANC 3E

27. 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))
28. The ANC 3E Resolution stated that ANC 3E voted to support the Application. The Commission finds the ANC’s support for the Project persuasive and agrees that the Application merits approval. (FF ¶ 74)

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, **APPROVED** the Application, subject to the following guidelines, conditions and standards for:

Applicant's Proposed Findings of Fact and Conclusions of Law

- A consolidated PUD and related Zoning Map Amendment from the R-2 zone to the RA-3 zone;
- Zoning flexibility from the penthouse side setback requirement of Subtitle C § 1504.1(c)(2) and the rear yard requirement of Subtitle F § 207.1;
- Such other design flexibility as is set forth in the Conditions hereof; and
- Special exception relief pursuant to Subtitle X § 303.13 to allow off-site accessory parking spaces as a special exception and subject to the conditions set forth in Subtitle U § 203.1(k).

A. PROJECT DEVELOPMENT

1. The PUD Site shall be developed and constructed substantially in accordance with the Architectural Plans prepared by Torti Gallas Urban, dated June 13, 2025, and marked as Ex. 23A1-23A5 of the record (collectively, the “Approved Plans”), as modified by the guidelines, conditions, and standards herein.
2. As set forth in the Approved Plans, the PUD shall have a maximum height of 50 feet, 3 inches and approximately 123,444 square feet of gross floor area devoted to residential use (approximately 4.308 FAR).
3. The Project shall be developed pursuant to the RA-3 zone, as permitted through a PUD, except as set forth herein or modified hereby as shown in the Approved Plans, and with flexibility from the penthouse side setback requirement of Subtitle C § 1504.1(c)(2) and the rear yard requirement of Subtitle F § 207.1.
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 building as shown on the Approved Plans;
 - (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 Approved Plans;
 - (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 would include, but are not limited to, doorways, canopies, railings, and skylights;
 - (d) Number of Units: To provide a range in the approved number of residential dwelling units of plus or minus ten percent (10%), except that (1) the total

Applicant's Proposed Findings of Fact and Conclusions of Law

square footage of the residential dwelling units shall not be reduced, and (2) the number of units and the square footage reserved for affordable housing shall not be reduced;

- (e) Parking Layout: To make refinements to the approved parking configuration, including layout and number of parking space plus or minus ten percent (10%), so long as the number of 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 Division;
- (g) Signage: To vary the font, message, logo, and color of the approved signage, provided that the maximum overall dimensions and signage materials are consistent with the signage on the plans approved by this Order and are compliant with the DC signage regulations; and
- (h) 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 the LEED standard specified by this Order.

B. PUBLIC BENEFITS

1. **Housing.** The Applicant shall generate new housing at the PUD Site in accordance with this condition:
 - (a) **For the life of the Project**, the Applicant shall dedicate approximately 123,444 square feet of gross floor area to residential use, resulting in approximately 126 residential units.
 - (b) **For the life of the Project**, the Applicant shall provide nine (9) three-bedroom units.
2. **Affordable Housing.** The Applicant shall provide the affordable housing for the Project in accordance with this condition:
 - (a) **For the life of the Project**, the Applicant shall provide the IZ Units in substantial accordance with Sheet G13 of the Approved Plans and as set forth below:
 - i. In total, approximately 10,411 square feet of net residential floor area shall be devoted to IZ units, calculated based on the combined total of 75% of the bonus density utilized for the Project and 10% of the penthouse floor area.

Applicant's Proposed Findings of Fact and Conclusions of Law

- ii. At least 8,097 square feet of net residential floor area shall be devoted to IZ rental units reserved for households earning no more than 60% of the MFI; and
 - iii. At least 2,314 square feet of net residential floor area shall be devoted to IZ rental units reserved for households earning no more than 50% of MFI.
 - (b) **For the life of the Project**, the Applicant shall allocate two (2) three-bedroom units to IZ, with one unit reserved for households earning no more than 50% of MFI and one unit reserved for households earning no more than 60% of MFI.
 - (c) The covenant required by D.C. Official Code §§ 6-1041.05(a)(2) shall include a provision or provisions requiring compliance with this condition.
 - (d) **For the control period administered by the Department of Housing and Community Development (DHCD)**, the Applicant shall provide affordable housing in the Project equal to at least thirty-three percent (33%) of all residential units, which will include the units reserved as the IZ units. The affordable units in excess of the IZ units shall be reserved for households earning no more than 80% of the MFI and shall be provided in accordance with the High-Needs Area Tax Abatement (HANTA) program, as negotiated with and approved by the Department of Housing and Community Development (DHCD).
3. **Environmental and Sustainable Benefits.** The Applicant shall provide the environmental and sustainable benefits for the Project in accordance with this condition:
- (a) **The Applicant shall submit with its building permit application for the Project** a checklist evidencing that the Project has been designed to achieve the equivalent of LEED Gold under the LEED v4 BD+C: Multifamily Midrise.
 - (b) **Prior to issuance of the final certificate of occupancy for the Project**, the Applicant shall demonstrate to the Zoning Administrator that it has incorporated the following into design of the Project: (i) green roofs; (ii) rooftop solar panels; (iii) at least six (6) EV-ready charging spaces; (iv) all electric appliances in residential units; and (v) dedicated areas for composting and recycling.
4. **Streetscape Plans.** **Prior to the issuance of the final certificate of occupancy for the Project**, the Applicant shall demonstrate to the Zoning Administrator that has:

Applicant's Proposed Findings of Fact and Conclusions of Law

- (a) Installed new plantings, sidewalk paving, and perimeter landscaping along the PUD Site's public frontages in substantial conformance with the Approved Plans, subject to review and approval by DDOT;
- (b) Enlarged existing tree pits, as needed, along the PUD Site's public space frontages and installed new street trees where required, subject to review and approval by DDOT and the Urban Forestry Division (UFD); and
- (c) Planted new street trees to fill any gaps in the tree boxes along the public frontages of Square 1666, as well as along the opposite sides of the streets bordering Square 1666, in accordance with DDOT and Urban Forestry Division specifications and subject to review and approval by DDOT, the Urban Forestry Division, and, where applicable, the abutting property owners.

5. Park Maintenance.

- (a) **Prior to issuance of the final certificate of occupancy for the Project,** the Applicant shall demonstrate to the Zoning Administrator that it has completed the following actions related to the construction of two bocce courts, the installation of one park bench, and the design and installation of associated landscaping at Fessenden Park (collectively, the "Fessenden Park Improvements"): (i) expended between \$10,000 and \$20,000 for the completion of the Fessenden Park Improvements; and (ii) consulted with the affected Advisory Neighborhood Commission on at least one occasion regarding the Fessenden Park Improvements.
- (b) **For a period of three (3) years following the issuance of the final certificate of occupancy for the Project,** the Applicant shall maintain the new landscaping installed as part of the Fessenden Park Improvements.

6. Non-Mitigation Transportation Improvements. The Applicant has agreed to ensure that bulb-outs, with bioretention features if feasible, (the "Bulb-Outs") are constructed at the intersection of Garrison Street, N.W. and 42nd Street, N.W. (the "Intersection") in accordance with this condition:

- (a) **Prior to the issuance of the final certificate of occupancy for the Project,** if DDOT has committed to funding the Bulb-Outs but has not yet constructed the permanent Bulb-Outs at the Intersection, the Applicant shall install daylighting at all four corners of the Intersection, using flex posts and pavement markings, subject to DDOT review and approval, and shall maintain them until permanent construction occurs.
- (b) **Prior to the issuance of the final certificate of occupancy for the Project,** if DDOT has not committed to fund the Bulb-Outs, the Applicant shall

Applicant's Proposed Findings of Fact and Conclusions of Law

expend up to \$20,000 to install permanent Bulb-Outs at the northwest and southwest corners of the Intersection, or daylighting at all four corners of the Intersection using a combination of flex post delineators and pavement markings, subject to review and approval by DDOT, and a letter of support from the affected ANC.

- (c) If DDOT funds and constructs permanent Bulb-Outs at all four corners of the Intersection **prior to the issuance of the final certificate of occupancy for the Project**, then, at that time, the Applicant shall, with the consent of the affected ANC and subject to the review and approval of DDOT, either provide and install additional transportation improvements at a cost not to exceed \$20,000, or demonstrate to the Zoning Administrator that it has contributed \$20,000 to a local nonprofit organization for specific additional improvements in the public right of way, and that the specific improvements have been or will be provided.
 - (d) **For the life of the Project**, the Applicant shall keep the Bulb-Outs free of trash and maintain any landscaping in accordance with DDOT standards.
7. **Uses of Special Value. Prior to the issuance of the final certificate of occupancy for the Project**, the Applicant shall demonstrate to the Zoning Administrator that the 705-foot television tower has been removed from the PUD Site.

C. BUILDING-SPECIFIC COMMITMENTS

- 1. **For the life of the Project**, the Applicant shall retain a company to service the compost and recycling bins located in the Project's designated spaces.
- 2. **For the life of the Project**, the Applicant shall provide at least 42 long-term bicycle parking spaces for residents in a bicycle room located on the ground floor, which shall include accommodations for cargo bikes, bicycle charging, strollers, utility carts, and a bicycle repair station.
- 3. **Prior to issuance of the final certificate of occupancy for the Project**, the Applicant shall demonstrate to the Zoning Administrator that it has constructed two residential units in compliance with the American National Standards Institute (ANSI) "A" standard.

D. TRANSPORTATION DEMAND MANAGEMENT

- 1. **During the operation of the Project (unless otherwise noted)**, the Applicant shall provide the following TDM measures for the Project:

Applicant's Proposed Findings of Fact and Conclusions of Law

- (a) The Applicant will unbundle the cost of vehicle parking from the lease or purchase agreement for each residential unit and charge a minimum rate based on the average market rate within a quarter mile.
- (b) The Applicant will identify a Transportation Coordinator once the building has opened. The Transportation Coordinator will act as a point of contact with DDOT, goDCgo, and Zoning Enforcement and will provide their contact information to goDCgo.
- (c) The Transportation Coordinator will conduct an annual commuter survey of building employees and residents on-site, and report TDM activities and data collection efforts to goDCgo once per year.
- (d) The Transportation Coordinator will develop, distribute, and market various transportation alternatives and options to the residents, including promoting transportation events (i.e., Bike to Work Day, National Walking Day, Car Free Day) on resident portal and in any internal building newsletters or communications.
- (e) The 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.
- (f) The Transportation Coordinator will provide welcome packets to all new residents that should, at a minimum, include the Metrorail pocket guide, brochures of local bus lines (Circulator and Metrobus), carpool and vanpool information, CaBi coupon or rack card, Guaranteed Ride Home (GRH) brochure, and the most recent DC Bike Map. Brochures can be ordered from DDOT's goDCgo program by emailing info@godecgo.com.
- (g) The Transportation Coordinator will provide residents who wish to carpool with detailed carpooling information and will be referred to other carpool matching services sponsored by the Metropolitan Washington Council of Governments (MWCOC) or other comparable service if MWCOC does not offer this in the future.
- (h) All transportation and TDM commitments will be posted on the building website, if such a website exists, to allow the public to see what has been promised.
- (i) A SmarTrip card will be offered for every residential unit at the time of initial leasing of the building.

Applicant's Proposed Findings of Fact and Conclusions of Law

- (j) A minimum of 42 long-term and six short-term bicycle parking spaces will be provided for the project, in accordance with ZR16.
- (k) Long-term bicycle storage rooms will accommodate non-traditional sized bikes including cargo, tandem, and kids' bikes. At least two of the long-term spaces will be designed for longer cargo/tandem bikes (10 feet by three feet), a minimum of one of the long-term spaces will be equipped with electrical outlets to charge electric bikes and scooters, and a minimum of five of the spaces 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.
- (l) A bicycle repair station will be provided in the long-term bicycle parking storage room.
- (m) The Applicant will install a minimum of six electric vehicle (EV) charging stations.
- (n) **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.
- (o) **Five years after the issuance of the final Certificate of Occupancy for the Project,** if the Transportation Coordinator has not established a relationship with DDOT or goDCgo, the Transportation Coordinator will submit a letter to the Zoning Administrator, DDOT, and goDCgo summarizing continued substantial compliance with the transportation and TDM measures conditioned in this order, unless no longer applicable as confirmed by DDOT. If such letter is not submitted on a timely basis, the building shall have sixty (60) days from date of notice from the Zoning Administrator, DDOT, or goDCgo to prepare and submit such letter.
- (p) The Applicant will install a Transportation Information Center Display (electronic screen) within the lobby containing information related to local transportation alternatives. At a minimum the display should include information about nearby Metrorail stations and schedules, Metrobus stops and schedules, car-sharing locations, and nearby Capital Bikeshare locations indicating the availability of bicycles.
- (q) The Applicant will only lease the parking spaces in the building to tenants of the building or to tenants of a building that has no on-site parking.

Applicant's Proposed Findings of Fact and Conclusions of Law

- (r) Subject to DDOT approval, the Applicant will install either (i) one micro-mobility corral with appropriate racks on the north side of Garrison Street, N.W. adjacent to the curb, west of 42nd Street, N.W. or (ii) three additional inverted U bicycle racks beyond the three (3) required under the Zoning Regulations, for a total of six (6), in public space on Garrison Street, N.W.
 - (s) Annual CaBi memberships will be offered to each building resident for the first three years after the building opens.
 - (t) The Transportation Coordinator will provide at least two vanpool parking spaces by resident request and will note this in resident handbook and resident portal.
 - (u) The Applicant will provide one collapsible shopping cart (utility cart) for every 50 residential units, for a total of two to encourage residents to walk to the grocery store and run errands.
2. **For a period of three (3) years following the issuance of the final certificate of occupancy for the Project**, the Applicant shall provide the affected ANC with the results of any annual parking demand and trip generation surveys, if any, conducted in accordance with the requirements of DDOT and/or the approved TDM Plan.

E. OFF-SITE AND ON-SITE TRAFFIC RELATED IMPROVEMENTS AND COMMITMENTS

- 1. **Prior to the issuance of the final certificate of occupancy for the Project**, and subject to review and approval by DDOT and consent from the affected ANC, the Applicant shall construct, or cause to be constructed, a speed hump on 42nd Street, N.W., between Garrison Street, N.W. and Harrison Street, N.W.
- 2. **Prior to the issuance of the final certificate of occupancy for the Project**, and subject to DDOT review and approval, the Applicant shall continue the sidewalk paving across the Project's vehicular access points abutting the PUD Site on Garrison Street, N.W. and Harrison Street, N.W.

F. NEIGHBORHOOD-RELATED COMMITMENTS

- 1. **Prior to the issuance of the final Certificate of Occupancy for the Project**, the Applicant shall remove the disused utility pole adjacent to the PUD Site on Garrison Street, N.W., subject to review and approval by DDOT and the appropriate utility authority, and shall plant at least one street tree in approximately the same location in accordance with the specifications of DDOT's Urban Forestry Division.

Applicant's Proposed Findings of Fact and Conclusions of Law

2. **For the life of the Project**, the Applicant shall prohibit use of the outdoor terrace adjacent to the habitable penthouse space (club room) after 10:00 p.m.

G. CONSTRUCTION MANAGEMENT

1. **Prior to issuance of the first building permit for the Project**, the Applicant will demonstrate to the Zoning Administrator that it has offered, at its sole cost, photographic or video pre-construction surveys to residential property owners whose properties confront the PUD Site in order to document pre-construction condition of homes.
2. **Prior to issuance of the first building permit for the Project**, the Applicant shall demonstrate to the Zoning Administrator that it has consulted with the affected ANC on issues related to parking arrangements for construction workers and construction truck routing.
3. **Prior to issuance of the first building permit for the Project**, the Applicant shall demonstrate to the Zoning Administrator that it has included the following provision in its construction contract with the general contractor: "Contractor acknowledges that the job site is surrounded by a residential neighborhood, and that on-street parking by its and its subcontractors' workforces would impose an impact on local residents. Contractor agrees to prohibit its workforces and the workforces of all subcontractors from parking or idling cars or trucks at any time of the day for any period of time on local residential streets, even if permitted by local parking regulations."
4. **During construction of the Project**, the Applicant shall designate a representative as its main point of contact for all construction-related matters, and will provide the contract information for its designated representative to the affected ANC.

H. VALIDITY AND MISCELLANEOUS

1. No building permit shall be issued for the Project until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia that is satisfactory to the Office of Zoning Legal Division and the Zoning Division, Department of Buildings (the "PUD Covenant"). The PUD Covenant shall bind the Applicant and all successors in title to construct and use the Property in accordance with this Order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
2. The Applicant shall file with the Zoning Administrator a letter identifying how it is in compliance with the conditions of this Order at such time as the Zoning Administrator requests and shall simultaneously file that letter with the Office of Zoning.

Applicant's Proposed Findings of Fact and Conclusions of Law

3. The PUD shall be valid for a period of two years from the effective date of this Order. Within such time an application shall be filed for a building permit, with construction to commence within three years of the effective date of this Order.
4. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act") the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On July 14, 2025, upon the motion of Commissioner Imamura, as seconded by Commissioner Stidham, the Zoning Commission took **PROPOSED ACTION** to **APPROVE** the Application at the close of the public hearing by a vote of **5-0-0** (Joseph S. Imamura, Tammy Stidham, Anthony J. Hood, Robert E. Miller, and Gwen Wright to approve)

On September 11, 2025, upon the motion of _____, as seconded by Commissioner _____, the Zoning Commission took **FINAL ACTION** to **APPROVE** the Application at its public meeting by a vote of [#-#-#] (insert roll call vote).

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

BY THE ORDER OF THE D.C. ZONING COMMISSION

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

ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION

SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING