

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 86-04B

Z.C. Case No. 86-04B

Green Harris, LLC

**(Modification of Significance to an Approved Planned Unit Development and Related
Zoning Map Amendment @ Square 1299, Lot 328)
May 30, 2024**

Pursuant to notice, at its May 30, 2024¹ public meeting, the Zoning Commission for the District of Columbia (the “Commission”) considered the application (the “Application”) of Green Harris, LLC (the “Applicant”) requesting review and approval of the following:

- A modification of significance to the consolidated planned unit development (“PUD”) and related Zoning Map amendment for the property located at 3300 Whitehaven Street, N.W. (Square 1299, Lot 328) (the “Property”), originally approved in Z.C. Order No. 495 for Case No. 86-4C and modified in Z.C. Order No. 86-04A, to redevelop the existing vacant office building on the Property to a mixed-use building with approximately 268 residential units and approximately 5,700 square feet of space for education use (the “Project”);
- Zoning flexibility from the minimum rear yard requirements of Subtitle G § 207.6² and from the penthouse side setback requirements of Subtitle C § 1504.1(c); and
- Such other design flexibility as is set forth in the Conditions hereof.

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

FINDINGS OF FACT

I. BACKGROUND

PRIOR APPROVALS

1. The Property originally received approval for a consolidated PUD and related Zoning Map amendment from the R1-B to the C-2-A zone (now MU-4) in 1986 in Z.C. Order No. 495 for Z.C. Case No. 86-4C. The original PUD approval approved renovations to the two existing buildings on the site, which consist of the four-story building located on the

¹ On April 4, 2024, the Commission held a public hearing on the Application.

² Between the filing of this Application and the Commission’s final action approving the Application, the Zoning Regulations pertaining to the MU zones, among others, were reorganized and renumbered pursuant to Z.C. Order No. 18-16/19-27-19-27B. As of the adoption of these amendments, the rear yard requirements for the MU-4 zone are now set forth in Subtitle G § 207.

western portion of the Property that was constructed in 1959 and has an address of 2001 Wisconsin Avenue, N.W. (the “2001 Wisconsin Building”) and the five-story building located on the eastern portion of the Property that was constructed in 1968 and has an address of 3300 Whitehaven Street, N.W. (the “3300 Whitehaven Building”). In addition to renovations to the two existing buildings, which both predated the PUD, the original PUD approval also approved construction of a below-grade parking garage and replacement of a then-existing surface parking lot between the two buildings with a landscaped courtyard.

2. In 2022, by Z.C. Order No. 86-04A, the Commission approved a modification of consequence to the original PUD approval to permit demolition of a portion of the below-grade parking garage serving the two existing buildings and construction of a below-grade gymnasium to serve the British International School of Washington (“BISW”), which occupies the 2001 Wisconsin Building.

PARTIES

3. Pursuant to Subtitle Z § 403.5(a), the Applicant is automatically a party to the Application.
4. Pursuant to Subtitle Z §§ 101.8 and 403.5(b), Advisory Neighborhood Commission (“ANC”) 2E is automatically a party to the Application as the ANC in which the Property is located, and ANC 3B is automatically a party to the Application as the ANC located immediately across Whitehaven Street, N.W. to the north of the Property.
5. The Commission received no other requests for party status.

NOTICE AND SETDOWN

6. Pursuant to Subtitle Z §§ 300.7 and 300.8, on August 9, 2022, the Applicant mailed a Notice of Intent to file the Application to all property owners within 200 feet of the Property and to ANCs 2E and 3B. (Exhibit [“Ex.”] 3B)
7. Pursuant to Subtitle Z § 300.9, subsequent to the mailing of such notice but prior to filing the Application with the Commission, the Applicant offered to present to ANCs 2E and 3B, but both ANCs deferred presentations until after the Application was filed. (Ex. 3B)
8. Pursuant to Subtitle Z §§ 400.9-400.12, on September 14, 2023, at its duly noticed public meeting, the Commission considered the Application and voted to set the case down for a public hearing.
9. Pursuant to Subtitle Z §§ 402.1-402.2 and 402.6, on January 19, 2024, the Office of Zoning (“OZ”) sent notice of the April 4, 2024 public hearing, concerning the Application to:
 - The Applicant;
 - ANCs 2E and 3B;
 - The ANC 2E07 Single Member District Commissioner (“SMD”), whose district includes the Property; ANC/SMD 2E01, and ANC/SMD 3B02;
 - The Office of ANCs;

- The Ward 2 Councilmember, in whose district the Property is located, and the Ward 3 Councilmember, whose district is located across Whitehaven Street, N.W. immediately north of the Property;
 - The Office of Planning (“OP”);
 - The District Department of Transportation (“DDOT”);
 - The Department of Buildings (“DOB”);
 - Owners of property within 200 feet of the Property.
- (Ex. 20)
10. Pursuant to Subtitle Z § 402.1(a), OZ published notice of the April 4, 2024 public hearing, concerning the Application in the January 26, 2024, issue of the *District of Columbia Register* (71 DCR 001091) as well as on the calendar on OZ’s website. (Ex. 18, 19)
 11. Pursuant to Subtitle Z §§ 402.3-402.4, 402.8-402.10, on February 22, 2024, the Applicant submitted evidence that it had posted notices of the public hearing on the Property and on March 29, 2024, submitted evidence that it had thereafter maintained such notices. (Ex. 22, 29)

PROPERTY AND SURROUNDING AREA

12. The Property is located in the Northwest quadrant of the District, on the northern end of the Georgetown neighborhood south of Observatory Circle. (Ex. 3)
13. The Property consists of approximately 137,087 square feet of land area located at the southeastern corner of the intersection of Wisconsin Avenue, N.W. and Whitehaven Street, N.W. and is bounded by Whitehaven Street, N.W. to the north, Dumbarton Oaks Park to the east, commercial development to the south, and Wisconsin Avenue, N.W. to the west. (*Id.*)
14. The Property is currently improved with two buildings: the four-story 2001 Wisconsin Building, which has been occupied by BISW since 2008 and houses the school’s K-12 programs and child development center; and the five-story 3300 Whitehaven Building, which was previously occupied by office users and is currently vacant. The Applicant owns the entire Property and leases the 2001 Wisconsin Building to BISW. (*Id.*)
15. The original PUD approval included a PUD-related Zoning Map Amendment from the R1-B zone to the C-2-A zone, now designated as the MU-4 zone District under the current Zoning Regulations. The original PUD approved a maximum FAR of 1.59, and a maximum height of the 2001 Wisconsin Building of 56 feet, and a maximum height of the 3300 Whitehaven Building of 59 feet³.
16. The Property is located in the Georgetown Historic District and within the area of the Old Georgetown Act of 1950 and therefore is subject to review by the Old Georgetown Board (“OGB”) and U.S. Commission of Fine Arts (“CFA”). Prior to filing the Application, the Project was reviewed by OGB/CFA and received conceptual approval in Application No.

³ See Conditions 4 and 5 of Z.C. Order No. 495. The Applicant indicated that the actual height of the existing 3300 Whitehaven Building is 51.6 feet. (Ex. 16A1, Sheet 12)

OG 22-226/HPA 22-399. The Project is also subject to review by the Historic Preservation Review Board. The Applicant engaged Historic Preservation Office staff regarding the Project, and staff indicated that it would defer review of the Project to the OGB and CFA.

17. The Property directly abuts Dumbarton Oaks Park to the east, which is owned and managed by the National Park Service (“NPS”), in partnership with the Dumbarton Oaks Park Conservancy (the “Conservancy”). Observatory Circle, which encompasses the U.S. Naval Observatory and the Vice President’s residence, is located nearby to the north of the Property. (*Id.*)
18. The Property is located along the Wisconsin Avenue commercial corridor that is primarily characterized by retail, service and other uses, including coffee shops, a wine bar, salons, and a veterinary hospital. Abutting the Property to the south is a national bank branch and grocery store, and the property immediately north across Whitehaven Street, N.W. is improved with a mixed-use development that includes multifamily residential use and a grocery store. (*Id.*)
19. Directly across Wisconsin Avenue from the Property is the Hardy Middle School campus, including the school building and sports field, and one block south of the Property is Jelleff Recreation Center, operated by the District Department of Parks and Recreation (“DPR”). (*Id.*)
20. The surrounding area consists of both mixed-use and residential zones, with the properties lining the Wisconsin Avenue commercial corridor zoned MU-3A, MU-4, and MU-4/NO, and the areas west and east zoned a mix of R and RA. (*Id.*)

COMPREHENSIVE PLAN (TITLE 10-A DCMR)

21. The Property has a split designation on the Comprehensive Plan’s Future Land Use Map (“FLUM”), with the western portion of the site designated for Low Density Commercial development and the eastern portion of the site designated for Moderate Density Residential development: (Ex. 3)
 - (a) 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 [...]. 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 Planned Unit Development.” (10-A DCMR § 227.6); and
 - (b) The Low-Density Commercial designation “is used to define shopping and service areas that are generally lower in scale and intensity. Retail, office, and service businesses are the predominant uses [...]. Their common feature is that they are comprised primarily of commercial and mixed-use buildings that range in density generally up to a FAR of 2.5, with greater density possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The

MU-3 and MU-4 Zone Districts are consistent with the Low-Density category, and other zones may also apply.” *Id.* § 227.10.

22. The Property is designated as a Main Street Mixed Use Corridor on the Generalized Policy Map (“GPM”). (Ex. 3) This designation is used for “traditional commercial business corridors with a concentration of older storefronts along the street [...]. Their common feature is that they have a pedestrian-oriented environment with traditional storefronts [...]. Some corridors are underutilized, with capacity for redevelopment. Conservation and enhancement of these corridors is desired to foster economic and housing opportunities and serve neighborhood needs. Any development or redevelopment that occurs should support transit use and enhance the pedestrian environment.” (*Id.* § 225.14)
23. The Comprehensive Plan’s Framework Element provides guidance as to how the FLUM and GPM are to be interpreted, both generally and in conjunction with other provisions of the Comprehensive Plan. The FLUM is “intended to be ‘soft-edged’” and “is to be interpreted broadly.” (*Id.* § 228.1) Likewise, with respect to density ranges identified in the FLUM, the Framework Element guidance provides that “there may be individual buildings that are larger or smaller than these ranges within each area [...]. The granting of density bonuses (for example through Planned Unit Developments or Inclusionary Zoning) may result in density that exceed the typical ranges.” (*Id.* § 228.1(c))
24. The Comprehensive Plan also includes the Property within the Near Northwest Area Element, which includes the following development priorities:
 - (a) Maintain and enhance the historic, architecturally distinctive mixed-density character of Near Northwest residential neighborhoods, including Burleith, Georgetown, Foggy Bottom, Dupont Circle, Sheridan-Kalorama, Logan Circle, Mount Vernon Square, and Shaw. Ensure that infill development within these areas is architecturally compatible with its surroundings and positively contributes to the identity and quality of each neighborhood, while providing new housing opportunities, especially affordable housing options. (*Id.* § 2108.2);
 - (b) Sustain and enhance the neighborhood, community, and regional shopping areas of Near Northwest, including M, P, and U Streets, Wisconsin, Connecticut, and Florida Avenues, N.W., and 18th, 17th, and 14th Streets, N.W. Sustain these areas as diverse, unique, pedestrian-oriented shopping streets that meet the needs of District residents, workers, and visitors. (*Id.* § 2108.3);
 - (c) Preserve the existing stock of affordable housing in the Near Northwest Planning Area, by bringing to bear new measures to preserve and produce affordable housing in a way that advances fair housing goals and minimizes displacement. (*Id.* § 2108.8);
 - (d) Improve pedestrian connections through Near Northwest, especially along M Street between Connecticut Avenue and Georgetown; between the Dupont/Logan Circle areas and downtown; and along (and to and from) the waterfronts in the Georgetown and Foggy Bottom areas. Create a continuous tree canopy along the area’s streets to create more comfortable conditions for pedestrians and bicyclists. (*Id.* § 2108.11);

- (e) Strongly support buses, private shuttles, and other transit solutions that address travel needs within the Near Northwest area, including connections between Metro and the universities and the Georgetown commercial district, and connections between the Connecticut Avenue and Embassy Row hotels and the National Mall and downtown areas. (*Id.* § 2108.12);
- (f) Conserve and enhance the scenic visual resources of the Near Northwest Planning Area, including the Potomac waterfront, Rock Creek Park, the park circles of the L’Enfant Plan, and the historic architecture and streetscapes that define the area’s commercial and residential areas. (*Id.* § 2109.1); and
- (g) Identify opportunities for new pocket parks, plazas, and public spaces within the Near Northwest Planning Area, as well as opportunities to expand and take full advantage of existing parks. (*Id.* § 2109.6.)

II. THE APPLICATION

THE PROJECT

25. The Application, as amended, proposes to redevelop the eastern portion of the Property, currently improved with the vacant 3300 Whitehaven Building, with the Project consisting of:
 - (a) A height of approximately 60.54 feet, plus a penthouse with a maximum height of 15 feet;
 - (b) Up to approximately 298,631 square feet of gross floor area (“GFA”), including approximately 5,700 square feet of private education use space, resulting in the overall Property having an FAR of approximately 2.83, including approximately 89,825 square feet of space in the existing 2001 Wisconsin Building.
 - (c) Approximately 268 residential units, including a minimum of 10 three-bedroom units;
 - (d) A lot occupancy of approximately 50% for the overall Property, with Theoretical Lot A having a lot occupancy of approximately 43.5% and Theoretical Lot B having a lot occupancy of approximately 70.4%;
 - (e) A minimum of 15% of the base residential GFA set aside as affordable housing under Inclusionary Zoning (“IZ”) reserved for households earning no more than 60% of Median Family Income (“MFI”), and a minimum of 10% of the applicable penthouse habitable space set aside for IZ units reserved for households earning no more than 50% of MFI.
 - (f) Approximately 248 below-grade vehicle parking spaces in the Project’s garage;
 - (g) Approximately 93 long-term and 14 short-term bicycle parking spaces; and
 - (h) A minimum of one 30-foot loading berth, one service/delivery space, and one loading platform.
 (Ex. 3, 16, 16A, 30A, 31A)

26. The Project constitutes the second phase of the Applicant’s two-phased redevelopment of the Property. Phase 1 of the redevelopment consisted of the below-grade gymnasium constructed to serve BISW, which was approved in Z.C. Order No. 86-04A and delivered in December 2023. The Application that is the subject of this Order constitutes Phase 2 of the Project - redevelopment of the 3300 Wisconsin Avenue, N.W. portion of the Property

on the east side of the site, currently occupied by the existing vacant office building, with the proposed mixed-use Project. (Ex. 3)

27. The Project design is driven by the Property's positioning along Dumbarton Oaks Park and is heavily influenced by feedback received during the OGB/CFA review for the Project. The Project's massing gradually rises with the slope of the natural landscape features of the abutting park and incorporates a large courtyard opening into the park. The Project's overall structure is broken down into four distinct building forms — "Buildings" A, B, C, and D — each with its own character, materiality, and tone, though all utilizing brick for the primary façade. The building is designed to maximize its exposure to Dumbarton Oaks Park to the east while presenting a building envelope that naturally relates to the topography and vegetation. Building A establishes the Project's formal "front" on Whitehaven Street, N.W.; Building B provides the primary building component opening up to the open green spaces on both sides of the Project; Building C steps down with the grade change moving to the south end of the Property along Dumbarton Oaks Park; and Building D creates a "pavilion" marking the southern terminus of the interior courtyard and also providing ground-floor space to serve BISW programming. The materials relate to the natural and historic context with rusticated stone, natural hues of brick, and accents of cast stone and wood. (Ex. 3, 16A, 30A, 31A)
28. The Project site plan situates the Project in the current location of the existing 3300 Whitehaven Building, maintaining the central courtyard space between the building and the 2001 Wisconsin Building. The northern portion of the courtyard facing Whitehaven Street will be designed as a publicly accessible park and the southern portion will be designated as an outdoor area to support BISW programming. In addition, the Project carves into the footprint of the existing office building to create an east courtyard and extends the building mass southward along Dumbarton Oaks Park. (Ex. 3, 16A, 30A, 31A)
29. Site access will continue to be accommodated from Whitehaven Street, N.W., with the west curb cut providing access for loading and the internal pick-up/drop-off circulation drive for the school and the east curb cut providing access for parking. (Ex. 3, 16A, 30A, 31A)
30. The Project's landscape and greening components are a primary feature and central driver of the overall design and include:
 - (a) An approximately 0.15-acre publicly accessible pocket park on Whitehaven Street, N.W. featuring a central open lawn, multiple types of seating features, and landscape and tree plantings;
 - (b) A central plaza at the core of the courtyard incorporating landscape and tree plantings and pedestrian hardscape improvements;
 - (c) Two new outdoor areas for BISW programs, one at the southern end of the courtyard with flexibly open space and another nestled into the south niche of the multifamily building featuring playground features and a half-size basketball court;
 - (d) Streetscape improvements along Whitehaven Street, N.W. including at the entrance to the multifamily building; and

- (e) Residential amenity spaces on the building rooftops and terraces and on the east courtyard facing Dumbarton Oaks Park.
(Ex. 3, 16A, 30A, 31A)
31. The Project is designed to achieve LEED v.4 Gold design standards. Specific sustainable design features include: implementing green roof and extensive tree and landscape plantings including native species; incorporating mass timber construction into the design; selecting, where feasible, appliances and building systems that rely primarily on electricity in lieu of natural gas; and instituting advanced utility tracking to drive energy efficiency efforts through real-time monitoring of energy and water use. (Ex. 3, 16A, 30A, 31A)
32. As part of the Project, the Applicant has proffered public benefits and amenities, developed in close coordination with ANCs 2E and 3B, as set forth in detail in the Conditions of this Order. The Applicant's proffered public benefits and amenities are as follows:
- (a) Superior Urban Design and Architecture (Subtitle X § 305.5(a)). The Project design includes distinctive forms and building configuration, balconies, high-quality materials, detailing, and careful integration of the building form into the adjacent Dumbarton Oaks Park setting and surrounding Georgetown Historic District context;
 - (b) Superior Landscaping and Preservation of Open Spaces (Subtitle X § 305.5(b)). The Project maintains the central courtyard between the proposed mixed-use building and the existing 2001 Wisconsin Building and includes substantial landscape plantings and improvements throughout the Property;
 - (c) Site Planning and Efficient Land Utilization (Subtitle X § 305.5(c)). The Project maintains the existing site circulation that provides access from Whitehaven Street, N.W. rather than Wisconsin Avenue, N.W. and provides efficient vehicular, bicycle, and pedestrian circulation into and through the site, with all parking maintained fully below grade in order to maximize open space;
 - (d) New Housing (Subtitle X § 305.5(f)). The Project creates approximately 268 units of housing in Ward 2 in the Near Northwest Planning Area on the border of Ward 3/Rock Creek West, including at least 10 three-bedroom units;
 - (e) Affordable Housing (Subtitle X § 305.5(g)). The Project sets aside 15% of the residential GFA for IZ reserved at 60% of MFI, plus 10% of the applicable penthouse habitable space reserved at 50% of MFI;
 - (f) Environmental and Sustainability Benefits (Subtitle X § 305.5(k)). The Project is designed to meet LEED v.4 Gold – Multifamily Midrise design standards and incorporates a significant focus on sustainability, including items such as utilizing mass timber construction;
 - (g) Other Public Benefits (Subtitle X § 305.5(r)).
 - (i) Creation of an approximately 0.15-acre publicly accessible pocket park at the north end of the Property facing Whitehaven Street N.W., which will provide additional green open space opportunities for the community;
 - (ii) A contribution of \$10,000 to Glover Park Main Street (operated under the oversight of the D.C. Department of Small and Local Business Development ("DSLBD")) specifically relating to the Art All Night or a similar Main Street program and/or improvements along the Wisconsin Avenue corridor,

furthering the revitalization of Glover Park's commercial center and related streetscape and public environment;

- (iii) A contribution of \$10,000 to Georgetown Main Street to help fund a Small Business Storytelling Marketing Specialist for the purpose of developing and executing marketing campaigns to showcase the unique stories and experiences of small businesses in Georgetown;
- (iv) A contribution of \$55,000 to the Hyde-Addison Elementary School Parent Teacher Association (or the successor thereto), to be utilized as follows:
 - (A) \$25,000 to support student computer devices and other technology supplies for students to help reduce financial burdens and barriers to student access to technology-based learning equipment and systems; and
 - (B) \$30,000 to support student and family access to academic enrichment activities, including educational field trips and socio-emotional resources to help reduce financial burdens and barriers to student and family access to such resources;
- (v) A contribution of \$65,000 to the Hardy Middle School Parent Teacher Organization (or the successor thereto), to be utilized as follows:
 - (A) \$30,000 to support student computer devices and other technology supplies for students, including but not limited to power cords and supplies, to reduce financial burdens and barriers to student access to technology-based learning equipment and systems; and
 - (B) \$35,000 to support family access to academic enrichment activities, including educational field trips and socio-emotional resources to help reduce financial burdens and barriers to student and family access to such resources;
- (vi) A contribution of \$55,000 to the Stoddert Elementary School Parent Teacher Organization (or the successor thereto), to be utilized as follows:
 - (A) \$25,000 to implement measures that provide better resources, technology, and facilities for students, including those that reduce barriers to student access to technology-based learning, or those that would allow the school to better maximize the new space gained through the addition to support student learning; and
 - (B) \$30,000 to support student access to academic enrichment activities related to arts and music, including resources to furnish and equip a dedicated art classroom and dedicated music classroom in the upcoming addition to the school to improve education on these subjects and to help reduce barriers to student access to arts and music education;
- (vii) A contribution of \$20,000 to the Conservancy to support its Leave No Child Inside Program serving underserved and minority youth and, specifically: \$10,000 to the Dumbarton Explorers Program to support program materials, support staff, and online class monitoring; and \$10,000 to the Green Jobs & Green Tech Program to fund a staff administrator salary for one year;
- (viii) A contribution of \$150,000 to the Mt. Zion-Female Union Band Society Historic Memorial Park, Inc. (the "Cemeteries"), also known as the Black Georgetown Foundation, to support initiatives to restore and promote the

Cemeteries, including items such as: informational signage in and around the Cemeteries to better educate the public about the site; repair and renovation of monuments and site improvements, such as stairs and railings, to improve visitor safety; educational outreach programs on the Cemeteries and historic Black Herring Hill neighborhood; a hardscape plinth to be installed within the core of the burial grounds to feature informational signage and monumental artwork; “Site of Memory” designation for the Cemeteries as part of UNESCO’s Slave Route Project; and implementation of a Cemeteries Information System to manage and promote historical sources on the Black Georgetown community; and

- (ix) \$8,000 for the Dumbarton Court Coop or another similar organization in consultation with ANC 2E and/or the Dumbarton Court Coop to support the purchase and installation of security cameras at or around Dumbarton Court at 1657 31st Street, N.W. to help improve public safety and law enforcement efforts in the area.

(Ex. 16)

APPLICANT’S JUSTIFICATION (REVISIONS, SUBMISSIONS, AND TESTIMONY)

- 33. Initial Application. Pursuant to Subtitle Z §§ 300.1-300.4, 300.6, and 300.10-300.13, on January 9, 2023, the Applicant filed its initial application materials. (Ex. 1-4)
 - 34. Pre-Setdown Supplemental Submission. On June 27, 2023, the Applicant submitted a supplemental submission including:
 - (a) A memorandum analyzing the Project and Application through a racial equity lens as set forth in the Comprehensive Plan; and
 - (b) The Applicant’s updated and enhanced public benefits and amenities package to include:
 - (i) An increase to the then-proposed contribution to support improvements to Dumbarton Oaks Park from \$100,000 to \$150,000;
 - (ii) Newly proffered contributions totaling \$20,000 to support the Conservancy’s Leave No Child Inside program; and
 - (iii) A newly proffered contribution totaling \$150,000 to support the initiatives to restore and promote the Cemeteries.
- (Ex. 11-11A)
- 35. Prehearing Submission. Pursuant to Subtitle Z §§ 401.1 and 401.3-401.4, on December 28, 2023, the Applicant filed a prehearing submission and supporting materials responding to the issues and comments raised by the Commission at the September 14, 2023 public meeting, and by OP in its September 1, 2023 setdown report (*see* Ex. 12) , and providing additional and updated information regarding the Application. (Ex. 16-16E) Specifically, the prehearing submission included:
 - (a) FLUM. In response to the Commission’s request, the Applicant provided additional information and analysis regarding the Project’s consistency with the Comprehensive Plan Future Land Use Map designations for the Property;
 - (b) Public Benefits and Amenities. The Applicant provided updated information regarding the proffered public benefits and amenities package, and specifically:

- (i) Replacement and enhancement of the previously proposed contribution of \$150,000 to support improvements to Dumbarton Oaks Park, based on a request from NPS, with contributions totaling \$193,000 to other community programs and causes developed in coordination with ANC 2E and 3B, as follows:
 - (A) \$10,000 to Georgetown Main Street to help fund a Small Business Storytelling Marketing Specialist to develop and complete marketing campaigns showcasing the unique stories and experiences of small businesses in the Georgetown neighborhood;
 - (B) \$55,000 to the Hyde-Addison Elementary School Parent Teacher Association, with \$25,000 allocated to support student computer devices and technology supplies and \$30,000 allocated to support student and family access to academic enrichment activities;
 - (C) \$65,000 to the Hardy Middle School Parent Teacher Organization, with \$30,000 allocated to support student computer devices and technology supplies and \$35,000 allocated to support student and family access to academic enrichment activities;
 - (D) \$55,000 to the Stoddert Elementary School Parent Teacher Organization, with \$25,000 allocated to implement measures that provide better resources, technology, and facilities for students and \$30,000 allocated to support student access to academic enrichment activities related to arts and music; and
 - (E) \$8,000 to the Dumbarton Court Coop, or another similar organization in consultation with ANC 2E and/or the Dumbarton Court Coop, to support the purchase and installation of security cameras at or around Dumbarton Court to help improve public safety and law enforcement efforts in the area;
- (c) Updated Plans. The Applicant provided updated plans for the Project reflecting refinements to the design since the initial submission, including increasing the proposed number of units to 268, revisions to the design resulting in a building height of approximately 60.54 feet and other updates to the plans;
- (d) Community Outreach. The prehearing submission included updated information regarding the Applicant's outreach and meetings with ANC 2E and 3B;
- (e) Updated Requested Design Flexibility. The Applicant provided updated requested design flexibility Conditions incorporating specific language related to the Project's incorporation of mass timber/CLT construction into the building; and
- (f) 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.

(Ex. 16-16E)

- 36. Applicant's Transportation Report. Pursuant to Subtitle Z §§ 401.7-401.8, on March 5, 2024, the Applicant filed a Comprehensive Transportation Review ("CTR"), prepared by Gorove Slade, regarding the Project. (Ex. 23-23A) The CTR concluded that the Project would not have a detrimental impact on the surrounding transportation network assuming

the proposed site design elements and Transportation Demand Management (“TDM”) measures are implemented as part of the Project.

37. Applicant’s Supplemental Pre-Hearing Submission. On March 15, 2024, the Applicant filed a supplemental submission providing an updated CTR incorporating technical updates in response to DDOT feedback. (Ex. 24-24A)
38. Applicant’s Opposition to Request to Postpone. On March 28, 2024, the Applicant filed a response in opposition to the request submitted by the Parents’ Alliance of BISW (“Parents’ Alliance”) to postpone the public hearing. The Applicant summarized the extensive outreach conducted with BISW and the surrounding community regarding the Project and Application, including public meetings with ANCs 2E and 3B dating back to the Summer of 2022. The Applicant stated that it worked closely with BISW throughout the planning, design, and development process for the two-phased development, Phase 1 of which was approved in Z.C. Order No. 86-04A and consisted of the new below-grade gymnasium to serve BISW, which was delivered to the school in December 2023. The Applicant stated that it appreciates and is sensitive to the concerns of the Parents’ Alliance and the need for proper management of construction activities within the context of the adjacent school, which is also a tenant of the Applicant, and that the Applicant believes such issues can be thoroughly and adequately addressed through the PUD process and by coordinating detailed procedures and safeguards as part of the construction process. The Applicant stated that it is willing to have open and regular communication between the Applicant, the general contractor, and the BISW community, including the Parents’ Alliance, leading up to and through any construction process for the Project. The Applicant stated that it is committed to a robust dialogue with the community and continuing to work with BISW and the community throughout all phases of the Project’s development, but that there was no basis for postponement of the April 4, 2024, public hearing given the outreach that has occurred and continues. The Applicant noted that postponement would create undue delay in the production of new housing and affordable housing, particularly given the significant OGB/CFA design review processes already conducted, and that delay would make it more difficult for the Applicant to schedule more significant components of the Project’s construction during timeframes that do not fall during the academic year. (Ex. 28)
39. Applicant’s Hearing Presentation and Testimony. In advance of the April 4, 2024, public hearing for the Application, the Applicant filed a presentation. (Ex. 30A, 31A) At the public hearing, the Applicant presented the Application and proposed Project and addressed questions raised by the Commission as follows:
 - (a) The Applicant provided testimony from three witnesses:
 - (i) Eddie Mansius of Grosvenor, as a representative of the Applicant;
 - (ii) Guilherme Almeida of Hickok Cole Architects, as the Project’s architect, admitted as an expert; and
 - (iii) Trini Rodriguez of Parker Rodriguez Inc., the Project’s landscape architect, admitted as an expert;

Daniel Solomon of Gorove Slade, the Project's transportation consultant, and Laurence Caudle of Hickok Cole Associates, also appeared on behalf the Applicant and were accepted as experts but were not called upon to testify;

- (b) The Applicant's presentation included a summary of the Project background; the Applicant's outreach with OP, DDOT, and other District agency staff, and with BISW and the school community, ANC 2E and ANC 3B, and the surrounding community; the requested zoning and design flexibility; the proffered public benefits and amenities; the building design, site planning, and landscaping features; and the land use planning concepts underlying the Project, including the Property's designation on the Comprehensive Plan maps;
- (c) The Applicant's presentation also included a summary of the Applicant's responses to the OP's comments in its March 25, 2024 hearing report (Ex. 25), including:
 - (i) The Applicant agreed to commit that there will be no communal rooftop amenity or recreation space above the Project's 5th level;
 - (ii) The Applicant agreed to commit that signage will be limited to the Project's 1st floor;
 - (iii) The Applicant provided a lighting plan for the various roof areas of the Project, as requested by OP;
 - (iv) The Applicant did not agree with OP's request to limit the parking flexibility for the Project such that only a reduction in parking would be permitted and instead continued to request the parking flexibility typically granted for Commission approvals allowing parking to be decreased or increased by up to 10%; and
 - (v) The Applicant agreed to specify in the proposed design flexibility Conditions that the sustainability features include LEED v.4 Gold design, specifically LEED Gold under the Multifamily Midrise standard;
- (d) The Applicant's presentation also included a summary of the Applicant's responses to DDOT's comments in its March 25, 2024 hearing report (Ex. 26), including:
 - (i) The Applicant agreed to commit to additional transportation mitigation measures and to, subject to DDOT approval, fund and construct the following pedestrian network improvements:
 - (A) The missing crosswalk, pedestrian signals, and curb ramps at 35th Street, N.W. and Wisconsin Avenue, N.W. Should the ANC vote to oppose the work, the Applicant shall make an equal financial contribution to the developer mitigation fund;
 - (B) Striping for parking boxes on Whitehaven Street, N.W.;
 - (C) A high visibility crosswalk on east side of Wisconsin Avenue, N.W. and Whitehaven Parkway, N.W.; and
 - (D) Concrete curb extensions at the midblock crosswalk on Whitehaven Street, N.W.;
 - (ii) The Applicant committed to implementing the Transportation Demand Management ("TDM") plan set forth in its updated CTR (Ex. 24A);
- (e) In addition to the Applicant's direct presentation, the Applicant also addressed questions raised by the Commission during the public hearing including, among other matters: providing additional information regarding the development team's outreach with BISW and the BISW community regarding the Project and

Application; the Applicant's outreach with Federal stakeholders and the Project's relationship to the U.S. Naval Observatory campus located to the north of the Property; additional information regarding the landscape design features; clarification regarding the Applicant's requested design flexibility; additional information regarding the Applicant's proffered contributions to support the Conservancy's Leave No Child Inside program and the proposals to improve and promote the Cemeteries; and additional analysis of the Project's consistency with the FLUM designations for the Property. (Transcript of April 4, 2024 Public Hearing ("Public Hearing Tr.") at pp. 19-78)

40. Draft Proffers and Conditions. Pursuant to Subtitle X § 308, on May 1, 2024, the Applicant submitted its draft proffers and Conditions. (Ex. 35)
41. Applicant's Post-Hearing Submission. Pursuant to Subtitle Z § 602.1, on May 8, 2024, the Applicant filed a post-hearing submission with responses to requests at the public hearing from the Commission as follows:
 - (a) FLUM. The Applicant provided a supplemental analysis and summary of the Project's consistency with the FLUM designations for the Property and support for the proposed density in light of the guidance set forth in the Comprehensive Plan Framework Element, the overall Application, and the proffered public benefits and amenities;
 - (b) Naval Observatory Precinct District ("NO") Overlay and Impact to the Federal Interest. The Applicant provided supplemental information addressing the restrictions of the NO Overlay and impact to Federal interests given the Property's proximity to the Naval Observatory campus, as follows:
 - (i) The Applicant provided arguments claiming that the Property is not subject to the NO Overlay provisions, including additional height restrictions, because the Property is legally vested under the existing PUD C-2-A/MU-4 zoning pursuant to the original PUD approval granted in 1986 in Z.C. Order No. 495. Specifically, the existing PUD zoning vested with the Property under the original PUD Order No. 495 upon recordation of the PUD covenant and development of the project approved by said order. Accordingly, the Applicant claims the Property maintains such approved zoning notwithstanding the later-adopted provisions of the NO Overlay, which did not become effective until 1992 by issuance of Z.C. Order No. 696 for Case No. 87-34. The Applicant further claims that as a result, the NO Overlay provisions, such as additional height restrictions, would not become effective against the Property unless and until the Commission approved either an extinguishment of the existing PUD or an application to modify the existing PUD-related zoning such that the zoning is "reset" to the underlying MU-4/NO zoning; and
 - (ii) The Applicant provided additional information regarding the development team's outreach with Federal stakeholders following the public hearing — namely, the National Capital Planning Commission ("NCP"), the Department of Navy, and the Secret Service — regarding the Project's relationship to the Naval Observatory campus located to the north of the

Property and Federal personnel's conclusion, as confirmed by NCPC's staff report and action at its May 2, 2024 public meeting (*see* Ex. 38), that the Project would not be inconsistent with the Federal Elements of the Comprehensive Plan and would not adversely affect any identified Federal interest. The Applicant further provided diagrams presented to Federal stakeholders providing greater detail regarding the Project's relationship with, and lack of impact on, the nearby Federal campus and development context, which illustrate the following:

- (A) Sight lines from the Project's proposed 5th floor amenity terrace and from the highest occupied residential unit are below the elevation of the Vice President's residence, with the intervening area characterized by dense forestation and landscaping, and significant topographical change, that further obscure views to the north of the Property and underscore the visual separation from the Federal campus;
 - (B) The Project represents a relatively modest increase in the massing and height of the existing 3300 Whitehaven Building and is, moreover, smaller in scale than the nearby Glover House and Observatory Condominium developments, both of which are taller and are situated closer to the boundaries of the Observatory Circle Federal campus;
 - (C) The nearest northeast corner of the Property is located approximately 435 feet from the Naval Observatory fence line, approximately 1,280 feet (or 0.24 miles) from the Naval Observatory building, and approximately 2,070 feet (or 0.4 miles) from the Vice President's residence, with location of the proposed 5th floor amenity terrace at the southeast corner of the building even further from these primary Federal campus features; and
 - (D) The landscaping and hardscaping plans for the Project, including the primary residential amenity space located on the 5th floor and the terraces located on the levels above are designed to integrate with the adjacent Park. The proposed exterior and rooftop lighting exhibit presented to the Commission at the April 4, 2024, public hearing provides additional assurances that the outdoor lighting plan is purposely assimilated into the limited recreation areas in a manner that will not adversely impact the Park or the Observatory. At the Applicant's April 18, 2024, meeting with Federal representatives, Naval Observatory personnel stated that the Project, as designed and given its location, would not be expected to impact the Observatory's operations;
- (c) The Applicant provided information regarding the impact to the Project's program and design if the NO Overlay height restrictions were imposed on the Project and, specifically, the resulting loss of approximately 43,550 gross square feet or approximately 80 residential units if such height restrictions were imposed, representing the loss of two whole building floors while maintaining the building sculpting and careful arrangement of massing across the site that was necessary in order for the Project to secure approval from the OGB and CFA. The Applicant stated that such an impact would represent a significant loss in the amount of new housing and affordable housing in an amenity-rich area where new and affordable

housing is needed perhaps more than any other area of the District. Furthermore, if such a reduction in scope were imposed on the Project, the Applicant stated, the practical result would be that the economics of the revised development would render the Project unable to move forward at all, and the new housing and affordable housing, along with new educational space, would be lost;

- (d) The Applicant submitted an updated resume for expert witness Laurence Caudle of Hickok Cole Architects, as requested by the Commission; and
- (e) The Applicant provided additional information regarding the development team's outreach with BISW and the BISW parent community. The Applicant stated that BISW has continued its ongoing outreach with the parent community as part of the school's regular meetings that provide a forum to discuss frequent updates and any questions regarding the Project, including meeting after the April 4, 2024 public hearing, and that BISW continues to work with the Applicant to ensure parent feedback and questions are addressed as the Project moves forward. The Applicant stated that it has published a website to provide timing and updates about the Project, answer frequently asked questions, and allow interested individuals including the BISW parents to sign up for ongoing email updates, and the Applicant will continue its outreach with the BISW and the BISW parent community throughout the Project site preparation and construction phases.

(Ex. 37-37C)

- 42. Final Conditions. Pursuant to Subtitle X § 308.12, on May 15, 2024, the Applicant submitted its final proffers and conditions reflecting revisions made in response to comments received from the Office of Zoning Legal Division. (Ex. 39)
- 43. Draft Findings of Fact and Conclusions of Law. Pursuant to Subtitle Z § 601.1, on May 20, 2024, the Applicant submitted its proposed findings of fact and conclusions of law. (Ex. 40, 40A)

APPLICANT'S JUSTIFICATION FOR RELIEF

RELIEF REQUESTED

- 44. The Application requested the Commission approve a Modification of Significance to the existing PUD approval under Z.C. Orders No. 495 and 86-04A to redevelop the eastern portion of the Property, currently improved with the 3300 Whitehaven Building, with a mixed-use building with approximately 268 residential units and approximately 5,700 square feet of space for private education use. The Project proposes a height of approximately 60.54 feet; this represents an increase in height from the originally approved 3300 Whitehaven Building which is 51.6 feet in height.
- 45. The Application further requested additional PUD-related zoning flexibility pursuant to Subtitle X § 303.1 for:
 - (a) The minimum rear yard requirements of Subtitle G § 207.6 to provide no rear setback for Theoretical Lot A on the east side of the Property, upon which the Project will be constructed, where a minimum rear yard of 15 feet is required; and

- (b) The penthouse side setback requirements of Subtitle C § 1504.1(c) for the mechanical penthouse located along the south property line on Building Mass D abutting the Safeway building.

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

46. 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 designations of Low Density Commercial and Moderate Density Residential for the Property. The existing MU-4 zoning approved as part of the original PUD is explicitly consistent with the Property’s commercial density. Further, the Project will add residential use to the site consistent with the residential designation that covers much of the area occupied by the Project and, while the Moderate Density Residential designation identifies a slightly lower density of 1.8 FAR than the 2.83 FAR the Project proposes for the Property⁴, the Comprehensive Plan expressly allows for greater density for developments complying with IZ — which the Project does and, further exceeds — and for PUDs. Importantly, the Framework Element also directs that, in contrast with zoning maps that are clearly delineated, the FLUM is “intended to be ‘soft-edged’” and “is to be interpreted broadly.” 10-A DCMR § 228.1. Moreover, the Project density and proposed overall density of the Property are well within the maximum FAR permitted for the MU-4 zoning which the Commission previously concluded was appropriate for the site (as its predecessor, C-2-A) in the original PUD approval. The Project will realize the FLUM’s vision for the eastern portion of the Property to provide residential use not currently provided on the Property, which has until now been devoted to office/commercial uses. Furthermore, the Project is arguably more consistent with the Property’s FLUM designation as it takes an existing office building that was previously reviewed and approved by the Commission and converts and expands it into residential use; (Ex. 3, 3G, 16, and 37)
 - (b) GPM. The Project is not inconsistent with the Property’s Main Street Mixed Use Corridor designation on the GPM. By creating approximately 268 new units of housing where there are currently none, the Project will bring new residents to this portion of Wisconsin Avenue, N.W. who will help support nearby businesses, thereby fostering both economic and housing opportunities consistent with the Framework Element guidance for this designation. Further, the Project will directly support transit use and enhance the pedestrian environment by providing new housing directly on a Priority Corridor Network Metrobus route and making streetscape improvements, in addition to creating a new publicly accessible pocket park along Whitehaven Street, N.W. which will improve the pedestrian environment immediately surrounding the Property; (Ex. 3G)

⁴ The Project proposes a FAR of 2.18, resulting in a total FAR of 2.83 for the Property.

- (c) Racial Equity. The Project advances racial equity for the following reasons:
- (i) The proposed Project will redevelop a currently vacant office building into a multi-family residential building with approximately 268 units, and will set aside 15% of the residential GFA, plus 10% of the applicable penthouse habitable space, for affordable housing. The Project will further the goals of the Mayor's housing initiative, which aims to add 36,000 new residential units in the District by 2025, and the Project's new housing will be provided in Ward 2 immediately bordering the Rock Creek West Area, where there is a significant shortfall of new and affordable housing. The housing opportunities created by the Project will benefit all District residents and help to create a more equitable, inclusive community in this part of the District;
 - (ii) The Project and Application proffer other public benefits in addition to the significant affordable housing commitment, including, among others: a 0.15-acre publicly accessible pocket park abutting Whitehaven Street, N.W.; sustainability features; and numerous contributions to community programs and initiatives, including a \$150,000 contribution to restore and promote the Mt. Zion-Female Union Band Society Cemeteries and preserve the legacy of the historic Black Georgetown community;
 - (iii) The Project furthers racial equity goals by providing multifamily housing in an area of the District where single family homes predominate. The housing provided will result in no displacement of residents and will be located in close proximity to numerous neighborhood amenities as well as Dumbarton Oaks Park;
 - (iv) The Project will have a positive impact on the physical environment at and immediately surrounding the Property as a result of its sustainability features and the proposed substantial landscape and streetscape improvements to the Property and adjacent public space, including the new publicly accessible pocket park abutting Whitehaven Street, N.W.;
 - (v) The Project's new housing and affordable housing in a highly sought-after and high-amenity area of the District will increase access to opportunity for the new residents who will live at the Property. Those future residents will be in close walking distance to several grocery stores and other neighborhood-supporting uses and other public amenities and facilities, including Jelleff Recreation Center, Dumbarton Oaks Park, and the Georgetown Neighborhood Library branch. Residents will also have access to the area's well-regarded public schools, including Stoddert Elementary, Hardy Middle, and Jackson-Reed High Schools, with the Duke Ellington School of the Arts also within walking distance. Likewise, the addition of new residential use in the area will help support area businesses with the resulting effect of strengthening employment opportunities at such businesses;
 - (vi) *Community Outreach and Engagement*- The Applicant's racial equity analysis provided evidence that it has conducted community outreach and engagement regarding the Project, as discussed in detail in the Applicant's initial submission, including meetings with ANC 2E and ANC 3B beginning in Summer 2022. Most recently, the Applicant presented to ANC 2E, in which the Property is located, at its regular public meeting on October 30, 2023.

ANC 2E voted unanimously to support the Application and submitted a letter of support at Exhibit 14 of the Case Record. The Applicant presented to ANC 3B at its regular public meetings on November 10, 2023, and December 14, 2023. ANC 3B also voted to support the Application and submitted a letter of support at Exhibit 15 of the Record. As discussed in detail above, the Applicant's proffered PUD public benefits and amenities, including the proposed contributions to support resources for local public schools and organizations, are a direct outgrowth of the Applicant's extensive discussions with both ANCs and have been incorporated into the Application in direct response to the ANCs' helpful feedback; and

- (vii) *Displacement*- The Applicant's racial equity analysis noted that the Project advances racial equity without any displacement effects given that the portion of the Property being redeveloped is currently improved with a vacant office building.

(Ex. 3G, 11A, 16)

- (d) Land Use Element. The Project strongly 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. The Project is a classic example of infill development, revitalizing currently underutilized land immediately adjacent to the Wisconsin Avenue corridor and its numerous retail options. The Project is highly accessible and pedestrian-focused due to its proximity to a Priority Corridor Network Metrobus route, grocery stores and shopping, and other public facilities such as Jelleff Recreation Center. The Project will help strengthen the neighborhood by redeveloping a vacant office building with new housing, including affordable housing. The Project represents an equitable development through its provision of housing in a highly sought-after area of the District where there is a need for new and affordable housing. The Project's location both adjacent to retail and open space makes the site ideal for housing; (*See id.* §§ 307.14, 308.6, 310.7, 310.9, 310.10, 310.15, 310.17, 310.20, 311.4, 311.5)
- (e) Transportation Element. The Project reduces the overall reliance on single-occupancy vehicles and emphasizes other modes of transportation. Specifically, the Project reduces the number of parking spaces from the 306 parking spaces approved in Z.C. Order No. 86-04A (down from the 419 parking spaces approved in the original PUD) to approximately 248 parking spaces, all of which will remain below-grade. The Property is directly accessible to a Priority Corridor Network Metrobus route, and will improve the pedestrian environment, including creation of a new publicly accessible pocket park on Whitehaven Street, N.W. Moreover, the Project by its very nature promotes pedestrian activity by creating approximately 268 new residential units in a location that has walkable access to an amenity-rich area that provides strong neighborhood-serving retail offerings and other public facilities, all within a short walking distance. The Project includes a robust TDM program developed in close coordination with DDOT, which will address and mitigate any potential transportation impacts associated with the Project; (*See id.* §§ 403.10, 403.13, 403.14, 406.2, 411.5)
- (f) Housing Element. The Project will create approximately 268 new units of high-quality housing, including a mix of both market rate and affordable housing, in a

highly sought-after, high-amenity, and pedestrian-friendly area. The affordable housing will contribute to the production targets set forth in the Comprehensive Plan, and the Project will avoid any displacement, thus advancing racial equity goals as discussed above. The housing being added at the Property allows for an opportunity to make Georgetown more inclusive and provide greater access to opportunity and outcomes for residents, including a number of affordable units; (*See id.* §§ 503.3, 503.5–503.7, 503.10, 504.9, 504.10, 504.17, 508.5, 510.8)

- (g) Environmental Protection Element. The Project is designed to achieve the LEED v.4 Gold, specifically LEED Gold under the Multifamily Midrise standard, and will incorporate highly sustainable design components. The Project incorporates substantial landscaping, mass timber construction, green roof, and native plantings throughout the Project. The Project will create a new publicly accessible pocket park on Whitehaven Street, N.W.; (*See id.* §§ 603.6–603.8, 605.7, 605.8, 607.2, 612.9, 615.4, 617.3)
- (h) Parks, Recreation and Open Space Element. The Project increases accessibility for Dumbarton Oaks Park by creating new housing that is immediately adjacent to the park and adds to the District’s supply of park spaces by creating a wholly new publicly accessible pocket park on the Property abutting Whitehaven Street, N.W. that will contribute to the network of open green spaces in the area that includes Dumbarton Oaks Park, Whitehaven Parkway, and Glover Archbold Park further west. The Project’s infill nature will also make Dumbarton Oaks Park more accessible by improving the pedestrian environment that connects the primary Wisconsin Avenue, N.W. corridor with the park, further supporting the broader public to take advantage of the park and the health and wellness opportunities that such access affords; (*See id.* §§ 805.8, 806.6, 803.6, 806.10, 806.11, 809.11, 810.7, 810.11, 814.7, 817.6, 819.5, 819.6)
- (i) Urban Design Element. The Project is carefully designed to respond to the natural surroundings of Dumbarton Oaks Park, including massing that steps with the changes in grade and a natural material palette focused on brick tones. The Project improves the neighborhood streetscape with public space improvements and will provide a new publicly accessible pocket park on Whitehaven Street, N.W. The Project is designed with neighborhood character and identity as a primary driver of the design, as confirmed by the Project receiving conceptual approval from the OGB/CFA. The Project represents appropriate infill development to provide residential use where currently sits a vacant office building; (*See id.* §§ 904.3, 908.4, 908.6, 909.5, 906.6, 909.8–909.10, 909.13, 914.4, 915.4, 919.10)
- (j) Historic Preservation Element. Although the Property is not a historic site, it is located with the Georgetown Historic District, and thus the Project is subject to review by the OGB/CFA, which have granted concept approval for the design. The Project is carefully crafted to be compatible with the Historic District, while also achieving an important infill role to create new and affordable housing on land currently occupied by a vacant office building. The Project responds to the broader Historic District context and to the natural setting of Dumbarton Oaks Park and includes streetscape improvements that will better tie the park to the surrounding neighborhood, which will strengthen the Georgetown Historic District as a whole; (*See id.* §§ 1008.5, 1008.6, 1011.4, 1011.7, 1014.9, 1014.10)

- (k) Economic Development Element. The Project will bring new residents to the Property who will in turn provide support for nearby businesses, thereby strengthening the Wisconsin Avenue commercial corridor and surrounding area; and (*See id.* §§ 708.8, 713.5)
- (l) Near Northwest Area Element. The Project design is architecturally compatible with its surrounding park space and the broader Georgetown Historic District context, having received conceptual approval from the OGB/CFA. The residential use will “sustain and enhance” the Wisconsin Avenue, N.W. commercial corridor at this location and help area businesses to thrive, and the Project will also support transportation demand by reducing the number of parking spaces on-site and creating new housing that has immediate access to a Priority Corridor Network Metrobus Route. The Project’s new and affordable housing advance racial equity in the Planning Area and create a more inclusive, equitable community in this part of the District. The new publicly accessible pocket park on Whitehaven Street, N.W. will enhance access to the existing park and allow residents of the Project, and the District as a whole, greater opportunity to take full advantage of the health and wellness benefits the park offers. (*See id.* §§ 2108.2, 2108.3, 2108.8, 2108.11, 2108.12, 2109.1, 2109.6)

(Ex. 3G)

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

47. 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 but instead impacts are favorable, capable of being mitigated, or acceptable given the quality of the public benefits in the Project:
- (a) Zoning and Land Use Impacts. The Project has no unacceptable zoning or land use impacts on the surrounding area. The MU-4 zoning approved in the Initial PUD (as the C-2-A Zone under ZR-58 regulations then in effect) continues to be appropriate for the mixed-use nature of the neighborhood. The Project’s offering of a new residential use in a highly desired after part of the District furthers the purpose and intent of the Zoning Regulations. Any potential adverse impacts arising out of the Project’s land use are capable of being mitigated by the Project’s design or offset by the public benefits;
 - (b) Housing Market Impacts. The Project adds new high-quality housing, including affordable housing in Ward 2 where there is significant need for new and affordable housing. The Project results in no displacement as it adaptively reuses an existing vacant office building, and it is unlikely the additional housing will result in any adverse impacts. Rather, the addition of new residents will bolster the adjacent Wisconsin Avenue commercial corridor, providing an influx of new clientele to support nearby businesses. Further, it will bring new residents, including those needing affordable housing, into the Near Northwest Area, immediately adjacent to the Rock Creek West Area, both areas noted as being in particular need for affordable housing in the Mayor’s Housing Equity Report;
 - (c) Construction-Period Impacts. Any potential construction-related impacts on the surrounding area during the development period are capable of being mitigated. As

described above, the Applicant has extensive development experience both in the District and internationally and significant knowledge regarding construction management. The Applicant will work closely with the affected ANCs, BISW and BISW community, area residents, NPS, which owns and manages Dumbarton Oaks Park, and the Department of Navy, which manages the Naval Observatory campus to the north, regarding potential construction impacts posed by the Project;

- (d) Open Space, Urban Design and Massing Impacts. The Project's design and massing honors the adjacent park and prioritizes open space. The building includes courts and gradually steps down at intervals in deference to the underlying and adjacent natural landscape. The proposed building facades are active with a number of balconies, further maximizing the light and openness throughout the Project. Open space is the centerpiece of the Project, both with its natural context and its purposeful design, including the primary site planning decision to preserve the central courtyard between the two buildings on-site. The Project's design and massing should only have favorable impacts on both residents and neighbors, but any potential adverse impacts are capable of being mitigated or offset by the public benefits offered;
- (e) Design and Aesthetic Impacts. The Project incorporates high quality architecture and design and will improve the aesthetic impact of the Property on the adjacent park and the surrounding area. The materials will blend the structure into the natural landscaping and its historic context with natural colored brick, rusticated stone, and wood accents. The Project's landscaping and streetscaping likewise will be of superior design and help to create a cohesive and aesthetic connection between Dumbarton Oaks Park and Wisconsin Avenue, N.W. Accordingly, the design and aesthetic impacts will be favorable to the surrounding area;
- (f) Transportation and Mobility Impacts. The Project will not have any unacceptable impacts on the transportation facilities that surround the Property. Any potential transportation impacts are capable of being mitigated. The Project substantially decreases the amount of on-site parking from the current condition. The original PUD approval provided for 419 parking spaces and the parking was reduced via Z.C. Order No. 86-04A to 306 parking spaces. The Project will reduce this count to 248 spaces, thereby furthering District planning and transportation policy objectives to reduce reliance on single-occupancy vehicles while still providing sufficient parking to support the new residential and existing educational uses on the Property. The Property is ideally situated in a highly walkable neighborhood, with all necessary amenities in close proximity and a number of Metrobus stops along Wisconsin Avenue. The Project will incorporate 93 long-term and 14 short-term bicycle spaces as well, further encouraging residents to take advantage of the Property's prime location. The Project also includes a robust TDM plan developed in coordination with DDOT that further reduces any transportation impacts posed by the development;
- (g) Economic Impacts. The Project will have favorable economic impacts on the neighborhood by supplying the adjacent Wisconsin Avenue, N.W. businesses with new clientele. The Project's transformation of the eastern portion of the Property from vacant office to multifamily residential use will also have positive impacts by generating additional tax revenue for the District;

- (h) Cultural and Public Safety Impacts. The Project will improve public safety by eliminating a vacant building adjacent to both BISW and Hardy Middle School across Wisconsin Avenue, N.W. The Project's streetscaping incorporates safety features, including modest lighting advantageously located at the entrance to Dumbarton Oaks Park. By adding rare new housing in Ward 2, including affordable housing, the Project will also help to foster a mixed-income, more inclusive community that offers recognizable cultural diversity benefits for the community across the board;
- (i) Public Facilities and/or District Services Impacts. The Applicant submitted evidence that the Project will not result in any negative impacts to public facilities and infrastructure or District services. Furthermore, in addition to being reviewed by OP and DDOT, the Application was circulated by OP to numerous other District agencies and authorities for review, including the Metropolitan Police Department, the Department of Housing and Community Development ("DHCD"), the Washington Metropolitan Area Transit Authority, the Fire and EMS Department ("FEMS"), DOEE, DC Water, DPR, the Department of Public Works, DC Public Library, and DC Public Schools, all of which were also invited to submit written comments on the Project. OP confirmed that agency comments that were received did not indicate adverse impacts on public infrastructure or services. The average daily water demand for the Project can be met by the existing District water system. The proposed connection for the fire and residential water supply is from within the existing distribution system and will be coordinated with DC Water. The proposed sanitary sewer connections for the Project are from within the existing distribution system and will be coordinated with DC Water during the permitting process. The Project has been designed to achieve high levels of on-site stormwater retention. The requisite inlets and closed pipe system are designed and constructed to be in compliance with the standards set by DOEE, DC Water, and DDOT. Solid waste and recycling materials generated by the Project will be collected regularly by a private trash collection contractor. Electricity for the Project will be provided by the Potomac Electric Power Company ("Pepco") in accordance with its usual terms and conditions of service. All electrical systems are designed to comply with the D.C. Energy Code. Transformers will be installed on the Property or covered in the adjacent public space in accordance with Pepco's and DDOT's design guidelines. The Applicant further provided evidence that the Project will not have an unacceptable impact on area schools or public parks, recreation centers, or library services; and
- (j) Environmental Impacts. The Project will not have any unacceptable impacts on the environment, but rather will enhance adjacent parkland due to improved on-site stormwater management and landscaping. The Project is designed to achieve LEED v.4 Gold design, specifically LEED Gold under the Multifamily Midrise standards. During excavation and construction, erosion on the Property will be controlled in accordance with District of Columbia law. The Project is designed in compliance with the Energy Conservation requirements of the District of Columbia Building Code. The Project will include a number of sustainable features, including green roof, mass timber construction, bioretention, and tree plantings. The Project's delivery of high-quality environmental design as well as usable outdoor spaces is a

net improvement and superior to what would be achievable via a matter-of-right development. Native plants appropriate to the region will provide year-round interest and habitat for local bird and pollinator populations.

(Ex. 3)

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 PROPERTY (SUBTITLE X § 304.4(c))

48. The Applicant provided evidence that the Application complies with Subtitle X § 304.4(c). The Applicant also provided evidence that the Project's public benefits and project amenities are not inconsistent with the Comprehensive Plan or other public policies and such benefits and amenities satisfy the criteria of Subtitle X § 305. As discussed in detail below, the proffered benefits exceed what could result from a matter-of-right development, are tangible, measurable, and able to be delivered prior to issuance of the certificate of occupancy, and benefit either the immediate neighborhood or address District-wide priorities. (*Id.* §§ 305.2, 305.3) The majority of the benefits accrue to the benefit of the area of ANC 2E, the ANC in which the Project is located. (*Id.* § 305.4; (Ex. 3, 11, 16)
49. The Application, as amended, enumerated the following benefits and amenities, superior to a matter-of-right project, organized under the categories defined by Subtitle X § 305.5:
- (a) Superior Urban Design and Architecture (*Id.* § 305.5(a)). The Project design includes distinctive forms and building configuration, balconies, high-quality materials, detailing, and careful integration of the building form into the adjacent Dumbarton Oaks Park setting and surrounding Georgetown Historic District context;
 - (b) Superior Landscaping and Preservation of Open Spaces (*Id.* § 305.5(a)). The Project maintains the central courtyard between the proposed multifamily building and the existing 2001 Wisconsin Building and includes substantial landscape plantings and improvements throughout the site;
 - (c) Site Planning and Efficient Land Utilization (*Id.* § 305.5(c)). The Project maintains the existing site circulation that provides access from Whitehaven Street, N.W. rather than Wisconsin Avenue, N.W. and provides efficient vehicular, bicycle, and pedestrian circulation into and through the site, with all parking maintained fully below grade, and all loading completely covered by the Project, in order to maximize open space and reduce adverse impacts on neighbors;
 - (d) New Housing (*Id.* § 305.5(f)). The Project creates approximately 268 units of housing in Ward 2 in the Near Northwest Planning Area on the border of Ward 3/Rock Creek West, including at least 10 three-bedroom units;
 - (e) Affordable Housing (*Id.* § 305.5 (g)). The Project sets aside 15% of the residential GFA for IZ reserved at 60% of MFI, plus 10% of the applicable penthouse habitable space reserved at 50% of MFI;
 - (f) Environmental and Sustainability Benefits (*Id.* § 305.5(k)). The Project is designed to meet LEED v4 Gold – Multifamily Midrise design standards and incorporates sustainable design elements such as mass timber construction; and
 - (g) Other Public Benefits (*Id.* § 305.5(r)). The Applicant will provide the below additional public benefits:

- (i) Creation of an approximately 0.15-acre publicly accessible pocket park at the north end of the Property facing Whitehaven Street N.W., which will provide additional green open space opportunities for the community;
- (ii) A contribution of \$10,000 to Glover Park Main Street (operated under the oversight of DSLBD) specifically relating to the Art All Night or a similar Main Street program and/or improvements along the Wisconsin Avenue corridor, furthering the revitalization of Glover Park's commercial center and related streetscape and public environment;
- (iii) A contribution of \$10,000 to Georgetown Main Street to help fund a Small Business Storytelling Marketing Specialist for the purpose of developing and executing marketing campaigns to showcase the unique stories and experiences of small businesses in Georgetown;
- (iv) A contribution of \$55,000 to the Hyde-Addison Elementary School Parent Teacher Association (or the successor thereto), to be utilized as follows:
 - (A) \$25,000 to support student computer devices and other technology supplies for students to help reduce financial burdens and barriers to student access to technology-based learning equipment and systems; and
 - (B) \$30,000 to support student and family access to academic enrichment activities, including educational field trips and socio-emotional resources to help reduce financial burdens and barriers to student and family access to such resources;
- (v) A contribution of \$65,000 to the Hardy Middle School Parent Teacher Organization (or the successor thereto), to be utilized as follows:
 - (A) \$30,000 to support student computer devices and other technology supplies for students, including but not limited to power cords and supplies, to reduce financial burdens and barriers to student access to technology-based learning equipment and systems; and
 - (B) \$35,000 to support family access to academic enrichment activities, including educational field trips and socio-emotional resources to help reduce financial burdens and barriers to student and family access to such resources;
- (vi) A contribution of \$55,000 to the Stoddert Elementary School Parent Teacher Organization (or the successor thereto), to be utilized as follows:
 - (A) \$25,000 to implement measures that provide better resources, technology, and facilities for students, including those that reduce barriers to student access to technology-based learning, or those that would allow the school to better maximize the new space gained through the addition to support student learning; and
 - (B) \$30,000 to support student access to academic enrichment activities related to arts and music, including resources to furnish and equip a dedicated art classroom and dedicated music classroom in the upcoming addition to the school to improve education on these subjects and to help reduce barriers to student access to arts and music education;
- (vii) A contribution of \$20,000 to the Conservancy to support its Leave No Child Inside Program serving underserved and minority youth and, specifically:

\$10,000 to the Dumbarton Explorers Program to support program materials, support staff, and online class monitoring; and \$10,000 to the Green Jobs & Green Tech Program to fund a staff administrator salary for one year;

- (viii) A contribution of \$150,000 to Cemeteries to support initiatives to restore and promote the Cemeteries, including items such as: informational signage in and around the Cemeteries to better educate the public about the site; repair and renovation of monuments and site improvements, such as stairs and railings, to improve visitor safety; educational outreach programs on the Cemeteries and historic Black Herring Hill neighborhood; a hardscape plinth to be installed within the core of the burial grounds to feature informational signage and monumental artwork; “Site of Memory” designation for the Cemeteries as part of UNESCO’s Slave Route Project; and implementation of a Cemeteries Information System to manage and promote historical sources on the Black Georgetown community; and
- (ix) \$8,000 for the Dumbarton Court Coop or another similar organization in consultation with ANC 2E and/or the Dumbarton Court Coop to support the purchase and installation of security cameras at or around Dumbarton Court at 1657 31st Street, N.W. to help improve public safety and law enforcement efforts in the area.

(Ex. 3, 11, 16)

RESPONSES TO THE APPLICATION

OP

- 50. Pursuant to Subtitle Z §§ 400.5 and 405.3, on September 1, 2023, OP filed a report recommending that the Commission set the Application down for a public hearing. (Ex. 12, the “OP Setdown Report”). The OP Setdown Report stated that Project and proposed density are consistent with the Moderate Density Residential and Low Density Commercial FLUM designations for the Property since the Project incorporates IZ and is being processed as a PUD. OP further stated that the Application would not be inconsistent with the Main Street Mixed Use Corridor designation on the GPM and provided an analysis of the Application through a racial equity lens and Citywide Elements of the Comprehensive Plan.
- 51. Pursuant to Subtitle Z § 405.6, on March 25, 2024, OP filed a hearing report recommending that the Commission approve the Application. (Ex. 25, the “OP Hearing Report”)
 - (a) The OP Hearing Report recommended the following additional conditions:
 - (i) That no communal rooftop or outdoor amenity or recreational space be permitted above the Project’s 5th level;
 - (ii) That signage be limited to the 1st floor;
 - (iii) That the Applicant submit a lighting plan for the Project’s roof areas;
 - (iv) That the requested design flexibility for parking be revised such that the number of parking spaces may not be increased above what is shown in the Project plans; and

- (v) That the design flexibility Condition for sustainability features be revised to specify that the Project will be designed to LEED Gold under the Multifamily Midrise design standards;
- (b) The OP Hearing Report summarized OP's comments on the Application and the Applicant's responses;
- (c) The OP Hearing Report requested additional information regarding the applicability of the underlying MU-4/NO zone height restriction of 40 feet to the Project. The OP Hearing Report noted that the Applicant's response to this inquiry was that it believed the "proposal is under the MU-4 zoning which was approved before the MU-4/NO zone was created." The OP Hearing Report further stated that, "OP has asked the Applicant to discuss this issue further with OZ-Legal Division. If it is determined that MU-4/NO restrictions do not apply, then OP recommends approval and notes that the plans will be referred to NCPC for federal impact review.";
- (d) The OP Hearing Report re-summarized OP's analysis of the Project under the various Citywide and Area Elements of the Comprehensive Plan and restated that the Project is not inconsistent with the Comprehensive Plan, including when viewed through a racial equity lens. Specifically, the OP Hearing Report stated:
 - (i) Land Use Element. The Project complies with the Land Use Element policies because it will bring much needed residential development to the Wisconsin Avenue, N.W. corridor through infill development; will modestly increase the density on the site and replace a vacant old office building in a moderate density neighborhood; and will provide open space and park improvements to the public with the pocket park;
 - (ii) Housing Element. The Project complies with the Housing Element policies because it will bring 268 new high-quality residential units to a mixed-use and transit corridor, including affordable units that exceed what is otherwise required under IZ;
 - (iii) Transportation Element. The Project complies with the Transportation Element policies because it will generate more pedestrian activity in the area by bringing 268 new households to a site adjacent to a park, many commercial establishments, and sitting along a Priority Corridor Network Metrobus route, and will reduce the parking on the site from 306 spaces to 248 spaces;
 - (iv) Environmental Protection Element. The Project complies with the Environmental Protection Element policies because it will be constructed with mass timber; will be designed to achieve LEED Gold – Multifamily Midrise standards with sustainable features such as having a green roof; and includes substantial landscaping with native plantings and creation of a 0.15-acre publicly accessible park;
 - (v) Parks, Recreation, and Open Space Element. The Project complies with the Parks, Recreation, and Open Space Element policies because it will create a new 0.15-acre publicly accessible park on the Property and will improve the pedestrian connection to Dumbarton Oaks Park;
 - (vi) Urban Design Element. The Project complies with the Urban Design Element policies because it will be an infill development replacing an old vacant office building; will contribute to the character of the neighborhood by adding

residential units to the mix of uses along Wisconsin Avenue, N.W.; is designed to reflect the character of the site and respond to Dumbarton Oaks Park; will utilize a natural material palette focused on brick tones and with the massing stepping down in response to the natural change in grade on the Property; and will include shared recreation space for residents; and

- (vii) Near Northwest Area Element. The Project complies with the Near Northwest Area Element policies because it is considered compatible with the Georgetown Historic District, as confirmed by the Project receiving concept approval from OGB/CFA; will provide new IZ units to the area; will improve pedestrian connections on the site by making the site more walkable and reducing the amount of vehicles parking on the site; and will increase pedestrian activity in the area, park use, and bring more people to patronize the local businesses;
- (e) The OP Hearing Report contained a racial equity analysis including disaggregated race and ethnicity data for the Near Northwest Planning Area, in which the Property is located, in response to the Commission's racial equity tool, noting the following:
 - (i) The OP Hearing Report provided data related to race and ethnicity that showed that the population of the area declined slightly over the 2012-2021 ten-year time frame. The area contains over 50% white residents. The next largest groups were Black and Hispanic/Latino residents who each made up 13% of the planning area population. The planning area had a higher median age than the District overall; while seniors over the age of 65 made up a lower percentage of residents in the planning area than Districtwide, there has been significant growth in the senior population over the 10 year period. Income was higher than the District average. Homeownership was lower than the District average, with whites representing the highest percentage followed by Asians over the 10 year period;
 - (ii) The OP Hearing Report provided data showing that the Near Northwest planning area had only achieved 10.7% of the Mayor's affordable housing goal in January 2023, and was expected to reach 37.2% of that goal by 2025. The OP Hearing Report further stated that the 41 affordable units that would be provided by the Project would help move the area closer to meeting the goal; and
 - (iii) The OP Hearing Report concluded that the Project's potential impact would be as follows. "The Near Northwest planning area has a majority white, high income, middle-age population. Through the provision of 268 residential units with approximately 41 being IZ affordable units, this proposal could provide opportunities for younger and older residents to live in a sustainable and well-designed building at a location that is well-served by public transit and within walking distance of various neighborhood services and amenities. It would also provide housing alternatives for households that are unable to afford a single dwelling house in the Near Northwest area and who desire to move to the area. The market-rate units and affordable IZ units that would be provided would make the planning area more accessible to a variety of income-level households, which could help to diversify the planning area.

The proposal's public benefits package includes financial contributions for causes related to equity and inclusion. These include:

- A \$150,000 contribution would be given to the Mt. Zion-Female Union Band Society Cemeteries, which are African American cemeteries in Georgetown. This contribution would help to restore and bring awareness to the history of the Black Georgetown community; and
 - A \$20,000 contribution would be given to Dumbarton Oaks Park Conservancy to support its "Leave No Child Inside" Program that primarily serves underserved and minority youth for its after school/camp program for younger children and its Green Jobs and Green Tech program for older children;."
- (f) The OP Hearing Report noted that the Project's proposed height of 60.54 feet would result in a greater height than the approximately 51.6-foot height of the existing vacant office building approved under the original PUD and the maximum 40-foot height permitted in the underlying MU-4/NO zone. But the Project's proposed density would still be less than the maximum permitted in the underlying MU-4/NO zone, which would apply to the Property absent a PUD.⁵ The OP Hearing Report stated that the Applicant's proposed public benefits and amenities package is commensurate with the additional height and flexibility requested through the Application; and
- (g) The OP Hearing Report summarized the comments received from other District agencies as discussed in detail below.

52. At the April 4, 2024 public hearing, OP testified in support of the Application and summarized its comments in its prior reports. OP noted its inquiry regarding the applicability of the underlying MU-4/NO zone 40-foot height restriction and summarized OP's comments in the OP Hearing Report, including the requested additional and revised Conditions of approval. OP restated that the Project is not inconsistent with the FLUM or GPM and is not inconsistent with the Comprehensive Plan when evaluated through a racial equity lens, in particular due to the affordable housing alternatives the Project will provide, resulting in the planning area being more accessible to a variety of income level households, which could help diversity the planning area, and the Applicant's proposed contributions to support the Cemeteries and the Conservancy's programs for underserved and minority youth. (Hearing Tr. at pp. 82-85)

DDOT

53. On March 25, 2024, DDOT filed a report (Ex. 26, the "DDOT Report") expressing no objection to the Application. The DDOT Report stated that two study area intersections would unacceptably degrade in level of service due to the addition of site-generated vehicle trips resulting from the Project, but that the Applicant's proposed TDM plan, with modifications as accepted by the Applicant, and physical improvements to the pedestrian

⁵ The Project has a FAR of 2.18 and would result in a total FAR of 2.83 for the Property. Pursuant to Subtitle G, § 503.1, the underlying MU-4/NO zone does not allow a PUD to operate to exceed the area, bulk, and yard standards that apply as a matter-of-right in the MU-4 zone. Thus, the underlying MU-4/NO zone permits the same maximum FAR as the MU-4 zone, which is 2.5 or 3.0 with IZ. (See Subtitle G, § 201.1)

network to encourage walking and discourage driving would be acceptable to encourage non-auto travel and offset the Project's impacts. The DDOT Report stated that approval of the Application should be subject to the Applicant committing to additional transportation mitigation measures and, specifically:

- (a) Subject to DDOT approval, fund and construct the following pedestrian network improvements:
 - (i) The missing crosswalk, pedestrian signals, and curb ramps at 35th Street, N.W. and Wisconsin Avenue, N.W. The Applicant is conditioning completion of the work on lack of objection from the ANC. Should the ANC vote to oppose the work, the Applicant shall make an equal financial contribution to the developer mitigation fund;
 - (ii) Striping for parking boxes on Whitehaven Street, N.W.;
 - (iii) High visibility crosswalk on east⁶ side of Wisconsin Avenue, N.W. and Whitehaven Parkway, N.W.; and
 - (iv) Concrete curb extensions at the midblock crosswalk on Whitehaven Street, N.W.
- (b) Implement the TDM plan set forth in the Applicant's updated CTR (Ex. 24A) with the following revision indicated in the TDM section of the DDOT Report:
Revise the Residential TDM plan to the following:
 - Offer a \$50 SmarTrip card and one (1) complimentary Capital Bikeshare coupon good for a free ride to every new resident upon the signing of their lease during initial lease up.

(Ex. 26)

54. At the April 4, 2024 public hearing, DDOT testified in support of the Application and confirmed the Applicant's coordination with DDOT on the Project's transportation impacts and agreement on the proposed TDM plan, as revised in response to DDOT's requests. (Hearing Tr. at p. 81)

OTHER DISTRICT AGENCIES

55. DHCD, DPR, FEMS, and DOEE comments on the Application were included in the OP Hearing Report:
- (a) DHCD had no objection to the Project and appreciated the proposed 15% IZ set-aside at 60% of MFI;
 - (b) DPR had no objection to the Project and appreciated the inclusion of a publicly accessible park;
 - (c) FEMS had no objection to the Project; and
 - (d) DOEE applauded the Applicant for setting innovative and ambitious sustainability goals for the Project, including the proposed LEED Gold – Multifamily Midrise standard design. DOEE also appreciated the Applicant's efforts to limit fossil gas-powered appliances and equipment within the building and the use of mass timber

⁶ The reference to installing a crosswalk on the east side of Wisconsin Avenue and Whitehaven Parkway is apparently an oversight, as the only possible crosswalk location on the Wisconsin and Whitehaven Parkway intersection is on the west side of Wisconsin Avenue. This is because Whitehaven Parkway terminates on the west side of Wisconsin Avenue, with no intersection on the east side.

in the design. DOEE encouraged the Applicant to explore net-zero energy construction/certification. DOEE applauded the integration of green roofs, bioretention, and other stormwater management strategies into the design and the Applicant's commitment to high levels of stormwater retention on site. DOEE encouraged the Applicant to consider integrating solar panels into the green roof and to conduct a life-cycle analysis to measure and reduce the impact of the Project's structural and envelope design. DOEE encouraged the Applicant to design the Project to comply with the electric vehicle make-ready parking requirements of the Green Building Act.

(Ex. 25)

ANCs

56. Pursuant to Subtitle Z § 406.2, on November 2, 2023, ANC 2E submitted a report (Ex. 14, "ANC 2E Report") stating that at its properly noticed public meeting on October 30, 2023, at which a quorum was present, the ANC voted 8-0-0 in support of the Application. ANC 2E stated that it strongly supports the Application and stated the ANC's appreciation for the Applicant's active engagement to produce an impactful public benefits package for the community and the Applicant's commitment to prioritize contributions to support programs and services at Hardy Middle School and Hyde-Addison Elementary School upon securing building permit approval. (Ex. 14)
57. Pursuant to Subtitle Z § 406.2, on December 15, 2023, ANC 3B submitted a report (Ex. 15, "ANC 3B Report") stating that at its properly noticed public meeting on December 14, 2023, at which a quorum was present, the ANC voted 4-1-1 in support of the Application. ANC 3B stated that it strongly supports the Application and proposed public benefits package and that ANC 3B encourages the Applicant to work with BISW leadership to ensure the safety of students during construction and to be available to address concerns of the school community. The ANC 3B Report stated the ANC's appreciation for the Applicant's active engagement to produce a meaningful benefits package for the community, including contributions to support programs and services at Stoddert Elementary School, which is the in-boundary school for the Project, as well as support for Glover Park Main Street to revitalize the commercial district that will service the Project's residents. (Ex. 15)

ORGANIZATIONS AND INDIVIDUALS IN SUPPORT

58. No organizations or individuals testified in support at the April 4, 2024 public hearing.

ORGANIZATIONS AND INDIVIDUALS IN OPPOSITION

59. The BISW Parents' Alliance submitted a letter on March 27, 2024 (Ex. 27, the "Parents Alliance Letter") requesting postponement of the April 4, 2024 public hearing on the Application. The Parents' Alliance stated that it believes that the Project will create a hazard to the school's students' health, well-being, and ability to receive an unfettered education. The Parents' Alliance stated the following alleged negative impacts posed by the Project:

- (a) Traffic generated by construction of the Project and the related impact on student safety;
- (b) Noise and dust levels and the overall impact on children's health and learning environment as a result of construction activity;
- (c) The presence of construction tools and debris which could injure children;
- (d) The presence of adults who have not passed background checks located on the same site with the school campus during construction; and
- (e) The impact of construction on the availability of outdoor space used by the school and school activities including fire drills.

The Parents' Alliance Letter stated that the Applicant had met with the Parents' Alliance, but that the Parents' Alliance felt issues remained unresolved and additional time was needed to ensure mitigating measures are enforceable. (Ex. 27)

60. The Parents' Alliance Letter requested the following safeguards:

- (a) That construction vehicles be prohibited from using the access road which passes by the school's pre-school playgrounds and the fire access roundabout during times when school is in session. At the very least, use of these areas should be limited to times when students are not present at school (before school, after the school closes for the day, during school holidays). The Parents' Alliance also requested that the Applicant and the Applicant's contractor work with relevant authorities to assess whether truck use could predominantly occur from the Whitehaven Street, N.W. side and/or a temporary access road by the park side and the building;
- (b) That the Applicant pay for the school to hire an employee specifically to provide daily monitoring of the area and mitigation of any construction-related hazards;
- (c) That the Applicant implement stringent measures to ensure dust and debris do not reach areas used by children;
- (d) That the noise level not be permitted to exceed 75db in areas where children will be present while school is in session;
- (e) That construction that generates loud noises not occur during periods when high school students are taking exams;
- (f) That secure barriers be installed around construction zones such that debris is kept within that area; and
- (g) That construction be planned such that all school children have daily access to a safe, dust-free outdoor recreation area with appropriate space whenever school is in session.

(Ex. 27)

61. Maria Antoshina testified at the April 4, 2024, public hearing and stated that she resides in a neighboring development and was also appearing as a representative of the BISW Parents' Alliance.⁷ Ms. Antoshina stated that the Parents' Alliance was concerned about the proposed changes to BISW's areas and ensuring students' safety during construction. Ms. Antoshina stated that the Applicant had met with the Parents' Alliance, and that she was encouraged by the safety measures being proposed for the construction period, but that

⁷ Ms. Antoshina registered to testify as undeclared. No letter of authorization was submitted into the Case Record confirming Ms. Antoshina's authorization to speak on behalf of the Parents' Alliance.

the Parents' Alliance was concerned about enforcing implementation of the safeguards being proposed. Ms. Antoshina stated that the Parents' Alliance is also concerned about additional traffic generated by the Project, particularly during the construction period. (Hearing Tr. at pp. 87-89)

OTHER ORGANIZATIONS AND INDIVIDUALS

62. No other persons or organizations filed written comments in the record or testified at the April 4, 2024 public hearing.

NCPC

63. The Commission referred the Application to NCPC on April 8, 2024, for review and comment. NCPC staff filed a letter dated May 8, 2024, enclosing NCPC's action on the Application (Ex. 36, as updated in Ex. 38, the "NCPC Report"). The NCPC Report stated that NCPC found that the Application generally would not be inconsistent with the Federal Elements of the Comprehensive Plan and would not adversely impact any Federal interest. NCPC recommended that the Applicant coordinate with the Department of Navy regarding construction of the Project to avoid any impacts to the Naval Observatory operations or facilities and that the Applicant continue to coordinate with NPS to minimize any potential impacts on the adjacent park land, and to preserve access to the Whitehaven Trail, during construction. (Ex. 38)

CONCLUSIONS OF LAW

AUTHORITY

1. Pursuant to the authority granted by the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2018 Repl.)), the Commission may approve: (a) a PUD consistent with the requirements of Subtitle X, Chapter 3, and Subtitle Z; (b) a modification of significance to an approved PUD pursuant to Subtitle X, Chapter 3, and Subtitle Z § 704; (c) related zoning flexibility pursuant to Subtitle X §§ 303.1 and 303.13.

STANDARD OF REVIEW FOR APPROVAL OF A PUD MODIFICATION OF SIGNIFICANCE

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 MU zones 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 Purpose. Pursuant to Subtitle X §§ 300.1 and 300.2, the purpose of the PUD process is to provide for higher quality development through flexibility in building controls, including building height and density, provided that a PUD: (a) results in a project superior to what would result from the matter-of-right standards; (b) offers a commendable number or quality of meaningful public benefits and project amenities; (c) protects and advances

the public health, safety, welfare, and convenience; and (d) does not circumvent the intent and purposes of the Zoning Regulations.

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.”⁸ 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:
 - (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;

⁸ *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)

and (d) Monetary contributions shall only be permitted . . . if the applicant agrees that no certificate of occupancy for the PUD may be issued unless the applicant provides proof to the Zoning Administrator that the items or services funded have been or are being provided.” Moreover, a PUD “may qualify for approval by being particularly strong in only one (1) or a few categories [of public benefits] but must be acceptable in all proffered categories and superior in many.”

8. PUD Balancing Test. Pursuant to Subtitle X § 304.3, in reviewing a PUD application, the Commission must: “Judge, 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.”
9. Evidentiary and Evaluative Standards. Pursuant to Subtitle X § 308.6, “the applicant shall carry the burden of justifying” the Application according to the applicable standards. Moreover, “the Commission must address each material contested issue of fact.”⁹ Pursuant to Subtitle Z § 704.4, the scope of the Commission’s hearing to evaluate modifications of significance “shall be limited to the impact of the modification on the subject of the original application and shall not permit the Commission to revisit its original decision.”

SATISFACTION OF PUD ELIGIBILITY STANDARDS

10. Land Area and Contiguity. The Commission concludes that the Application satisfies the minimum land area and contiguity requirements of Subtitle X §§ 301.1 and 301.5 for a PUD because the Property consists of approximately 137,087 square feet of contiguous land area. (Finding of Fact [“FF”] ¶ 13)
11. Public Review. Based on the April 4, 2024, 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 public benefits” in satisfaction of Subtitle X § 300.5.
12. PUD Purpose. The Commission concludes that the Project satisfies the purposes of a PUD:
 - (a) The Project is superior to a project that could be built under matter-of-right standards for the following reasons. The Project design and execution of urban planning goals, landscaping and sustainability features, and site planning and efficient land utilization are all superior to what would be required for a matter-of-right development. The Project provides more housing and affordable housing than what could be constructed on the Property without a PUD. The amount of housing included in the Project and the amount of affordable housing in the Project exceed the amount and depth of affordability that would be required in a matter-of-right development pursuant to IZ requirements. The Project supports a significant

⁹ *Barry Farm Tenants and Allies Ass’n. v. D.C. Zoning Comm’n.*, 182 A.3d 1214, 1224 (D.C. 2018) (citations omitted).

package of public benefits and amenities, which exceed what would be provided in any matter-of-right development. The Project is undergoing a public review process with opportunities for neighbor, community group, and public agency participation that would not exist for a matter-of-right development of the Property. (FF ¶ 49-51, 53, 55-57);

- (b) The Project offers a commendable number or quality of meaningful public benefits and project amenities. In addition to the substantial Project design features discussed above in Conclusion of Law (“CL”) ¶ 12(a), the Applicant has proffered: to provide a minimum of 10 three-bedroom units; to set aside a minimum of 15% of the residential GFA for IZ reserved at 60% of MFI, plus 10% of the applicable penthouse habitable space reserved at 50% of MFI; to meet LEED v4 Gold – Multifamily Midrise design standards and incorporate sustainable design features such as utilizing mass timber construction; to create an approximately 0.15-acre publicly accessible pocket park at the north end of the Property facing Whitehaven Street, N.W.; to make substantial contributions to support the programs and services for the following community organizations: Glover Park Main Street; Georgetown Main Street; the Hyde-Addison Elementary School Parent Teacher Association; the Hardy Middle School Parent Teacher Organization; the Stoddert Elementary School Parent Teacher Organization; the Conservancy; the Cemeteries; and the Dumbarton Court Coop. Further, the Project has undergone a public review process with opportunities for neighbor, community group, and public agency participation which would not be required for a matter-of-right development of the Property. (FF ¶ 32, 46(c), 49);
- (c) The Project protects and advances the public health, safety, welfare, and convenience. The Project redevelops currently underutilized vacant land with housing and affordable housing where it is much needed in Ward 2. The Project will offer future residents a home in a highly amenitized and accessible neighborhood immediately adjacent to one of the District’s historic parks. The Project will create a publicly accessible pocket park along Whitehaven Street, N.W. (FF ¶ 49-52);
- (d) The Project does not circumvent the intent or purposes of the Zoning Regulations. To the contrary, the Project advances the MU zones’ purposes which encourage “mixed-use developments that permit a broad range of commercial, institutional, and multiple dwelling unit residential development at varying densities.” Subtitle G § 101.1. The Project is a moderate-density mixed-use development with access to a main roadway providing access to employment and shopping centers, consistent with the purpose and intent of the MU-4 zones. (*Id.* § 101.9) The Project is an orderly development with a mix of uses at an appropriate scale and density for its location along the Wisconsin Avenue, N.W. corridor to the west and Dumbarton Oaks Park on the east side of the Property. (FF ¶ 50-52)

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

13. 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, including when viewed through a racial equity lens, for the following reasons:

- (a) FLUM. The Project is not inconsistent with the FLUM's designations of Low Density Commercial and Moderate Density Residential for the Property. The existing MU-4 zoning approved as part of the original PUD is explicitly consistent with the Property's commercial density. The Project will add residential use to the site consistent with the residential designation that covers much of the area occupied by the Project. While the Framework Element identifies a density of 1.8 FAR for the Moderate Density Residential designation, lower than the FAR proposed by the Project, the Comprehensive Plan expressly allows for greater density for developments complying with IZ and for PUDs, both of which are present here. Further, the Framework Element states that, in contrast with zoning maps that are clearly delineated, the Future Land Use Map is "intended to be 'soft-edged'" and "is to be interpreted broadly." (10-A DCMR § 228.1) With respect to density ranges identified in the FLUM, the Framework Element guidance expressly acknowledges that "there may be individual buildings that are larger or smaller than these ranges within each area [...]. The granting of density bonuses (for example through Planned Unit Developments or Inclusionary Zoning) may result in density that exceed the typical ranges." Moreover, the Project density and proposed overall density of the Property are within the maximum FAR permitted for the MU-4 zoning which the Commission previously concluded was appropriate for the site (as its predecessor, C-2-A) in the original PUD approval. We note that the Project density is also below the FAR that would be permitted in the MU-4/NO zone as a matter of right, if it were to apply to the site.¹⁰ The Project realizes the FLUM's recommendation for residential use, which is not currently provided on the Property, and the Project is therefore more consistent with the Property's FLUM designation by converting the existing office building into residential use. The Project is also consistent with the policies set forth in the Comprehensive Plan Elements and proposes public benefits and amenities, all of which support the proposed residential density, in direct alignment with the Framework Element guidance for the Moderate Density Residential; (FF ¶ 46(a), 50, 51(d))
- (b) GPM. The Project is not inconsistent with the Property's Main Street Mixed Use Corridor designation on the GPM. The Project will bring new residents to this portion of Wisconsin Avenue, N.W. with the creation of approximately 268 new residential units. These new residents will help support nearby businesses, thereby fostering both economic and housing opportunities consistent with the Framework Element guidance for the Main Street Mixed Use Corridor. The Project will support transit use and enhance the pedestrian environment by providing new housing on a Priority Corridor Network Metrobus route, making streetscape improvements, and creating a new publicly accessible pocket park along Whitehaven Street, N.W.; (FF ¶ 46(b), 51(d))
- (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.

¹⁰ The maximum permitted density for a matter of right development in the MU-4 Zone is 2.5 FAR or 3.0 with IZ. Subtitle G, § 201.1. The same limits apply within the NO Overlay. (See Subtitle G, §503.1)

The Project constitutes infill development that will revitalize currently underutilized land immediately adjacent to the Wisconsin Avenue, N.W. corridor. The Project is highly accessible and pedestrian-focused given its proximity to a Priority Corridor Network Metrobus route, grocery stores and other shopping, and other nearby public facilities such as Jelleff Recreation Center. The Project will strengthen the neighborhood by redeveloping a vacant office building with new housing, including affordable housing, and represents an equitable development through the provision of housing in a highly sought-after area of the District where there is a need for new and affordable housing; (FF ¶¶ 46(d), 50, 51(d))

- (d) Other District-Wide Elements. The Application is also not inconsistent with other District-wide Elements, including the Transportation, Housing, Environmental Protection, Parks, Recreation, and Open Space, Urban Design, Historic Preservation, and Economic Development Elements. The Commission recognizes that the Project may result in modest inconsistencies with individual policy objectives, but overall, the Project advances the objectives of the other Elements, a conclusion in which OP concurs; (FF ¶¶ 46(e)-(k), 50, 51(d))
- (e) Near Northwest Area Element. The Application is also consistent with the Near Northwest Area Element. The Project design is architecturally compatible with the surrounding park space and the Georgetown Historic District, as confirmed by the conceptual approval granted by the OGB/CFA. The residential use will “sustain and enhance” the Wisconsin Avenue, N.W. commercial corridor and support businesses’ success, and the Project will also support transportation demand by reducing the number of parking spaces on-site and creating new housing that has immediate access to a Priority Corridor Network Metrobus Route. The Project’s new and affordable housing advance racial equity in the Planning Area and creates a more inclusive, equitable community in this part of the District. The new publicly accessible pocket park on Whitehaven Street, N.W. will enhance access to the existing park and allow residents of the Project, and the District as a whole, greater opportunity to take full advantage of the health and wellness benefits the park offers; (FF ¶¶ 46(l), 50, 51(d))
- (f) Racial Equity and Other Adopted Public Policies. The Application is not inconsistent with the Comprehensive Plan when viewed through a racial equity lens. The Project redevelops a vacant office building into a multi-family residential building with approximately 268 units, with 15% of the residential GFA, plus 10% of the applicable penthouse habitable space, set aside for affordable housing under IZ. The Project will further the goals of the Mayor’s housing initiative to add 36,000 new residential units in the District by 2025, and the Project’s new housing will be provided in Ward 2 immediately bordering the Rock Creek West Area, where there is a significant shortfall of new and affordable housing. The housing opportunities created by the Project will benefit all District residents and help create a more equitable, inclusive community in this part of the District. Among the Project’s public benefits, is a \$150,000 contribution to the Cemeteries to support its initiatives to restore and promote the Mt. Zion-Female Union Band Society Cemeteries and preserve the legacy of the historic Black Georgetown community. The Project also furthers racial equity goals by providing multifamily housing in an area of the District where single family homes predominate. This new housing

will result in no displacement of existing residents and will be in close proximity to numerous neighborhood amenities as well as Dumbarton Oaks Park. The Project will have a positive impact on the physical environment at and immediately surrounding the Property as a result of its sustainability features and the proposed substantial landscape and streetscape improvements, including the new pocket park. The Project's new housing and affordable housing will increase access to opportunity for the Project's new residents, who will be in close walking distance to several grocery stores and other neighborhood-supporting uses and other public amenities and facilities -- including Jelleff Recreation Center, Dumbarton Oaks Park, and the Georgetown Neighborhood Library branch -- and will have access to the area's well-regarded public schools, including Stoddert Elementary, Hardy Middle, and Jackson-Reed High Schools, with the Duke Ellington School of the Arts also within walking distance. The addition of new residential use in the area will help support area businesses with the resulting effect of strengthening employment opportunities at such businesses.

- *Community Outreach and Engagement* - The Applicant's racial equity analysis included evidence that it conducted sufficient community outreach and engagement, including publishing a website to regularly communicate with the BISW and the parent community, meetings with ANC 2E and 3B beginning in September 2022; and presenting the Application at ANC 2E's October 30, 2023, public meeting and ANC 3B's November 10 and December 14, 2023 public meetings. Both ANC's support the Application. Further, the Applicant modified its originally proposed monetary contribution to Dumbarton Oaks Park only to include contributions to numerous community programs based on coordination with the ANCs. *Displacement*- As previously noted, the Project will not result in any direct displacement as it will replace a vacant office building; and
- *Disaggregated Race and Ethnicity Data* - The OP Setdown and Hearing Report included a racial equity analysis inclusive of disaggregated race and ethnicity data for the Near Northwest Planning Area, in which the Property is located. Data shows the following for the 2012-2021 10-year period: the planning area population was over 50% white and 13% Black and Hispanic/Latino, respectively; there has been a significant growth in the senior population over 65; and whites followed by Asians represent the highest percentage of homeowners. The Commission is encouraged that the Project's provision of new housing and affordable housing in close proximity to retail, service, education, and transportation amenities along the immediate Wisconsin Avenue commercial corridor will help to further diversify the planning area and create housing opportunities for persons who cannot afford a single-family dwelling in the planning area. (FF ¶¶ 41(e), 46(c), 50, 51(e), 56-57)

PROJECT IMPACTS - FAVORABLE, MITIGATED, OR ACCEPTABLE (SUBTITLE X § 304.4(b))

14. The Commission concludes that pursuant to Subtitle X § 304.4(b), the Application does not result in any unacceptable impacts on the surrounding area or District services or

facilities and any impacts are favorable, capable of being mitigated or acceptable given the Project's benefits and amenities for the reasons given below:

- (a) Zoning and Land Use Impacts. The Commission concludes that the Project has no unacceptable zoning or land use impacts on the surrounding area. The MU-4 zoning approved for the Property by the original PUD (as the C-2-A zone under ZR-58 regulations then in effect) continues to be appropriate for the mixed-use nature of the neighborhood. The creation of a new residential use in a highly desirable part of the District furthers the purpose and intent of the Zoning Regulations. Any potential adverse impacts arising out of the Project's land use are capable of being mitigated by the Project's design or offset by the public benefits; (FF ¶ 47(a))
- (b) Housing Market Impacts. The Commission concludes that the Project's addition of new housing is a favorable impact by creating new, high-quality, transit-accessible housing units, including affordable housing that significantly exceeds what is otherwise required under IZ, particularly for the Property's location in Ward 2 directly adjacent to the Rock Creek West area. The Project results in no displacement as it adaptively reuses an existing vacant office building, and it is unlikely the additional housing will result in any adverse impacts. The addition of new residents will help strengthen the adjacent Wisconsin Avenue, N.W. commercial corridor, providing new customers to support nearby businesses, and the Project will bring new residents, including those needing affordable housing, into the Near Northwest Area, immediately adjacent to the Rock Creek West Area, both of which the Mayor's Housing Equity Report notes as being in particular need for affordable housing; (FF ¶ 47(b))
- (c) Construction-Period Impacts. The Commission concludes that any potential construction-related impacts that the Project may generate on the surrounding area during the development period are capable of being mitigated. The Commission notes the Applicant's statement that it has extensive construction management experience both in the District and internationally and the Applicant's restated commitment to continue working closely with the affected ANCs, BISW — which, notably, is the Applicant's tenant at the 2001 Wisconsin Building — and the BISW community, area residents, NPS, and the Department of Navy regarding potential construction impacts posed by the Project. Based on the outreach and active engagement the Applicant has demonstrated in its numerous meetings and discussions with ANC 2E, ANC 3B, BISW, the Parents' Alliance, and Federal stakeholders, the Commission is encouraged that such outreach and coordination will continue with all relevant stakeholders as the Project moves forward and throughout the construction phases, and that the Applicant will continue to remain accessible and available to address any issues that may arise during construction; (FF ¶¶ 38, 41(e) 47(c), 63)
- (d) Transportation. The Commission concludes that the Project will not have any unacceptable impacts on the transportation facilities that surround the Property and that, to the extent there are any potential transportation impacts, such impacts are capable of being mitigated. The Project substantially decreases the amount of on-site parking from both the 419 parking spaces approved for the original PUD and the 306 parking spaces currently on-site after the Commission's approval of Z.C. Order No. 86-04A. The Project's proposed reduction to 248 parking spaces will

further District planning and transportation policy objectives to reduce reliance on single-occupancy vehicles while still providing sufficient parking to support the new residential and existing educational uses on the Property. The Property is well-situated in a highly walkable neighborhood, with necessary amenities in close proximity and a number of Metrobus stops along Wisconsin Avenue, N.W. The Project's 93 long-term and 14 short-term bicycle spaces will also further encourage residents to rely less on private vehicle use. Lastly, the Project includes a robust TDM plan developed in coordination with DDOT that further reduces any transportation impacts posed by the development. The Commission also notes DDOT's statements in the DDOT Report and in testimony at the April 4, 2024 public hearing. Although the DDOT Report stated that two study area intersections would unacceptably degrade in level of service due to the addition of site-generated vehicle trips resulting from the Project, it concluded that the Project's transportation impacts are acceptable with implementation of the Applicant's TDM plan, as revised in response to DDOT's requests; (FF ¶¶ 47(f), 53, 54)

- (e) Public Facilities and/or District Services Impacts. The Commission concludes that the Project will not result in any unacceptable negative impacts to public facilities and infrastructure or District services. The Project was reviewed by numerous District agencies — specifically, OP, DDOT, the Metropolitan Police Department, DHCD, the Washington Metropolitan Area Transit Authority, FEMS, DOEE, DC Water, DPR, the Department of Public Works, DC Public Library, and DC Public Schools — and no agency indicated any adverse impacts on public infrastructure or services; (FF ¶¶ 47(i), 55)
- (f) Naval Observatory Impacts. The Commission concludes that the Project's height¹¹ will not result in any unacceptable negative impacts on the Naval Observatory's viewshed. Pursuant to OP's recommendations, the Commission included conditions in this Order to ensure that any impacts of the Project will be mitigated, namely restrictions on the permitted rooftop uses on any floor above the fifth level of the building, and limiting signage to the first floor. In addition, the Commission reviewed the Applicant's lighting plan and found it acceptable. The Commission ensured that the Application was referred to NCPC for review of federal impacts, and NCPC commented that it found that the Application would not adversely impact any Federal interest. NCPC recommended that the Applicant coordinate with the Department of Navy regarding construction of the Project to avoid any impacts to the Naval Observatory operations or facilities and that the Applicant continue to coordinate with NPS to minimize any potential impacts on the adjacent park land, and to preserve access to the Whitehaven Trail, during construction; and (FF ¶¶ 41(b), 51(c) and (f), 63)
- (g) Overall. In summary, the Commission concludes that the Project will not result in any unacceptable impacts and any resulting impacts are capable of being mitigated in light of the proposed mitigations, or acceptable given the benefits and amenities proffered by the Project.

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

¹¹ The Project has a height of approximately 60.54 feet, plus a penthouse with a maximum height of 15 feet. (FF 25(a))

15. The Commission concludes that for the reasons given below the Project's benefits and amenities satisfy the applicable criteria of Subtitle X § 305:
- (a) Specific Benefits and Amenities. Each of the Project's benefits and amenities is specifically described; (FF ¶ 49)
 - (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 Property; (FF ¶ 46)
 - (c) Relative to Matter-of-Right Development. The Project's benefits are superior to a matter-of-right development of the Property. The Project provides more affordable units, at deeper levels of affordability, than would be possible as a matter of right. Likewise, the Project's sustainability features are superior to any matter-of-right development, and the Project's other benefits would not be possible or required as part of a matter-of-right development; (FF ¶ 48, 49)
 - (d) Relate to Geographic Area of ANC. The Project's benefits relate primarily to the area of ANC 2E. The Commission notes that given the Property's location adjacent to ANC 3B, certain benefits would also benefit ANC 3B, including the proposed contribution to support Stoddert Elementary School, which is the in-boundary school for the Project; (FF ¶¶ 48, 49, 51, 56, 57)
 - (e) Tangible and Quantifiable. Each of the Project's benefits is tangible and/or quantifiable; (FF ¶ 49)
 - (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 full Certificate of Occupancy for the proposed multifamily residential use; (*Id.*)
 - (g) Primarily Benefiting Neighborhood or Serving a Critical City-Wide Need. The Project's benefits primarily benefit the neighborhood around the Property (e.g., by providing a sustainable building and by contributing to nearby organizations and programs), but some benefits serve a critical city-wide need (e.g., affordable housing open to all residents of the District); (*Id.*)
 - (h) Acceptable in All and Superior in Many. The Project's design, landscaping, site planning, affordable housing, sustainability, and other benefits are superior. All of the Project's benefits are acceptable; and(*Id.*)
 - (i) Overall. In sum, the Commission concludes that the Project's benefits and amenities satisfy the applicable criteria.

PUD BALANCING (SUBTITLE X §§ 304.3, 308.6)

16. The Commission concludes that the requested zoning flexibility from minimum rear yard requirements for Theoretical Lot A, upon which the Project will be constructed, to provide no rear yard, from penthouse side setback requirements for the south building wall on "Mass D" abutting the property to the south, to not provide a 1:1 setback, and the requested design flexibility are balanced by the proffered benefits and amenities resulting from the Project. They include superior urban design, architecture, and landscaping, site planning and efficient land utilization, housing, affordable housing, environmental and sustainable benefits, a publicly accessible pocket park, and contributions to support numerous community organizations and programs not required for a matter-of-right development. (FF ¶¶ 44-45, 48, 49, 51)

17. The Commission concludes that the benefits more than outweigh the requested flexibility and other development incentives and the potential adverse effects of the Project that are not otherwise favorable or adequately mitigated. In particular, the Commission concludes that the Project's proffered public benefits — not the least of which is the proposed new and affordable housing where it is most-needed — justify any potential construction impacts on BISW that may occur during the Project's construction period. (FF ¶¶ 45, 47(c), 49, 51, 59-61)
18. The Commission considered, but did not find persuasive, the Parents' Alliance Letter requesting that the April 4, 2024 public hearing be postponed. The Commission credits the Applicant's statements in its March 28, 2028 letter in opposition to the request to postpone summarizing the Applicant's outreach with BISW and the surrounding community regarding the Project and Application, including public meetings with both affected ANCs beginning as far back as Summer of 2022, the extensive review processes of the OGB and CFA that have already occurred for the Project, and the clear community support for the Project, as set forth by the ANCs. Given this extensive outreach and the Applicant's continued coordination and communication with BISW and the Parents' Alliance and the support of both ANCs, the Commission determined that there was no basis for postponing the public hearing. (FF ¶¶ 38, 39(e), 41(e), 59-61)
19. The Commission has also considered the concerns raised by the Parents' Alliance in the Parents' Alliance Letter and as stated in Ms. Antoshina's testimony at the April 4, 2024, public hearing regarding potential construction-related health and safety impacts to BISW students during the construction period. While the Commission acknowledges the parents' concerns, the Commission credits the Applicant's statements in its March 28, 2028 letter, in its testimony at the public hearing, and in its post-hearing submission, that the Applicant will continue its ongoing coordination and communication with BISW -- which is the Applicant's tenant at the 2001 Wisconsin Building -- and the BISW community throughout the Project's development to ensure that construction activities are properly managed and that appropriate safety measures are implemented to ensure no risk to the BISW community, including students. As stated above, the Commission concludes that any potential construction-period impacts are outweighed in this case by the benefits this Project will provide to the surrounding community, including BISW, and to the District as a whole. Based on the Applicant's prior development experience, the Applicant's demonstrated community outreach for this Application -, and the Applicant's statements in its written submissions and at the public hearing, the Commission credits the Applicant's commitment to effectively and appropriately manage the Project's construction phase and maintain an open and robust dialogue with BISW, the BISW community, and the surrounding community, including ANC 2E and ANC 3B. (FF ¶¶ 38, 39(e), 41(e) 47(c), 48, 56-57, 59-61)

GREAT WEIGHT TO RECOMMENDATIONS OF OP

20. 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 § 405.8.

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

21. The Commission finds OP's detailed analysis of the Application, its overall conclusion that the Application satisfied the PUD requirements and is not inconsistent with the Comprehensive Plan, including when viewed through a racial equity lens, and its ultimate recommendation to approve the Application persuasive and concurs with OP's recommendation. (FF ¶¶ 50-52)
22. The Commission accepted all but one of OP's recommendations regarding conditions. The Applicant satisfied OP's condition regarding the lighting plan prior to the hearing, and this Order contains conditions corresponding to OP's recommendations regarding communal rooftop or outdoor or amenity or recreational space above the 5th level, limiting the signage to the 1st floor, and LEED Gold. The Commission was not persuaded by OP's advice that Commission should deny the Applicant's request to allow it to vary the amount of parking spaces by +/- 10%, and instead only permit the Applicant to reduce the number of parking spaces by 10%. The Commission reached this conclusion because the Applicant made compelling arguments in favor of allowing the flexibility to both increase and decrease the number of spaces. The revised Project reduces the baseline number of parking spaces on the site, and the Applicant agreed to a robust set of TDM measures as revised by DDOT, so the Commission does not believe that the +/-10% flexibility in the number of spaces will result in any adverse impact. (FF ¶¶ 39, 46(e), 47(f), 53, 54)
23. With respect to OP's inquiry regarding the applicability of the MU-4/NO provisions, and particularly the NO Overlay's 40-foot height restriction, the Commission, within its discretion, concludes that the MU-4/NO Overlay does not apply, and that the Commission can approve any height permitted within the originally approved C-2-A (now MU-4 zone¹²); however, the Commission finds that the Application must be referred to NCPC to evaluate the Project's potential impact on the Naval Observatory. For the reasons elaborated below, the Commission approves the modified PUD because it will not have an adverse impact on the Naval Observatory's viewshed; and as discussed above because the Project impacts, the Project benefits and amenities, and the requested development incentives satisfy the PUD balancing test:
 - (a) The Commission notes that it rejects the Applicant's argument that it is automatically entitled to develop the Property to the maximum height permitted in the MU-4 zone. The Applicant premised this argument on the fact that the Commission's original PUD approval predated the establishment of the NO Overlay (i.e., the MU-4/NO zone), and it included a PUD-related map amendment to the C-2-A zone (now MU-4 zone). The Applicant asserted that it therefore had vested rights to modify the PUD to develop the site to any height permitted in the MU-4 zone, notwithstanding the more restrictive NO Overlay height restriction of the MU-4/NO zone. The Commission rejects this premise because the Zoning

¹² As a matter of right, the MU-4 zone allows a maximum height of 50 feet; and a maximum permitted PUD building height of 65 feet. (See Subtitle G § 203.2; Subtitle X § 303.7)

Regulations are clear that a PUD-related map amendment is project specific and not precedential. See Subtitle X § 300.4 (“A PUD-related zoning map amendment is valid only in combination with and contingent upon a **project** being built and operated under the conditions of a PUD approval. PUD-related map amendments establish no precedent for the Zoning Commission’s consideration of permanent changes to the zoning of the PUD site or adjacent areas or for consideration of future PUDs.” (emphasis added)) Thus, the right to develop the original project is vested, but the right to develop a different project is not. The Commission concludes this is a different project because it involves redevelopment of the approved 3300 Whitehaven building with a new building that is different in many respects from what was originally approved, including a greater height. Therefore, the Commission concludes the decision to allow a revised project with the development standards, specifically the height standards, permitted under the previously approved MU-4 zone is a discretionary decision for it to determine in its review of this PUD modification application; and is also a discretionary case by case decision where a PUD is modified after the approved Project is built;

- (b) At the Commission’s request, the Applicant conducted outreach with Federal stakeholders -- specifically, NCPC, the Department of Navy, and the Secret Service -- regarding the Project’s relationship to the Naval Observatory campus located to the north of the Property following the April 4, 2024 public hearing. As confirmed in the NCPC Report, Federal stakeholders concluded that the Project would not be inconsistent with the Federal Elements of the Comprehensive Plan and would not adversely affect any identified Federal interest. This is further confirmed by the additional information submitted by the Applicant in its post-hearing submission demonstrating the following:
- (i) Sight lines from the Project’s proposed 5th floor amenity terrace and from the highest occupied residential unit are below the elevation of the Vice President’s residence, and the intervening area is characterized by dense forestation and landscaping, and significant topographical change, that further obscure views to the north of the Property;
 - (ii) The Project will result in a relatively modest increase in the massing and height of the existing 3300 Whitehaven Building and is, moreover, smaller in scale than the nearby Glover House and Observatory Condominium developments, both of which are taller and are situated closer to the boundaries of the Observatory Circle Federal campus;
 - (iii) The nearest northeast corner of the Property is located approximately 435 feet from the Naval Observatory fence line, approximately 1,280 feet (or 0.24 miles) from the Naval Observatory building, and approximately 2,070 feet (or 0.4 miles) from the Vice President’s residence, with location of the proposed 5th floor amenity terrace at the southeast corner of the building even further from these primary Federal campus features; and
 - (iv) The landscaping and hardscaping plans for the Project, including the primary residential amenity space located on the 5th floor and the terraces located on the levels above are designed to integrate with the adjacent Park. The proposed exterior and rooftop lighting exhibit presented to the Commission at the April 4, 2024 public hearing, provides additional assurances that the

outdoor lighting plan is purposely assimilated into the limited recreation areas in a manner that will not adversely impact the Park or the Observatory. At the Applicant's April 18, 2024, meeting with Federal representatives, Naval Observatory personnel stated that the Project, as designed and given its location, would not be expected to impact the Observatory's operations; and

- (c) Based on the above, the Commission concludes the Project does not pose any impacts to the Naval Observatory campus to the north of the Property. The Commission further clarifies that it typically does not consider previously approved PUD-related map amendment's as within the scope of PUD modification applications as most PUDs are not modified after the originally approved PUD is fully built. In this case, the fact that the approved Project was fully built coupled with the subsequent change to the underlying zoning to add the NO Overlay, with its height restrictions, to protect the Naval Observatory viewshed, warranted consideration of the underlying MU-4/NO zoning; and exercise of the Commission's discretion in deciding not to apply the height restrictions of the MU-4/NO zone to this PUD modification application. The Commission commends the Applicant for its thorough response to the Commission's inquiries on the issue. (FF ¶¶ 15, 39-41, 47, 51, 52, 63)

GREAT WEIGHT TO THE WRITTEN REPORT OF ANC 2E AND ANC 3B

24. 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))
25. The ANC 2E Report stated that ANC 2E strongly supports the Application and proposed public benefits and appreciates the Applicant's active engagement to develop the public benefits package and its commitment to prioritize contributions to support programs and services at Hardy Middle School and Hyde-Addison Elementary School upon securing building permit approval. (FF ¶ 56)
26. The ANC 3B Report stated that ANC 3B also strongly supports the Application and proposed public benefits and that the ANC encourages the Applicant to work with BISW leadership to ensure the safety of students during construction and be available to address concerns of the school community. The ANC 3B Report further stated the ANC's appreciation for the Applicant's active engagement to produce the benefits package, specifically noting contributions to support programs and services at Stoddert Elementary School and for Glover Park Main Street to revitalize that commercial district. (FF ¶ 57)

27. The Commission finds the ANC's support for the Project persuasive and agrees that the Project's significant proffer of public benefits and amenities justifies approval of the Application. The Commission finds persuasive the ANC's request that the proffered contributions to support programs and activities at Hardy Middle School, Hyde-Addison Elementary School, and Stoddert Elementary School be prioritized to the Project's permitting stage and has incorporated this into the Conditions of approval, which require that these contributions be provided prior to the issuance of a building permit for the Project. The Commission also agrees with ANC 3B's statement encouraging the Applicant to work with BISW leadership during the Project's construction phase to ensure student safety, and, as discussed above, the Commission credits the Applicant's commitment to continuing its ongoing outreach and coordination with BISW and the BISW community. (FF ¶¶ 41(e), 56, 57)

DECISION

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

- A Modification of Significance to the consolidated PUD originally approved in Z.C. Order No. 495 for Case No. 86-4C, as modified in Z.C. Order No. 86-04A;
- Zoning flexibility from the rear yard requirements of Subtitle G § 207.6 and from the penthouse side setback requirements of Subtitle C § 1504.1(c); and
- Such other design flexibility as is set forth in the Conditions hereof.

The following conditions replace Conditions 1 through 20 of Z.C. Order No. 495 for Case No. 86-4C, as amended by Z.C. Order No. 86-04A. With respect to Conditions 21-24 of Z.C. Order No. 495, the Commission recognizes that they pertain to the operation and vesting of the PUD approved by that Order. The vesting provisions below in D.1 and D.2 of this Order pertain to the modified Project approved through this Order.

A. Project Development

1. The Property shall be developed in accordance with the plans and elevations submitted as Ex. 30, 44B, and 44D of the record for Z.C. Case No. 86-4C, as modified and shown in the plans and elevations dated May 25, 2022 and submitted as Ex. 2C1-2C2 of Z.C. Case No. 86-04A, and as further modified and shown in the plans and elevations dated December 22, 2023 and submitted as Ex. 16A1-16A5 and further updated by the plans dated April 4, 2024 and submitted as Exhibits 30A1-30A11 and 31A1-31A5 (collectively, the "Final Plans"), and as modified by the guidelines, conditions, and standards herein.
2. The Property shall be developed with a mixed-use building with approximately 268 multifamily residential units and approximately 5,727 square feet of ground-floor education or child development center use and having a height of approximately 60.54 feet and FAR of approximately 2.83.

3. The Project shall be developed pursuant to the MU-4 zone, as permitted through a PUD, except as set forth herein or modified hereby as shown in the Final Plans, and with flexibility from the minimum rear yard requirement and penthouse side setback requirements for the south wall of Mass D of the Project as shown in the Final Plans.
4. The Project shall provide a minimum of 10 three-bedroom units.
5. The Project shall have no communal rooftop or outdoor amenity or recreation space on any floor above the fifth level, and the lighting on the various roof areas shall be in accordance with the lighting plan as shown in Ex. 30A11.
6. The Project's signage shall be limited to the first floor in accordance with Ex. 31A2, Sheet 71.
7. The Project shall have design flexibility as follows:
 - a. Construction Type: To vary the specific mass timber/CLT structural system utilized for the Project, and to have the ability to utilize either mass timber/CLT or structural steel only at the penthouse level, provided the selected mass timber/CLT structural system and, if utilized, structural steel at the penthouse level, do not substantially alter the exterior configuration of the building or design shown on the plans approved by the Order;
 - b. Structural Systems: To modify the width of structural beams and slabs for the specific mass timber/CLT structural system utilized for the Project and to make adjustments to building façade elements and fenestration sizing and layout that are necessary to coordinate the final design with the mass timber/CLT structural system;
 - c. Building Projections: To vary the number, configuration, and general design and structural details of the balconies and projections on the Project to ensure compliance with applicable requirements of the 2017 District of Columbia Construction Codes (Title 12 of the District of Columbia Municipal Regulations) and to address any unforeseen structural issues related to the mass timber/CLT construction type utilized for the Project, so long as the design of the balconies and façades remains substantially in conformance with the plans approved by the Order;
 - d. 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;
 - e. Exterior Materials – Color: To vary the final selection of the colors of the exterior materials based on availability at the time of construction, provided such colors are within the color ranges shown on the plans approved by the Order;

- f. 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 plans approved by the Order;
- g. Number of Units: To provide a range in the approved number of residential dwelling units of plus or minus 10%;
- h. Affordable Units: To vary the number and mix of inclusionary units if the total number of dwelling units changes within the range of flexibility granted, provided that the Project complies with all applicable Inclusionary Zoning requirements under Subtitle C, Chapter 10;
- i. Roof Elements: To vary the roof plan as it relates to the green roof areas, solar panels, planters, terraces, pool, equipment, outdoor amenity areas, and other related roof plane elements, provided that no relief is required and that there be no communal outdoor amenity or recreational space on any floor above the 5th level (although individual residential unit terraces may be permitted above such level);
- j. Signage: To vary the font, message, logo, and color of signage, provided that the maximum overall dimensions and signage materials are consistent with the signage on the plans approved by the Order and are compliant with the DC signage regulations. There shall be no façade signage on the residential building above the 1st floor;
- k. Parking Layout: To make refinements to the approved parking configuration, including layout and number of parking space plus or minus 10%, so long as the number of parking spaces is at least the minimum number of spaces required by the Zoning Regulations;
- l. Streetscape Design: To vary the location, attributes, and general design of the approved streetscape, including as necessary to comply with the requirements of, or the approval by, the DDOT Public Space Division or the Public Space Committee;
- m. 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 Gold – Multifamily Midrise design standards; and
- n. Landscape Materials: To vary the final selection of landscaping materials utilized based on availability at the time of construction.

B. Public Benefits

- 1. **For the life of the Project**, the Applicant shall set aside no less than 15% of the residential gross floor area as affordable housing. More specifically, the Applicant shall:
 - a. Devote 15% of the base residential GFA to affordable housing for households earning no more than 60% MFI; and

- b. Devote 10% of the habitable penthouse space dedicated to residential units to affordable housing for households earning no more than 50% MFI.
2. **For the life of the Project**, the Inclusionary Zoning units in the Project shall be generally in accordance with the following chart, subject to the flexibility noted herein: [*see chart below*]

Residential Unit Type	Residential GFA/% of Total	Income Type	Affordable Control Period	Affordable Unit Type	Notes
Total	273,660 sf		Life of Project	Rental	NA
Market Rate	232,611 sf	Market	Life of Project	Rental	NA
IZ	41,049 sf / 15%	60% MFI	Life of Project	Rental	NA
Penthouse IZ	896 sf / 10%	50% MFI	Life of Project	Rental	NA

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

3. **Prior to the issuance of a final certificate of occupancy for the Project**, the Applicant shall provide the Zoning Administrator with evidence that the Project has achieved or will achieve the requisite number of prerequisites and points necessary to secure LEED Gold v.4 Multifamily Midrise certification.
4. **Prior to the issuance of a building permit for the Project**, the Applicant shall submit evidence from its architect that the Project is designed and constructed to include a mass timber/CLT structural system.
5. **Prior to issuance of a full Certificate of Occupancy for the multifamily residential use**, the Applicant shall provide evidence to the Zoning Administrator demonstrating completion of a publicly accessible pocket park at the north end of the Property facing Whitehaven Street, N.W. consistent with the conceptual plans shown on Pages 38-42 of Ex. 30A7-30A8.
6. **Prior to issuance of a full Certificate of Occupancy for the multifamily residential use**, the Applicant shall provide evidence to the Zoning Administrator demonstrating that the Applicant has made the following contributions and that the items or services funded have been or are being provided:
 - a. Contribute \$10,000 to Glover Park Main Street to support the Art All Night or a similar program and/or improvements along the Wisconsin Avenue, N.W. corridor, furthering the revitalization of Glover Park's commercial center and related streetscape and public environment;

- b. Contribute \$10,000 to Georgetown Main Street to help fund a Small Business Storytelling Marketing Specialist for the purpose of developing and executing marketing campaigns to showcase the unique stories and experiences of small businesses in Georgetown or similar programs;
- c. Contribute \$20,000 to the Dumbarton Oaks Park Conservancy to support its Leave No Child Inside Program serving underserved and minority youth and to be utilized as follows:
 - i. \$10,000 to the Dumbarton Explorers Program to support program materials, support staff, and online class monitoring; and
 - ii. \$10,000 to the Green Jobs & Green Tech Program to fund a staff administrator salary for one year;
- d. Contribute \$150,000 to the Mt. Zion-Female Union Band Society Historic Memorial Park, Inc., also known as the Black Georgetown Foundation, to support initiatives to restore and promote the Mt. Zion-Female Union Band Society cemeteries (the “**Cemeteries**”), including items such as: informational signage in and around the Cemeteries to better educate the public about the site; repair and renovation of monuments and site improvements, such as stairs and railings, to improve visitor safety; educational outreach programs on the Cemeteries and historic Black Herring Hill neighborhood; a hardscape plinth to be installed within the core of the burial grounds to feature informational signage and monumental artwork; “Site of Memory” designation for the Cemeteries as part of UNESCO’s Slave Route Project; and implementation of a Cemeteries Information System to manage and promote historical sources on the Black Georgetown community; and
- e. Contribute \$8,000 for the Dumbarton Court Coop or another similar organization in consultation with ANC 2E and/or the Dumbarton Court Coop to support the purchase and installation of security cameras at or around Dumbarton Court at 1657 31st Street, NW.

7. **Prior to issuance of a building permit for the Project**, the Applicant shall provide evidence to the Zoning Administrator demonstrating that the Applicant has made the following contributions and that the items or services funded have been or are being provided:

- a. Contribute \$55,000 to the Hyde-Addison Elementary School Parent Teacher Association (or the successor thereto), to be utilized as follows:
 - i. \$25,000 to support student computer devices and other technology supplies for students; and
 - ii. \$30,000 to support student and family access to academic enrichment activities, including educational field trips and socio-emotional resources;
- b. Contribute \$65,000 to the Hardy Middle School Parent Teacher Organization (or the successor thereto), to be utilized as follows:

- i. \$30,000 to support student computer devices and other technology supplies for students, including but not limited to power cords and supplies; and
 - ii. \$35,000 to support family access to academic enrichment activities, including educational field trips and socio-emotional resources; and
- c. Contribute \$55,000 to the Stoddert Elementary School Parent Teacher Organization (or the successor thereto), to be utilized as follows:
 - i. \$25,000 to implement measures that provide better resources, technology, and facilities for students, including those that reduce barriers to student access to technology-based learning, or those that would allow the school to better maximize the new space gained through the addition to support student learning; and
 - ii. \$30,000 to support student access to academic enrichment activities related to arts and music, including resources to furnish and equip a dedicated art classroom and dedicated music classroom in the upcoming addition to the school to improve education on these subjects.

C. **Transportation Management**

- 1. **Prior to issuance of the final Certificate of Occupancy for the Project and for the life of the Project**, the Applicant shall adhere to the following Transportation Demand Management plan measures:
 - a. Unbundle the cost of vehicle parking from the lease or purchase agreement for each residential unit and charge a minimum rate based on the average market rate within a quarter mile;
 - b. Identify a Transportation Coordinator once the building has opened. The Transportation Coordinators will act as points of contact with DDOT, goDCgo, and Zoning Enforcement and will provide their contact information to goDCgo;
 - c. Transportation Coordinator will conduct an annual commuter survey of building employees and residents on-site, and report TDM activities and data collection efforts to goDCgo once per year;
 - d. Transportation Coordinator will develop, distribute, and market various transportation alternatives and options to residents, including promoting transportation events (i.e., Bike to Work Day, National Walking Day, Car Free Day) on property website and in any internal building newsletters or communications;
 - e. 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. 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@godcgo.com;

- g. 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 (MWCOG) or other comparable service if MWCOG does not offer this in the future;
- h. Post all transportation and TDM commitments on building website, publicize availability, and allow the public to see what has been promised;
- i. Offer a \$50 SmarTrip card and one complimentary Capital Bikeshare coupon good for a free ride to every new resident during initial lease-up;
- j. Provide at least 14 short- and 92 long-term bicycle parking spaces;
- k. Long-term bicycle storage rooms will accommodate non-traditional sized bikes including cargo, tandem, and kids' bikes, with a minimum of five designed for longer cargo/tandem bikes (10 feet by 3 feet), a minimum of nine spaces designed with electrical outlets for the charging of electric bikes and scooters, and a minimum of 46 spaces being 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. Install a minimum of seven electric vehicle (EV) charging stations;
- m. 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;
- n. Following the issuance of a Certificate of Occupancy for the Project, the Transportation Coordinator will submit a letter to the Zoning Administrator, DDOT, and goDCgo every five years (as measured from the final Certificate of Occupancy for the Project) summarizing continued substantial compliance with the transportation and TDM conditions in the Order, unless no longer applicable as confirmed by DDOT. If such letter is not submitted on a timely basis, the building shall have sixty (60) days from date of notice from the Zoning Administrator, DDOT, or goDCgo to prepare and submit such letter;
- o. 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;
- p. Provide a bicycle repair station in each long-term bicycle parking storage room;

- q. Provide one collapsible shopping cart (utility cart) for every 50 residential units, for a total of six to encourage residents to walk to the grocery store and run errands;
- r. Hold a transportation event for residents, employees, and members of the community once per year for a total of three years. Examples include resident social, walking tour of local transportation options, goDCgo lobby event, transportation fair, WABA Everyday Bicycling seminar, bicycle safety/information class, bicycle repair event, etc.;
- s. To encourage teleworking, provide a business center on-site and available for free to residents 24 hours per day, seven days per week. Access to a copier and internet services will be included;
- t. Fund the expansion of the existing 11-dock Capital Bikeshare station by four docks at 34th Street, N.W. and Wisconsin Avenue, N.W.; and
- u. Subject to DDOT approval, fund and construct the following pedestrian network improvements to encourage walking and offset identified traffic impacts:
 - i. The missing crosswalk, pedestrian signals, and curb ramps at 35th Street, N.W. and Wisconsin Avenue, N.W., provided that if an ANC votes not to support or to oppose this work, the Applicant shall make an equal financial contribution to DDOT's mitigation fund;
 - ii. Add striping to delineate parking boxes on Whitehaven Street, N.W.;
 - iii. Add a high visibility crosswalk on west side of Wisconsin Avenue and Whitehaven Parkway, N.W.; and
 - iv. Add concrete curb extensions at the midblock crosswalk on Whitehaven Street, N.W.

D. Miscellaneous

- 1. No building permit shall be issued for the Project until the Applicant has recorded a Notice of Modification of Zoning Commission Order relating to the Property and requiring compliance with this Order in the land records of the District of Columbia.
- 2. The Applicant shall file an application for building permit for the Project within two years of the effective date of this Order, and construction must begin with three years from the effective date of this Order.
- 3. In accordance with the DC Human Rights Act of 1977, as amended, DC Official Code § 2-1401.01 et al (Act), the District of Columbia does not discriminate on the basis of actual or perceived race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identify or expression, familial status, familial responsibilities, matriculation, political affiliation, genetic information, disability, source of income or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited

by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

Final Action


Vote (May 30, 2024): 4-0-1

(Joseph S. Imamura, Anthony J. Hood, Robert E. Miller, and Tammy Stidham to approve, 3rd Mayoral Appointee seat vacant)

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 November 1, 2024.

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

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 WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.