



Reservoir District

Parcels 2 & 4

APPLICATION TO THE DISTRICT OF COLUMBIA ZONING COMMISSION FOR
APPROVAL OF A MODIFICATION WITH HEARING TO A
CONSOLIDATED, FIRST STAGE, AND SECOND STAGE
PLANNED UNIT DEVELOPMENT

December 23, 2024

DEVELOPMENT TEAM

Applicant	McMillan Parcel 2 Owner LLC McMillan Parcel 4 Owner LLC d/b/a Jair Lynch Real Estate Partners 1400 16 th St. NW, Suite 430 Washington, DC 20036
Architects	MV+A Architects 1200 G St. NW, Suite 250 Washington, DC 20005
Transportation Consultants	Gorove Slade 1140 Connecticut Ave. NW, Suite 1010 Washington, DC 20036
Land Use Counsel	Goulston & Storrs PC 1999 K St. NW, Suite 500 Washington, DC 20006

EXHIBITS

<u>Description</u>	<u>Exhibit</u>
Certified Surveyor's Plats of Parcel 2 and Parcel 4 of the Overall PUD Site	A
Map showing the Overall PUD Site and Properties and the zoning of surrounding properties	B
Z.C. Order No. 13-14(6)	C
Z.C. Order No. 13-14A	D
Z.C. Order No. 13-14B	E
Plans and drawings showing proposed Parcel 4 modifications and flexibilities	F
Plans and drawings showing proposed Parcel 2 modifications and flexibilities	G
HPRB action approving proposed Parcel 2 and Parcel 4 design modifications	H
Evaluation of proposed PUD modification with the Comprehensive Plan	I
Detailed summary of Applicant's responses to community feedback received to date	J

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	THE PROPOSED MODIFICATIONS AND FLEXIBILITY	4
A.	Parcel 4 Building	5
1.	Grocery Store and Retail	6
2.	Residential Units	7
3.	Lodging Use	8
4.	Parking Spaces.....	9
5.	Loading Facilities	9
6.	Building Design and Dimensions	10
7.	Exterior Materials	11
B.	Parcel 2 Building	12
1.	Removal of Pedestrian Bridge.....	12
2.	Retail	13
3.	Residential Units	14
4.	Affordable Housing	14
5.	Lodging Use	16
6.	Parking Spaces.....	17
7.	Building Design and Dimensions	17
8.	Exterior Materials	19
C.	Zoning Flexibility and Relief.....	19
1.	Parcel 4 Building	20
a.	Side Yards	20
b.	Plaza	20
c.	Penthouse Setback and Single Enclosure	21
2.	Parcel 2 Building	21
a.	Side Yards	21
b.	Plaza	22
c.	Penthouse Setback and Single Enclosure	22
d.	Loading	23
D.	Tabulation of Development Data.....	23
III.	THE MODIFIED PARCEL 2 AND 4 BUILDINGS MEET THE STANDARDS AND REQUIREMENTS FOR PUD APPROVAL.....	24
A.	The Modified Parcel 2 and Parcel 4 Buildings satisfy the standards for Zoning Commission approval.	24
1.	Not Inconsistent with the Comprehensive Plan.....	24
a.	Racial Equity and the Comprehensive Plan	25
IV.	<u>Evaluation of Comprehensive Plan Policy Guidance</u>	26
1.	No Unacceptable Impacts on the Surrounding Area, the Environment, or in the Operation of District Services or Facilities	40
3.	The Proposed PUD Modification Continues to Provide the Previously Approved Specific Public Benefits	43
B.	The Modifications Satisfy the Evaluation and Balancing Criteria Required for Commission Review of a PUD	49
V.	CONCLUSION.....	50

I. INTRODUCTION

McMillan Parcel 2 Owner LLC and McMillan Parcel 4 Owner LLC, d/b/a Jair Lynch Real Estate Partners (“**JLREP**” or “**Applicant**”), submit this application (“**Application**”) to the District of Columbia Zoning Commission (“**ZC**” or “**Commission**”) for approval of a modification to a Consolidated, First Stage, and Second Stage Planned Unit Development (“**PUD**”) at Parcels 2 and 4 (Lots 809, 814, and 815 in Square 3128) (the “**Properties**”) of the Reservoir District (formerly known as the McMillan Reservoir Slow Sand Filtration Site Redevelopment). The Applicant is the owner and developer of the Properties.¹ A certified Surveyor’s plat of the Properties is attached as **Exhibit A**.

The Properties are part of a larger PUD and development site that encompasses the entire Reservoir District (the “**Overall PUD Site**”). The Overall PUD Site contains approximately 24.69 acres of land area and is bounded by North Capitol Street NW on the east, Michigan Avenue NW on the north, First Street NW on the west, and Channing Street NW on the south. Parcel 4 contains approximately 84,462 square feet of land area and is also in the northern portion of the Overall PUD Site, bounded by North Capitol Street to the east, North Service Court to the north, Gatehouse Court to the south, and Hazen Court to the west. Parcel 2 contains approximately 66,654 square feet of land area and is in the northern portion of the Overall PUD Site, bounded by First Street to the west, North Service Court to the north, Parcel 5 to the south, and Olmstead Court to the east. Parcel 2 is also bisected by Platt Court.

For the Overall PUD Site, the Zoning Commission approved, pursuant to Order No. 13-14(6) a First-Stage PUD, a Consolidated PUD, and a Zoning Map amendment to the CR (now MU-10) zone (“**Overall PUD**”). A map showing the location of the Overall PUD Site and

¹ The community association for the Reservoir District, McMillan Master Association, Inc., owns the small Lot 814 that is part of the Parcel 2 modification.

Properties, and the zoning of surrounding properties is attached as **Exhibit B**. This approval facilitates the redevelopment of the Overall PUD Site into a large mixed-use development containing medical office buildings, retail and service uses, multifamily residential buildings, rowhouses, a community center, and a park.

For Parcel 4, the Zoning Commission approved a Consolidated PUD and Zoning Map amendment to the CR (MU-10) zone pursuant to Order No. 13-14(6), as modified by Order No. 13-14B (together, the “**Parcel 4 Orders**”), for a mixed-use residential/retail building (the “**Parcel 4 Building**”). As currently approved, the Parcel 4 Building contains approximately 310,283 square feet of gross floor area (“**GFA**”), or a maximum density of approximately 3.23 floor area ratio (“**FAR**”), and a maximum height of approximately 78’-8”. The approved Parcel 4 Building contains approximately 58,705 square feet of GFA for a grocery store, approximately 196 market rate apartments (+/-10%), 85 senior affordable apartments (+/-10%) (reserved for seniors earning at or below 50% - 60% of the median family income (“**MFI**”)), and approximately 329 underground parking spaces.

For Parcel 2, the Zoning Commission approved a First Stage PUD and Zoning Map amendment to the CR (MU-10) zone pursuant to Order No. 13-14(6) and a Second Stage PUD pursuant to Order No. 13-14A (together, the “**Parcel 2 Orders**”) for a mixed-use residential/retail building (the “**Parcel 2 Building**”). As approved, the Parcel 2 Building contains approximately 235,513 square feet of GFA, or a maximum density of approximately 4.89 FAR, and a maximum height of approximately 82’-6”. The approved Parcel 2 Building contains approximately 18,259 – 24,359 square feet of GFA for retail use, approximately 233 apartments, and approximately 222 underground parking spaces. The Applicant has not started construction on either the Parcel 2 Building or the Parcel 4 Building. Copies of the Z.C. Order Nos. 13-14(6), 13-14A, and 13-14B are attached as **Exhibits C, D, and E**, respectively.

This Application seeks Commission approval of modifications to both the Parcel 4 Building and the Parcel 2 Building regarding building form, exterior materials, types and extents of uses, and configuration of uses. In addition, this Application seeks Commission approval for *flexibility* for the types of uses and the amount of floor area devoted to said uses in the Parcel 4 and Parcel 2 Buildings, for certain exterior design elements, and changes to the construction phasing and deadlines for filing building permit applications for both Buildings. Collectively, the modifications and flexibility are known as the “**Project**,” plans and drawings for which are included herewith as **Exhibit F** (the “**Parcel 4 Building Plans**”) and **Exhibit G** (the “**Parcel 2 Building Plans**”), collectively referred to herein as the “Plans.”

This Application and the proposed modifications and flexibility are consistent with the intent of the Parcel 2 Orders and the Parcel 4 Orders, and this Application does not materially change the underlying facts on which the previous approvals were granted. Additionally, the Application is not inconsistent with the District of Columbia Comprehensive Plan² (the “**Comprehensive Plan**”) and is consistent with other adopted public policies and adopted programs related to the subject site.

This Application does not materially change the benefits and amenities required under the Parcel 2 and 4 Orders. The Overall PUD will continue to benefit the District by advancing the long-anticipated redevelopment of a large, underutilized parcel with a mixed-use development that includes a significant amount of new and affordable housing and community/neighborhood serving retail uses, including a grocery store. As was the case when the Parcel 2 and 4 Buildings were originally approved, as part of the Overall PUD, the Parcel 2 and Parcel 4 Buildings will contribute to the numerous public benefits that will be delivered.

Submitted in support of this Application are the required materials, including a certification of mailing and a copy of the notice of intent to file that was mailed to surrounding property owners and parties, architectural drawings, plans, and elevations of the proposed Project. This statement and the attached documents meet the filing requirements for an application for a modification of a PUD under of Subtitle X, Chapter 3; Subtitle Z § 300; and Subtitle Z § 704 of the District of Columbia Zoning Regulations (the “**Regulations**”).³

II. THE PROPOSED MODIFICATIONS AND FLEXIBILITY

As shown in the attached Plans, the Applicant requests approval of modifications to the previously approved plans for the Parcel 4 and Parcel 2 Buildings. The requested modifications are necessary to ensure that development of the Buildings can proceed after years of setbacks and delays.

As the Commission is well aware, the Overall PUD for the Reservoir District has a long, complicated, and contentious history that is unlike any other development project in the history of the District of Columbia. The District selected Vision McMillan Partners as the master developer of the McMillian Slow Sand Filtration Site in 2007, with the original goal of the first buildings delivering in 2018. The Commission first held public hearings on the Overall PUD more than 10 years ago and approved it more than nine (9) years ago. The original ZC Order was appealed to the D.C. Court of Appeals, which remanded it back to the Commission, which then held further hearings and issued subsequent Orders. This all was in addition to hearings before and approval by the Mayor’s Agent for Historic Preservation, which was also appealed to the

² D.C. Law L23-0217 (Comprehensive Plan Amendment Act of 2017) and D.C. Law 24-0020 (Comprehensive Plan Amendment Act of 2020), including the Generalized Policy Map (“GPM”) and Future Land Use Map (“FLUM”) (D.C. Resolution R24-0292).

³ In accordance with Subtitle A § 102.4, this application shall be subject to and evaluated under the 2016 Zoning Regulations despite the original PUD being reviewed and approved under the 1958 Zoning Regulations. All references to the Zoning Regulations herein shall be to the 2016 Zoning Regulations unless otherwise stated.

D.C. Court of Appeals, as well complaints before the D.C. Superior Court and appeals of demolition permits. These myriad appeals, remands, re-hearings, and new Orders injected extensive risk into the redevelopment and halted construction for many years until the final legal challenge was resolved in October 2021. As of today, the only part of the Overall PUD that has delivered is the community center and park on the south end of the site. Unfortunately, but not surprisingly, the real estate development landscape, retail leasing environment, grocery store interest, and residential apartment demand are significantly different than when the Overall PUD was first approved, let alone first conceived. It is from this unusually complex and lengthy background for an unprecedented project that the Applicant requests modifications and flexibility in this application to ensure that this carefully designed, high-quality, and community-benefitting development can proceed.

A. Parcel 4 Building

The requested modifications to and flexibility for the Parcel 4 Building will allow it to remain financially viable in the face of construction costs that are significantly higher than they were 10 years ago. These requests also will allow for construction to proceed expeditiously without delays from construction material supply shortages and without market fluctuations disrupting development expectations. Further, the requested modifications and flexibility will ensure a grocery store tenant will be attracted and retained, accommodate right-sizing of the retail spaces for the market demand at the time of permitting, and produce a balance of residential and retail uses in the Building appropriate to current market demand. Despite the proposed modifications and flexibility, the overall design and use mix, including a grocery store, will remain largely as approved by the Commission in the Parcel 4 Orders and will best facilitate delivery of the public benefits and amenities associated with Parcel 4.

1. Grocery Store and Retail

Because of the overall PUD's extensive delays, the Applicant has lost two prior grocery store tenants, and modifications to the size of the grocery store space are necessary to ensure that one will be in the Building. When the Commission previously approved the Parcel 4 Building, the Applicant had interest from large grocery stores that required approximately 55,000 square feet of space, which was the complete retail commitment for the Building at the time. In the subsequent years of delay, the original large grocer lost interest and pulled out of the project. The Applicant secured a second large grocery store thereafter, but due to continuing delays and legal challenges that grocery store also pulled out of the project. Despite diligent efforts, the Applicant has been unable to secure interest by any large grocery stores (requiring at least 30,000 square feet) to occupy the Parcel 4 Building, but it has successfully secured a third, smaller grocery store that requires approximately 22,500 square feet.

While the Applicant intends the third grocery store to be the eventual tenant in the Building, that grocery store could pull out as well if additional delays from appeals or more proceedings arise. Thus, a modification to and flexibility for the minimum size of the grocery store space in the Building is necessary to ensure that a grocery store of any size can be accommodated and retained. Currently, only small- to mid-size grocery stores are interested in the Parcel 4 Building, ranging from approximately 6,000 square feet (e.g., Yes Organic Market) to approximately 25,000 square feet (e.g., Lidl). Thus, the minimum grocery store size in the building must be decreased to something more consistent with the current grocery store interest. The Applicant is mindful of the impact that decrease would have on the street-level activation of the building, so a larger minimum overall retail area would be retained to ensure activation along the full frontage of North Service Court.

Accordingly, the Applicant requests that the area of the total ground floor retail space in the Parcel 4 Building be modified so that it is within a range of 16,000 – 59,000 square feet. Of that retail space, the Applicant requests that the grocery store space be within the range of 10,000 – 22,500 square feet. Any balance of the retail space that is not devoted to a grocery store of at least 16,000 square feet will be for other retail; in other words, the difference from 16,000 square feet and the size of the grocery store will be for other retail. At minimum, retail will occupy the full north frontage of the building, fronting North Service Court. Additional retail frontage may be located along Hazen Court depending upon the final amount of retail in the Parcel 4 Building. The building will be designed to satisfy the MU-10 development standards (parking, loading, etc.), other than where specific zoning flexibility has already been granted in the Parcel 4 Orders and requested herein, including for the extremes of the retail and grocery store flexibility so that the building will comply regardless of the final areas of such uses.

2. Residential Units

The market demand for residential units has changed since the Parcel 4 Building was approved, but the demand is constantly in flux, and the programmatic requirements within the building have changed. The modification and concomitant flexibility requests will allow the Applicant to recapture some of the building's area for residential units and to respond to the ever-changing residential rental market up to the time of permitting without deviating significantly from the originally approved number of units in the building. The unit count increase comes from the addition of residential units on the second floor where there was previously a double height clearance requirement for a prior grocer's loading. Now that the grocer tenant is smaller and the double-height space is unnecessary; therefore, the Applicant intends to recapture some of that double height space with residential units. Accordingly, the

Applicant requests a modification to allow 324 residential units, with the flexibility to adjust that number plus or minus ten percent (+/- 10%). As part of this modification, the Applicant also requests the flexibility to convert the balance of unused ground floor retail space (see section above) to residential units. This conversion would occur in the event that the retail space including the grocery store occupies less than 38,000 square feet, meaning that residential units would occupy the balance of 38,000 square feet minus the actual amount of retail provided.

In addition, the affordable senior units in the originally approved Parcel 4 Building have proven to be difficult to finance due to different funding schemes for those and the market rate units. Further, the construction of these units as an entirely separate part of the same building as the market rate units would add construction costs and complications, that today make the building being overall less feasible. As described in greater detail below, the Applicant requests a modification to the Parcel 4 Building to relocate all of the affordable senior units to the modified Parcel 2 East Building.

3. Lodging Use

The demand for residential units is constantly changing, and the demand for lodging is persistent. For the Applicant to be able to proceed with financing and constructing a building that is suited to the market at the time of permitting without major changes to the interior layout and configuration of the residential floors, a modification to allow lodging use in some of the units is requested. Given the site's proximity to the Washington Hospital Center, Children's Hospital, Catholic University, Trinity University, Howard University, and several other large institutions, there is a demand for lodging, especially since there is none in the vicinity. While the Applicant's intent is for the building to be solely residential (in addition to the ground floor retail), a market shift away from residential demand could be easily overcome by allowing a

portion of the building to be used for lodging.⁴ The building's interior design will be the same whether the units are constructed as all residential or partially lodging, but this modification and flexibility will allow for real-time market adjustments to make sure that units are filled, and the building is activated. Accordingly, the Applicant requests a modification to allow up to 20% of the residential units in the building to be used for lodging.

4. Parking Spaces

A change in the mix and size of uses as described in the above requested modifications will have a resulting change in the demand for parking spaces in the building. Therefore, the Applicant requests a modification to the number of below-grade parking spaces. This will allow the Applicant to provide the number of parking spaces that are consistent with the expected demand for the mix of uses in the building while balancing the financial burden of constructing below-grade parking with minimizing the potential for impacts on neighborhood on-street parking. Accordingly, the Applicant requests that the number of parking spaces be modified to approximately 311 with the flexibility to adjust the number of spaces to the minimum required by the Zoning Regulations in Subtitle C, Chapter 7 and no more than the number that would be considered significantly in excess of the minimum required as defined in Subtitle C § 707.3(a).

5. Loading Facilities

The proposed change in use mix and a new grocery store result in a different demand for loading facilities in the building. The proposed change to the building's loading will allow it to best accommodate a smaller grocery store and other types of retail that were not previously included in the building's retail program and a different mix of residential and retail uses.

⁴ It is worth noting that under D.C. Code § 42-3506.01, established rental housing cannot be converted into lodging use. Therefore, the Applicant could include the lodging use only before the building has a certificate of occupancy

Accordingly, the Applicant requests that the loading facilities for the building be modified to include one (1) 75-foot berth with a 200 square foot platform, two (2) 40-foot berths each with a 100 square foot platform, and one (1) 20-foot service/delivery space, with the flexibility to change the loading facilities so long as the minimums required by the Zoning Regulations in Subtitle C § 901 are provided.

6. Building Design and Dimensions

The programmatic and interior modification requests described above will have small effects on the building's exterior design. However, these necessitate minor modifications to the building's exterior design that will allow for the building to best accommodate the mix of uses while maintaining the design goals and intent of the originally approved Parcel 4 Building. These exterior design modifications will improve the building's operations and site circulation in ways that best accommodate the intended residential and retail uses. Accordingly, the Applicant requests modifications to the entrances for the building's residential, retail, loading, and parking, with the flexibility to adjust these entrances as needed for the final use mix, use size, and tenant needs in the building. The modified parking entrance will remain along the south side of the building but shifted to the west side of the loading facilities. The loading entrance also will remain on the south side of the building and will be shifted to the east of the proposed parking entrance, closer to North Capitol Street. Note, this proposed configuration is consistent with the Commission's original approval of the Parcel 4 Building. In the event that the building's final retail program is at the minimum range of 16,000 square feet, the Applicant proposes an alternative location for the loading facilities. In that case, the Applicant request flexibility to change the loading entrance to the west side of the building, off Hazen Court, so that corridor

and not later, after the building is occupied.

lengths between the loading and retail spaces can be minimized. These modifications and flexibility requests are further illustrated in the Plans.

In addition, the Applicant requests a modification to the building's height from 78'-8" to 84 feet, with flexibility to increase the building height by up to five (5) feet. This height modification and flexibility will allow the Applicant to best accommodate the final mix of uses in the building, and the additional height allows for more marketable residential units on the second floor where there was previously a double height clearing for loading, retail, and lobby space toward the southern end of the building. The design intent of the building will remain as originally approved in the Parcel 4 Orders, and the height will still be well below that permitted by a MU-10 PUD (110 feet).

With the additional second floor residential units, the building's overall FAR will slightly increase. Accordingly, the Applicant requests a modification to the building's FAR to be a maximum of 4.14, of which a maximum of 0.7 will be non-residential. It is worth noting that a portion of the proposed increase in density is attributable to a slight reduction in the lot area for Parcel 4 that occurred when the actual development lots were created after the Commission's original approval. Nevertheless, despite these modifications, the overall design and massing of the building will remain consistent with the original approval in the Parcel 4 Orders and will be well below the maximum FAR permitted by a MU-10 PUD (8.64 FAR).

7. Exterior Materials

Since the Parcel 4 Building was approved 10 years ago, constructing the building with the materials specified at the time renders the building financially infeasible and logistically impractical. Since the building was designed, the cost of many of the exterior materials has increased dramatically and well beyond what was contemplated. Furthermore, some of the

materials now have limited availability or have a long lead time for delivery. Changing some of the building's exterior materials while maintaining the material quality and design intent will keep the building financially feasible and able to be constructed in a shorter amount of time. In addition, because the proposed material changes have already been approved by the D.C. Historic Preservation Review Board (“**HPRB**”), the Commission can be assured that the design intent will be maintained.⁵ A copy of the HPRB's approval is attached as **Exhibit H**. Accordingly, the Applicant requests that some of the exterior building materials be modified as specified in the Parcel 4 Building Plans.

B. Parcel 2 Building

The requested modifications to and flexibility for the Parcel 2 Building will allow it to remain financially viable in the face of construction costs that are significantly higher now than they were more than 10 years ago. Further, the requested modifications and flexibility will ensure delivery of affordable senior residential units, accommodate right-sizing of the retail spaces for the market demand at the time of permitting, improve the appearance of the building, and produce a balance of residential, retail, and potentially lodging uses appropriate to current market demand. Despite the proposed modifications and flexibility, the overall design and use mix will remain largely as approved by the Commission in the Parcel 2 Orders and will best facilitate delivery of the many public benefits and amenities associated with Parcel 2.

1. Removal of Pedestrian Bridge

The approved design of the Parcel 2 Building includes a multi-story pedestrian bridge over Platt Court that connects two structures, thus allowing them to be a single building for zoning purposes. Generally, the bridge was disfavored by the ZC and the HPRB due to its

⁵ Approved with some comments on September 26, 2024. HPA 24-437

impacts on the viewshed between the North and Service Courts, but it functions primarily to maximize floorplate efficiency by avoiding the need for multiple elevator cores and egress stairways. However, as now proposed, the two Parcel 2 Buildings are devoted to entirely different programs, which results in the pedestrian bridge being unnecessary. Accordingly, the Applicant requests that the Parcel 2 Building plans be modified to remove the pedestrian bridge, as shown in the Parcel 2 Building Plans, such that the Parcel 2 Building will be comprised of two structures separated by Platt Court: the “**Parcel 2 West Building**” and the “**Parcel 2 East Building**.”⁶

2. Retail

Because of the extensive delays that have befallen this PUD, the retail landscape, particularly for the Parcel 2 Building, has changed considerably. In order for the building to be financeable and feasible, it is critical that the Applicant can adapt the amount of retail space to the current market conditions at the time of construction. A modification to the amount of retail in the building will allow for the delivery of the Parcel 2 Building consistent with its original intent and approval, while avoiding a potential oversupply of retail space that will sit vacant. Any ground floor space that is not devoted to retail use and back-of-house functions will be devoted to residential use.

Accordingly, the Applicant requests a modification to allow the total amount of ground floor retail in the Parcel 2 Building to be within the range of 5,000 – 17,000 square feet, with related flexibility to allow the conversion of up to 12,000 square feet of the ground floor retail space to residential units. This would leave 5,000 square feet of retail and 12,000 square feet of

⁶ For consistency, the modified Parcel 2 Building will continue to be referred to collectively as the “Parcel 2 Building” despite it being comprised of two separate buildings.

residential in the most extreme case of flexibility. In any scenario, the retail would be located along the north frontage of the Parcel 2 Building on the North Service Court to maintain the intended activation of this right-of-way, and the development standards in the Zoning Regulations would be satisfied except where zoning flexibility has already been granted in the Parcel 2 Orders and as requested herein. The proposed modification and flexibility are illustrated in the Parcel 2 Building Plans.

3. Residential Units

Due to the removal of the pedestrian bridge and the senior affordable units moving from Parcel 4 to Parcel 2 (see below), the approved height and massing of the Parcel 2 Building creates an opportunity to accommodate more residential units, including more affordable senior units, than the current approval. In order to maintain the feasibility of the Parcel 2 Building's approved height and massing, approximately 50 more residential units within that development envelope is necessary. Further, a modification to allow a greater number of units in the Parcel 2 Building will increase the degree to which the Parcel 2 Building helps meet the District's housing needs, including affordable housing. Accordingly, the Applicant requests a modification to include a total of 267 units in the Parcel 2 Building (125 market rate units in Parcel 2 West and 142 affordable senior units in Parcel 2 East) with flexibility to vary the number of units +/- 10% in the Parcel 2 West Building.

4. Affordable Housing

The Applicant desires to deliver as much affordable housing as possible consistent with the intent of the original Parcel 2 and Parcel 4 Buildings. In order to maximize the number of affordable units and most efficiently design the building and units to accommodate the specialized senior population, the Applicant proposes to relocate the senior affordable units from

the Parcel 4 Building to the Parcel 2 East Building, such that the Parcel 2 East Building will be a standalone building of entirely affordable senior units above ground floor retail. This change will enable a more efficient and better designed building for its senior tenants, and it will allow the Applicant to provide more senior affordable units than were originally included in the Parcel 4 Building. This relocation of and increase in the number of senior affordable units will offset the resulting proposal to remove the other affordable non-senior units that are currently required in the Parcel 2 Building, and it will result in a net increase in the total affordable units. Accordingly, the Applicant requests a modification to locate 142 affordable senior units in the Parcel 2 East Building and to remove the other 27 affordable units from the Parcel 2 Building. The proposed senior affordable units in the Parcel 2 East Building will be reserved as follows: 38 units @ 30% MFI, 82 units @ 50% MFI, and 15 units @ 60% MFI.

The Applicant's primary intent is to construct the Parcel 2 East Building as proposed above. However, because financing for this building is dependent on competitive District-awarded funds – which are currently stretched thin for new affordable housing developments – the number of senior affordable units is subject to the final funding that the Applicant receives. If the Applicant does not receive the full amount of funding that it expects for the affordable senior units, then it will be necessary to decrease the number of affordable senior units in the Parcel 2 East Building in order for the building to remain financially feasible. Accordingly, the Applicant requests flexibility to reduce the number of affordable senior units to 88 in the Parcel 2 East Building if insufficient District funding for all 142 units is received. However, if the Applicant needs to rely on this flexibility, then the Applicant will provide the previously approved 27 non-senior affordable units in the Parcel 4 Building or Parcel 2 East Building to offset the senior affordable unit shortfall. Of these 27 non-senior affordable units, 25 will be reserved at 80% MFI

and two (2) will be reserved at 50% MFI. Thus, if the Applicant exercises this flexibility to reduce the number of senior affordable units because of a funding shortfall, then the overall number of affordable units will still be more than in the originally approved Parcel 2 and Parcel 4 Buildings.

5. Lodging Use

Like Parcel 4, Parcel 2 is also well-suited for and potentially has a market demand for lodging. For the Applicant to be best positioned to proceed expeditiously with the financing and construction of the Parcel 2 West Building in accordance with market conditions, a modification to allow lodging use in the Parcel 2 West Building is requested. Given the fluctuating residential market and the potentially strong demand for lodging in this location, this building may be best suited for lodging use (with ground floor retail as described above) at the time of permitting. A market shift away from residential demand could be easily overcome by allowing the Parcel 2 West Building to be used for lodging. The building's interior configuration would be modified to accommodate the lodging use, but this requested modification and flexibility will allow for real-time market adjustments to make sure that the building can be constructed and occupied as quickly as possible, and the site is activated. Accordingly, the Applicant requests a modification to allow the Parcel 2 West Building to be devoted entirely to lodging use for a total of 205 lodging rooms, with flexibility to vary the number of lodging rooms by +/- 10%. The exterior of the Parcel 2 West Building would not change for the lodging use, other than within the flexibility already granted in the Parcel 2 Orders and as requested herein. Further, if the Applicant elects to convert the Parcel 2 West Building to lodging, then the applicable zoning development standards will be satisfied, except for loading, for which flexibility is requested herein.

6. Parking Spaces

A change in the mix and size of uses as described in the above requested modifications will have resulting change in the demand for parking spaces in the Parcel 2 Building. Therefore, the Applicant requests a modification to the number of parking spaces in the below-grade garage that will span the entire Parcel 2. This modification will allow the Applicant to provide the appropriate number of parking spaces that are consistent with the demand for the mix of uses in the buildings while also not financially burdening the project with the cost of parking that will go unused, balanced against ensuring that there will not be a burden placed on on-street parking in the neighborhood. Accordingly, the Applicant requests that the number of parking spaces be modified to approximately 122 with the flexibility to adjust the number of spaces to the minimum required by the Zoning Regulations in Subtitle C, Chapter 7 and no more than the number that would be considered significantly in excess of the minimum required as defined in Subtitle C § 707.3(a).

7. Building Design and Dimensions

In addition to the removal of the bridge, the modification requests described above will have minor effects on the buildings' exterior design. This necessitates modifications to the Parcel 2 Building's exterior design that will allow for the buildings to best accommodate the mix of uses while accomplishing the design goals and intent of the originally approved Parcel 2 Building. These exterior design modifications will improve the buildings' operations and site circulation in ways that best accommodate the intended residential (including affordable senior units) and retail uses. Accordingly, the Applicant requests modifications to the entrances for the both the Parcel 2 East and West Buildings residential, retail, loading, and parking, with the flexibility to adjust these entrances as needed for the final use mix, use size, and tenant needs in

the buildings. The modified parking and loading entrances will remain on Platt Court but may be adjusted on that frontage. These modifications are further illustrated in the Parcel 2 Building Plans.

Also, the Applicant requests a modification to the Parcel 2 East and West Buildings' heights from the approved 82.5 feet to 83 feet, with flexibility to increase the height by up to five (5) feet. This height modification and flexibility will allow the Applicant to best accommodate the final mix of uses in the buildings. The design intent of the Parcel 2 Building will remain as originally approved in the Parcel 2 Orders, and the height will still be well below that permitted by a MU-10 PUD (110 feet).

With the additional residential units and a decrease in Parcel 2's lot area, the Parcel 2 Buildings' overall FAR will slightly increase.⁷ Accordingly, the Applicant requests a modification to the buildings' FAR to be a maximum of 4.18. However, the Applicant requests flexibility to vary the balance of residential and non-residential FAR within the overall proposed maximum of 4.18 to accommodate the use flexibility described above. This requested modification is only slightly larger than the originally approved FAR, which results in the overall design and massing of the buildings being very similar to the original approval in the Parcel 2 Orders and well below the maximum FAR permitted by a MU-10 PUD (8.64 FAR). Plus, this flexibility allows for the mix of uses critical to Parcel 2's delivery as described above.

Further, with the removal of the pedestrian bridge, the Parcel 2 Building's lot occupancy will decrease. Accordingly, the Applicant requests a modification to decrease the overall residential lot occupancy to 60%. This is only slightly less than approved in the Parcel 2 Building Orders (61%) and well below what is permitted in the MU-10 zone (75%).

8. Exterior Materials

In the years since the Parcel 2 Building was approved, constructing the building with the materials specified at the time renders the building financially infeasible and logistically impractical. Since the building was designed, construction and materials costs have escalated significantly over what was contemplated at the time. Furthermore, many of the materials have now become limited in their availability or have long lead times for delivery. Changing some of the exterior materials while maintaining the design intent will allow the proposed buildings to be financially feasible and constructed in a reasonable amount of time. In addition, because the proposed material changes have already been approved by the HPRB, the Commission can be assured that the design intent and material quality will be maintained.⁸ *See* Exhibit H. Accordingly, the Applicant requests that some of the exterior building materials be modified as specified in the Parcel 2 Building Plans.

C. Zoning Flexibility and Relief

Following approval of the Overall PUD, the Overall PUD Site was subdivided into record lots, which were then further divided into tax lots. Under the Overall PUD Order, the Parcel 2 Building and the building on Parcel 3 will be constructed on the same record lot (Record Lot 103), which contains A&T Lots 811 – 815. Accordingly, the Parcel 2 theoretical building site, which is the basis for determining the Parcel 2 Building's zoning compliance, is comprised of Lots 814 and 815. Similarly, when the Parcel 4 Building was approved, no record or tax lots had been created for Parcel 4. Now, the record lot upon which the Parcel 4 Building will be constructed on Record Lot 102 that contains A&T Lots 809 and 810; however, only Lot 809 will

⁷ While Lot 814 is part of the building site for determining Parcel 2's zoning compliance, Lot 814 is not included in the denominator for calculating FAR since it is a private right-of-way.

⁸ Approved with some comments on September 26, 2024. HPA 24-437

be used as the basis for determining zoning compliance for the Parcel 4 Building. The Applicant confirmed these Parcel 2 and Parcel 4 Building sites for determining zoning compliance with the Zoning Administrator.

Subtitle X § 303.1 gives the Zoning Commission authority to grant flexibility from any development standards as part of the PUD process. Based on the building sites described above, the Applicant requests the zoning flexibility described below. The Applicant notes, that the following areas of technical zoning flexibility have either previously been granted by the Commission but have been altered as a result of the proposed modifications to the Parcel 2 and 4 Buildings, or were required even under the current approved building designs but for some reason are not expressly granted in the Parcel 2 or Parcel 4 Orders. As such, out of an abundance of caution, the Applicant is expressly requesting these areas of technical zoning flexibility.

1. Parcel 4 Building

- a. Side Yards

The Parcel 4 Building is set back from its north (side) property line by one (1) foot and from its south (side) property line by three (3) feet. Since side yards are provided, per Subtitle G § 208.2, the required widths range from 13'-3" to 14'-10" for the north and south side yards. Accordingly, the Applicant requests flexibility from the side yard requirements in Subtitle G § 208.2. The requested flexibility is illustrated on Page 3 in the Parcel 4 Building Plans.

- b. Plaza

The Parcel 4 Building does not provide the plaza space according to the requirements in Subtitle C § 1701.1. While the lot occupancy of the modified Parcel 4 Building is 62% and the North Service Court satisfies the intent, thereby providing ample open space, it does not provide 8% of the lot area adjacent to the main entrance of the building, and it does not provide any

transitional space between the street and the building in accordance with the plaza standards in Subtitle C § 1701.1. Accordingly, the Applicant requests flexibility from the plaza requirement in Subtitle G § 212.1.

c. Penthouse Setback and Single Enclosure

The Parcel 4 Building's south penthouse will not be set back from the east-facing wall of the courtyard for the full 1:1, as required under Subtitle C § 1504.1. This setback relief is for a very small part of the penthouse that confronts a corner where two building walls intersect: the setback is 10 feet at this location, where a setback of 18.5 feet is required. The relief allows the penthouse to provide the lobby and access from the elevator and stairwell to access the rooftop terrace. This requested flexibility is shown on Page 3 in the Parcel 4 Building Plans.

In addition, the Parcel 4 Building has multiple mechanical penthouses on different parts of the building roof, and they are not part of a single enclosure, as required under Subtitle C § 1503.1. These mechanical penthouses are required to accommodate the differing mechanical needs of both the grocery store and the residential units below, but enclosing the penthouses in a single enclosure would result in an unnecessarily large and visually intrusive structure that is counter to the intent of the penthouse regulations. These enclosures are shown on Pages 20-26 in the Parcel 4 Building Plans.

2. Parcel 2 Building

a. Side Yards

The Parcel 2 Buildings are set back from the north (side) property line by one (1) foot and from the south (side) property line by four (4) feet. Since side yards are provided, per Subtitle G § 208.2, the required width ranges from 13'-10" to 14'-8" for the north and south side yards on both buildings. Accordingly, the Applicant requests flexibility from the side yard

requirements in Subtitle G § 208.2. The requested flexibility is illustrated on Page 3 in the Parcel 2 Building Plans. It is worth noting that the ZC previously granted side yard relief for the Parcel 2 Building in Order No. 13-14A.

b. Plaza

The Parcel 2 Building does not provide the plaza space according to the requirements in Subtitle C § 1701.1. The residential lot occupancy of the Parcel 2 Buildings is 60% and the North Service Court adjacent to the Parcel 2 Building satisfies the intent of the plaza requirement thereby providing ample open space on Parcel 2. However, the Parcel 2 Building does not provide 8% of the lot area adjacent to the main entrance of the buildings, and it does not provide any transitional space between the street and the buildings in accordance with the plaza standards in Subtitle C § 1701.1. Accordingly, the Applicant requests flexibility from the plaza requirement in Subtitle G § 212.1.

c. Penthouse Setback and Single Enclosure

The Parcel 2 West Building's north penthouse will not be set back from the west-facing wall for the full 1:1, as required under Subtitle C § 1504.1; thus, the Applicant requests flexibility from this requirement. This setback relief is for a very small part of the penthouse that confronts a corner where two building walls intersect: the setback is 10 feet at this location, where a setback of 18.5 feet is required. The relief allows the penthouse to provide the lobby and access from the elevator and stairwell to access the rooftop terrace. This relief is shown on Page 3 in the Parcel 2 Building Plans.

In addition, both the Parcel 2 West and East Buildings each have two mechanical penthouses on opposite sides of the buildings, and they are not part of a single enclosure, as required under Subtitle C § 1503.1; thus, the Applicant also requests flexibility from this

requirement. These two penthouses are required under Building Code and necessary to accommodate the mechanical equipment for the uses in the buildings below but enclosing them in a single enclosure on each building would result in an unnecessarily large and visually intrusive structure that is counter to the intent of the penthouse regulations. By allowing two penthouses on each building, the rooftop mechanical equipment can be in the most compact and efficient configuration as possible.

d. Loading

If the Parcel 2 West Building becomes lodging in accordance with the flexibility requested above, then it will not provide all of the loading berths required under Subtitle C § 901.1. Even though the building's GFA would be the same under either use scenario – residential or lodging – lodging use requires three (3) 30-foot berths and no service/delivery spaces. For residential use, the required loading will be provided. However, for lodging use, the building will provide two (2) 30-foot berths, which is what can be accommodated in the loading area without an entire reconfiguration of the first floor. Accordingly, the Applicant requests flexibility from the required number of loading berths in the event that the Parcel 2 West Building becomes lodging use.

D. Tabulation of Development Data

The tabulation of development data, including the flexibility ranges, for the proposed modified Parcel 2 Building and the modified Parcel 4 Building is located on Page 2 in the Parcel 2 Building Plans and Page 2 in the Parcel 4 Building Plans.

III. THE MODIFIED PARCEL 2 AND 4 BUILDINGS MEET THE STANDARDS AND REQUIREMENTS FOR PUD APPROVAL

The Project satisfies the criteria by which the Commission must evaluate the proposed PUD modification. The Commission must find, based on the Applicant's evidence, that the Project satisfies the three elements of the PUD evaluation standard; that is, that the Project (A) is not inconsistent with the Comprehensive Plan and other relevant public policies and programs, (B) does not result in any unacceptable impacts on the surrounding area or on the operation of District services and facilities, and (C) includes specific public benefits that satisfy the relevant requirements. 11-X DCMR §§ 304.2, 304.4, and 305. If the Commission finds that the Project satisfies these three criteria, then the Commission must judge, balance, and reconcile the relative value of the public benefits against the development incentives and flexibility requested as part of the Project and any potential adverse effects of the Project. *Id.* §§ 304.1 and 304.3. As set forth below, the Project fully satisfies the foregoing criteria and supports a balancing of the Project in favor of granting approval of the requested modifications.

A. The Modified Parcel 2 and Parcel 4 Buildings satisfy the standards for Zoning Commission approval.

1. Not Inconsistent with the Comprehensive Plan

To approve the Project, the Commission must find the proposal to be “not inconsistent with the Comprehensive Plan (“**Comp Plan**”) and with other adopted public policies . . . related to the subject site.” 11-X DCMR §§ 304.4(a), 500.3. As set forth in multiple decisions of the D.C. Court of Appeals and the Comp Plan itself, the Commission shall evaluate the proposed PUD modification's consistency with the Comp Plan “*as a whole*.” That is, the Commission may find the proposal to be not inconsistent with the Comp Plan overall, even if the proposal presents one or more actual or potential inconsistencies with individual Comp Plan policies or considerations. In the event the Commission does identify potential inconsistencies, it simply

cannot discard those inconsistencies in favor of other Comp Plan policies. Rather, the Commission must weigh and balance competing policy objectives and explain its analysis.

a. Racial Equity and the Comprehensive Plan

As part of its Comp Plan analysis, the Commission must consider the Application through the lens of racial equity. 10-A DCMR § 2501.8. Equity, and particularly racial equity is a primary focus of the Comp Plan, especially in the context of zoning where certain priorities stand out, including affordable housing, avoiding displacement of existing residents, and creating / increasing access to opportunity. The Framework Element states that equity is both an outcome and a process, and exists where all people share equal rights, access, choice, opportunities, and outcomes, regardless of characteristics such as race, class, or gender. 10A DCMR § 213.6.

The Comp Plan emphasizes that considerations of equity, and particularly racial equity, must be part of a District agency's evaluation and implementation of Comp Plan policies and actions. To do this, the Implementation Element calls for agencies to prepare and implement tools that will assist in evaluating and implementing the Comp Plan through a "racial equity lens." The Commission considers racial equity as an integral part of its analysis as to whether a proposed zoning action is "not inconsistent" with the Comp Plan. 10A DCMR § 2501.8.

The focus of the racial equity lens component of a Comp Plan evaluation can depend upon the type of zoning action being proposed, the location of the zoning action, and the extent to which the zoning action can address localized and citywide equitable development issues. For example, in this case, the proposed zoning action is a modification to a previously approved PUD that has already gone through extensive community engagement during the initial PUD proceeding. As such, the focus of the racial equity lens component of the Applicant's Comp Plan evaluation is limited to the specific aspects of the proposed PUD

modifications themselves, and not a full re-evaluation of the Overall PUD’s Comp Plan consistency.

Table 1: Planning Guidance and Goals
<ul style="list-style-type: none"> · Housing Equity Report (October 2019) housing goals for the MC Planning Area: <ul style="list-style-type: none"> · Total housing production goal (market rate and affordable): 4,210 units (5,057 total units have been produced since 2019)* · Affordable housing production goal: 1,010 units (1,481 units have been produced or newly covenanted since 2019)* · Comprehensive Plan policies supporting reuse of large sites to address multiple planning objectives, advancing diversity and equity in all planning areas, production of long-term affordable housing at all income levels, provision of affordable housing and a range of housing options for seniors, increasing neighborhood amenities in underserved areas, CBE participation and local hiring, compatibility with historic resources. · MC planning and development priorities / concerns: Loss of neighborhood diversity, loss of neighborhood businesses, need for affordable housing at all income levels.
* Source: https://open.dc.gov/36000by2025/

To assist the Commission in applying a racial equity lens to its Comp Plan determinations, the Commission has published a Racial Equity Tool that applicants are expected to utilize throughout the process of a proposed zoning action. Preparation of the Applicant’s Comp Plan evaluation for the proposed modifications was guided by the Commission’s Racial Equity Tool, and was also informed by OP’s Equity Crosswalk (effective August 21, 2021) (the “**Equity Crosswalk**”), which highlights Comp Plan policies and actions that explicitly address racial equity. Finally, the planning guidance and data pertaining to the Mid-City (“**MC**”) Planning Area contained in **Table 1** below was considered in the preparation of the Applicant’s Comp Plan evaluation:

IV. Evaluation of Comprehensive Plan Policy Guidance

Per Part I (Racial Equity Analysis Submissions – Guidance Regarding the Comprehensive Plan) of the Racial Equity Tool, the Applicant has conducted a thorough evaluation of the proposed Project’s consistency with the Comp Plan, including the policies of all applicable Citywide and Area Elements, the Future Land Use Map (“**FLUM**”), Generalized

Policy Map (“**GPM**”), and any other applicable adopted public policies and active programs. The Applicant’s full Comp Plan evaluation can be found in **Exhibit I**, including a discussion of the Project’s consistency with the FLUM and GPM.

Overall, when viewed through a racial equity lens, the Applicant finds the Project to be not inconsistent with the Comp Plan. The Properties are within a designated **Land Use Change Area** on the GPM (**Figure 1**) and within an area on the FLUM designated for **Mixed Use Medium Density Commercial / Medium Density Residential / Parks, Open Space, and Recreation** development (**Figure 2**).

The proposed PUD modification is not inconsistent with the GPM and does not impact the Commission’s prior determination regarding the Overall PUD’s consistency with the GPM. Consistent with the FLUM and the Commission’s prior approval, both Parcels 2 and 4 will continue to be improved with mixed-use buildings containing retail and residential uses, including a grocery store, that will contribute to the overall wide range of new uses that will be established under the Overall PUD. The proposed height, massing, sustainable features, and exterior materials of the Parcel 2 and Parcel 4 Buildings are consistent with the Commission’s prior approval, and in fact will be improved with the removal of the Parcel 2 building bridge over Platt Court. Further, even with the flexibility being requested, the affordable housing program provided under the proposed PUD modifications on Parcels 2 and 4 is improved compared to the current approved PUD and maintains the overall percentage of affordable housing across the McMillan site.

The proposed PUD modifications are not inconsistent with the FLUM and have no impact on the Commission’s prior determination regarding the Overall PUD’s FLUM consistency. While the Applicant is proposing to increase the amount of density on Parcel 4 by

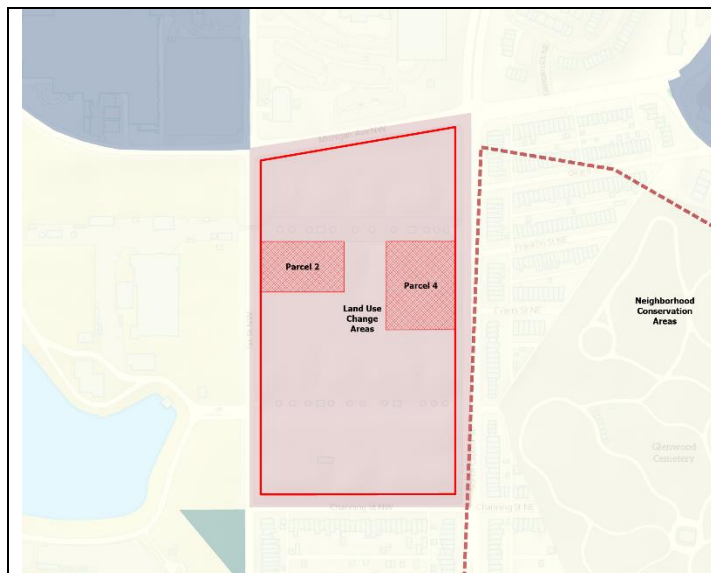


Figure 1: Excerpt of GPM showing Parcel 2 and Parcel 4 within a Land Use Change Area.

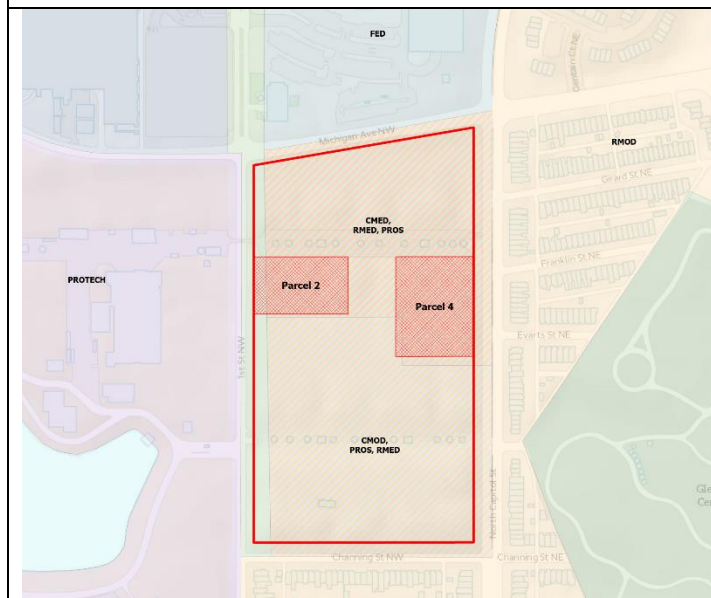


Figure 2: Excerpt of FLUM showing Parcel 2 and Parcel 4 within an area designated Mixed Use (Medium Density Commercial, Medium Density Residential, and PROS)

approximately 39,000 square feet of GFA, and on Parcel 2 by approximately 20,000 square feet of GFA, the resulting density, individually and across the Overall PUD Site, will remain well below what is contemplated for a medium-density (commercial and residential) mixed-use PUD under the Comp Plan. In its initial approval, the Commission rezoned the entire Overall PUD Site to the CR zone (now known as MU-10). As stated in the Commission's order approving the Overall PUD, "a PUD in a CR [(MU-10)] Zone District may have a maximum height of 110 feet and a maximum FAR of 8.0, of which no more than 4.0 may be commercial." See Z.C. Order No. 13-14(6) at FoF 15. As currently approved by the Commission, the Overall PUD is

permitted a maximum overall density of 1.92 FAR, as measured in accordance with the PUD regulations as an aggregate across the Overall PUD Site. See Z.C. Order No. 13-14(6), Condition 2.

Based on current Framework Element guidance, typical [matter-of-right] densities in areas on the FLUM designated for medium-density (commercial and residential) mixed-use development range between 4.0 FAR – 6.0 FAR, with greater density possible when complying with Inclusionary Zoning (“IZ”) or a PUD. Considering the additional approximately 59,000 square feet of additional GFA proposed on Parcels 2 and 4, the density across the Overall PUD Site will increase to approximately 1.95 FAR, a de minimus increase of approximately 0.03 FAR. Indeed, while density for a PUD is measured as an aggregate across an entire PUD site, even if the density for Parcels 2 and 4 were calculated individually using their respective lot or building site areas, they would still be at the extreme low end of the typical [matter-of-right] density contemplated in a medium-density (commercial and residential) mixed-use area on the FLUM, and below what is permitted as a matter-of-right in the MU-10 zone (6.0 FAR, of which 4.0 FAR may be devoted to non-residential use). As shown in the zoning tabulations included in the Parcel 2 Building Plans and the Parcel 4 Building Plans, the modified Parcel 2 Building will have an overall density of approximately 4.18 FAR, of which approximately 0.28 FAR will be devoted to non-residential use. Similarly, the modified Parcel 4 Building will have a density of approximately 4.14 FAR, of which approximately 0.7 FAR will be devoted to non-residential use.

Table 2 below identifies the specific Comp Plan policies that will be advanced by the proposed PUD modification, including specific policies identified in the Equity Crosswalk. The proposal will help address the planning and development priorities set forth in the MC Area Element, namely the desire for more affordable housing that does not result in displacement of existing residents (MC-1.1.7). As shown in **Table 2**, the proposed PUD modifications will advance numerous Citywide Element policies. Most notably, the proposal will advance several Land Use Element policies related to the reuse, mix of uses, public benefits, the protection of

Table 2: Summary of Comp Plan Policies Advanced by the Proposed Zoning Map Amendment	
Policies in <u>bold underlined</u> text denote policies that are specifically referenced in the OP Equity Crosswalk as being explicitly focused on advancing equity.	
	Mid-City Area Element
MC-1.1.7, MC-2.6.2, MC-2.6.3, MC-2.6.4, MC-2.6.5	
	Land Use Element
<u>LU-1.3.1</u> , LU-1.3.2, LU-1.3.5, <u>LU-1.3.6</u> , LU-1.3.7, LU-1.4.6, <u>LU-2.1.1</u> , LU-2.1.3	
	Transportation Element
T-1.1.2, T-3.1.1, T-5.2.2	
	Housing Element
H-1.1.1, H-1.1.3, H-1.1.4, H-1.1.7, H-1.1.9, H-1.2.1, <u>H-1.2.2</u> , H-1.2.4, H-1.2.5, H-1.2.7, <u>H-1.2.9</u> , H-1.2.11, H-1.3.1, H-1.3.2, <u>H-2.1.6</u> , H-4.3.2, H-4.3.3	
	Environmental Protection Element
<u>E-1.1.2</u> , E-2.1.3, E-3.2.7, E-4.2.1, E-4.2.1, E-4.4.1, E-5.1.9, <u>E-6.7.2</u>	
	Economic Development Element
ED-1.1.7, ED-2.2.1, ED-2.2.3, ED-2.2.5, ED-2.2.6, ED-2.3.1, ED-2.3.4, ED-2.3.9, ED-3.1.1, <u>ED-3.2.8</u> , ED-4.2.1, ED-4.2.6, ED-4.2.7, ED-4.2.12	
	Urban Design Element
UD-1.4.1, UD-1.4.3, UD-2.2.2, UD-2.2.3, UD-2.2.6, UD-3.2.1, UD-4.2.1, UD-4.2.4, UD-4.2.6	
	Historic Preservation Element
HP-2.5.3	

existing assets on large sites, and the provision of a variety of housing types (LU-1.3.1, LU-1.3.2, LU-1.3.5, LU-1.3.7, LU-2.1.1). The proposed PUD modifications will also directly advance a substantial number of Housing Element policies by increasing housing overall, increasing housing diversity through senior affordable housing at deeper levels of affordability that what is currently required under the approved PUD, and providing neighborhood-based housing choices for older adults (H-1.2.2, H-1.2.4, H-1.2.9, H-4.3.2, H-4.3.3). A full discussion of the proposed PUD modification's consistency with the aforementioned Land Use Element and Housing Element policies, as well as other applicable Comp Plan element policies is provided in the Applicant's full Comp Plan evaluation contained in Exhibit I.

In accordance with guidance provided by the D.C. Court of Appeals, the Applicant conducted a thorough Comp Plan evaluation of the proposed PUD modification using a racial equity lens, and, as detailed in the full Comp Plan evaluation contained in Exhibit I, the Project is

not inconsistent with the Comp Plan when read as a whole, so the Overall PUD remains not inconsistent with the Comp Plan. In conducting its evaluation, the Applicant was careful to identify any instances where the proposal may be viewed as being inconsistent with certain Comp Plan policies. As shown in **Table 3**, upon review the Applicant did not identify any instances where the proposed PUD modification was categorically inconsistent with applicable Comp Plan policies.

Table 3: Evaluation / Balancing of Potential Comp Plan Inconsistencies	
Policies in <u>bold underlined</u> text denote policies that are specifically referenced in the OP Equity Crosswalk as being explicitly focused on advancing equity.	
Potential Inconsistency	Competing / Outweighing Policies and Considerations
No inconsistencies identified	

3. Racial Equity as a Process

The Framework Element states that racial equity is a process, and that as the District grows and changes, it must do so in a way that builds the capacity of vulnerable, marginalized, and low-income communities to fully and substantively participate in decision-making processes. 10-A DCMR § 213.7. As a process, a racial equity lens is employed when those most impacted by structural racism are meaningfully involved in the creation and implementation of the policies and practices that impact their lives. The Commission’s Racial Equity Tool places a heavy emphasis on community outreach and engagement, which are expected to begin at the inception of any proposed zoning action. All submissions to the Commission shall be accompanied by a discussion of efforts taken by an applicant to meaningfully engage the community early in the zoning process.

The information contained in **Table 4** addresses the questions set forth in **Part II (Community Outreach and Engagement)** of the Racial Equity Tool. As demonstrated below,

the Applicant has engaged with the community, and it will continue to do so throughout the PUD modification process.

Table 4: Community Outreach and Engagement
Description of affected community (including defining characteristics). <p>The Applicant has engaged with the affected Advisory Neighborhood Commissions (“ANC”), which in this case includes ANC 5E and ANC 1E, as well as the McMillan Advisory Group (“MAG”) on the proposed PUD modification (https://mcmillanadvisorygroup.wordpress.com/). The MAG has a long history with the Overall PUD Site. The MAG was formed in 2006 by the former National Capital Revitalization Corporation (“NCRC”) to serve as a forum to represent residents’ and the community’s concerns as they relate to the development of the McMillan Sand Filtration Site. Although NCRC has been dissolved, the MAG has continued to function with the support of the District and Vision McMillan Partners (“VMP”). The MAG meets on a monthly basis, and its voting members include representatives from ANC 5E, ANC 1A, several nearby civic associations, as well as members of the public in surrounding neighborhoods (https://mcmillanadvisorygroup.wordpress.com/about/voting-members/). The Applicant has also directly engaged with the Bloomingdale Civic Association (“BCA”).</p>
Characteristics of the affected community that influenced outreach plan / efforts. <p>The Applicant’s primary outreach has been through the ANCs and the MAG, as well as through direct communication with representatives from these entities and civic associations. The MAG has been , and continued to be, an active, well-represented participant in the entitlement and development processes for the Overall PUD Site. As such, the Applicant has relied heavily on the MAG’s reach into the community, as well as that of ANC 5E, to gain an understanding of the community’s thoughts and concerns regarding the McMillan project, and specifically the proposed PUD modification.</p>
Community outreach timeframe / dates of major meetings and points of engagement <p>The Applicant initiated its outreach to the community in June 2024. To date, the Applicant has met with ANC 5E on two occasions, and ANC 1A on one occasion. Additionally, the Applicant has attended two monthly meetings of the MAG, and a meeting of the Bloomingdale Neighborhood Civic Association. A detailed summary of the Applicant’s responses to the questions and feedback received during its community outreach to date is attached as <u>Exhibit J</u>.</p>

Remainder of Page Left Blank Intentionally

Table 4: Community Outreach and Engagement (continued)

Members of the affected community that would potentially benefit from the proposed zoning action.

Members of the affected community that would potentially benefit from the proposed PUD modification include District residents that need housing, and particularly seniors that need affordable housing at the extremely low- and low-income levels. Additionally, residents of the new Reservoir District and the neighborhoods surrounding the site will benefit from the new full-service grocery store and additional in-line retail that will be provided on Parcels 2 and 4. Residents of surrounding neighborhoods will also benefit from the proposed PUD modification as it will facilitate the continued redevelopment of the overall McMillan site, which is well underway with the recent completion of the community center and park, and ongoing construction of the for-sale townhomes. The buildings proposed on Parcels 2 and 4 represent a significant percentage of the overall retail and housing (market rate and affordable) program for the overall McMillan PUD. Completion of these two building will further open this long defunct site to the community, and in particular the North Service Court and its restored and activated above ground historic structures.

Members of the affected community that would potentially be burdened by the proposed zoning action.

Members of the affected community that may be burdened by the proposed PUD modification include residents located within proximity to the property that could be temporarily impacted by construction and associated truck traffic and noise. Future development on Parcels 2 and 4 will result in additional traffic that could be a burden on neighbors. However, the impacts of this additional traffic were already thoroughly studied in a comprehensive transportation study during the Commission’s initial review of the Overall PUD. This previous study determined that the Overall PUD would not have a significant impact on the surrounding transportation network. The Applicant is in the process of preparing a supplemental transportation evaluation that evaluates the programmatic changes of the proposed PUD modifications. The preliminary findings of the Applicant’s supplemental evaluation shows that the programmatic changes to Parcels 2 and 4 will reduce the overall number of trips generated by these two parcels.

New development in any area has the potential to increase the assessed value of surrounding properties, which may result in increased property taxes and indirect displacement. This issue was thoroughly analyzed by the Commission during the remand proceedings for the overall McMillan PUD, and based on Office of Planning and expert testimony, the Commission concluded that the McMillan PUD would not destabilize land values and not cause displacement. *See* Z.C. Order No. 13-14(6), Findings of Fact 221 – 234. In conducting its evaluation, the Commission agreed with expert testimony that “the longstanding destabilization of land values in the surrounding neighborhoods is in large part a result of an excess of housing demand relative to supply,” which is a District-wide phenomenon that is not attributable to individual projects, but rather of general economic and real estate market forces. *Id*, Finding of Fact 233. The Commission further observed that “the substantial amount of market rate housing to be constructed on this site would logically take some pressure off the trend to construct similar housing in the adjacent neighborhoods.” *Id*, Findings of Fact 234. Thus, the increased amount of overall housing, and in particular the increased amount of senior affordable housing at deeper levels of affordability, will increase the potential for the Parcel 2 and Parcel 4 Buildings to relieve development pressure on adjacent neighborhoods, and on seniors that reside in the

neighborhood that have a need for affordable housing that will allow them to age in place with access to neighborhood amenities and services.

Potential positive outcomes of the proposed zoning action identified by the affected community.

Potential positive outcomes of the proposed PUD modifications include and overall increase in the amount of housing constructed on Parcels 2 and 4, including an increase in the amount of senior affordable housing from 85 units to 142 units that will be devoted to deeper levels of affordability than what is currently required. There will also be positive outcomes from the construction of the new grocery store. While the grocery store will be smaller than what is currently required, the proposed grocery store will continue to be a full-service grocery store and is consistent with general nationwide and District trends in the size of urban format full-service grocery stores. Further, the reduction in the size of the grocery store will create the opportunity for a wider range of in-line retail uses in the Parcel 4 Building.

As currently approved, the Applicant is required to provide a total of 112 affordable units across Parcels 2 and 4, with 85 units devoted to senior affordable housing at 50% and 60% MFI, 25 non-age restricted affordable units at 80% MFI, and 2 non-age-restricted affordable units at 50% MFI. As proposed, the Applicant will provide 142 affordable units, 30 more units than currently required, all of which will be devoted to senior affordable housing at significantly deeper levels of affordability. Specifically, of the 142 senior affordable units proposed, 38 units will be devoted to 30% MFI households, 82 units will be devoted to 50% MFI households, and 15 units will be devoted to 60% MFI households.

In addition to the 142 senior affordable units in the proposed PUD modification, the Applicant notes that it is currently pursuing HANTA funding for the market rate buildings on Parcel 2 West and Parcel 4. If selected for one or both of these parcels, the Applicant would be required to set aside 33% of dwelling units within the selected building to affordable housing at an average income level of 80% MFI.

There also will be positive outcomes from the construction of the new grocery store. While the grocery store will be smaller than what is currently required, the proposed grocery store will continue to be a full-service grocery store and is consistent with general nationwide and District trends in the size of urban format full-service grocery stores. Further, the reduction in the size of the grocery store will create the opportunity for a wider range of in-line retail uses in the Parcel 4 Building.

Potential negative outcomes of the proposed zoning action identified by the affected community.

Potential negative outcomes of the proposed PUD modification include the reduction in the size of the grocery store. However, as discussed above, despite extensive efforts the Applicant has been unable to attract a grocer to Parcel 4 that is interested in occupying the amount of space that is required under the current McMillan PUD order. The Applicant previously had commitments from two grocers that were interested in this amount of space; however, the extensive delays caused by prior appeals caused those grocers to terminate their commitments. At the same time, the COVID-19 pandemic caused significant changes in the general size and format of urban

grocery stores and the way that residents shop for groceries, with greater reliance on online shopping and grocery delivery. As a result, the Applicant is unable to provide a 55,000+ square foot grocery store as currently required under the Parcel 4 Orders. The lack of a grocer interested in occupying this amount of space, together with the unique complexities of financing the senior affordable housing, has made it exceedingly difficult for the Applicant to get the Parcel 4 Building financed and constructed. With the relocation of the senior affordable housing to a standalone building on Parcel 2 East, and a promising commitment from a grocer that will occupy a minimum of 22,500 square feet, the Applicant is hopeful it will get the financing necessary to advance construction of the Parcel 4 Building, and finally delivery a grocery store to the community.

Changes / modifications made to the proposed zoning action that incorporate / respond to input received from the affected community.

In response to comments received from the community thus far, the Applicant has modified its request for flexibility related to the minimum size of the grocery store in Parcel 4. Specifically, the Applicant initially presented to the community that it would request a modification to reduce the grocery store to 22,500 square feet, with flexibility to go down to 6,000 square feet in the event the Applicant is unable to secure a lease with the current interested grocer. The community expressed concern that 6,000 square feet was too small, and that it would not be a full-service grocery store. Therefore, the Applicant is now requesting flexibility to go down to a minimum of 10,000 square feet.

The community has also requested the Applicant to consider the following changes to the proposed PUD modification, which the Applicant is still considering and will continue to discuss with the community:

- Reduce the number of senior affordable units devoted to 50% MFI households and instead devote more units to 60% MFI households.
- Expand the range of improvements / services that area civic associations can use monetary contributions for under Condition C.11(f) of the McMillan PUD order.
- Provide a pharmacy use in the ground floor retail space.

Input received from the affected community not incorporated into the proposed zoning action.

None received thus far.

Efforts taken to mitigate potential negative outcomes identified by the affected community.

The affected community has not identified any potential negative outcomes that may result from the proposed PUD modification. There was a question raised regarding the proximity of the proposed senior affordable units in the Parcel 2 East Building to the potential lodging use in the Parcel 2 West Building. As discussed above, the Applicant anticipates that Parcel 2 West Building will be residential. Should future market conditions favor a lodging use in the Parcel 2 West Building, the Applicant does not foresee any potential negative impacts to the senior affordable buildings in the Parcel 2 East Building given the modest size of the potential lodging use, and the orientation of the senior affordable building main entry.

There have been a couple questions raised about transportation impacts. As discussed above, the

Applicant is in the process of preparing a supplemental transportation analysis for the proposed PUD modifications, which will evaluate the potential trip generation and changes in traffic patterns of the proposed building program, including under the requested flexibility. Based on preliminary findings, it appears that the proposed building program, under any scenario, will generate fewer trips than what would be generated under the current approved building program on Parcels 2 and 4.

4. Racial Equity as an Outcome

The Framework Element states that “equity is achieved by targeted actions and investments to meet residents where they are, to create equitable opportunities. Equity is not the same as equality” 10-A DCMR 213.6. As an outcome, racial equity is achieved when race no longer determines one’s socioeconomic outcomes, and when everyone has what they need to thrive no matter where they live or their socioeconomic status. 10-A DCMR § 213.9.

Table 5 below correlates the proposed PUD modification with several equitable development indicators. Among others, the indicators address those that are specifically included in Part IV (Criteria to Evaluate a zoning Action through a Racial Equity Lens) of the Commission’s Racial Equity Tool. As demonstrated in Table 5, the outcomes of the proposed PUD modification have the potential to positively advance equitable development through improvements in land use, housing, employment, and access to opportunity.

Remainder of Page Left Blank Intentionally

Table 5: Evaluation of Equitable Development Indicators						
Key	Positive Outcome	●	Negative Outcome	●	Neutral Outcome	●
Indicator		Aspect(s) of Zoning Action Relating to Equity				Potential Racial Equity Outcome
Displacement						
Physical (Direct)	· The proposal will not cause direct physical displacement of residents or businesses as Parcels 2 and 4 are currently vacant.					●
Economic (Indirect)	· The proposal is not expected to cause indirect economic displacement. As discussed during its previous review of the Overall PUD, the Commission concluded that the overall project was unlikely to cause destabilization of land values and indirect displacement in surrounding neighborhoods. In fact, the Commission found that “the substantial amount of market rate housing to be constructed on this site would logically take some pressure off the trend to construct similar housing in the adjacent neighborhoods.” The proposal will increase the overall amount of housing that will be constructed on Parcels 2 and 4, which has the potential to further relieve adjacent neighborhoods from development pressures. In addition, the proposal will increase the amount of senior affordable housing from 85 units to 142 units, and it will also devote the senior affordable units to deeper levels of affordability.					●
Cultural (Indirect)	· The proposed will not cause indirect cultural displacement. In fact, the grocery store and additional retail will provide places for new and existing residents to gather and interact within their own neighborhood. The development on Parcels 2 and 4 will also active the southern edge of the North Service Court, which contains several historic above ground structures that will be interpreted and adaptively reuse, thus providing opportunities for residents and visitors to learn about a unique historic feature of the neighborhood. Finally, the construction of the senior affordable building as the Parcel 2 East Building will allow senior residents to remain in the neighborhood in close proximity to established social networks, and to neighborhood healthcare and amenities.					●

Table 5: Evaluation of Equitable Development Indicators (continued)						
Key	Positive Outcome	●	Negative Outcome	●	Neutral Outcome	●
Indicator		Aspect(s) of Zoning Action Relating to Equity				Potential Racial Equity Outcome
Housing						
Availability of Housing	·	The proposal will add approximately 591 units of new housing, including approximately 142 units of senior affordable housing				●
Preservation of Affordable Housing	·	Parcels 2 and 4 are currently vacant, and thus do not contain any affordable housing that requires preservation.				●
Replacement Housing	·	The proposed PUD modifications do not include any replacement housing.				●
Housing Burden	·	The proposed PUD modifications will increase the amount of housing (both market rate and senior affordable) that will be constructed on Parcels 2 and 4 compared to the current approval. The additional supply of housing on the site has the potential to help temper the rise in housing costs within the area. Additionally, the additional affordable housing will help address a growing need for deeply affordable senior housing in the District.				●
Larger Unit Size	·	The housing proposed the Parcel 2 West and Parcel 4 Buildings contain a mixture of unit types, including three-bedroom units.				●
Employment						
Entrepreneurial Opportunities	·	The proposed PUD modifications will help facilitate entrepreneurial opportunities. The Overall PUD requires a monetary contribution to be made to the McMillan project partnership, a portion of which will be paid by the Applicant, to facilitate business start-us by “awarding grants or in-kind resources to small, local retail/service businesses looking to locate and operate on site to try out their retail/service concepts.” Under the Overall PUD, a "local" business is a retailer/service provider that is either a CBE or a business headquartered in the District of Columbia, and a “small” business is a retailer/service provider owning or operating fewer than eight retail/service outlets in the aggregate.”				●
Employment Access, Creation and Training	·	The proposed PUD modifications will help facilitate access to employment, as well as job creation and training opportunities. The Overall PUD requires the Applicant to abide by the terms of the First Source Employment Agreement that has been executed with DOES, which sets				●

	<p>a goal of utilizing District residents for at least 51% of the new jobs created by the PUD, with preference given to Wards 1 and 5 residents, to the extent permitted by law.</p> <ul style="list-style-type: none"> · The Applicant is also required to coordinate training, job fairs, and apprenticeship opportunities with construction trade organizations to maximize participation by District residents. · The Overall PUD requires a monetary contribution to be made to the McMillan project partnership, a portion of which will be paid by the Applicant, to hire high-school age residents and senior residents to provide guided tours of the McMillan site highlighting the preserved historic resources. 	
Transportation / Infrastructure		
Public space / Streetscape Improvements	<ul style="list-style-type: none"> · The proposed PUD modifications will facilitate construction of the Parcel 2 and Parcel 4 Buildings, which will include construction of the streetscape surrounding these buildings, including portions of the historic Olmsted Walk that traverses the perimeter of the McMillan PUD site. 	●
Infrastructure Improvements	<ul style="list-style-type: none"> · The proposed PUD modifications do not propose any infrastructure improvements. 	●
Access to Transit	<ul style="list-style-type: none"> · The proposed PUD modifications will increase access to transit through the construction of approximately 591 new housing units, including approximately 142 senior affordable housing units, along the North Capitol Street corridor, which is a designated priority bus corridor. 	●
Pedestrian Safety	<ul style="list-style-type: none"> · The proposed PUD modification will improve pedestrian safety through streetscapes improvements that will accompany the construction of the Parcel 2 and Parcel 4 buildings, as well as the construction of portions of Olmsted Walk, 	●
Education / Health / Wellness		
Schools	<ul style="list-style-type: none"> · The proposed PUD modification does not contain or proposed any improvements to schools. 	●
Healthcare	<ul style="list-style-type: none"> · The proposed PUD modification does not contain or propose any improvements to healthcare, but it will increase access to nearby healthcare uses through the proposed residential program, and in particular the proposed senior affordable residential program. 	●
Open Space / Recreational	<ul style="list-style-type: none"> · The proposed PUD modification does not contain or propose any improvements to open space/recreation, but it will increase access to nearby parks and recreational uses / programs through the proposed residential program. 	●
Environmental		

Environmental Changes / Sustainable Design	<ul style="list-style-type: none"> · LEED Silver, or its equivalent under Green Communities, design for individual buildings on Parcels 2 and 4, and LEED ND Gold required for Overall PUD. · Use of green roof. · Sustainable stormwater management in accordance with DOEE regulations. · EV charging stations. · 20% of below-grade parking spaces will be “EV ready” · All electrified buildings (except for outdoor gas grills, retail kitchen cooking facilities, the central hot water system in the Parcel 2 East Building, and gas emergency generators). 	●
Resilient Design	<ul style="list-style-type: none"> · Project incorporates resilient design strategies to address excessive heat and power outages. 	●
Remediation	<ul style="list-style-type: none"> · No substantial remediation necessary to construct the buildings on Parcels 2 and 4. 	●
Access to Opportunity		
Neighborhood Amenities	<ul style="list-style-type: none"> · Increased amount of housing within walking distance to neighborhood retail and service uses, healthcare facilities, and parks. 	●
Residential Amenities	<ul style="list-style-type: none"> · The Parcel 2 and 4 Buildings will contain residential amenities that will be accessible to all residents, including landscaped courtyards, roof terraces, and community amenity rooms, including fitness center. 	●
Arts & Culture	<ul style="list-style-type: none"> · Increased access to arts and cultural activities that are programmed by DPR at the new McMillan community center and park space on Parcel 6, and by the McMillan Partnership across the McMillan site. · Increased access to above- and below-grade historic features of the McMillan site, including future walking museum and guided tours required under the Overall PUD Order. 	●

1. No Unacceptable Impacts on the Surrounding Area, the Environment, or in the Operation of District Services or Facilities

The proposed modifications to the Parcel 2 and Parcel 4 Buildings will not have unacceptable impacts. While the proposed PUD modifications will change limited aspects of the buildings’ forms and would alter the scope of the uses within the buildings, the modifications fundamentally will not change the Overall PUD and the outcome of the extensive impact analysis that the Zoning Commission conducted. As described in great detail in ZC Order No.

13-14(6), the Zoning Commission found that the PUD would not have unacceptable impacts on the environment, land values, neighboring resident displacement, city services and facilities, or other impacts (as described in Commission's discussion about how the PUD is consistent with the Comprehensive Plan).⁹ The Commission based its conclusions on the Overall PUD, of which the Parcel 2 and Parcel 4 Buildings are only a part, so the proposed modifications to only the Parcel 2 and Parcel 4 Buildings would not fundamentally change that overarching analysis and conclusions.

The proposed PUD modifications will retain the fundamentals of the Parcel 2 and Parcel 4 Buildings. They will still result in two mixed use buildings containing 500+ new market rate apartments, a grocery store, 142 senior affordable units, retail fronting on the North Service Corridor, and underground parking. This all will be within nearly the same height, density, and massing as previously approved. Plus, the proposed modifications will not affect the rest of the Overall PUD. Together, this means that the impacts previously assessed, except for a few adjustments described below, will be materially unchanged from the original PUD approval. Accordingly, the proposed PUD modifications will not result in unacceptable impacts.

Land Use Impact

For the reasons described in the Parcel 2 Orders and the Parcel 4 Orders and in the Comp Plan analysis herein, the proposed modifications will not have unacceptable impacts on land use. The Parcel 2 Buildings and the Parcel 4 Buildings will continue to deliver a substantially similar mix of uses in buildings of substantially the same form and massing as was previously approved.

⁹ See pages 51-61 in ZC Order No. 13-14(6).

Zoning Impact

For the reasons described in the Parcel 2 Orders and the Parcel 4 Orders, the proposed modifications will not have unacceptable impacts on zoning since the zoning will not change, and the proposed modifications, except for the minor zoning flexibility requested above, will conform to the zoning development standards.

Housing Market Impacts

For the reasons described in the Parcel 2 Orders and the Parcel 4 Orders and in the Comp Plan analysis herein, the proposed modifications will not have unacceptable impacts on the housing market. Indeed, the delivery of more market rate and affordable units than in the original approvals – 142 affordable senior units and potentially more if the Applicant obtains HANTA funding – will have a positive impact on housing affordability.

Economic Impacts

For the reasons described in the Parcel 2 Orders and the Parcel 4 Orders, the proposed modifications will not have unacceptable impacts on economic conditions. In fact, the proposed modifications will – by maintaining the fundamentals of the Parcel 2 and Parcel 4 Buildings and by not affecting the rest of the Overall PUD – preserve and advance the many economic benefits from the Overall PUD that the Zoning Commission previously identified.

Environmental Impact

For the reasons described in the Parcel 2 Orders and the Parcel 4 Orders, the proposed modifications will not have unacceptable impacts on environmental conditions. Indeed, as described in Order No. 13-14(6), the PUD will result in many environmental benefits, which will be unaffected by the proposed modifications.

Facilities Impact

For the reasons described in the Parcel 2 Orders and the Parcel 4 Orders, the proposed modifications will not have an adverse impact on the facilities that the PUD will rely on for service. With the proposed modifications, the infrastructure that the Overall PUD will create and rely on will be the same as in the original approvals. Indeed, as described in Order No. 13-14(6), the Commission found that the impact of the Overall PUD on city services will be favorable in certain instances or capable of being mitigated in others. The impacts of the PUD will not be unacceptable in any respect.

Transportation Impact

As the Zoning Commission previously concluded and as described in the Comp Plan analysis herein, the Overall PUD's impacts on transportation will be appropriately mitigated through the Transit Implementation Plan (“**TIP**”) and the Transportation Performance Plan (“**TPP**”). The proposed modifications will not change the TIP or the TPP. However, the proposed modifications and flexibility requests – such as for lodging in the Parcel 2 West Building – may have some different impacts on transportation. Accordingly, the Applicant will prepare and submit an supplemental transportation analysis, appropriately scoped with DDOT, that will incorporate mitigation measures that the Applicant will adopt to adequately offset any impacts from the proposed PUD modifications and requested flexibility.

3. The Proposed PUD Modification Continues to Provide the Previously Approved Specific Public Benefits

Pursuant to Z.C. Order Nos. 13-14(6) and 13-14A, the Commission approved a significant package of public benefits and project amenities for the overall McMillan PUD. *See* Z.C. Order No. 13-14(6), conditions C.1 – C.12 and Z.C. Order No. 13-14A, Condition C.1 – C.5. The table below summarizes each of the currently approved public benefits, as well as how

the subject application modifies the public benefits related to housing, affordable housing, and retail on Parcels 2 and 4, and potentially modifies one other special use / monetary contribution depending upon the outcome of the Applicant's continued dialogue with the Bloomingdale Civic Association.

As proposed, the PUD modifications will increase the amount of housing provided on Parcels 2 and 4, and thus across the overall McMillan PUD site. Regarding affordable housing, the overall amount of affordable housing and levels of affordability will be improved, or at least maintained if the Applicant is unable to obtain the additional District funding for all of the senior affordable housing. As proposed, the Project will increase the overall amount of affordable housing, which will be entirely devoted to seniors at deeper levels of affordability than currently required. Note, however, because the proposed increase in senior affordable housing is still contingent upon acquisition of additional District financing, the Applicant is requesting flexibility to revert to providing 88 units of senior affordable housing in the Parcel 2 East Building at 50% - 60% MFI, which is still three more units than currently required, and providing 27 non-age restricted affordable units elsewhere in the Parcel 2 West and Parcel 4 Buildings.

Regarding retail, as discussed above the Applicant has had substantial difficulty retaining a grocer to occupy the amount of square footage currently required in the Parcel 4 Building (55,000+ square feet) due to significant delays that have hampered to the Overall PUD, and general post-COVID changes in grocery and retail shopping patterns. As such, while the Applicant is requesting to modify the overall amounts of ground floor retail and grocery store use in the Parcel 2 and 4 Buildings, it will continue to satisfy the special use public benefit of providing ground floor retail use on both of these parcels, including a full-service grocery store use in the Parcel 4 Building.

Approved Benefit Category and Requirement	Proposed PUD Modification (modified public benefits are highlighted in blue)
<u>Urban Design, Architecture, and Site Planning:</u> Obtain permit for all necessary public infrastructure to support development of Parcels 1, 4, 5, 6, and 7	No change
<u>Parks, Open Space, and Landscaping:</u> Obtain building permit to construct the community center, and approximately 500,000 square feet of public open space comprised of the South Park, the North and South Service Courts, the Healing Gardens, and preserved Cell 14.	No change
<u>Design Guidelines; Public Art Guidelines:</u> Implement and follow the Master Plan Design Guidelines and the Cultural DC Public Art Master Plan	No change
<u>Historic Preservation:</u> Obtain a building permit within three years of the effective date of Z.C. Order No. 13-14(6) to retain and rehabilitate and renovate the North and South Service Courts...and to reestablish the Olmsted Walk around the perimeter of the site.	No change
<u>Housing:</u> <ul style="list-style-type: none"> • <u>Parcel 2:</u> Approximately 217,254 SF of GFA (approximately 233 units) • <u>Parcel 4:</u> Approximately 258,235 SF of GFA (approximately 281 units, including 85 senior affordable units) 	Modified <ul style="list-style-type: none"> • <u>Parcel 2:</u> Approximately 238,000 SF of GFA (approximately 142 senior affordable units in East and approximately 125 market-rate units in West) <i>(*Applicant is pursuing HANTA which, if selected, would require 33% of units to be devoted to affordable housing at an average 80% MFI)</i> • <u>Parcel 4:</u> Approximately 291,000 GFA (approximately 324 market-rate units) <i>(*Applicant is pursuing HANTA which, if selected, would require 33% of units to be devoted to affordable housing at an average 80% MFI)</i>

<p><u>Affordable Housing:</u></p> <ul style="list-style-type: none"> • <u>Parcel 2:</u> 23,487 GFA (25 units at 80% MFI and 2 units at 50% MFI) • <u>Parcel 4:</u> 67,018 GFA (85 senior units at 50% to 60% MFI) 	<p>Modified</p> <ul style="list-style-type: none"> • <u>Parcel 2 (east):</u> 110,242 GFA (135 senior units with 38 units at 30% MFI, 82 units at 50% MFI, and 15 units at 60% MFI) <p>(* Flexibility requested to revert to 88 senior units at 50% to 60% MFI depending upon ability to obtain financing for new senior affordable program. If Applicant had to exercise this flexibility, it would also provide the currently required 27 non-senior units in the Parcel 2 West Building.)</p>
<p><u>CBE Participation:</u> Execute a CBE Agreement with DSLBD to achieve, at a minimum, 35% participation by certified business enterprises in the contracted development costs for the design, development, construction, maintenance, and security for the project.</p>	<p>No change</p>
<p><u>Training and Employment Opportunities:</u> During construction of the project, abide by the terms of the executed First Source Employment Agreement with DOES to achieve the goal of utilizing District residents for at least 51% of the new jobs created by the project. To the extent permitted by law, first preference for employment opportunities shall be given to Wards 1 and 5 residents</p>	<p>No change</p>
<p><u>Project Association:</u> Establish a project association or business improvement district for the project that will be responsible for the maintenance and improvements of the private roadways, alleys, bicycle paths, historic walks, sidewalks, parks, historic resources, streetscapes, street furniture and fixtures, and signage within the project boundaries. Additionally, the project association will contribute to funding for programming and staging events within the PUD for the benefit of the public.</p>	<p>No change</p>

<p><u>Environmental Benefits</u></p> <ul style="list-style-type: none"> • <u>Parcel 2:</u> LEED-Silver status, or its equivalent under the Green Communities rating system. Although not required, continue to evaluate ways to incorporate additional sustainability features and make a good faith effort to achieve LEED-Gold, or its equivalent under Green Communities. • <u>Parcel 4:</u> The Master Plan for the overall project shall be evaluated for LEED-Neighborhood Development and shall be certified at least LEED-Gold or its equivalent. Each project shall be LEED-Silver or Green Communities compliant, depending on its commercial or residential designation. Upon completion, the overall project shall achieve, at minimum, the applicable provisions of the Green Construction Code of the 2013 Construction Code of the District of Columbia. Best efforts shall be put forth to achieve a LEED-Silver rating or higher for the buildings on Parcels, 1, 4, 5, and 6, but the Applicant shall not be required to obtain the certification from the U.S. Green Building Council. 	No change
<u>Uses of Special Benefit to the Community and City</u>	
<ul style="list-style-type: none"> • \$700,000 to CFNCR to support workforce development initiatives to improve low-income workers' skills, credentials, career prospects, earnings, and job placement, particularly in key local industries and occupations. 	No change
<ul style="list-style-type: none"> • \$300,000 to CFNCR to support scholarships for higher education, training, or job-related certification encouraging "legacy" career paths such as civil engineering, landscape architecture, or on-site jobs in the medical field, with a preference for Ward 1 and 5 residents to the extent permitted by law. 	No change
<ul style="list-style-type: none"> • \$125,000 to D.C. Education Fund to be used to improve science, technology, engineering, and math teacher professional development and instruction, as well as student learning and achievement, particularly at Dunbar High School, McKinley Technical High School, and Langley Educational Campus. 	No change
<ul style="list-style-type: none"> • \$500,000 to the McMillan Project Association to hire high-school age residents and senior residents 	No change

to provide guided tours of the McMillan site highlighting the preserved historic resources.	
<ul style="list-style-type: none"> \$750,000 to the McMillan Project Association to create a community market, outdoor cafe, and space for art installations between the South Service Court and South Park, and to activate the South Service Court and existing elements, such as regulator houses for small business incubators, silos as hanging gardens, water features and observation points. 	No change
<ul style="list-style-type: none"> \$225,000 to the McMillan Project Association to facilitate business start-ups by awarding grants or in-kind resources to small, local retail/service businesses looking to locate and operate on site to try out their retail/service concepts. 	No change
<ul style="list-style-type: none"> \$500,000 for fabricating, installing, repairing, and restoring tree box fence enclosures; planting trees and ground cover plants; and installing certain neighborhood signage in coordination with the Bates, Bloomingdale, Eckington, Edgewood, Hanover Area, and Stronghold Civic Associations. 	Potentially modified <ul style="list-style-type: none"> Bloomingdale Civic Association has indicated an interest in potentially broadening the permitted uses of its portion of the monetary contribution.
<ul style="list-style-type: none"> \$150,000 to North Capitol Main Street, Inc. for storefront improvements located on North Capitol Street between Channing Street to New York Avenue. 	No change
<ul style="list-style-type: none"> WiFi: Use best efforts to provide free WiFi for public use in the community center and park. 	No change
<u>Retail Use</u> <ul style="list-style-type: none"> <u>Parcel 2:</u> 18,259 – 24,359 GFA <u>Parcel 4:</u> 55,567 GFA of full-service grocery store use (including loading). 	Modified <ul style="list-style-type: none"> <u>Parcel 2:</u> 17,000 GFA (* Flexibility requested to reduce to 5,000 GFA) <u>Parcel 4:</u> 59,000 GFA (including loading), with a minimum 22,500 GFA full-service grocery use (* Flexibility requested to reduce overall retail to 16,000 GFA provided a minimum of 10,000 GFA of full-service grocery use is provide at all times)

B. *The Modifications Satisfy the Evaluation and Balancing Criteria Required for Commission Review of a PUD*

The objective of the PUD process is to encourage high-quality development that provides public benefits and project amenities by allowing applications greater flexibility in planning and design than may be possible under matter-of-right zoning. The proposed modifications for the Parcel 2 and Parcel 4 Buildings continue to achieve the goals of the PUD process, as previously found by the Zoning Commission for the Overall PUD, by providing new housing, including affordable housing, a grocery store, street-level retail, high quality design, and efficient land use and planning. These modifications will be not inconsistent with the Comp Plan and will continue to further numerous goals set forth by the District of Columbia for the McMillan Slow Sand Filtration Site and will provide numerous specific benefits and amenities, as previously found by the Zoning Commission.

Pursuant to Subtitle X §304.3, the Zoning Commission should “balance . . . the relative value of the public benefits and project amenities offered [with] the degree of development incentives requested and any potential adverse effects.” Here, the modifications will allow for the delivery of the Parcel 2 and Parcel 4 Buildings and their associated significant public benefits as efficiently and expeditiously as possible, which will outweigh the development incentives requested, including the flexibility. Therefore, on balance, the public benefits and project amenities from the modified Parcel 2 and Parcel 4 Buildings outweigh the development flexibility requested by the modifications.

Pursuant to Subtitle X §§ 303.12 and 304.3, in evaluating this Application, the Commission must, according to the specific circumstances of the instant application, judge, balance, and reconcile the relative value of: (i) the Public Benefits, (ii) the development

incentives, including zoning and other flexibility requested as part of the modifications, and (iii) any potential adverse effects of the Project.

The Parcel 2 and Parcel 4 Buildings, as modified, satisfy the foregoing PUD balancing test. The modifications will not fundamentally alter the originally approved Parcel 2 and Parcel 4 Buildings, and even with the modified Parcel 2 and 4 Buildings, the potential adverse effects of the Overall PUD continue to weigh heavily in favor of approval. While the heights and densities of the buildings will slightly increase, the overall height, massing, and density for the modified buildings will still be consistent with the original approvals and well below what is permitted for a PUD (and indeed well below what is permitted as a matter-of-right in the MU-10 zone). The zoning flexibility is minor, and the development flexibility is essential to the development of these buildings after many years of delay and disruption outside of the Applicant's control. The Overall PUD's public benefits that are derived from the Parcel 2 and Parcel 4 Buildings, including new multifamily housing, affordable senior housing, and a grocery store will still be delivered, and more expeditiously if the modifications are approved as requested.

The proposed modifications will not result in adverse impacts or will not create additional impacts that are not able to be mitigated. Further, the proposed modifications will not be inconsistent with the Comprehensive Plan when evaluated through a racial equity lens, and they will continue to advance many policies of the Comp Plan. Overall, the relative value of the modified Parcel 2 and Parcel 4 Buildings as part of the Overall PUD and its many public benefits and project amenities warrant granting the requested modifications.

V. CONCLUSION

For the foregoing reasons, the Applicant submits that the Application meets the standards of Chapter 3 of Subtitle X, and Chapters 3 and 7 of Subtitle Z of the Zoning Regulations; is

consistent with the purposes and intent of the Zoning Regulations and Map; will enhance the health, welfare, safety, and convenience of the citizens of the District of Columbia; satisfies the requirements for approval of the Application; will provide significant public benefits; and will advance important goals and policies of the District of Columbia. Therefore, the requested PUD modifications should be approved.

Accordingly, the Applicant respectfully requests that the Zoning Commission set this PUD modification Application down for a public hearing at the earliest possible date.

Respectfully submitted,

GOULSTON & STORRS PC

/s/

Cary Kadlecek

Date: December 23, 2024