GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 15-20D
Z.C. Case No. 15-20D
TBSC Master Owner I, LLC
(Modification of Significance to First-Stage PUD and Approval of Second-Stage PUD @ Square 620, Lot 254)
October 17, 2022

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on October 17, 2022, to consider an application filed by TBSC Master Owner I, LLC (the "Applicant") for a modification of significance to the first-stage planned unit development ("PUD") and second-stage approval, as amended (collectively, the "Application") for the north parcel of the PUD (Lot 254 in Square 620, hereinafter referred to as the "North Parcel" or the "Property") approved pursuant to Z.C. Order No. 15-20 (the "Original PUD Order"). The Commission reviewed the Application pursuant to pursuant to the Commission's Rules of Practice and Procedures, which are codified in Subtitle Z of the Zoning Regulations (Title 11 of the DCMR) to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

I. BACKGROUND

PARTIES

1. The only parties to the case were the Applicant and Advisory Neighborhood Commission ("ANC") 6E, the "affected" ANC pursuant to Subtitle Z § 101.8.

2. The Applicant is an affiliated entity of TBSC Owner I, LLC, which is the owner/developer of the south parcel for the PUD.

3. There were no requests for party status.

NOTICE

4. By letter dated January 19, 2022, the Applicant notified ANC 6E and all property owners within 200 feet of the Property of its intent to file the Application. (Exhibit ["Ex."] 3K.)

5. On June 29, 2022, the Office of Zoning ("OZ") sent notice of the October 17, 2022 public hearing, in accordance with Subtitle Z § 402.1 to:

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- Authorized counsel for the Applicant;
- The affected ANC 6E;
- The ANC 6E Single Member District ("SMD") Commissioner, whose district includes the PUD Site;
- The Office of the ANCs;
- The Office of Planning ("OP");
- The District Department of Transportation ("DDOT");
- The Department of Consumer and Regulatory Affairs ("DCRA");
- The Lead Attorney of the Office of Zoning Legal Division ("OZLD");
- The District Department of Environment ("DOEE")
- Councilmember Charles Allen, the Ward 6 Councilmember in whose district the PUD Site is located;
- The Chair and At-Large Members of the D.C. Council; and
- The owners of property located within 200 feet of the Property.

(Ex. 11-12.)

6. A description of the proposed development and the notice of public hearing in this matter were published in the *District of Columbia Register* on July 15, 2022. (Ex. 10.)

7. The Applicant submitted evidence that it had posted notice of the public hearing as required by Subtitle Z § 402.3 and maintained said notice in accordance with Subtitle Z § 402.10 (Ex. 19, 27.)

THE PUD SITE AND THE NORTH PARCEL

8. The PUD site that is the subject of the Original PUD Order consists of approximately 6.7 acres generally bounded by L Street, M Street, First Place, and First Street, N.W., which are now more particularly described as Lots 252, 253, 254, 255, 904, and 905 in Square 620 (the "PUD Site").

9. The majority of the PUD Site was formerly the site of the Sursum Corda Cooperative, a 199-unit townhouse community. The PUD Site was also improved with a 14-unit four-story apartment building at 76 M Street and included two adjoining vacant parcels. All of these structures have been demolished.

10. The PUD is bifurcated into two development parcels – the North Parcel, which is the subject of this application, and the south parcel, which is composed of Lots 252, 255, 904, and 905 (the "South Parcel"). The North Parcel and the South Parcel are separated by an established private street known as Banner Lane, N.W.[1]

11. The South Parcel is under construction with two apartment buildings. The Southeast Building will have 345 units and the Southwest Building will have 216 units; they will be

[1] Under the Original Order, this private street was formerly referred to as Pierce Street, N.W.

served by 304 below grade parking spaces. Also, in connection with the development of the South Parcel, Lot 252 has been dedicated to the District for the First Street right of way.

12. The North Parcel was originally composed of Lots 253 and 254; however, Lot 253 will be dedicated to the District for the First Street right of way and, as such, is not included in this application. Lot 254 is the subject of this application.

13. At the time of the approval of the Original PUD Order, the PUD Site was designated for Moderate Density Residential and Parks, Recreation, and Open Space on the Comprehensive Plan ("CP") Future Land Use Map ("FLUM"), and as a Land Use Change Area on the Generalized Policy Map ("GPM"). With the 2021 CP updates, the FLUM designates the PUD Site for Mixed Use (High Density Residential / Medium Density Commercial); and the GPM designates the PUD Site as being within the Central Washington Area. However, the PUD Site is identified within the Mid-City Small Area Plan ("SAP") as appropriate for high density residential and medium density commercial uses.

RELEVANT APPROVAL HISTORY FOR NORTH PARCEL

Z.C. Order No. 15-20

14. The Original PUD Order approved the following development program for the PUD Site:
    - Approximately 1,269,165 square feet of residential uses, generating approximately 1,131 units;
    - Approximately 49,420 square feet of non-residential uses;
    - An overall density of 4.62 floor area ratio ("FAR"), including the area for the private street (Banner Lane), and a density of 5.24 FAR excluding the area for Banner Lane;
    - Building heights ranging from 62.5 feet to 110 feet; and
    - A maximum number of 746 vehicle parking spaces.

15. The Original PUD Order approved the following development program for the North Parcel:
    - Theoretical Lot/Building 2A/2B: 425,225 square feet of gross floor area yielding 348 dwelling units; a range of 6 to 11 stories; building heights ranging from 62.5 feet to 110 feet; and a lot density of 6.50 FAR; and
    - Theoretical Lot/Building 2C/2D: 439,460 square feet of gross floor area yielding 362 dwelling units; a range of 6 to 10 stories; building heights ranging from 68.93 feet to 106.93 feet; and a lot density of 7.06 FAR.

16. Pursuant to Decision No. A.3 of the Original PUD Order, the Commission granted flexibility from the following provisions under the 1958 Zoning Regulations:
    - Loading (11 DCMR § 2201) – to have a total of five 30-foot loading berths where three 55-foot loading berths and two 30-foot loading berths are required;
    - Side yard width (11 DCMR § 775.5) – to have a side yard of 12 feet, one inch where a side yard of 13 feet is required;

- The requirements for the number of buildings on a single record lot (11 DCMR § 2516) – to have five buildings on a single record lot; and
- The requirements of the Inclusionary Zoning Regulations (Chapter 26) – to provide 199 affordable units for households with incomes not exceeding 80% MFI, and with a maximum blended affordability limit for the affordable units within the PUD of 60% MFI where Inclusionary Zoning is only for households earning 50% or 80% MFI.

17. The Original PUD Order also granted design flexibility from requirements to construct the Sursum Corda PUD in accordance with the plans approved by the Original Order in the following areas:
    - To be able to provide a range in the number of residential units of plus or minus 10% from the 1,131 proposed for the development;
    - To vary the number, location, and arrangement of parking spaces, provided that the maximum number of parking spaces for the PUD does not exceed 746 parking spaces and the minimum number of parking spaces is not reduced below the number required under the (1958) Zoning Regulations; and
    - To vary the sustainable design features of the building, provided that the project meets a minimum of LEED-Silver certification.

Z.C. Order No. 15-20C

18. Pursuant to Z.C. Order No. 15-20C, made final and effective on March 13, 2020, the Commission approved the following modified development program for the North Parcel:
    - ***Theoretical Lot 2A/2B (The "Northwest Building")***:
        - A gross floor area ("GFA") of 351,106 square feet yielding approximately 280 units; and
        - A range of 5-10 stories, and heights ranging from 62.5 feet to 110 feet; and
        - A density of 5.63 FAR; and
    - ***Theoretical Lot 2C/2D (the "Northeast Building")***:
        - A GFA of 362,815 square feet yielding approximately 289 units;
        - A range of 6-10 stories, and heights ranging from 68.93 feet to 106.93 feet; and
        - A density of 5.82 FAR.

II. THE APPLICATION

MODIFICATION OF APPROVED FIRST-STAGE PUD

19. The Applicant seeks to reduce the land area for the North Parcel from 144,670 square feet to 124,628 square feet, which accounts for the following:
    - Originally, the North Parcel was composed of Lots 253 and 254 in Square 620. Lot 253 has a land area of 8,780 square feet and Lot 254 has a land area of 135,889 square feet;
    - The PUD approval requires that Lot 253 be dedicated to the District to re-establish the original First Street right of way; so, Lot 253 is not included in this application; and
    - A portion of the southern boundary of Lot 254 is encumbered by a public access easement required by DDOT for the improvement of Banner Lane (formerly referred

to as Pierce Street). This area, which totals 11,988 square feet has been subtracted from the overall land area for the North Parcel.

20. The Applicant seeks to rename Theoretical Lot 2A/2B as the "Northwest Lot" and to rename Theoretical Lot 2C/2D as the "Northeast Lot".

21. The Applicant seeks to modify the development program for the North Parcel as follows:
- ***The Northwest Building***
  - Increase of the building GFA to approximately 389,563 square feet yielding 351 residential units, plus 13 penthouse units;
  - Adjust in height to allow for 7-11 stories and a minimum height of 67 feet; and
  - Allocate approximately 11,051 square feet at the ground level of the building to be occupied by residential use or non-residential use, including retail, service, and /or eating and drinking establishments; and
- ***The Northeast Building***
  - Increase the building GFA to approximately 363,934 square feet yielding 332 residential units, plus 19 penthouse units;
  - Adjust height to allow for 7-10 stories and a maximum height of 110 feet; and
  - Allocate approximately 865 square feet at the ground level of the building to be occupied by residential use or non-residential use, including retail, service, and /or eating and drinking establishments.

22. The evolution of the development program for the North Parcel since the approval of the Original PUD Order is shown in the table below:

	First-Stage Approval (Z.C. Order No. 15-20)		**Approved Modifications (Z.C. Order No. 15-20C)**		**Proposed Modifications (The Application)**	
	Building 2A/2B	**Building 2C/2D**	**Northwest Building**	**Northeast Building**	**Northwest Building**	**Northeast Building**
GFA (sf)	425,225	439,460	351,106	362,815	389,563	363,934
Density (FAR on Theoretical Lot)	6.50	7.06	5.63	5.82	6.2	5.84I
Stories	6-11	6-10	5-10	6-10	7-11	7-10
Height Range (ft.)	62.5-110	68.93-106.93	62.5-110	68.93-106.93	67-110	65.42-110
Number of Units	348	362	280	289	351 units + 13 penthouse units	322 units + 19 penthouse units
Potential Non-Residential GFA	20,840	20,265	19,100	0	11,051	865

23. The Applicant proposes minor refinements to the massing for both buildings proposed for the North Parcel, and asserts that the objectives and intent relating to the first-stage approval will continue to be satisfied because both the Northwest Building and the Northeast Building will remain oriented around a center courtyard and will have a publicly accessible pedestrian promenade between them; and the refined design will also integrate

a cascading massing that steps down a spiraling fashion, which will help to achieve a compatible transition to adjacent, lower-scale residential neighborhoods and bring additional daylight into courtyard spaces. (Ex. 3.)

SECOND-STAGE PUD APPROVAL FOR THE NORTH PARCEL

24. The Application seeks second-stage PUD approval for the North Parcel in substantial compliance with the plans dated September 27, 2022 (the "Second-Stage Plans"), which depict the following development program:
    - A total of approximately 753,497 square feet of GFA;
    - A total blended FAR of 6.05 as calculated over the subject development area;
    - Approximately 715 residential units, which includes 32 penthouse dwelling units;
    - Approximately 11,916 square feet of GFA devoted to residential, retail, service, or eating and drinking establishment use;
    - Approximately 353 below-grade vehicle parking spaces;
    - Approximately 296 bicycle spaces, of which 256 will be long-term spaces and 40 will be short-term spaces; and
    - Various outdoor amenities including courtyard spaces, terraces, swimming pools, and a central pedestrian promenade that will weave through the Property from M Street on the north and culminate at the public park along L Street NW.

    (Ex. 23A1-23A8.) (the "Project").

25. The Application for the second-stage PUD approval for the North Parcel includes a request for the following areas of design flexibility from the plans approved by this Order:
    - Parking Spaces – To vary the number, location, and arrangement of parking spaces, provided that the maximum number of parking spaces for the North Parcel does not exceed 442 parking spaces and the minimum number of parking spaces is not reduced below the number required for the North Parcel under the Zoning Regulations;
    - Sustainable Features – To vary the sustainable design features of the building, provided the project meets a minimum of LEED-Silver certification;
    - Interior Components – To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, elevators, escalators, and toilet rooms, provided that the variations do not change the exterior configuration of the building;
    - Exterior Materials - Color – To vary the final selection of the colors of the exterior materials based on availability at the time of construction, provided such colors are within the color ranges proposed in the approved plans;
    - Exterior Details - Location and Dimension – To make minor refinements to the locations and dimensions of exterior details that do not substantially alter the exterior design shown on the approved plans; examples of exterior details would include, but are not limited to, doorways, canopies, railings, skylights, and windows;
    - Signage – To vary the font, message, logo, and color of the proposed signage, provided that the maximum overall dimensions and signage materials do not change from those shown on the approved plans;

- LEED – To vary the sustainable design features of the building, provided the project meets a minimum of LEED-Silver certification using the Multifamily Midrise Rating System;
- Ground Floor Programming - Northwest Building – To be able to occupy up to 11,051 square feet on the ground floor of the Northwest Building with a residential amenity use or non-residential use, including retail, service or eating and drinking establishment, or any mix of these uses as noted on Sheet A-13 of the Second-Stage Plans; and
- Ground Floor Programming - Northeast Building – To be able to occupy up to 865 square feet on the ground floor of the Northeast Building with a residential amenity use or non-residential use, including retail, service or eating and drinking establishment, or any mix of these uses as noted on Sheet A-13 of the Second-Stage Plans.

APPLICANT'S SUBMISSIONS

26. The Applicant submitted the following items to the record in support of the Application:
    - An initial filing dated March 14, 2022, consisting of the Applicant's Statement in Support, and accompanying exhibits, which included a set of architectural plans and elevations (the "Initial Filing"); (Ex. 1-5A1.)
    - A prehearing submission dated June 15, 2022, consisting of the Applicant's Prehearing Statement and accompanying exhibits, including a CP consistency analysis through a racial equity lens (the "Prehearing Submission"); (Ex. 8-9F.)
    - A comprehensive transportation review ("CTR") report, pursuant to Subtitle Z § 401.8, dated September 2, 2022 (the "First CTR Report"); (Ex. 21-21A.)
    - A supplemental prehearing submission dated September 27, 2022, consisting of the Applicant's Supplemental Statement and accompanying exhibits, which included an updated set of architectural plans and elevations (the "Supplemental Prehearing Submission"); (Ex. 22-23H.)
    - A revised CTR report dated September 27, 2022, and the Applicant's responses to comments received from the DDOT Traffic Engineering and Safety Division (TESD) (the "Revised CTR Report", and together with the First CTR Report the "CTR Reports"); (Ex. 24-24B.)
    - A response to requests for additional information requested by the Office of Planning ("OP") dated October 14, 2022 (the "Applicant's Response to OP"); (Ex. 30.)
    - A PowerPoint presentation to accompany the Applicant's oral testimony at public hearing (the "PowerPoint"); (Ex. 28, 29, 31.)
    - A letter to Sursum Corda Cooperative confirming the Applicant's intent to find ways to make rents affordable for non-voucher returning Sursum Corda residents, particularly households below the conventional income requirements of the 30% MFI units, through a rent credit that is tailored to address individual circumstances; (Ex. 32.)
    - A narrative update on the Tenant Relocation and Replacement Plan; and (Ex. 33.)
    - The Applicant's Proposed Findings of Fact and Conclusions of Law, including a letter agreement between Sursum Corda Cooperative and the Applicant regarding the returning households eligible to receive a rent credit. (Ex. 35-36A.)

APPLICANT'S PUBLIC HEARING TESTIMONY

27. At the October 17, 2022 public hearing (the "Public Hearing"), the Applicant presented the Application to the Commission. Susie Teal, the architect for the project from Cookfox Architects, DPC, testified on behalf of the Applicant. (October 17, 2022 Hearing Transcript ["Hrg. Tr."] at pp. 8-22.) The Applicant noted that, as required by the Original Order, 122 affordable units were reserved for Sursum Corda households, and of those, 118 are deemed affordable and count for the overall affordable unit count for the PUD, which is 199 units. Therefore, because 118 affordable units have been assigned to the South Parcel, there will be 81 affordable units on the North Parcel. (*Id*. at 9.)

RESPONSES TO THE APPLICATION

OP

28. OP submitted a setdown report dated May 27, 2022 (the "OP Setdown Report") recommending that the Commission set down the Application for a public hearing based on OP's conclusion that "[t]he proposed modifications to the overall PUD and the development of the buildings on the North Parcel, would not be inconsistent with the First-Stage PUD approval, the Comprehensive Plan maps and written elements, the Mid-City SAP or the Zoning Regulations." The OP Setdown Report provided a CP analysis through a racial equity lens, which assessed the expected goals of the overall PUD and outcomes relating to direct displacement, housing, transportation, the environment, employment, and access to amenities. OP also recommended that the Applicant provide information regarding and/or consider the following prior to public hearing:
    - A racial equity analysis;
    - An update on the number of affordable units to be provided on the North Parcel, their sizes, location, and MFI;
    - An update on the Tenant Relocation and Replacement Plan;
    - Sun studies to demonstrate availability of sun to the central courtyards;
    - An update on the implementation of the First Source Agreement on the South Parcel;
    - Integrating ground floor walkup entrances along First Place;
    - Clarification on the provision of any car-sharing spaces and charging stations; and
    - An update on the installation of commemorative artwork and its location.

    (Ex. 6.)

29. The OP Setdown Report noted that the Applicant has included and addressed all of the specific recommendations for redevelopment of Sursum Corda cited in the Mid-City SAP in the overall PUD and therefore the SAP objectives "will be further realized within the North Parcel Development." (OP Setdown Report, Ex. 6, p. 8.)

30. OP submitted a hearing report dated October 7, 2022 (the "OP Hearing Report" and, together with the OP Setdown Report, the "OP Reports") which recommended the Commission approve the Application. The OP Hearing Report provided an updated racial equity analysis in light of the racial equity analysis provided by the Applicant (FF 26.). The OP Hearing Report found that:

- The overall Sursum Corda would have residents of varying incomes, a mixture of residential unit types and sizes, retail and services use, the development of a public park, recreational areas, open spaces and a promenade;
- On balance, the proposed modifications to the overall PUD and the development of the buildings on the North Parcel, would not be inconsistent with the First-Stage PUD approval, the Comprehensive Plan maps and written elements, the Mid-City East SAP or the Zoning Regulations;
- The Applicant provided a complete CP analysis, including through a racial equity lens; and
- The Applicant had provided adequate information regarding:
  - The proposed material and balconies;
  - The status of returning Sursum Corda residents;
  - Compliance with the executed First Source Agreement for the PUD;
  - The affordable housing provided for the Sursum Corda PUD;
  - Sun studies for the central courtyards;
  - The rationale for not proving ground floor walkup entrances along First Place; and
  - Confirmation that two car-sharing spaces and seven charging stations are proposed; and
- The areas of requested design flexibility are similar to the ones granted in the Second-Stage PUD for the South Parcel.

(Ex. 26.)

31. The OP Hearing Report recommended and/or requested that the Application provide additional information regarding the following:
- That the Applicant increase their LEED standard and use the Multifamily Midrise Rating System;
- The Reserved Units that are not occupied by returning Sursum Corda residents be converted to Inclusionary Zoning units at 60% MFI;
- The location of the commemorative artwork; and
- An update on the status of the playground equipment to be located on the off-site park on Lot 904.

(Ex. 26.)

32. At the Public Hearing, OP testified in support of the Applicant and reiterating the findings in the OP Reports. OP also restated its conclusion that, on balance, the Application is not inconsistent with the First-Stage PUD approval, the Comprehensive Plan maps and written elements, the Mid-City East SAP or the Zoning Regulations. OP noted that of the 199 affordable units to be provided, 122 units will be reserved for former Sursum Corda residents on the South Parcel, and 81 affordable units will be provided on the North Parcel. (Hrg. Tr. at pp. 39-41.)

Department of Energy and Environment ("DOEE")

33. DOEE provided its comments as an attachment to the OP Hearing Report, wherein DOEE strongly encouraged the Applicant to use the LEED Home Multifamily Midrise rating system and to pursue LEED Gold level of certification. (Ex. 26 at pp. 31-34.). At the Public

Hearing, the Applicant confirmed that it was unable to achieve LEED Gold certification as the Project was designed to achieve LEED Silver; however, the Applicant did agree to use the LEED Homes: Multifamily Midrise rating system, as DOEE recommended. (Hrg. Tr. at pp. 29-30.)

DDOT

34. DDOT filed a report dated October 7, 2022 (the "DDOT Report"), which assessed the potential impacts of the Application on the District's transportation network and, as necessary, propose mitigations that are commensurate with the Application. The DDOT Report found the following:
    - Vehicular access to the site is proposed via a two-way parking garage entrance on First Place and from Banner Lane;
    - The project exceeds the zoning requirements for vehicle parking with 353 spaces. DDOT estimated a project of the size, mix of uses, and distance from transit should provide approximately 250-275 spaces. The availability of excess parking has the potential to induce additional demand for driving;
    - The Applicant's CTR Reports indicated four of the study intersections would unacceptably degrade in level of service (LOS) due to the addition of site-generated vehicle trips;
    - To offset the traffic impacts and high parking supply, the Applicant agreed with DDOT to implement a robust TDM program and make physical improvements to the pedestrian and bicycle network to encourage walking and bicycling to discourage driving; and
    - The Applicant's TDM plan and physical improvements are acceptable, subject to DDOT's requested revisions.

35. The DDOT Report stated that DDOT had no objection to the Application, provided that the following conditions are included in this Order:
    - Implement the TDM plan as proposed in the Applicant's Revised CTR, for the life of the project unless otherwise noted, with the revisions requested in the DDOT Report, including: (Ex. 24A.)
        - Note the M Street, N.W. two-way cycle track and new traffic signals are "subject to DDOT review and approval";
        - Fund and construct pedestrian network improvements at adjacent intersections; Specifically, upgrade sub-standard curb ramps and stripe missing crosswalks, subject to DDOT approval at the following locations:
            - The northwest corner of First Street and Banner Lane/Pierce Street, N.W.;
            - All corners of the intersection of M Street and First Place, N.W.;
            - All corners of the intersection of M Street and First Street, N.W.; and
        - Install electronic transit displays in each building's residential lobby;
        - Add the following language to the long-term bicycle storage: There will be no fee to the residents for usage of the bicycle storage room and strollers will be permitted to be stored in the bicycle storage room; and
        - For the long-term bicycle parking storage room design, reword TDM strategy to convert the percentages to specific minimum numbers;

- All transportation conditions from the first-stage approval related to the North Parcel and not yet constructed will be included in this Order or otherwise remain in effect; and
- Prior to issuance of a certificate of occupancy for the Northwest Building, the applicant shall take the following actions regarding the dedication of the First Street, N.W. right-of-way on Lot 253 in Square 620:
  - Enter into a Horizontal Public Use Agreement (HPUA) with DDOT to dedicate Lot 253 in Square 620, for the northern segment of the First Street, N.W. right-of-way, as depicted on Ex. 3H; and
  - Improve a 30-foot-wide strip of the Property frontage along First Street, N.W. in order to align with the South Parcel improvements to be reviewed and approved through the Infrastructure Project Management Administration (IMPD) roadway acceptance process.

36. At the Public Hearing, DDOT testified in support of the Application and acknowledged that the Applicant had agreed to DDOT's conditions, as indicated in the transportation related slides of the Applicant's PowerPoint. (Hrg. Tr. at pp. 41-42; Ex. 29.)

ANC

37. ANC 6E submitted a report stating that at its regularly scheduled and duly noticed public meeting on July 5, 2022, the ANC voted to support the Application for the modifications to the first-stage PUD approval and the second-stage PUD approval for the North Parcel (the "ANC Report"). (Ex. 14.)

38. The ANC Report did not express any issues or concerns about the Application, however requested that the Applicant work with DCPL to investigate the feasibility of relocating the Northwest One Library to the proposed retail space along M Street. The ANC further indicated that it did support the Applicant's proposed decrease in retail space "if it is determined after a good faith effort that the library cannot be housed[.]" (Ex. 14, p. 2.)

Other Responses to the Application

39. Mr. Lonnie Duren, Chairman of the Board of the Sursum Corda Cooperative Association, Inc., (the "SCC") testified in support of the Application at the Public Hearing. (Hrg. Tr. at pp. 44-47.) During his testimony Mr. Duren provided an update on the Tenant Relocation and Replacement Plan and referenced a letter from TBSC Owner I, LLC. (Ex. 32, 33.) The letter acknowledges that TBSC Owner I, LLC has reviewed with Mr. Duren a list of non-voucher, returning Sursum Corda residents, and some of the households have income levels below the conventional income requirements of the 30% AMI units. The letter states that TBSC Owner I, LLC will accommodate these former residents and, in particular, would expect to address gaps, as applicable, through a rent credit that is tailored to address individual circumstances. (FF 26.)

40. After the public hearing, the Sursum Corda Cooperative and TBSC Owner I, LLC entered into a letter agreement, dated August 29, 2023, which includes the list of Sursum Corda Households that will return to Phase I of the development, and provides for a rent credit

for the returning households that (1) have a household income below 30% AMI and (2) do not have a Section 8 voucher. (Ex. 36A.)

41. No persons testified in opposition to the Application.

CONCLUSIONS OF LAW

Authority

1. Pursuant to the authority granted by the Zoning Act of 1938 (June 20, 1938, 52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2018 Rep1.)), the Commission may approve a Modification of Significance to an approved first-stage PUD and a second-stage PUD, pursuant to Subtitle X, Chapter 3 and Subtitle Z, Chapter 7. Specifically, the Commission is authorized under the Zoning Act to approve a Modification of Significance to an approved first-stage PUD and a second-stage PUD consistent with the requirements set forth in Subtitle X §§ 302, 304, and 309 and Subtitle Z § 704.

Evaluation Standards

2. Pursuant to Subtitle X § 300.1, the purpose of the PUD process is to provide for higher quality development through flexibility in building controls, including building height and density, provided that a PUD:
   (a) Results in a project superior to what would result from the matter-of-right standards;
   (b) Offers a commendable number or quality of meaningful public benefits; and
   (c) Protects and advances the public health, safety, welfare, and convenience, and is not inconsistent with the Comprehensive Plan.

3. Pursuant to Subtitle X §§ 304.3 and 304.4, in reviewing a PUD application the Commission must:
   "Judge, balance, and reconcile the relative value of the public benefits and project amenities offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case;"
   and must determine that the proposed development:
   (a) Is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site;
   (b) Does not result in unacceptable project impacts on the surrounding area or on the operation of city services and facilities but instead shall be found to be either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the project; and
   (c) Includes specific public benefits and project amenities of the proposed development that are not inconsistent with the Comprehensive Plan or with other adopted public policies and active programs related to the subject site.

First-Stage PUD Modifications

4. Pursuant to Subtitle X § 302.2(a):
   "The first-stage application involves general review of the site's suitability as a PUD and any related map amendment the appropriateness, character, scale, height, mixture of uses,

and design of the uses proposed; and the compatibility of the proposed development with the Comprehensive Plan, and city-wide, ward, and area plans of the District of Columbia, and the other goals of the project[.]" (Emphasis added.)

5. Pursuant to Subtitle Z § 704.4:
"The scope of a hearing conducted pursuant to this section shall be limited to impact of the modification on the subject of the original application, and shall not permit the Commission to revisit its original decision."

6. The Commission finds that the modifications sought through this Application:
   - Will have the primary effect of reconfiguring the theoretical lots comprising the North Parcel and refining the density, massing, and height of the Northwest and Northwest Building, which will result in the provision of more residential units than were previously contemplated for the North Parcel; and
   - Do not result in any consequential changes to the Commission's prior decision that the first-stage PUD is not inconsistent with the CP and other adopted policies and active programs, particularly because:
     - The density and heights for the PUD Site remain consistent; and
     - The relevant recommendations of the Mid-City East SAP will be further realized within the North Parcel development. (FF 21-23.)

Consistency with the CP and Public Policies (Subtitle X § 304.4(a))

7. In the Original Order (Conclusion of Law No. 8), the Commission found that the overall Sursum Corda PUD was not inconsistent with the CP. Based on the case record and the Findings of Fact, the Commission concludes that the first-stage PUD modifications are not inconsistent with the CP and with other public policies and active programs related to the North Parcel, when the CP is considered in its entirety. Furthermore, the Commission finds that the relevant recommendations of the Mid-City East SAP will be further realized with the North Parcel development. (FF 29-32.)

8. Upon its review of the record and the testimony received at the Public Hearing, the Commission finds that the modifications sought with this Application are not inconsistent with the CP when evaluated through a racial equity lens. The Framework Element states that equity is both an outcome and a process. (10-A DCMR § 213.6 (emphasis added).) It is achieved by targeted actions and investments to meet residents where they are, to create equitable opportunities. (*Id.* (emphasis added).) The Commission currently employs a two-part racial equity analysis, where part one provides guidance regarding racial equity submissions to the zoning case record and part two calls for a consideration of the expected goals and impacts of the zoning action in question. The anticipated goals of the Applicant's requested zoning action are to complete the overall Sursum Corda development that will have residents of varying incomes, a mixture of residential unit types and sizes, retail and services use, the development of a public park, recreational areas, open spaces, and a central promenade. The Commission credits the Applicant's racial equity analysis and the OP Reports. (Ex. 9A, 6, 26.) The Commission finds that the requested modifications will result in positive outcomes, particularly because:

- The Applicant and TBSC Owner I, LLC have worked closely with the community through ANC 6E and the Sursum Corda Cooperative, as intended in the communication plan required in Z.C. Order No. 15-20, Condition No. B.2.e;
- TBSC Owner I, LLC has provided the opportunity for former Sursum Corda residents to return after redevelopment of the South Parcel, which has been an integral part of the overall PUD and the redevelopment process;
- Together, TBSC Owner I, LLC and the Chairman of the SCC, Mr. Lonnie Duren, have communicated frequently with former Sursum Corda residents regarding the status of the redevelopment;
- The requested zoning action will increase the number of dwelling units and affordable units within the Mid-City Planning Area;
- The overall blended affordability level for the PUD does not exceed 60% MFI, which further increases access to affordable housing;
- The PUD site is located in close proximity to public transit and the redevelopment will bring several transportation improvements to support residents and the surrounding community;
- The proposed development will fulfill or exceed LEED-Silver certification, thus resulting in environmental benefits to all residents;
- The zoning action will generate new retail and employment opportunities, and benefit from the continued implementation of a First Source Agreement; and
- The zoning action will increase access to community services and amenities within the surrounding neighborhood.

In light of the foregoing, the Commission generally concurs with the analysis of the Applicant and of OP, and finds that the proposed development advances the racial equity objectives underlying the CP. (FF 26, 28, 30.)

Potential Adverse Impacts – How Mitigated or Outweighed (Subtitle X §§ 304.3 & 304.4(b))

9. Pursuant to the Original Order (Conclusions of Law No. 5 and 6), the Commission found that the impact of the first-stage PUD on the surrounding area was not unacceptable and that the application could be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development would be mitigated. Based on the case record and the Findings of Fact above, the Commission finds that the first-stage modifications will not create any new adverse impacts.

Public Benefits and Amenities – Balancing and Consistency with CP (Subtitle X §§ 304.3 & 304.4(c))

10. The Commission considered all of the public benefits and project amenities, the degree of development incentives, and any potential adverse effects of the PUD, as it has been amended through this Application and concludes it warrants approval. The Commission notes that the Application is not seeking any new development incentives to facilitate the development of the North Parcel. Therefore, the Commission concludes that there is no change to the PUD balancing test of the Original Order. The Commission further concludes that the public benefits and amenities provided by the overall PUD remain consistent with the CP and with other adopted public policies and active programs related to the PUD Site.

11. The Commission finds that many of the public benefits and amenities of the PUD have already been delivered, and that the redevelopment of the North Parcel will facilitate the full delivery of any outstanding public benefits and amenities, as amended and restated in Z.C. Order No. 15-20C, Decision No. B.1. – B.8. (FF 26, 28, 30-32.)

Second-Stage PUD Approval

12. Pursuant to Subtitle X § 302.2(b):
"The second-stage application is a detailed site plan review to determine transportation management and mitigation, final building and landscape materials and compliance with the intent and purposes of the first-stage approval, and this title."

13. Pursuant to Subtitle X § 309.2(b):
"*If the Zoning Commission finds the application to be in accordance with the intent and purpose of the Zoning Regulations, the PUD process, and the first-stage approval, the Zoning Commission shall grant approval to the second-stage application, including any guidelines, conditions, and standards that are necessary to carry out the Zoning Commission's decision.*"

In Compliance with the First-Stage Approval

14. Based on the Application, the OP and DDOT Reports, and the testimony provided at the Public Hearing, the Commission finds that the Application is in accordance with the intent and purpose of the Zoning Regulations, and the CP Elements applicable to the PUD Site as analyzed in the Original Order. Therefore, the Commission concludes that the Second-Stage PUD is consistent with the first-stage approval.

Potential Adverse Impacts of the Second-Stage PUD – How Mitigated or Outweighed (Subtitle X §§ 304.3 & 304.4(b))

15. The Commission concludes that the second-stage PUD approval for the North Parcel will not result in any unacceptable project impacts on the surrounding area because the potential adverse impacts to traffic are capable of being mitigated. The DDOT Report noted that the project's "excess parking has the potential to induce additional demand for driving" and that the four intersections studied by the Applicant "would unacceptable degrade in level of service (LOS) due to the addition of site-generated vehicle trips." However, DDOT found that the Applicant's TDM plan and physical improvements were "acceptable with a few revisions and additions." The Commission acknowledges DDOT's assessment of the potential impacts of the proposed action. DDOT concurs that the proposed mitigation measures are adequate, given that the Applicant has agreed to DDOT's requested conditions. Furthermore, the Commission concurs with DDOT's finding that the physical improvements to the pedestrian and bicycle network will encourage walking and bicycling and discourage automobile use. ((FF 26, 34-36.)

"Great Weight" to the Recommendations of OP

16. The Commission is required to give "great weight" to the recommendation of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.) and Subtitle Z § 405.8.

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

17. The Commission notes OP's thorough analysis of the Application, including the analysis of its consistency with the Comprehensive Plan through a racial equity lens, and finds persuasive OP's recommendation that the Commission approve the Application and concurs with this judgment. (FF 28-32.)

18. OP recommended that the Applicant increase its LEED standard beyond LEED Silver and use the Multifamily Midrise Rating System. The Applicant testified that the building was designed to LEED Silver in accordance with the entitlements in place at the time it acquired the PUD Site, but the building design will utilize the Multifamily Midrise Rating System.

19. OP recommended that any of the 122 Reserved Units that are not occupied by returning Sursum Corda households be converted to Inclusionary Zoning units at 60% MFI. The Applicant agreed that the Reserved Units that are not occupied by returning Sursum Corda households will remain affordable "non-IZ" units for households with incomes up to 80% MFI, which is acceptable to the Zoning Commission so long as the overall blended affordability for the PUD does not exceed 60% MFI.

20. OP recommended that the commemorative artwork should not be installed in an internal lobby wall because it would not be visible to all the residents and visitors to the community as was anticipated. The Commission acknowledges the Applicant's agreement to install the commemorative artwork on an exterior building façade.

"Great Weight" to the Recommendations of ANC

21. The Commission must give "great weight" to the issues and concerns raised in the written report of the affected ANC pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.).) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016.) The District of Columbia Court of Appeals has interpreted the phrase "issues and concerns" to "encompass only legally relevant issues and concerns." (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted).)

22. The Commission notes that the ANC Report did not raise any specific issues or concerns regarding the Application. The Commission also notes that, pursuant to the ANC's request, the Applicant did have the appropriate discussions with members of the ANC about the relocation of the Northwest One Library to the proposed retail space along M Street. The discussions concluded that the relocation is infeasible due to the size, configuration, and design of the space proposed along M Street. Accordingly, the Commission acknowledges

the ANC's support of the Application and recommendation of approval and concurs in that judgment. (FF 37-38.)

DECISION

In consideration of the Findings of fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the following subject to the guidelines, conditions, and standard set forth below:

- The modification of significance to the first-stage PUD approval granted under Z.C. Order No. 15-20, and as modified through Z.C. Order No. 15-20C; and
- The second-stage PUD approval for the North Parcel as defined herein.

A. Modified First-Stage PUD and Second-Stage PUD Approval for the North Parcel (Phase II)

Approval of Modification to First-Stage PUD

1. The North Parcel of the Sursum Corda PUD shall be developed in accordance with the plans titled "Sursum Corda PUD/Modification of First-Stage Approval for North Parcel and Second-Stage Approval for North Parcel", prepared by Cookfox Architects, DPC, dated September 17, 2022 (Ex. 23A1-23A8.) (the "Approved Plans"), subject to the conditions of this Order.

2. The North Parcel will be improved with two buildings, with an overall development program as follows:
   - A GFA of 753,497 square feet of GFA yielding approximately 683 units, plus 32 penthouse units, such that approximately 715 dwelling units will be provided in total;
   - A range of 7 – 11 stories, and heights ranging from 65.42 feet to 110 feet;
   - A density of 6.05 FAR as calculated over the subject development area that totals 124,628 square feet of land area;
   - Approximately 353 total parking spaces, including standard size spaces (215) and compact size spaces (138); and
   - Approximately 296 bicycle parking spaces, including 256 long-term spaces and 40 short-term spaces (Approved Plans, Ex. 23A1, Sheets A-01.a-A-01.b.)

   (the "Project").

Approval of Second-Stage PUD for the North Parcel

3. The North Parcel of the Sursum Corda PUD shall be developed in accordance with the Approved Plans.

4. The Northwest Building will be constructed to the following development standards:

- A GFA of 389,563 square feet yielding approximately 351 units, plus 13 penthouse units;
- A range of 7-11 stories, and heights ranging from 67 feet to 110 feet; and
- A density of 6.20 FAR (on the Theoretical Northwest Lot).

5. The Northeast Building will be constructed to the following development standards:
   - A GFA of 363,934 square feet yield approximately 332 units, plus 19 penthouse units;
   - A range of 7-10 stories, and heights ranging from 65.42 to 110 feet; and
   - A density of 5.84 FAR (on the Theoretical Northeast Lot).

6. The Applicant shall have design flexibility from the Approved Plans in the following areas:

   a. Parking Spaces – To vary the number, location, and arrangement of parking spaces, provided that the maximum number of parking spaces for the North Parcel does not exceed 442 parking spaces and the minimum number of parking spaces is not reduced below the number required for the North Parcel under the Zoning Regulations;

   b. Sustainable Features – To vary the sustainable design features of the building, provided the Project meets a minimum of LEED-Silver certification using the Multifamily Midrise Rating System;

   c. Interior Components – To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, elevators, escalators, and toilet rooms , provided that the variations do not change the exterior configuration of the building;

   d. Exterior Materials - Color – To vary the final selection of the colors of the exterior materials based on availability at the time of construction, provided such colors are within the color ranges proposed in the approved plans;

   e. Exterior Details - Location and Dimension – To make minor refinements to the locations and dimensions of exterior details that do not substantially alter the exterior design shown on the approved plans; examples of exterior details would include, but are not limited to, doorways, canopies, railings, skylights, and windows;

   f. Signage – To vary the font, message, logo, and color of the proposed signage, provided that the maximum overall dimensions and signage materials do not change from those shown on the approved plans;

g. Ground Floor Programming - Northwest Building – To be able to occupy up to 11,051 square feet on the ground floor of the Northwest Building with a residential amenity use or non-residential use, including retail, service or eating and drinking establishment, or any mix of these uses as noted on Sheet A-13 of the Approved Plans; and

h. Ground Floor Programming - Northeast Building – To be able to occupy up to 865 square feet on the ground floor of the Northeast Building with a residential amenity use or non-residential use, including retail, service or eating and drinking establishment, or any mix of these uses as noted on Sheet A-13 of the Approved Plans.

B. Public Benefits

1. The Applicant shall comply or cause TBSC Owner I, LLC to comply with all of the PUD Public Benefits in Z.C. Order No. 15-20, as amended and restated in Z.C. Order No. 15-20C, Decision No. B.1. – B.8, and as clarified below:

   a. Any of the 122 Reserved Units not occupied by returning Sursum Corda households will remain affordable "non-IZ" units for households with incomes up to 80% MFI, which is acceptable to the Zoning Commission so long as the overall blended affordability for the PUD does not exceed 60% MFI;

   b. The Applicant has entered into a letter agreement with the Sursum Corda Cooperative, dated August 29, 2023 and included at Ex. 36A of the Z.C. Case 15-20D record, which outlines the terms and conditions for returning Sursum Corda households to be eligible to receive a rent credit;

   c. The buildings on the North Parcel will meet a minimum of LEED-Silver certification, using the Multifamily Midrise Rating System; and

   d. The commemorative artwork required for the South Parcel will be installed on an exterior building façade, and not within a building or a courtyard.

C. Transportation Benefits and Pedestrian Improvements – North Parcel

The Applicant shall provide and/or construct the following transportation benefits and pedestrian improvements related to the North Parcel:

1. **Prior to the issuance of a Certificate of Occupancy for the North Parcel**, the Applicant shall demonstrate to the Zoning Administrator that is has delivered or is in the process of delivering all transportation-related commitments required in the Original Order, as modified by Z.C. Order No. 15-20C. In the event that any transportation-related commitment(s) has not been delivered at such time, any

outstanding commitment(s) must be provided **prior to the issuance of the final certificate of occupancy for the North Parcel**.

2. **Prior to the issuance of a final Certificate of Occupancy for the North Parcel**, the Applicant shall complete the new pedestrian promenade through the center of the site from M Street to L Street, and specifically the northern half of the promenade from M Street to Banner Lane, as shown on the Approved Plans.

3. **Prior to the issuance of a final Certificate of Occupancy for the Northwest Building**, the Applicant shall take the following actions regarding the dedication of the First Street, NW right-of-way on Lot 253 in square 620:

   a. Enter into a Horizontal Public Use Agreement (HPUA) with DDOT to dedicate Lot 253 in Square 620, for the northern segment of the First Street, NW right-of-way, as depicted on Ex. 3H of the record; and

   b. The Applicant shall improve a 30-foot-wide strip of the Property frontage north of Banner Lane, along First Street, NW in order to effectively modify the existing sidewalk from a variable six to eight width to a sidewalk that is a minimum of six feet. Said improvements will consist of new landscaping and street trees and will align with the South Parcel improvements. Said improvements shall be reviewed and approved through the IPMD roadway acceptance process. The Applicant shall maintain said improvements **for the life of the Project**.

D. Transportation Demand Management – North Parcel

1. **For the life of the Project**, unless otherwise noted, the Applicant shall implement the following TDM Plan for the North Parcel:

   a. Residential.

      i. Unbundle the cost of vehicle parking from the lease or purchase agreement for each residential unit and charge a minimum rate based on the average market rate within a quarter mile;

      ii. Identify Transportation Coordinators for the planning, construction, and operations phases of development. The Transportation Coordinators will act as points of contact with DDOT, goDCgo, and Zoning Enforcement and will provide their contact information to goDCgo;

      iii. Transportation Coordinator will conduct an annual commuter survey of building employees and residents onsite, and report TDM activities and data collection efforts to goDCgo once per years;

iv. Transportation Coordinator will develop, distribute, and market various transportation alternatives and options to the residents, including promoting transportation events (i.e., Bike to Work Day, National Walking Day, Car Free Day) on property website and in any internal building newsletters or communications;

v. Transportation Coordinator will subscribe to goDCgo's residential newsletter and receive TDM training from goDCgo to learn about the transportation conditions for this project and available options for implementing the TDM Plan;

vi. Provide welcome packets to all new residents that should, at a minimum, include the Metrorail pocket guide, brochures of local bus lines (Circulator and Metrobus), carpool and vanpool information, CaBi coupon or rack card, Guaranteed Ride Home (GRH) brochure, and the most recent DC Bike Map. Brochures can be ordered from DDOT's goDCgo program by emailing info@godcgo.com;

vii. Provide residents who wish to carpool with detailed carpooling information and will be referred to other carpool matching services sponsored by the Metropolitan Washington Council of Governments (MWCOG) or other comparable service if MWCOG does not offer this in the future;

viii. Post all transportation and TDM commitments on building website, publicize availability, and allow the public to see what has been promised;

ix. Offer a SmarTrip card and one complimentary Capital Bikeshare coupon good for a free ride to every new resident;

x. Provide at least 40 short- and 256 long-term bicycle parking spaces;

xi. **Subject to DDOT approval**, install a two-way cycle track along M Street, N.W. between First Street, N.W. and First Place, N.W. adjacent to the site. The cycle track is expected to be installed with buildout of the Northwest Building;

xii. **Subject to DDOT approval**, install a new signal at the North Capitol Street and L Street intersection as part of the South Parcel development;

xiii. Fund and construct pedestrian network improvements at adjacent intersections. Specifically, upgrade sub-standard curb ramps and stripe missing crosswalks, **subject to DDOT approval**, at the following locations:

- The northwest corner of First Street, N.W. and Banner Lane, N.W.;
- All corners of the intersection of M Street, N.W. and First Place, N.W.; and
- All corners of the intersection of M Street, N.W. and First Street, N.W.;

xiv. Install electronic transit displays in each building's residential lobby;

xv. Long-term bicycle storage rooms will accommodate nontraditional sized bikes including cargo, tandem, and kids' bikes, with a minimum of 13 spaces (minimum 2) be designed for longer cargo/tandem bikes (10 feet by 3 feet), a minimum of 26 spaces will be designed with electrical outlets for the charging of electric bikes and scooters, and a minimum of 128 spaces will be placed horizontally on the floor. There will be no fee to the residents for usage of the bicycle storage room and strollers will be permitted to be stored in the bicycle storage room;

xvi. Install a minimum of seven electric vehicle (EV) charging stations;

xvii. **Following the issuance of a Certificate of Occupancy for the Project**, the Transportation Coordinator will submit documentation summarizing compliance with the transportation and TDM conditions of the Order (including, if made available, any written confirmation from the Office of the Zoning Administrator) to the Office of Zoning for inclusion in the IZIS case record of the case;

xviii. **Following the issuance of a Certificate of Occupancy for the Projec**t, the Transportation Coordinator will submit a letter to the Zoning Administrator, DDOT, and goDCgo every five years (as measured from the final Certificate of Occupancy for the Project) summarizing continued substantial compliance with the transportation and TDM conditions in the Order, unless no longer applicable as confirmed by DDOT. If such letter is not submitted on a timely basis, the building shall have 60 days from date of notice from the Zoning Administrator, DDOT, or goDCgo to prepare and submit such letter;

xix. Will not lease unused parking spaces to anyone aside from tenants of the building unless the other building(s) have no on-site parking

(e.g., will not lease to other nearby office employees, single-family home residents, or sporting events);

xx. Offer an annual CaBi membership to each resident for the first three years after the building opens;

xxi. Additional long-term bicycle parking spaces above ZR16 requirements (171 long-term spaces required; 256 long term spaces provided; 85 long-term spaces above ZR16 requirement);

xxii. Provide a bicycle repair station in each long-term bicycle parking storage room;

xxiii. Fund and install a 19-dock Capital Bikeshare (CaBi) station with 12 bikes and fund one-year of maintenance and operations costs as part of the South Parcel development;

xxiv. Hold a transportation event for residents, employees, and members of the community once per year for a total of two years. Examples include resident social, walking tour of local transportation options, goDCgo lobby event, transportation fair, WABA Everyday Bicycling seminar, bicycle safety/information class, bicycle repair event, etc.);

xxv. To encourage teleworking, provide a business center onsite and available for free to residents 24 hours per day, 7 days per week. Access to internet services will be included; and

xxvi. Designate two parking spaces in the vehicle parking garage for car-sharing services to use with right of first refusal;

b. Retail. The Retail TDM Plan presented below will be provided **subject to the Project meeting the threshold of 10,000 square feet of retail space**:

i. Identify Transportation Coordinators for the planning, construction, and operations phases of development. There will be a Transportation Coordinator for each tenant and the entire site. The Transportation Coordinators will act as points of contact with DDOT, goDCgo, and Zoning Enforcement and will provide their contact information to goDCgo;

ii. Transportation Coordinator will conduct an annual commuter survey of employees on-site, and report TDM activities and data collection efforts to goDCgo once per year;

iii. Transportation Coordinator will develop, distribute, and market various transportation alternatives and options to employees and customers, including promoting transportation events (i.e., Bike to Work Day, National Walking Day, Car Free Day) on property website and in any internal building newsletters or communications;

iv. Transportation Coordinator will receive TDM training from goDCgo to learn about the transportation conditions for this project and available options for implementing the TDM Plan;

v. Post "getting here" information in a visible and prominent location on the website with a focus on non-automotive travel modes. Also, links will be provided to goDCgo.com, CommuterConnections.com, transit agencies around the metropolitan area, and instructions for customers discouraging parking on-street in Residential Permit Parking (RPP) zones;

vi. Transportation Coordinator will demonstrate to goDCgo that tenants with 20 or more employees are in compliance with the DC Commuter Benefits Law to participate in one of the three transportation benefits outlined in the law (employee-paid pre-tax benefit, employer-paid direct benefit, or shuttle service), as well as any other commuter benefits related laws that may be implemented in the future such as the Parking Cash-Out Law;

vii. Following the issuance of a Certificate of Occupancy for the Project, the Transportation Coordinator will submit documentation summarizing compliance with the transportation and TDM conditions of the Order (including, if made available, any written confirmation from the Office of the Zoning Administrator) to the Office of Zoning for inclusion in the IZIS case record of the case; and

viii. Following the issuance of a Certificate of Occupancy for the Project, the Transportation Coordinator will submit a letter to the Zoning Administrator, DDOT, and goDCgo every five (5) years (as measured from the final Certificate of Occupancy for the Project) summarizing continued substantial compliance with the transportation and TDM conditions in the Order, unless no longer applicable as confirmed by DDOT. If such letter is not submitted on a timely basis, the building shall have sixty (60) days from date of notice from the Zoning Administrator, DDOT, or goDCgo to prepare and submit such letter.

E. Miscellaneous

1. No building permit shall be issued for PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, that is satisfactory to the Office of Zoning Legal Division and the Zoning Division, Department of Buildings. Such covenant shall bind the Applicant and all successors in title to construct and use the Property in accordance with this Order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.

2. The second-stage PUD approval for the development of the North Parcel shall remain valid for a period of two years from the effective date of this Order. Within such time, an application must be filed for the building permit as specified under the Zoning Regulations. Construction of the Project shall start within three years from the effective date of this Order.

Final Action

VOTE (Oct. 17, 2022): 4-0-1 (Anthony J. Hood, Robert E. Miller, Peter G. May, Joseph S. Imamura to **APPROVE**; 3rd Mayoral Appointee seat vacant).

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 15-20D shall become final and effective upon publication in the *District of Columbia Register*; that is, on November 10, 2023.

BY THE ORDER OF THE D.C. ZONING COMMISSION
A majority of the Commission members approved the issuance of this Order.

ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION

SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS THE D.C. HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (THE "ACT"). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE ACT, THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A

FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER

GOVERNMENT OF THE DISTRICT OF COLUMBIA
ZONING COMMISSION

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER 15-20E
TBSC Master Owner I, LLC
(One-Year Time Extension for Approved Second-Stage Planned Unit Development @ Square 620, Lot 254 (50 M Street, N.W.))
October 23, 2025

Pursuant to notice, at its October 23, 2025 public meeting, the Zoning Commission for the District of Columbia ("Commission") considered the application ("Application") of TBSC Master Owner I, LLC ("Applicant") for a one-year time extension of the period to file a building permit application and begin construction of the second-stage Planned Unit Development ("PUD") approved for the property located at 50 M Street, N.W. (Lot 254 in Square 620) ("Property") pursuant to Z.C. Order No. 15-20D, dated October 17, 2022, and effective as of November 10, 2023. The Commission reviewed the Application pursuant to the Commission's Rules of Practice and Procedures, which are codified in Subtitle Z of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

I. FINDINGS OF FACT

THE PROPERTY

1. The Property is referred to as the "North Parcel" of a larger PUD site approved pursuant to Z.C. Order No. 15-20 and subsequent approvals summarized in Findings of Fact ("FF") Nos. 3 to 8 below. The PUD site consists of two major tracts: the North Parcel and the "South Parcel," which are separated by a private street known as Banner Lane, N.W.

2. The overall PUD site is generally bounded by L Street, M Street, First Place, and First Street, N.W. The site was previously occupied by the Sursum Corda Cooperative, a 199-unit townhouse community, together with a 14-unit, four-story apartment building located at 76 M Street, N.W., and two adjoining vacant parcels. All prior improvements have been demolished, and the South Parcel has since been redeveloped with two apartment buildings containing a total of 561 residential units.

PRIOR APPROVALS

3. Pursuant to Z.C. Order No. 15-20, effective June 17, 2016, the Commission approved a first-stage PUD and related map amendment from the R-4 (now RF-1) to the C-3-C (now MU-9) zone districts for Lots 252, 253, 254, 255, 904, and 905 in Square 620. The approval authorized redevelopment of the entire PUD site with approximately 1.3 million square feet of residential use (1,131 units) and approximately 49,420 square feet of non-residential

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use, resulting in an overall density of up to 5.24 floor area ratio ("FAR"), building heights ranging from 62.5 to 110 feet, 746 parking spaces, and 199 affordable units partially reserved for former Sursum Corda households.

4. Pursuant to Z.C. Order No. 15-20A, effective June 30, 2017, the Commission approved a two-year time extension of the first-stage PUD approval, which required that a second-stage PUD application for the South Parcel be filed by June 30, 2019, in order for the first-stage approval for the North Parcel to remain valid until June 30, 2023.

5. Pursuant to Z.C. Order No. 15-20B, effective September 14, 2018, the Commission approved modifications to conditions governing certification of the Sursum Corda household list to the Department of Consumer & Regulatory Affairs and notifying households of raze permit applications.

6. Pursuant to Z.C. Order No. 15-20C, effective March 13, 2020, the Commission granted a modification to the North Parcel development program and second-stage PUD approval for the South Parcel, including adoption of an amended benefits package with affordable housing, reserved units for former Sursum Corda households, minimum unit sizes, open space and landscape improvements, employment and environmental benefits, support for neighborhood organizations, and a commemorative historic element.

7. Pursuant to Z.C. Order No. 15-20D, effective November 10, 2023, the Commission approved a Modification of Significance to the first-stage PUD and a second-stage PUD approval for the North Parcel for Lot 254 in Square 620 ("Second-Stage PUD Order"). The Second-Stage PUD Order clarified certain public benefits and amenities, including affordability requirements, commitments to returning Sursum Corda households, sustainability standards (LEED-Silver certification), and the location of the commemorative artwork.

   Under the Second-Stage PUD Order, the North Parcel will be redeveloped with two mixed-use residential buildings, identified as the "Northwest Building" and the "Northeast Building" (together, the "Project"), containing approximately 753,497 square feet of gross floor area ("GFA") and a total of 715 dwelling units. The Project will have building heights ranging from 65.42 feet to 110 feet, a density of 6.05 FAR, approximately 353 parking spaces, 296 bicycle parking spaces (256 long-term and 40 short-term), and approximately 11,050 square feet of non-residential GFA, primarily located within the Northwest Building.

8. Condition E.2 of the Second-Stage PUD Order required the Applicant to file a building permit application for the Project by November 10, 2025, and to commence construction by November 10, 2026.

PARTIES AND NOTICE

9. The only parties to the original case and to the Application were the Applicant and Advisory Neighborhood Commission ("ANC") 6E, which is the "affected" ANC (*See*

Subtitle Z § 101.8). On January 1, 2023, the boundaries of the District's ANCs were modified, however the Property remains within the boundaries of ANC 6E.

10. On September 15, 2025, the Applicant served the Application on ANC 6E, as well as the Office of Planning ("OP") and the District Department of Transportation ("DDOT"), as attested by the Certificate of Service submitted with the Application (Exhibit ["Ex."] 2).

II. THE APPLICATION

11. On September 15, 2025, the Applicant timely filed the Application requesting a one-year extension of the Second-Stage PUD Order, to be allowed until November 10, 2026, to file a building permit application for the Project and to start construction of the Project no later than November 10, 2027 (Ex. 1-2D).

12. The Application asserted that it met the requirements for a time extension enumerated in Subtitle Z § 705.2 because:
    - The Applicant served the extension request on all parties, and all parties were allowed 30 days to respond;
    - There has been no substantial change in any material facts upon which the Commission based its original approval in the Second-Stage PUD Order; and
    - Good cause justifies the Commission's granting of the time extension because of the Applicant's inability to obtain and retain sufficient project financing despite its diligent good faith efforts to obtain such financing, and because of changes in economic and market conditions beyond the Applicant's reasonable control. Specifically, the Application stated that:
        - Financing conditions for residential development remain unusually difficult, with elevated borrowing costs and high interest rates limiting lender appetite and reducing underwriting flexibility;
        - Locally, new rental housing starts have declined sharply, reflecting broader market challenges and underscoring that developers across the District face similar obstacles;
        - Construction costs, including materials, building systems, and labor, continue to rise at a steady pace, further compounding feasibility concerns;
        - The Applicant has applied for tax exempt bond financing, has made outreach to private lenders, and has advanced construction drawings; and despite good faith efforts, has not been able to secure financing on workable terms;
        - Because the Project relies on a cast-in-place construction method, these elevated costs have rendered the Project infeasible at current achievable rent levels, making it particularly sensitive to prevailing market conditions; and
        - These conditions collectively are outside the Applicant's reasonable control and have prevented timely commencement of construction of the approved Project.

    (Ex. 2).

13. The Applicant's justifications were further detailed in the Affidavit of C. Michael Skena ("Affidavit"), Vice President of Toll Apartments GP, LLC, which through its ownership interests exercises control over the Applicant (Ex. 2B).

14. Despite the foregoing challenges, the Application emphasized the Applicant's commitment to advancing the Project as soon as market conditions improve and indicated that a time extension would provide the additional time needed to secure the requisite financing. The Applicant further acknowledged the importance of completing the Project as approved (*Id.*).

III. RESPONSES TO THE APPLICATION

15. On October 10, 2025, OP submitted a report ("OP Report") recommending approval of the Application and concluding that (i) the extension was timely filed and properly served on all parties, which were given 30 days to respond; (ii) there had been no substantial changes in any material facts relating to the Zoning Regulations, Comprehensive Plan or the surrounding development upon which the Zoning Commission based its approval of the Second-Stage PUD Order that would undermine its justification; and (iii) the Applicant presented substantial evidence that it was unable to obtain sufficient project financing despite diligent, good faith efforts, due to economic and market conditions beyond its control (Ex. 4).

16. ANC 6E did not submit a written report to the case record; however, the ANC received notice of the Application in accordance with Subtitle Z § 705.2(a) (Ex. 2).

CONCLUSIONS OF LAW

1. Subtitle Z § 705.2 authorizes the Commission to extend the time period of an order approving a PUD upon determining that the time extension request demonstrated satisfaction of the requirements of Subtitle Z § 705.2 and compliance with the limitations of Subtitle Z §§ 705.3, 705.5, and 705.6.

2. The Commission concludes that the Applicant timely filed the Application prior to its expiration.

3. Subtitle Z § 705.2(a) requires that an Applicant serve the extension request on all parties and that parties are allowed 30 days to respond.

4. The Commission concludes that the Applicant satisfied Subtitle Z § 705.2(a) by demonstrating that it served ANC 6E, the only party, on September 15, 2025, and that ANC 6E was given 30 days to respond from September 15, 2025.

5. Subtitle Z § 705.2(b) requires that the Commission finds that no substantial change has occurred to any of the material facts upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for approving the PUD.

6. The Commission concludes that the Application satisfied Subtitle Z § 705.2(b), based upon the Application and the OP Report, which each stated no substantial changes had occurred to the material facts upon which the Commission based its prior approval of the Second-Stage PUD Order that would undermine the Commission's justification for approving the Second-Stage PUD Order.

7. Subtitle C § 705.2(c) requires that an application demonstrate with substantial evidence one or more of the following criteria:
   (1) An inability to obtain sufficient project financing for the development, following an applicant's diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the applicant's reasonable control;
   (2) An inability to secure all required governmental agency approvals for a development by the expiration date of the order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or
   (3) The existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control that renders the applicant unable to comply with the time limits of the order.

8. The Commission concludes that the Application met the standards of Subtitle Z § 705.2(c)(1) and 705.2(c)(3) due to adverse conditions affecting the financing market which were beyond the Applicant's reasonable control. For the reasons stated above, the Commission agrees that these conditions constitute good cause for the requested one-year extension of the Second-Stage PUD Order.

"GREAT WEIGHT" TO THE RECOMMENDATIONS OF OP

9. The Commission is required to give "great weight" to the recommendations of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.)) and Subtitle Z § 405.9 (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment,* 141 A.3d 1079, 1087 (D.C. 2016)).

10. The Commission finds OP's recommendation to approve the Application persuasive and concurs in that judgment.

"GREAT WEIGHT" TO THE WRITTEN REPORT OF THE ANC(S)

11. The Commission must give "great weight" to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 13(d) of the Advisory Neighborhood Commission Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.)) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances (*Spring Valley-Wesley Heights Citizens Ass'n v. D.C. Zoning Comm'n*, 856 A.2d 1174, 1180 (D.C. 2004)). The District of Columbia Court of Appeals has interpreted the phrase "issues and concerns" to "encompass

only legally relevant issues and concerns." (*Wheeler v. D.C. Bd. of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (D.C. 1978) (citation omitted)).

12. ANC 6E did not submit a report to the case record to which the Commission can give great weight.

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Applicant's request for a one-year extension of the deadline to file a building permit application and begin construction of the approved second-stage PUD, with the requirement that the Applicant:

- File a building permit application to construct the Second-Stage PUD approved by Z.C. Order No. 15-20D by November 10, 2026; and
- Begin construction of the Second-Stage PUD approved by Z.C. Order No. 15-20D by November 10, 2027.

Final Action
VOTE (October 23, 2025): 3-0-2 (Robert E. Miller, Gwen Marcus Wright, and Anthony J. Hood to approve; Joseph S. Imamura and Tammy Stidham not present, not voting.)

The complete record in the case can be viewed online at the Office of Zoning's Interactive Zoning Information System (IZIS), at https://app.dcoz.dc.gov/Content/Search/Search.aspx.

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 15-20E shall become final and effective upon publication in the *District of Columbia Register*, that is, on January 16, 2026.

BY THE ORDER OF THE D.C. ZONING COMMISSION
A majority of the Commission members approved the issuance of this Order.

ANTHONY HOOD
CHAIRMAN
ZONING COMMISSION

SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL

AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENT OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.