Evaluation of Comprehensive Plan Policy Guidance

GENERALIZED POLICY MAP EVALUATION ("GPM")

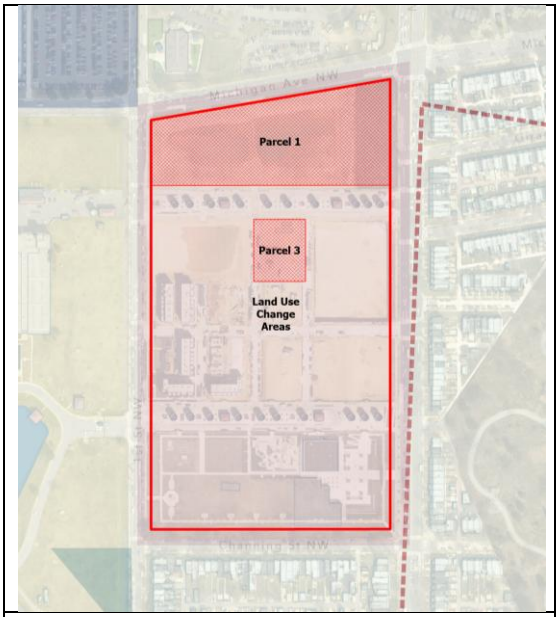


Figure 1: Excerpt of GPM showing Parcel 1 and Parcel 3 of the overall PUD Site within a Land Use Change Area.

As shown in **Figure 1**, Parcels 1 and 3, along with the entire Overall PUD Site, are located within a Land Use Change Area on the GPM, which is the same GPM designation that existed under the 2006 Comp Plan when the Commission first approved the Approved PUD. Per the Framework Element, Land Use Change Areas are "areas where change to a different land use from what exists today is anticipated." [10-A DCMR § 225.9]. The guiding philosophy in Land Use Change Areas is to encourage and facilitate new development and promote adaptive reuse of existing structures. These areas have capacity to become mixed-use communities containing housing, retail shops, services, workplaces, parks, and civic facilities. The Comp Plan FLUM and applicable Area Element policies provide guidance on development and redevelopment within Land Use Change Areas, including the desired mix of uses. As Land Use Change Areas are redeveloped, the District aspires to create high-quality neighborhoods that demonstrate high-quality site and architectural design and sustainable features, are compatible with nearby neighborhoods, protect cultural and historic assets, and provide significant affordable-housing and employment opportunities. Measures to ensure that public benefits are commensurate with increased density and to avoid and mitigate undesirable impacts of development of the Land Use Change Areas upon adjacent neighborhoods should be required, as necessary. Such measures should prioritize equity by accounting for the needs of underserved communities.

The proposed PUD modification for Parcels 1 and 3 is not inconsistent with the GPM, and it also does not impact the Commission's prior determination regarding the Approved PUD's consistency with the GPM. Consistent with the FLUM and the Commission's prior approval, Parcels 1 and 3 and the Approved PUD overall will continue to be improved with a mix of uses that are responsive to neighborhood and citywide needs and market demand. Despite the broad range of flexibility being requested, the height, density, sustainable features, and exterior materials on both parcels will remain consistent with the Commission's prior approval since any future development will be required to adhere to the Sitewide Master Plan and Design Guidelines and Parcel 1 Site Plan Guidelines. Importantly, future development will also remain fully subject to review by the Historic Preservation Review Board ("HPRB").

FUTURE LAND USE MAP EVALUATION

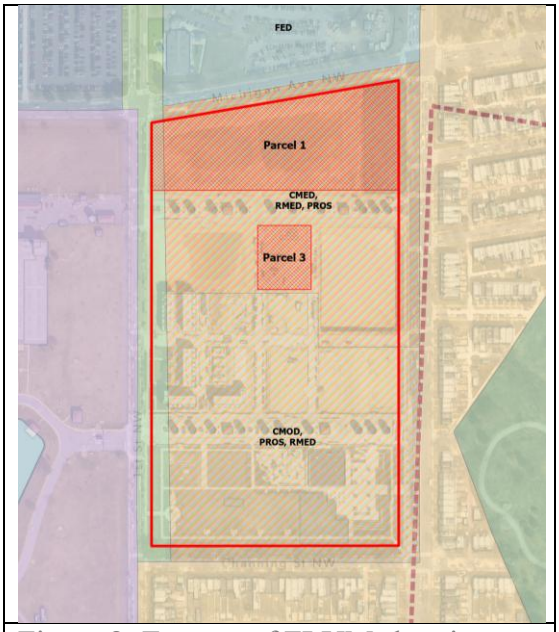


Figure 2: Excerpt of FLUM showing Parcel 2 and Parcel 4 of the PUD Site within an area designated Mixed Use (Medium Density Commercial, Medium Density Residential, and PROS)

As shown in **Figure 2,** Parcels 1 and 3 of the Overall PUD Site are located within an area designated for medium density Mixed Used development, which is the same general designation that existed under the 2006 Comp Plan when the Commission approved the Overall PUD. However, as part of the 2021 Comp Plan amendment process the Council made a change to the FLUM designation for the northern portion of the Overall PUD site, including Parcels 1 and 3. Specifically, under the 2006 Comp Plan FLUM, the entire Overall PUD site was designated as Mixed Use (Moderate Density Commercial, Medium Density Residential, and Parks, Recreation, and Open Space), with which the Commission previously determined that the Approved PUD is not inconsistent. [*See* Z.C. Order No. 13-14(6) at pg. 3-4]. Under the current 2021 Comp Plan, the Council increased the intensity of commercial development that could be contemplated on the northern portion of the Overall PUD Site, including Parcels 1 and 3, by changing the FLUM to Mixed Use (Medium Density Commercial, Medium Density Residential, Parks, Recreation, and Open Space). The southern portion of the Overall PUD Site (Parcels 5 and 6) remained the same.

A "Mixed Use" designation is a specific land use category and is assigned to areas where the mixing of two or more land uses is encouraged, but not mandatory. It is intended primarily for larger areas where no single use predominates today, or areas where multiple uses are encouraged in the future. [10-A DCMR § 227.22]. The combination of uses and the general density of development in any given Mixed-Use area is informed by the stripe patterns on the FLUM. If the desired outcome is to emphasize one use over another, the FLUM may note the dominant use by assigning it to a higher density. [10-A DCMR § 227.1]. The Area Elements and applicable small area plans, if any, may also provide detail on the mix of uses for an area. In this case, the current FLUM designation for Parcels 1 and 3 does not express a preference for any particular use (i.e., both the commercial and residential components of the FLUM designation support medium density). Similarly, policy guidance on the scale and mix of uses provided in the Mid-City Area Element states that the Overall PUD Site "should consist of residential, retail, office, and recreational uses," and "new buildings should be planned and designed in a manner that is informed by the height, mass, scale, and uses of existing and planned buildings in the surrounding area." [10-A DCMR § 2016.8].

The proposed PUD modification is not inconsistent with the FLUM, and it has no impact on the Commission's prior determination regarding the Overall PUD's FLUM consistency. Under the current Order, the Commission approved a maximum overall density of 1.92 FAR across the Overall PUD Site, and a combined gross floor area ("GFA") of approximately 2,070,753 square feet. These

overall maximum amounts will remain since the proposed PUD modification does not include any increases in permitted density on Parcels 1 or 3. Rather, the flexibility requested by the Applicant is to potentially construct less density depending upon the ultimate development program and market demand for these two parcels. On Parcel 1, the Applicant will maintain the overall maximum GFA of 875,000 square feet, of which a minimum of 15,000 square feet will be devoted to retail use and is requesting flexibility to reduce the amount of density developed on Parcel 1 to 160,000 square feet (of which at least 15,000 square feet will still be devoted to retail use). This range of 160,000 – 875,000 square feet of GFA equates to a permitted density range of approximately 0.75 FAR - 4.08 FAR on Parcel 1. On Parcel 3, the Applicant will maintain the overall maximum GFA of 173,000 square feet, of which a minimum of 3,000 square feet will be devoted to retail use. The Applicant is not requesting any flexibility to reduce density on Parcel 3, nor its minimum retail component size, since this parcel still requires Second-Stage PUD approval. Despite the flexibility requested to potentially reduce the amount of density on Parcel 1, the density across the Overall PUD Site will remain consistent with the FLUM.

MID-CITY AREA ELEMENT EVALUATION

Overall, the Applicant finds the proposed PUD modification to be not inconsistent with the Mid-City Element. The proposed modification preserves the fundamental planning framework established through the Approved PUD while providing the flexibility that is necessary for the Applicant to have any chance of advancing development on Parcels 1 and 3 in light of the unique physical and regulatory constraints of the site and challenging market conditions that continue to hinder all sectors of real estate in the District. Consistent with the Mid-City Element's policies encouraging high-quality mixed-use redevelopment, infill development, affordable housing, and reuse of the historic McMillan Sand Filtration Site, the proposed PUD modification retains the approved street network, open space system, historic preservation commitments, retail requirements, and overall development envelope while allowing a broader range of uses to ensure the long-term viability of the overall PUD [MC-1.1.2, MC-1.1.3, MC-1.1.7]. The proposal also continues to advance the Mid-City Element's site-specific policies by preserving the substantial publicly accessible open space now available on the PUD site, maintaining all approved historic preservation commitments, and protecting the defining historic features of the site, including Cell 14, the North and South Service Courts (including all above ground structures), Olmsted Walk, and associated character-defining elements (such as the site's tripartite spatial organization and east-west visual relationship with the McMillan Reservoir [MC-2.6.1, MC-2.6.2].

Importantly, the proposed PUD modification is also consistent with Policy MC-2.6.5, which recognizes the Overall PUD Site's substantial potential to address multiple planning priorities through a mix of residential, retail, office, recreation, and health care uses, while ensuring that new development is informed by the surrounding context [MC-2.6.5]. The requested flexibility does not depart from the direction provided by this policy, but instead enables the Approved PUD to adapt to fundamentally changed market conditions since the Commission first approved the PUD in 2014. At that time, the healthcare industry largely relied upon centralized medical campuses that drew patients from a wide geographic area to receive services. Since the onset of the COVID-19 pandemic, healthcare delivery continues to undergo significant structural changes, with healthcare providers increasingly favoring smaller, distributed facilities located closer to the communities they serve. The proposed modification responds to these changes by preserving healthcare as a permitted use while providing flexibility for complementary institutional,

commercial, lodging, residential, and other uses should the originally approved healthcare program no longer be economically feasible. At the same time, the proposal maintains the mixed-use character envisioned for the site, retains the approved CR [MU-10] zoning and maximum approved development envelope without increasing height or density, and ensures that any future residential development will include a minimum 20% affordable housing set-aside. Moreover, all future development will continue to be governed by the approved PUD's Sitewide Master Plan and Design Guidelines and Parcel 1 Site Plan Guidelines, which will ensure that new buildings are compatible with the height, mass, scale, and architectural character of existing and planned development throughout the Overall PUD Site and surrounding neighborhood, thereby implementing the design objectives embodied in Policy MC-2.6.5.

The Applicant recognizes that certain alternative use scenarios could require additional consideration of operational characteristics, transportation impacts, and neighborhood compatibility, particularly with respect to mixed-use activity, loading operations, and community-serving amenities [MC-1.1.6, MC-2.6.3, MC-2.6.4]. However, the Applicant believes these considerations can be effectively addressed in the PUD modification process through required adherence to Sitewide Master Plan and Design Guidelines and Parcel 1 Site Plan Guidelines, use-specific TDM strategies, and appropriate continued oversight and review where necessary. Accordingly, the Applicant finds that the proposal presents no inconsistencies with the policies of the Mid-City Area Element. Rather, by preserving the approved planning and design framework of the overall Approved PUD while allowing development on Parcels 1 and 3 to adapt to current market realities, the proposed PUD modification will continue to substantially advance the Mid-City Element's policies by facilitating the continued long-envisioned redevelopment of the historic McMillan Sand Filtration Site.

LAND USE ELEMENT EVALUATION

Overall, the proposed PUD modification for Parcels 1 and 3 is not inconsistent with the policies of the Land Use Element. The modification is necessary to respond to the extreme and permanent changes in the healthcare and commercial real estate markets by providing flexibility to accommodate a broader range of market-supported uses while preserving the approved height, density, urban design framework, historic preservation commitments, public benefits, and key site planning features. Specifically, through required adherence to Sitewide Master Plan and Design Guidelines and Parcel 1 Site Plan Guidelines, the PUD modification retains the approved street network, view corridors, setbacks, Cell 14 preservation, Olmsted Walk, and open space program, thereby continuing to advance the Comp Plan's objectives regarding the reuse of large sites, protection of historic resources, and integration of new development into the surrounding urban fabric [LU-1.3.1, LU-1.3.6, LU-1.3.7]. The proposal also maintains the minimum retail requirements on both parcels while providing flexibility for an expanded range of compatible principal institutional, commercial, lodging, or multifamily residential uses, thereby preserving the mixed-use character envisioned for the Overall PUD Site and supporting vibrant neighborhood-serving commercial activity [LU-1.3.2, LU-2.3.5, LU-2.4.1]. Additionally, the modification further advances the Comp Plan's objectives for planned unit developments and public benefits on large redevelopment sites through a 20% affordable housing set aside for any future residential development on either parcel, and also maintains a transit-supportive development pattern through flexibility to reduce / right-size parking to current zoning requirements [LU-1.4.2, LU-2.1.13, LU-1.3.5]. Finally, development on both parcels will remain subject to the Sitewide Master Plan and

Design Guidelines and Parcel 1 Site Plan Guidelines, continued Historic Preservation Review Board ("HPRB") review, and additional Commission oversight where appropriate, ensuring that future modifications remain consistent with the overall planning objectives established through the Approved PUD.

The Applicant recognizes that certain alternative uses, such as lodging or entertainment uses, could require additional consideration of operational characteristics including loading, transportation demand, and hours of operation [LU-2.3.2, LU-2.4.11]. However, these issues can be appropriately evaluated and addressed through the PUD modification process and, where necessary, through tailored conditions. As discussed below, the Applicant is currently preparing a transportation study in coordination with the District Department of Transportation ("DDOT") that will analyze the potential transportation impacts associated with a range of representative land use scenarios made possible by the proposed PUD modification, including a comparison against the potential transportation impacts of the currently approved healthcare facility use. In addition, through its engagement with surrounding community organizations the Applicant has already agreed not to pursue certain uses identified by the community as disfavored for the PUD site—including nightclubs and cannabis dispensaries. The Applicant will continue its community engagement throughout the PUD modification process and remains open to making additional commitments regarding permitted uses. Accordingly, while certain future use possibilities may warrant operational conditions that can be addressed during the PUD modification process, the proposal presents no definite inconsistencies with the Land Use Element.

TRANSPORTATION ELEMENT EVALUATION

Overall, the proposed PUD modification for Parcels 1 and 3 is not inconsistent with the policies of the Transportation Element. The proposed modification does not alter the established multimodal transportation framework that was approved by the Commission under the Order, but instead provides flexibility within the established framework to adjust parking, loading, and related transportation facilities in proportion to the ultimate development program in accordance with the current zoning requirements. The proposal does not increase the amount of approved vehicle parking but instead continues to encourage a transportation strategy that minimizes reliance on single-occupant vehicles, promotes transportation demand management, and supports multimodal travel choices [T-1.1.8, T-3.1.1]. Moreover, the modification retains the transportation improvements incorporated into the Approved PUD under the Order, including bicycle facilities, pedestrian connections, streetscape improvements, and other transportation amenities that support safe and efficient travel throughout and around the Overall PUD Site [Action T-1.1.B]. By preserving these improvements while allowing transportation facilities to be appropriately right-sized based on the ultimate mix of uses, the proposal remains consistent with the Transportation Element's objectives of promoting efficient use of transportation infrastructure, encouraging multimodal travel, and reducing unnecessary automobile dependence.

Because the proposed modification authorizes a range of potential uses, the final transportation plan for Parcel 1 will depend on the ultimate development program carried out.[1] Accordingly, the Applicant is currently preparing a transportation evaluation in coordination DDOT that will analyze the transportation impacts associated with a range of representative use

[1] The final transportation plan for Parcel 3 can be further refined during its Second-Stage PUD review

made possible by the proposed PUD modification, which are aligned with the use scenarios reflected in the Applicant's Parcel 1 Massing Concepts and updated economic impact study. The transportation evaluation will assess multimodal impacts consistent with current DDOT standards and, to the extent necessary, recommend additional transportation demand management ("TDM") strategies and/or other mitigation measures. The transportation impacts associated with the range of potential uses are anticipated to be generally comparable to, and not greater than, the potential transportation impacts previously evaluated for Parcels 1 and 3 (approximately 860,000 square-foot healthcare facility on Parcel 1 and approximately 170,000 square-foot healthcare facility on Parcel 3).

HOUSING ELEMENT EVALUATION

Overall, the proposed PUD modification for Parcels 1 and 3 is not inconsistent with the policies of the Housing Element. While the modification preserves the currently approved healthcare use and seeks flexibility to allow other non-residential principal uses, it also includes flexibility to develop multifamily residential use on either or both parcels in response to changing market conditions. As a result, the Applicant will create an opportunity to further expand the District's housing supply in a manner consistent with Comp Plan policies encouraging private-sector housing production, balanced growth, and the redevelopment of large sites [H-1.1.1, H-1.1.2, H-1.1.3, H-1.1.7]. Importantly, should the Applicant elect to develop multifamily residential on either parcel, the modification would require that a minimum of 20% of the residential gross floor area be devoted to affordable housing, thus substantially advancing the Housing Element's objectives of increasing the supply of affordable housing, promoting mixed-income communities, and utilizing the PUD process to secure affordable housing as a significant public benefit [H-1.2.1, H-1.2.4, H-1.2.7]. In addition, the proposed use, design, and development flexibility will significantly reduce procedural barriers and entitlement risk that drastically limit the Applicant's ability to respond to market conditions that continue to evolve, thereby facilitating the potential long-term delivery of housing should residential development ultimately present the most market demand [H-1.5.1]. Although the extent to which the modification advances Housing Element policies will ultimately depend on whether a residential use is pursued, the proposal creates a meaningful opportunity to increase both market-rate and affordable housing consistent with the Comp Plan's housing production goals, while presenting no inconsistencies with the Housing Element.

ENVIRONMENTAL PROTECTION ELEMENT EVALUATION

Overall, the Applicant finds the PUD modification is not inconsistent with applicable policies of the Environmental Protection Element. The proposed modification preserves the overall environmental benefits of the PUD site established through the Approved PUD while accommodating a broader range of market-supported uses and design flexibility. The modification retains the approved landscape and open space framework, LEED environmental design requirements, and other sustainable design measures regardless of the ultimate development program [E-1.1.1, E-1.1.2, E-2.1.2, E-2.1.5, E-3.2.7, E-4.1.2, E-4.2.1]. This includes the current requirement that each individual building on the Overall PUD Site be certified at a minimum

LEED-Silver level, and that the Overall PUD Site be evaluated for LEED-Neighborhood Development and be certified LEED-Gold at a minimum [E-4.4.1].

Importantly, the proposed PUD modification does not increase the approved density or intensity of development on either parcel. Rather, by allowing flexibility to respond to current market demand, the modification will result in a development program that is appropriately right-sized for prevailing market conditions and, in all likelihood, a lower overall intensity of development that generates fewer vehicular trips compared to the healthcare uses current approved on Parcels 1 and 3. As a result, the proposal has potential to advance Environmental Protection Element policy objectives of reducing transportation-related emissions, encouraging sustainable site planning, and mitigating development impacts [E-3.2.7, E-4.4.1, E-5.1.5].

ECONOMIC DEVELOPMENT ELEMENT EVALUATION

Overall, the Applicant finds the proposal to be not inconsistent with the policies of the Economic Development Element, as applicable. As previously noted, the Applicant is pursuing the PUD modification to be able to respond to ever changing economic conditions through flexibility that can accommodate a broader range of market-supported uses. In particular, the modification advances the Comp Plan's economic objectives for the strategic redevelopment of large sites by allowing development on Parcels 1 and 3 to include a mix of healthcare, institutional, office, lodging, commercial, entertainment, and multifamily residential uses in response to current market demand generally, and for this particular location within the District [ED-1.1.7]. The proposal creates the flexibility to accommodate other types of office use beyond medical office that responds to changing workplace demands, consistent with the Comp Plan's encouragement of diversified office opportunities and economic resilience [ED-2.1.4]. In addition, permitting lodging as a use option expands opportunities to strengthen the District's hospitality economy outside of Central Washington [ED-2.3.4], which in this location could support nearby medical and academic institutions as well as visitors to the District. Finally, by retaining healthcare and expanding opportunities for other institutional uses, the proposal continues to support the growth of the District's health care and institutional sectors, which remain among the District's core industries and important sources of employment and economic activity [ED-2.4.1], in a location where “Eds and Meds” type synergies can be gained with nearby healthcare and institutional uses. Allowing the development program on Parcels 1 and 3 to adapt to current market conditions while preserving the approved planning framework and public benefits, the proposed PUD modification promotes the long-term economic viability of the overall McMillan redevelopment, advances the diversification of the District's economy, and supports continued job creation and investment on one of the District's most significant redevelopment sites.

PARKS, RECREATION, AND OPEN SPACE ELEMENT

The proposed PUD modification is not inconsistent with the Parks, Recreation, and Open Space Element as it preserves the comprehensive open space framework established through the Approved PUD and maintains the substantial public open space benefit that formed a central component of the Commission's original approval. Most importantly, the proposed modification retains the amount of open space that is currently required on Parcel 1 by limiting the maximum permitted lot occupancy to 55% under any development scenario, consistent with the current Approved PUD. This will allow the form and massing of development on Parcel 1 to be modified

in response to the future uses, while preserving the overall amount of open space provided on Parcel 1 and maintaining the approximately 12-acre open space network across the Overall PUD Site. In terms of open space design, the Applicant notes that the approved healing gardens were designed to complement the operational needs and patient experience associated with the currently approved healthcare facility, which may not be the ideal design for a different use. As such, the flexibility requested in the Application will allow the maintained open space on Parcel 1 to evolve in response to the ultimate development program and its relationship to the broader interconnected system of parks, plazas, service courts, Olmsted Walk, and other publicly accessible open spaces throughout the Overall PUD Site. This flexibility will allow the open space to better serve the users of the ultimate development on Parcel 1, the Overall PUD Site, and the surrounding community while preserving both the quantity and public accessibility of the approved open space network, thereby maintaining one of the most important public benefits of the Approved PUD [PROS-1.2.2, PROS-1.3.6, PROS-3.3.1, PROS-4.3.2, PROS-4.3.3, PROS-3.1.7]. Although the modification provides flexibility to refine the design, configuration, and programming of open space on Parcel 1, it does not authorize any reduction in the amount of open space or use of open space areas for parking, loading, or private use, thereby avoiding any inconsistency with policies protecting publicly accessible open space resources [PROS-1.3.4].

URBAN DESIGN ELEMENT EVALUATION

Overall, the proposed PUD modification for Parcels 1 and 3 is not inconsistent with the policies of the Urban Design Element. The proposed modification preserves the fundamental urban design framework established for the Overall PUD Site while providing measured flexibility that is necessary to allow the Applicant to respond to continually changing market demand, and to facilitate the long sought after full build-out of the Overall PUD Site. Importantly, the proposal does not increase the approved height, density, or development envelope for either parcel and retains the defining site planning features that shaped the Commission's original approval, including the tripartite site organization, east-west visual connection to the McMillan Reservoir, established street network, the Half Street view corridor, setbacks from North Capitol Street and First Street, Olmsted Walk, preservation of Cell 14, overall open space network, rehabilitated historic structures along both North and South Service Courts, and the overall relationship between buildings and open spaces. As such, the proposal continues to advance the Comp Plan's policies encouraging thoughtful planning for large redevelopment sites, integration of large-scale development with surrounding neighborhoods, preservation of neighborhood open space, continuation of meaningful connections between buildings and the public realm, and the incorporation of existing historic and landscape assets into redevelopment [UD-2.2.8, UD-2.2.6, UD-2.2.7, UD-2.1.4]. The PUD modification also preserves the site's role as a mixed-use neighborhood destination by maintaining minimum retail requirements while expanding opportunities for institutional, cultural, entertainment, lodging, and residential uses that can further activate the public realm and create additional community gathering spaces consistent with the Urban Design Element's objectives [UD-3.2.2, UD-3.2.3].

Although the proposed modification requests broad design flexibility, that flexibility is carefully structured and remains subject to review and oversight that ensure continued consistency with the Urban Design Element and the principles underlying the Commission’s intent in approving the Approved PUD. Specifically, even the broadest design option does not permit unilateral redesign by the Applicant. Rather, any material departure from the approved

architectural form remains subject to review by the Zoning Administrator ("ZA") and the Office of Planning ("OP"), with the potential for additional review by the Commission. In addition, the Applicant would be required to present future development to the affected ANC and would remain subject to review and approval by the HPRB through its normal public process, thereby ensuring continued consideration of architectural quality, consistency with the Sitewide Master Plan and Design Guidelines, preservation of historic resources, and the relationship of the development to the surrounding context. Together with any other design guidelines and constraints that would be set forth in the Commission's order (such as the Parcel 1 Site Plan Guidelines), these levels of review and oversight will address any potential concerns regarding transitions in building intensity, infill compatibility, and the scale and massing of buildings [UD-2.2.4, UD-2.2.5, UD-4.2.1]. By preserving the essential urban design framework established by the Sitewide Master Plan and Design Guidelines and Parcel 1 Site Plan Guidelines, the proposal advances the Urban Design Element's overarching objectives of achieving high-quality, context-sensitive design for large redevelopment sites.

HISTORIC PRESERVATION ELEMENT EVALUATION

Overall, the proposed PUD modification is not inconsistent with applicable policies of the Historic Preservation Element. The proposed modification preserves the historic preservation framework established through the Sitewide Master Plan and Design Guidelines, which were approved by both the Commission and HPRB and form the basis of the Commission's approval of the Approved PUD. Importantly, the modification will have no impact on any of the above-ground historic structures located along the North and South Service Courts, will not affect the preservation or treatment of Cell 14 located on the east side of Parcel 1, and will retain Olmsted Walk, view corridors, and other character-defining historic landscape features that are integral to the site's historic significance. Future development on Parcels 1 and 3 will likewise continue to maintain the critical urban design, planning, and architectural principles that underpin the master plan for the Overall PUD Site, thereby preserving the historic character of the landmark while allowing the Applicant to adapt to evolving market conditions for redevelopment of Parcels 1 and 3. Accordingly, the proposal advances the Comp Plan's policies encouraging compatible development within historic settings and ensuring that preservation concerns remain fully integrated into the planning and development review process [HP-2.5.3, HP-1.1.3].

Additionally, the broad design flexibility for future development on Parcel 1 will still be constrained by the preservation framework established through the Approved PUD. As previously discussed, all future development will continue to be subject to review by the HPRB through its public process, in addition to review by the ZA, OP, and, where applicable, the Commission. Notice of any such proposal will also be provided to the surrounding community, ensuring continued public participation. This continued oversight ensures that future development on Parcel 1 preserves the defining features and remains compatible with the historic landmark and maintains consistency with the Sitewide Master Plan and Design Guidelines, thereby addressing any potential concerns associated with changes in building form or compatibility with the historic McMillan Reservoir site [HP-2.2.3, HP-2.5.3]. Because the modification neither authorizes the alteration or demolition of historic resources nor diminishes the preservation commitments incorporated into the Approved PUD, and because all future design flexibility remains subject to robust historic preservation review, the proposal presents no inconsistencies with the Historic Preservation Element. Rather, by preserving the essential historic resources and planning framework of the historic landmark while allowing the project to respond to changing market

conditions, the proposed PUD modification advances the Historic Preservation Element's overarching objective of accommodating growth and change without degrading the integrity of the District's historic resources.

POTENTIAL COMP PLAN INCONSISTENCIES

The foregoing Comp Plan analysis thoroughly demonstrates the numerous ways in which the proposed PUD modification aligns with applicable policies of the Comp Plan, including the FLUM and GPM. However, as explained in multiple decisions by the D.C. Court of Appeals ("Court"), it is not sufficient to simply identify the policies that would be advanced when evaluating a proposal for consistency with the Comp Plan. Rather, because there is intentional overlap within and between the Comp Plan elements, a Comp Plan evaluation must recognize potential inconsistencies and explain why the inconsistencies are outweighed by other Comp Plan policies and/or competing considerations. The Court has provided the following specific guidance:

> The Comp Plan is a broad framework intended to guide the future land use planning decisions for the District. Thus, even if a proposal conflicts with one or more individual policies associated with the [Comp] Plan, this does not, in and of itself, preclude the Commission from concluding that the action would be consistent with the [Comp] Plan as a whole. The Comp Plan reflects numerous occasionally competing policies and goals, and, except where specifically provided, the [Comp] Plan is not binding. Thus, the Commission may balance competing priorities in determining whether a proposal would be inconsistent with the Comp Plan as a whole. If the Commission approves a [proposal] that is inconsistent with one or more policies reflected in the [Comp] Plan, the Commission must recognize these policies and explain [why] they are outweighed by other, competing considerations." *Friends of McMillan Park v. District of Columbia Zoning Comm'n*, 149 A.3d 1027, 1035 (D.C. 2016) ("*McMillan*") (internal citations and quotations omitted).

The Implementation Element reflects similar guidance: "[r]ecognize the overlapping nature of the [Comp Plan] elements as they are interpreted and applied. An element may be tempered by one or more of the other elements." [10-A DCMR § 2504.6].

Consistent with the guidance provided in the Implementation Element and by the Court, the Applicant conducted a thorough Comp Plan evaluation using a racial equity lens and, as detailed throughout this Comp Plan evaluation, finds the proposed PUD modification for Parcels 1 and 3 of the Overall PUD Site to be not inconsistent with the Comp Plan when read as a whole. In conducting its evaluation, the Applicant was careful to identify any instances where the proposal would be inconsistent with certain Comp Plan policies. Upon review, the Applicant did not identify any instances where the proposed PUD modification is categorically inconsistent with specific Comp Plan policies. Furthermore, the Applicant also did not identify any instances where the proposed PUD modification, as a whole or any of its individual modifications or requested flexibility, would disrupt any part of the Commission's prior Comp Plan determination for the Approved PUD as set forth in the Order.