

Z.C. Case No. 16-11  
Park View Community & the District of Columbia  
Consolidated PUD & Related Map Amendment  
Limited Scope Hearing

Testimony  
Shane L. Dettman, Holland & Knight LLP

October 19, 2021

# SCOPE OF HEARING

- Remand Order Issues
- Updated Comprehensive Plan

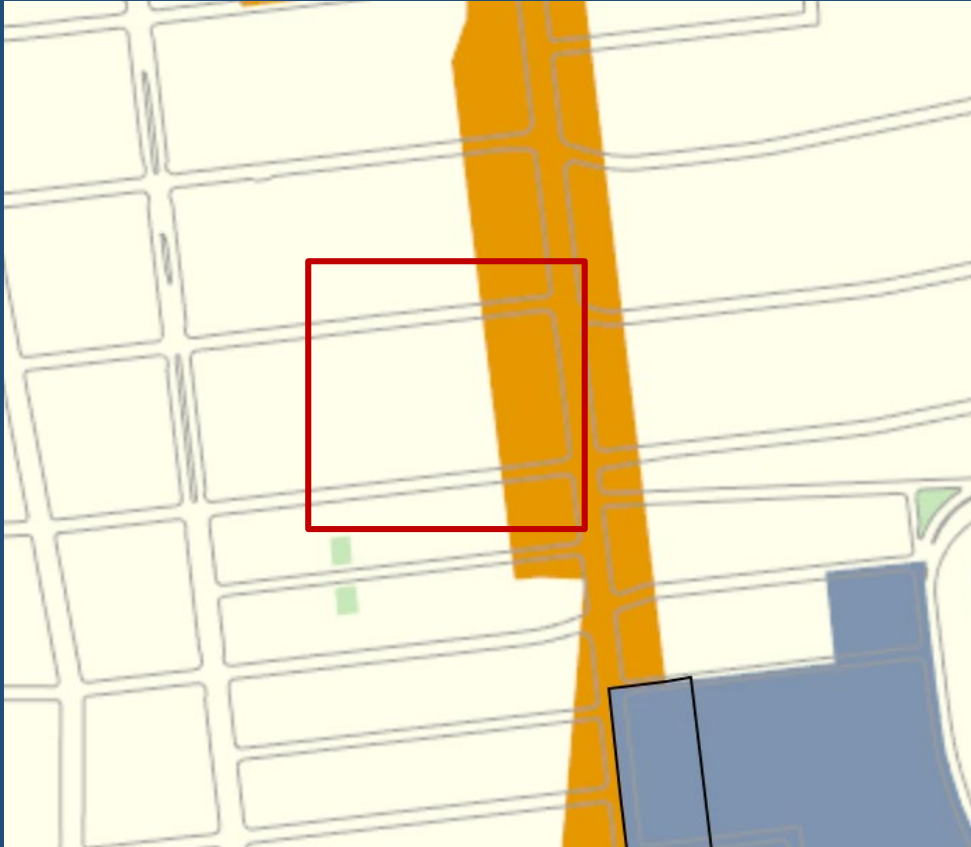


# SCOPE OF HEARING

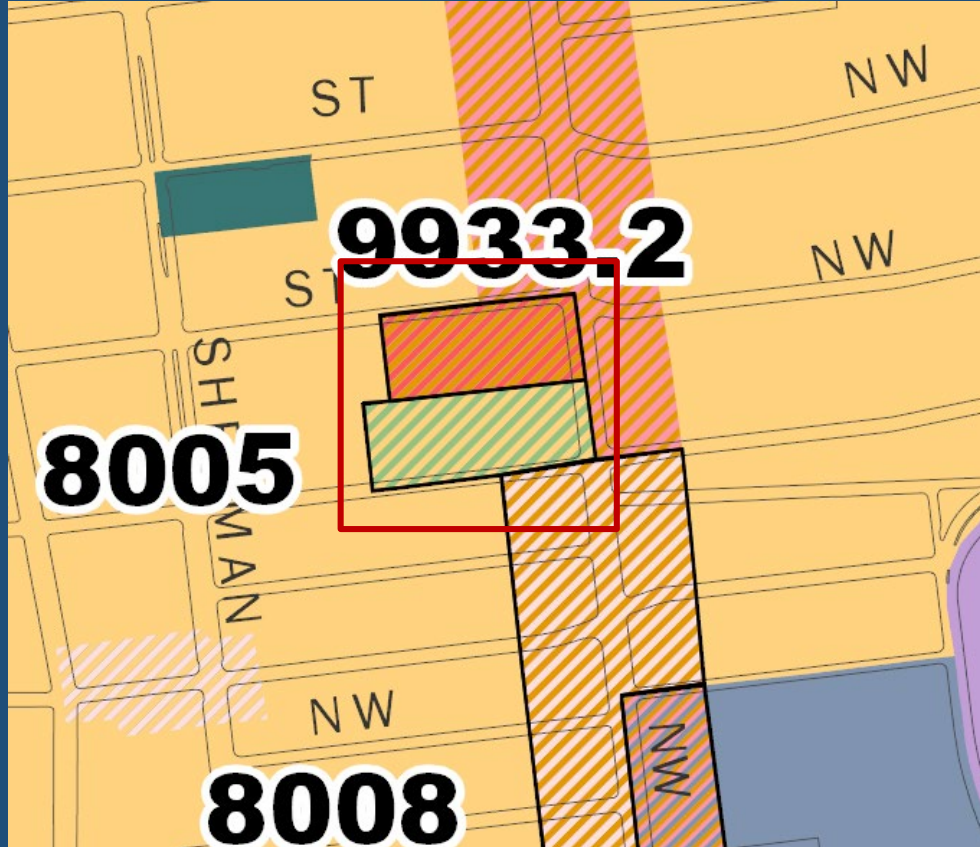
- Remand Order Issues
  1. Take into account that the 90-foot high building protrudes into a Neighborhood Conservation Area;
  2. Take into account that the areas adjacent to the western portion of the PUD are designated moderate-density residential, not medium-density residential;
  3. Take into account that the 90-foot high building and the 60-foot high building are not generally consistent with, respectively, the medium-density-commercial and moderate-density-residential designations in the FLUM;
  4. Either identify record support for the statement that the senior building “mimics many other apartment houses that have been built as infill developments in the area” or forgo reliance on that consideration;
  5. Independently analyze and discuss whether the PUD is inconsistent with specific policies, or would have adverse effects, timely identified before the Commission.
  6. Determine whether, in light of the Commission’s conclusions on these issues, the Commission should grant or deny approval of the PUD;
  7. Explain the Commission’s reasoning in granting or denying approval.

# EVALUATION OF REMAND ORDER ISSUES

1. Take into account that the 90-foot high building protrudes into a Neighborhood Conservation Area.



2021 Generalized Policy Map



2021 Future Land Use Map

# EVALUATION OF REMAND ORDER ISSUES

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# EVALUATION OF REMAND ORDER ISSUES

## 1. Take into account that the 90-foot high building protrudes into a Neighborhood Conservation Area.



- Boundaries on GPM provide generalized guidance, “should be interpreted as approximate and not precise delineations.”
- Guiding philosophy for Neighborhood Conservation Areas is to “conserve and enhance...but not preclude development, particularly to address city-wide housing needs”
- “New development...should be compatible with the existing scale, natural features, and character of each area.”
- “Densities in [NCAs] are guided by the [FLUM] and Comp Plan policies.”

# EVALUATION OF REMAND ORDER ISSUES

- 1. Take into account that the 90-foot high building protrudes into a Neighborhood Conservation Area.





# EVALUATION OF REMAND ORDER ISSUES

## 1. Take into account that the 90-foot high building protrudes into a Neighborhood Conservation Area.



- Not inconsistent with the GPM as the boundaries are approximate, and to be interpreted together with the FLUM and Comp Plan policies.
- The FLUM supports medium density for the full depth of the PUD site.
- PUD is consistent with Framework Element guidance on density, and well within heights permitted in medium density zones.
- Proposed height and location of height transition is appropriate and not inconsistent with Comp Plan policies.
- Extension of 90-foot building into NCA will address citywide housing needs.

# EVALUATION OF REMAND ORDER ISSUES

2. Take into account that the areas adjacent to the western portion of the PUD are designated moderate-density residential, not medium-density residential.



# EVALUATION OF REMAND ORDER ISSUES

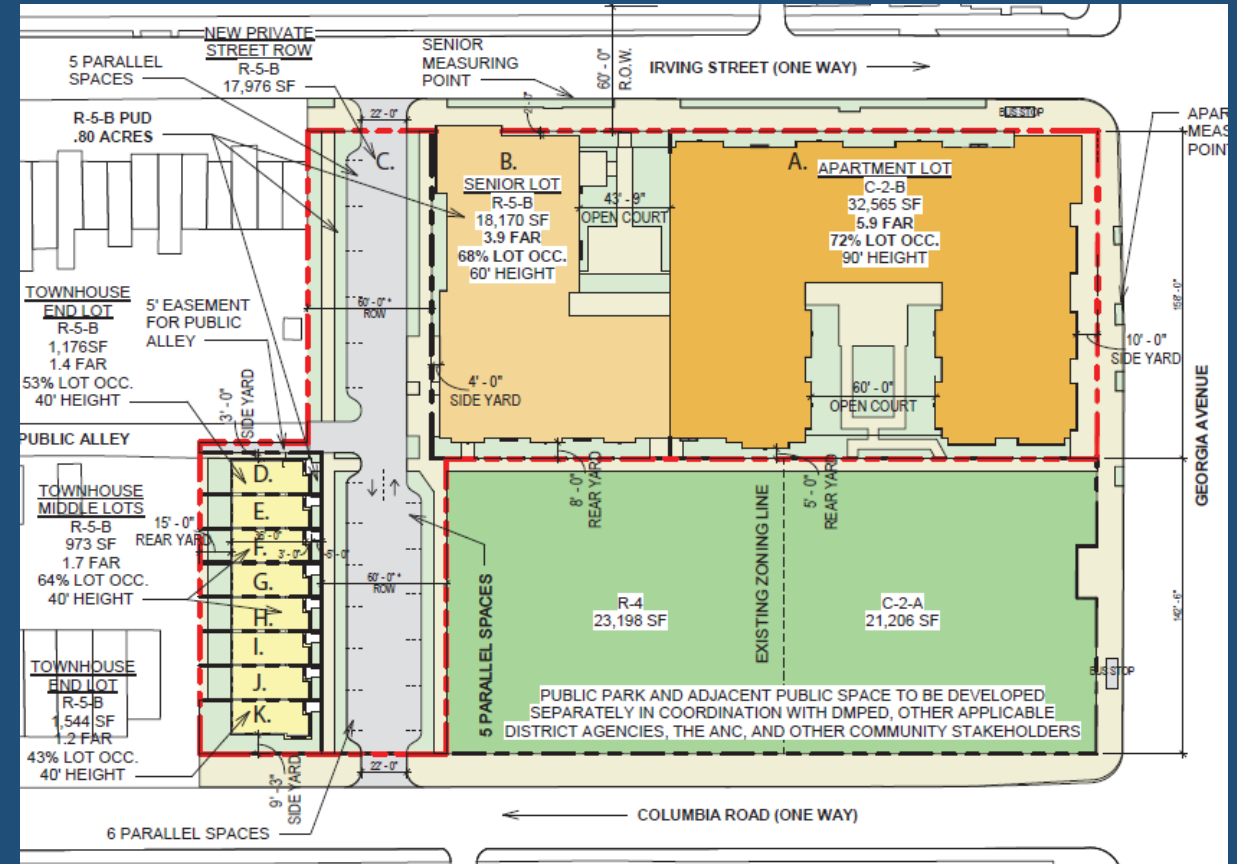
3. Take into account that the 90-foot high building and the 60-foot high building are not generally consistent with, respectively, the medium-density commercial and moderate-density residential designations in the FLUM.



# EVALUATION OF REMAND ORDER ISSUES

3. Take into account that the 90-foot high building and the 60-foot high building are not generally consistent with, respectively, the medium-density commercial and moderate-density residential designations in the FLUM.

- Mixed Use (Medium Density Commercial / Medium Density Residential)
  - Medium Density Commercial:
    - 4.0 – 6.0 FAR (Greater with IZ and PUD)
    - MOR: 70 ft. – 100 ft.
    - PUD: 90 ft. – 110 ft.
    - **Apartment Bldg: 5.9 FAR / 90 ft.**
  - Medium Density Residential:
    - 1.8 – 4.0 FAR (Greater with IZ and PUD)
    - MOR: 60 ft.
    - PUD: 75 ft.
    - “May also apply to taller residential buildings surrounded by large areas of permanent open space.”
    - **Senior Bldg: 3.9 FAR / 60 ft.**



Overall PUD: 3.6 FAR

# EVALUATION OF REMAND ORDER ISSUES

4. Either identify record support for the statement that the senior building “mimics many other apartment houses that have been built as infill developments in the area” or forgo reliance on that consideration.



# EVALUATION OF REMAND ORDER ISSUES

4. Either identify record support for the statement that the senior building “mimics many other apartment houses that have been built as infill developments in the area” or forgo reliance on that consideration.

- LU-1.4.4: Affordable Rental and For-Sale Multi-family Housing Near Metrorail Stations
- H-1.1.9: Housing for Families
- H-1.2.1: Low- and Moderate-Income Housing Production as a Civic Priority
- H-1.2.2: Production Targets
- H-1.2.4: Housing Affordability on Publicly Owned Sites
- H-1.2.5: Moderate-Income Housing
- H-1.2.7: Density Bonuses for Affordable Housing
- H-1.2.11: Inclusive Mixed-Income Neighborhoods
- H-1.2.H: Priority of Affordable Housing Goals
- H-1.3.1: Housing for Larger Households
- H-1.4.E: Additional Public Housing
- H-2.1.2: Preserving Affordable Rental Housing
- H-2.1.4: Avoiding Displacement
- H-2.1.6: Long-Term Affordability Restrictions
- H-2.1.9: Redevelopment of Affordable Housing
- H-4.3.2: Housing Choice for Older Adults
- H-4.3.3: Neighborhood-Based Housing for Older Adults

# EVALUATION OF REMAND ORDER ISSUES

5. Independently analyze and discuss whether the PUD is inconsistent with specific policies, or would have adverse effects, timely identified before the Commission.

The Comp Plan is a “broad framework intended to guide the future land use planning decisions for the District.” *Wisconsin-Newark Neighborhood Coal. v. District of Columbia Zoning Comm’n*, 33 A.3d 382, 394 (D.C. 2011). Thus, “[e]ven 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.” *Durant v. District of Columbia Zoning Comm’n*, 65 A.3d 1161, 1168 (D.C. 2013). The Comp Plan reflects numerous “occasionally competing policies and goals,” and, “[e]xcept where specifically provided, the [Comp Plan] is not binding.” *Id.* at 1167, 1168. Thus, “the Commission may balance competing priorities” in determining whether a proposal would be inconsistent with the Comp Plan as a whole. *D.C. Library Renaissance Project/West End Library Advisory Grp. v. District of Columbia Zoning Comm’n*, 73 A.3d 107, 126 (D.C. 2013). “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).

# EVALUATION OF REMAND ORDER ISSUES

5. Independently analyze and discuss whether the PUD is inconsistent with specific policies, or would have adverse effects, timely identified before the Commission.

## PUD Standard of Review

- Zoning Commission shall judge, balance, and reconcile the relative value of public benefits and project amenities offered, the degree of development incentives requested, and any potential adverse effects of the project.
- The Zoning Commission shall find that the proposed development:
  - Is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs;
  - Does not result in unacceptable project impacts but instead impacts shall be favorable, capable of being mitigated, or acceptable given the quality of public benefits; and
  - Includes specific public benefits and project amenities that are not inconsistent with the Comprehensive Plan or with other adopted public policies and active programs.



# EVALUATION OF REMAND ORDER ISSUES

5. Independently analyze and discuss whether the PUD is inconsistent with specific policies, or would have adverse effects, timely identified before the Commission.

## Addressing Racial Equity

*“the Zoning Commission to evaluate all actions through a racial equity lens as part of its Comprehensive Plan consistency analysis” 10A DCMR 2501.7.*

- Emphasis on HOUSING as a critical way to address racial equity.
- Comprehensive Plan equity priorities:
  - Affordable housing
  - Displacement
  - Access to opportunity

# EVALUATION OF REMAND ORDER ISSUES

5. Independently analyze and discuss whether the PUD is inconsistent with specific policies, or would have adverse effects, timely identified before the Commission.

## Addressing Racial Equity

Several components and benefits of the PUD will promote racial equity:

- Mixed-income, transit-accessible community.
- New housing (90 public housing replacement units, 109 - 113 affordable, and 70 – 74 market rate).
- Variety of unit typologies (multi-family and townhomes) and sizes (1, 2, and 3 bedrooms).
- Approx. 4,500 sf retail and community serving space to service the diverse needs of residents and community.
- TDM measures (car share and bikeshare memberships).
- Sustainable design elements, landscaped courtyards, amenities to facilitate safe, healthy, social engagement;
- First Source Employment Agreement (51% new job hires and 31% apprenticeship hours for District residents).
- Certified Business Enterprise Agreement requiring 35% construction costs to certified SBEs.
- Training, employment, and contract opportunities for low- and very-low income residents and businesses, and other youth programming, job training, and funding for neighborhood initiatives that will help address livability, opportunity, and prosperity for underrepresented District residents.

# EVALUATION OF REMAND ORDER ISSUES

5. Independently analyze and discuss whether the PUD is inconsistent with specific policies, or would have adverse effects, timely identified before the Commission.

The PUD is not inconsistent with the Comp Plan, including the GPM and FLUM, when considered as a whole

## LU-1.4: Transit-Oriented and Corridor Development

- LU-1.4.1: Station Areas as Neighborhood Centers
- LU-1.4.2: Development Around Metrorail Stations
- LU-1.4.3: Housing Around Metrorail Stations
- LU-1.4.4: Affordable Rental and For-Sale Multi-family Housing Near Metrorail Stations
- LU-1.4.6: Development Along Corridors

## LU-2.1: A District of Neighborhoods

- LU-2.1.1: Variety of Neighborhood Types
- LU-2.1.2: Neighborhood Revitalization
- LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods

## LU-2.2: Maintaining Community Standards

- LU-2.2.4: Neighborhood Beautification

## T-1.1: Land Use - Transportation Coordination

- T-1.1.4: Transit-Oriented Development
- T-1.1.7: Equitable Transportation Access
- T-1.1.B: Transportation Improvements

## T-2.3 Bicycle Access, Facilities, and Safety

- T-2.3.B: Bicycle Facilities

## T-2.4 Pedestrian Access, Facilities, and Safety

- T-2.4.1: Pedestrian Network
- T-2.4.2: Pedestrian Safety
- T-2.4.B: Sidewalks

## T-3.1 Transportation Demand Management

- T-3.1.1: TDM Programs
- T-3.1.A: TDM Strategies

## T-3.2 Curbside Management and Parking

- T-3.2.B: Carshare Parking

# EVALUATION OF REMAND ORDER ISSUES

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## H-1.1: Expanding Housing Supply

- H-1.1.1: Private Sector Support
- H-1.1.2: Production Incentives
- H-1.1.3: Balanced Growth
- H-1.1.4: Mixed Use Development
- H-1.1.5: Housing Quality
- H-1.1.8: Production of Housing in High-Cost Areas
- H-1.1.9: Housing for Families

## H-1.2: Ensuring Housing Affordability

- H-1.2.1: Low- and Moderate-Income Housing Production as a Civic Priority
- H-1.2.2: Production Targets
- H-1.2.4: Housing Affordability on Publicly Owned Sites
- H-1.2.5: Moderate-Income Housing
- H-1.2.7: Density Bonuses for Affordable Housing
- H-1.2.11: Inclusive Mixed-Income Neighborhoods

## H-1.3: Diversity of Housing Types

- H-1.3.1: Housing for Larger Households

## H-2.1 Preservation of Affordable Housing

- H-2.1.2: Preserving Affordable Rental Housing
- H-2.1.4: Avoiding Displacement
- H-2.1.6: Long-Term Affordability Restrictions

## H-4.3 Meeting the Needs of Specific Groups

- H-4.3.2: Housing Choice for Older Adults
- H-4.3.3: Neighborhood-Based Housing for Older Adults

# EVALUATION OF REMAND ORDER ISSUES

5. Independently analyze and discuss whether the PUD is inconsistent with specific policies, or would have adverse effects, timely identified before the Commission.

The PUD is not inconsistent with the Comp Plan, including the GPM and FLUM, when considered as a whole

## E-1.1 Preparing for and Responding to Natural Hazards

- E-1.1.2: Urban Heat Island Mitigation

## E-2.1 Conserving and Expanding Washington, DC's Urban Forests

- E-2.1.2: Tree Requirements in New Development
- E-2.1.3: Sustainable Landscaping Practices

## E-2.3 Conserving Soil and Reducing Erosion

- E-2.3.1: Preventing Erosion

## E-3.2 Conserving Energy and Reducing GHG Emissions

- E-3.2.3: Renewable Energy
- E-3.2.5: Reducing Home Heating and Cooling Costs

## E-3.3 Reducing Solid Waste Disposal Needs

- E-3.3.1: Solid Waste Source Reduction and Recycling

## E-4.1 Green Infrastructure

- E-4.1.2: Using Landscaping and Green Roofs to Reduce Runoff
- E-4.1.3: GI and Engineering

## E-4.4 Reducing the Environmental Impacts of Development

- E-4.4.1: Mitigating Development Impacts

## E-5.1 Reducing Air Pollution

- E-5.1.5: Improving Air Quality Through Transportation Efficiency

# EVALUATION OF REMAND ORDER ISSUES

5. Independently analyze and discuss whether the PUD is inconsistent with specific policies, or would have adverse effects, timely identified before the Commission.

The PUD is not inconsistent with the Comp Plan, including the GPM and FLUM, when considered as a whole

## ED-2.2: The Retail Economy

- ED-2.2.1: Expanding the Retail Sector
- ED-2.2.3: Neighborhood Shopping
- ED-2.2.4: Support Local Entrepreneurs
- ED-2.2.5: Business Mix

## ED-3.1: Strengthening Retail Districts

- ED-3.1.1: Neighborhood Commercial Vitality

## ED-4.3 Getting to Work

- ED-4.3.C: Housing a Thriving Workforce

## UD-1.4 Enhancing Thoroughfares and Gateways

- UD-1.4.1: Thoroughfares and Urban Form

## UD-2.1 Streets For People

- UD-2.1.1: Streetscapes That Prioritize the Human Experience

## UD-2.2: Designing for Vibrant Neighborhoods

- UD-2.2.1: Neighborhood Character and Identity
- UD-2.2.3: Neighborhood Mixed-Use Centers
- UD-2.2.4: Transitions in Building Intensity
- UD-2.2.5: Infill Development
- UD-2.2.7: Preservation of Neighborhood Open Space

## UD-3.2 Designing the Active District

- UD-3.2.1: Buildings that Enable Social Interaction
- UD-3.2.5: Safe and Active Public Spaces and Streets

## UD-4.2 Designing Architecture for People 98

- UD-4.2.1: Scale and Massing of Large Buildings
- UD-4.2.2: Engaging Ground Floors
- UD-4.2.4: Creating Engaging Facades

# EVALUATION OF REMAND ORDER ISSUES

5. Independently analyze and discuss whether the PUD is inconsistent with specific policies, or would have adverse effects, timely identified before the Commission.

The PUD is not inconsistent with the Comp Plan, including the GPM and FLUM, when considered as a whole

## MC-1.1 Guiding Growth and Neighborhood Conservation

- MC-1.1.2: Directing Growth
- MC-1.1.3: Infill and Rehabilitation
- MC-1.1.7: Preservation of Affordable Housing
- MC-1.1.12: Green Development Practices

## MC-2.1 Georgia Avenue NW Corridor

- MC-2.1.1: Revitalization of Lower Georgia Avenue NW
- MC-2.1.2: Georgia Avenue NW Design Improvements
- MC-2.1.D: Great Streets Improvements
- MC-2.1.E: Park Morton New Community

# EVALUATION OF REMAND ORDER ISSUES

## 5. Independently analyze and discuss whether the PUD is inconsistent with specific policies, or would have adverse effects, timely identified before the Commission.

Asserted Inconsistencies (Ex. 36, 171, 181, 220, 221)	Asserted Inconsistencies (Ex. 36, 171, 181, 220, 221)	Asserted Inconsistencies (Ex. 36, 171, 181, 220, 221)
UD-2.2.5: Infill Development	ED-4.2.4: Neighborhood-Level Service Delivery	H-1.2.1: Low- and Moderate-Income Housing Production as a Civic Priority
UD-2.2.6: Large-Scale Development	ED-4.2.7: Living Wage jobs	H-1.2.7: Density Bonuses for Affordable Housing
UD-2.2.7: Preservation of Neighborhood Open Space	ED-4.2.12: Local Hiring Incentives	H-2.1.2: Preserving Affordable Rental Housing
E-5.1.3: Evaluating Development Impacts on Air Quality	CSF-1.1.2: Adequate Facilities	H-2.1.4: Avoiding Displacement
E-6.2.5: Noise and Land Use Compatibility	CSF-1.1.3: Adequate Land	H-2.1.5: Conversion of At-Risk Rentals to Affordable Units
E-6.4.C: Interagency Working Group	CSF-1.2.2: Strengthening Links Between the Comp Plan and Capital Improvement Program	H-2.1.A: Rehabilitation Grants
E-6.7.2: Expanded Outreach to Disadvantaged Communities	CSF-1.2.6: Impact Fees	H-2.1.D: Affordable Set-Asides in Condo Conversions
ED-3.2.1: Small Business Retention and Growth	IN-1.2.4: Providing Adequate Water Pressure	H-2.2.3: Tax Relief
ED-3.2.6: Commercial Displacement	IN-2.1.1: Improving Wastewater Collection and Treatment	H-2.2.D: Program Assistance for Low and Moderate Income Owners
ED-3.2.7: Assistance to Displaced Businesses	IN-6.1.3: Developer Contributions	MC-1.1.3: Infill and Rehabilitation
ED-3.2.A: Anti-Displacement Strategies	H-1.1.3: Balanced Growth	MC-1.1.7: Protection of Affordable Housing
ED-3.2.D: Small Business Needs Assessment		MC-1.2.4: New Parks



# EVALUATION OF REMAND ORDER ISSUES

5. Independently analyze and discuss whether the PUD is inconsistent with specific policies, or would have adverse effects, timely identified before the Commission.

Asserted Adverse Effects (Ex. 20, 21, 36, 39, 40, 148, 149, 151-155, 156-163, 165-167, 170, 171, 181, 183-186, 187, 191, 220-223, 225-227-229)
Loss of light and air due proposed scale and height
Reduction of public parking
Increased traffic and congestion
Noise
Crime and loitering
Loss of privacy
Air pollution
Loss of open space
Impact on property values

Asserted Adverse Effects (Ex. 20, 21, 36, 39, 40, 148, 149, 151-155, 156-163, 165-167, 170, 171, 181, 183-186, 187, 191, 220-223, 225-227-229)
Impact on public services
Displacement
Storm water runoff
Impact on neighborhood character
Impact on neighborhood architectural character
Increase density
Change to demographic character of surrounding area
Impact on public transit service

# CONCLUSION

6. Determine whether, in light of the Commission's conclusions on these issues, the Commission should grant or deny approval of the PUD; and
7. Explain the Commission's reasoning in granting or denying approval.

- Not inconsistent with the Comprehensive Plan when read as a whole.
- Any potential inconsistencies with individual Comprehensive Plan policies are outweighed by other competing priorities relating to housing and affordable housing.
- Will not cause any unacceptable impacts. All potential impacts will be favorable, or mitigated to an acceptable level given the benefits offered by the PUD.
- The public benefits balance the degree of development incentives requested.

