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October 22, 2021

VIA IZIS

Zoning Commission for the
District of Columbia
441 4th Street, N.W., Suite 210S
Washington, D.C. 20001

Re: Z.C. Case No. 20-12 - Applicant's Response to ANC 6D Report (Ex. 53) and Proposed Findings of Fact and Conclusions of Law

Dear Members of the Commission:

On behalf of the Westminster Presbyterian Church, Westminster Community Partners, Bozzuto Development Company, and Bozzuto Homes Inc. (collectively, the "Applicant"), and as instructed by the Zoning Commission, the Applicant and representatives of ANC 6D met on multiple dates subsequent to the public hearing on this application to discuss the issues identified by ANC 6D in its testimony and written reports.

As a result of these discussions, and as reflected in the ANC 6D Report included as Exhibit 53 in the record if this case, the Applicant and ANC 6D agree on the following issues:

- The Applicant hereby reconfirms that the Westminster project will not be a build-first location for Greenleaf. More specifically, the Applicant agrees that the 123 units in the East Tower and the 99 units in the West Tower will be entirely new housing stock in Southwest; neither will be proffered as Build First units for Greenleaf seniors, families or other current residents; and units within the Project will be separate and apart from any other units that the Applicants may develop in Southwest. However, this should not be construed in any way to allow or require the Applicant to violate any Fair Housing Act, anti-discrimination, tenant protections, or other Federal or District laws regarding the use and occupancy of residential buildings, such as the acceptance of vouchers.
- The Applicant hereby confirms that the affordable units will be constructed concurrently with the market rate units. The Applicant further agrees that all components of the Project, including the East and West Towers, will be constructed concurrently as a whole. If all components of the project cannot be constructed concurrently, the East Tower (which includes the church and senior housing) must be constructed first.

- The Applicant hereby confirms that the senior housing portion of the East Tower will be separate from and operated separately from the Westminster Presbyterian Church. For example, the residential units and church component will have separate ownership, and the residential units and church component will have separate utilities.
- The Applicant has agreed that the following condition, identified in the DDOT Report, Ex. No. 42, should be included in the order approving the Project:
 - Prior to issuance of a building permit for the project, the Applicant will submit, receive approval from Urban Forestry Division ("UFD"), and implement a tree preservation plan for the Heritage Tree on the adjacent DGS site and other on-site or adjacent non-hazardous Special Trees and street trees, as determined appropriate by UFD.
- With respect to ANC 6D's requested curbside management condition, the Applicant agrees that the following condition should be included in the order approving the Project:
 - Prior to the issuance of the first certificate of occupancy for the Project, the Applicant shall demonstrate to the Zoning Administrator that it has:
 - Submitted to DDOT a proposed curbside management plan, which plan shall include design features and specifications to ensure safe access and egress at building entrances, mitigation measures within DDOT's proposed protected bike lane to ensure that cyclists slow down as they pass the PUD Site, and the proposed placement of any no-parking entrances on I Street or Makemie Place. The final design of the curbside management is subject to DDOT approval.

ANC 6D also requested that the Applicant provide an illustrative model of specific in-unit senior accommodations, and consider adding a second common laundry facility in addition to the one facility on the third floor. The Applicant responds as follows:

- The Applicant hereby confirms that the senior component of the East Tower will specifically address seniors' needs, and all units will be designed to support independent senior living. As part of the building permitting process, the Project will be designed to meet accessibility requirements under the International Code Council (ICC) and the units will meet Fair Housing Act, ADA, Enterprise Green Communities, and local accessibility guidelines.
- The senior units will be financed in part using District funds, and the Department of Housing and Community Development ("DHCD") requires that each recipient of federal and/or District funds sign a "Fair Housing and Equal Opportunity Certification Form" certifying that the Applicant will implement and maintain *Fair Housing Act Accessibility Guidelines*. An example of the guidelines from a similar project are attached hereto as **Exhibit A**, and the Applicant agrees and confirms that it will implement these guidelines/design features into the residential

component of the East Tower. Additionally, example images from the Applicant's other recent senior projects are provided as **Exhibit B** for illustrative reference.

- A single laundry room will be located on the third floor of the East Tower and will be open to all residents of the East Tower, which is consistent with other recently constructed and currently existing senior buildings in the District (e.g. Fortitude at Delta Towers, located at 808 Bladensburg Road, NE (179 units) and Todd A. Lee Senior Residences At Kennedy Street, located at 809 Kennedy Street, NW (38 units)). Moreover, providing a single, centrally-located laundry room within a multiple-dwelling senior development project has proved successful in other cases, given the frequency of use by residents. However, providing an additional laundry room on any additional floor would result in the loss of affordable units and would decrease the number of senior units provided on the site, which is contrary to the District's goal of maximizing the delivery of new housing units.

ANC 6D and the Applicant continue to disagree about the Applicant's proposed affordable housing plan, and the inclusion of the proposed light feature on the East Tower of the Project. With respect to the affordable housing proffer, the Applicant's affordable housing proffer is to dedicate 102,761 square feet of residential gross floor area ("GFA") in the overall single building for the first 40 years of the life of the Project. This proffer amounts to approximately 52.9% of the project's total residential GFA, provided in 123 affordable housing units. The Applicant is providing significantly more affordable housing than would otherwise be required for the Project for the first 40 years. Moreover, the Project will always have an affordable component, with at least 102,761 square feet affordable for years 1-40 and at least 15,836 square feet affordable for year 41 and beyond. The Project will always meet the minimum IZ requirement. After year 40, existing residents in the senior tower will not be displaced if the building ownership accepts market rate tenants above the IZ requirement. With respect to the proposed light feature, the Applicant submitted a detailed description of the nominal level of light that will emanate from the proposed light feature, and information demonstrating that the light feature will not adversely impact any surrounding uses (Ex. 52 and Ex. 52A). Accordingly, the Applicant believes the record supports approval of the Applicant's affordable housing proffer and approval of the proposed light feature.

Finally, attached hereto as **Exhibit C** is a copy of the Applicant's draft findings of fact and conclusions of law, as requested by the Commission at the close of the public hearing.

The Applicant appreciates the Zoning Commission's continued review of this project and looks forward to the Zoning Commission taking proposed action on this application at the October 28, 2021 virtual public meeting.

Sincerely,

HOLLAND & KNIGHT LLP



Kyrus L. Freeman

Enclosures

cc: Steve Cochran, D.C. Office of Planning (with enclosures via email)
Aaron Zimmerman, DDOT (with enclosure via email)
Advisory Neighborhood Commission 6D (with enclosures via email at 6d@anc.dc.gov)

EXHIBIT A

The FHAA - Seven (7) Technical Requirements Accessibility Guidelines

Fair Housing Act Accessibility Guidelines- Design Guidelines for Accessible/Adaptable Dwellings provides builders and developers with technical guidance on how to comply with the specific accessibility requirements of the Fair Housing Amendments Act of 1988

New construction multifamily buildings **must be** in compliance with the following guidelines. This checklist represents many, but not all, of the accessible and adaptive design and construction requirements of the FHAA. This checklist is NOT a safe harbor for compliance with the Fair Housing Act, nor does it act in lieu of the accessibility requirements under Sec. 504 of the Rehabilitation Act of 1973.

1. AN ACCESSIBLE ENTRANCE ON AN ACCESSIBLE ROUTE (Please check all that apply)

An accessible entrance must be located on a route that a person in a wheelchair can easily travel, leading to and from meaningful locations; e.g., parking, public transportation, other buildings in the complex, amenities such as laundry room, and recreational facilities.

- The accessible route is a continuous, unobstructed path (no stairs) through the development that connects all buildings containing covered units and all public and common use facilities.
- The accessible route also connects to parking lots and to at least one public street, public sidewalk, and to a public transportation stop, when provided.
- All slopes on the accessible route are no steeper than 8.33%.
- All slopes on the accessible route between 5% and 8.33% have handrails.
- Covered units have at least one entrance on an accessible route.
- There are sufficient numbers of curb ramp cuts for a person using a wheelchair to reach every building in the development.
- Curb ramp cuts slope and cross slope specifications.
- If separate entrances for ground-floor units, each entrance must be accessible.
- If common entrances to a multi-unit building, at least one entrance—typically used by residents for entering the building—must be accessible.

If any of the above criteria for an accessible entrance on an accessible route is not met, please provide an attached explanation and date when criteria will be completed.

2. ACCESSIBLE PUBLIC AND COMMON-USE AREAS (Please check all that apply)

- At least two percent (2%) of all parking spaces serving covered units are designated as accessible handicapped parking spaces.
- At least one parking space at each common and public use amenity is designated as handicapped accessible parking.
- All handicapped accessible parking spaces have adequate signage.
- All handicapped accessible parking spaces are at least 96" wide with a 60" wide access aisle which can be shared between two spaces.
- The rental or sales office is readily accessible and usable by persons with disabilities as required by both the Fair Housing Act and the Americans with Disabilities Act.
- A sufficient number of mailboxes, swimming pools, tennis courts, clubhouses, rest rooms, showers, laundry facilities, trash facilities, drinking fountains/water coolers, public telephones, and other common and public use amenities offered by the development are readily accessible and usable by persons with disabilities.
- Parking areas, passenger loading areas, curb ramps, building lobbies, lounges, halls and corridors, elevators, public use restrooms, and rental or sales offices must be accessible to people with disabilities. Included are community and exercise rooms, swimming pools, playgrounds, recreation facilities, nature trails.

If any of the above criteria for accessible public & common areas is not met, please provide an attached explanation and date when criteria will be completed.

3. USABLE DOORS (Please check all that apply)

- All doors into and through covered units and common use facilities provide a clear opening of at least 32" nominal width to enable a person in a wheelchair to maneuver through them easily. Included are public and common-use doors, doors leading into an individual dwelling unit, and all doors within the dwelling unit itself.
- All doors leading into common use facilities have lever door handles operating hardware that does not require grasping and twisting.
- Thresholds at doors to common use facilities are no greater than ½".
- All primary entrance doors to covered units have lever door handles operating hardware that does not require grasping and twisting.
- Thresholds at exterior primary entrance doors to covered units are no greater than 3/4" and beveled.

If any of the above criteria for 'usable doors' is not met, please provide an attached explanation and date when criteria will be completed.

4. ACCESSIBLE ROUTES INTO AND THROUGH DWELLING UNIT

- Thresholds of unit's exterior doors may not exceed 3/4" (also applies to sliding door tracks).
- In single-story units, changes in height of 1/4 to 1/2" must be beveled. Those greater than 1/2" must be ramped or have other means of access.
- All routes through all rooms in the covered units have a minimum clear width for accessible route inside the unit of 36".
- Hallways, passages, and corridors must be wide enough to allow room to maneuver a wheelchair throughout the unit.

If any of the above criteria for 'accessible routes into and through the dwelling unit,' is not met, please provide an attached explanation and date when criteria will be completed.

5. ACCESSIBLE LIGHT SWITCHES, ELECTRICAL OUTLETS, AND ENVIRONMENTAL CONTROLS

- All light switches, electrical outlets, thermostats, and other environmental controls are no less than 15" and no greater than 54" from the floor.
- Operable parts of controls must be no lower than 15" and no higher than 48" from the floor.
- Switches, outlets, thermostats, and controls must be accessible to people in wheelchairs.

If any of the above criteria for 'accessible light switches, electrical outlets, thermostats, and other environmental controls' is not met, please provide an attached explanation and date when criteria will be completed.

6. REINFORCED WALLS IN BATHROOM

- Covered multifamily dwellings with a building entrance on an accessible route shall be designed and constructed in such a manner that all premises within covered multifamily dwelling units contain:
- Reinforcements in bathroom walls to allow later installation of grab bars around toilet, tub, shower stall and shower seat, where such facilities are provided.

If the above criteria for 'reinforced bathroom(s) walls' is not met, please provide an attached explanation and date when criteria will be completed.

7. USABLE KITCHENS AND BATHROOMS

- 30" x 48" clear floor space centered at each fixture and appliance.
- A minimum of 40" of clear floor space between opposing elements to allow a person in a wheelchair to maneuver between opposing base cabinets, countertops, appliances, or walls.
- A U-shaped kitchen with sink or cooktop at end have 60" diameter clear turning space or have sink or cooktop base with removable cabinets. Appliances must be located so they can be used by a person in a wheelchair. A 30" x 40" clear floor space is required for a parallel or forward approach.
- Adequate maneuvering space is required in bathroom so that a person in a wheelchair can easily enter, close the door, use the facilities and fixtures, and exit.

If any of the above criteria for 'design and construction of all kitchen and bathrooms in covered multifamily dwelling units' is not met, please provide an attached explanation and date when criteria will be completed.

USABLE BATHROOMS: (check type)

Type A Bathroom

- 30 x 48" clear floor space outside the swing of the door
- 30 x 48" clear floor space at lavatory (if centered for parallel approach, cabinet may be fixed)
- Toilet next to the tub allowing a perpendicular approach
- Centerline of toilet is 18" from bathtub and 15" from lavatory

Type B Bathroom

- 30 x 48" of clear floor space outside swing of door;
 - 30 x 48" of clear floor space centered in front of sink;
 - 30 x 48" of clear floor space adjacent to the bathtub
- If at least one Type B bathroom is included the other bathroom(s) is exempt from only the maneuvering space requirements.

"The Fair Housing Accessibility Guidelines: Questions and Answers about the Guidelines" can be found on line at <http://www.hud.gov/offices/fheo/disabilities/fhehasp.cfm>.

Note to All Funding Recipients:

Failure to comply with *all* of the accessible and adaptive design and construction requirements for new construction of the Fair Housing Act may result in loss of funding from DHCD through the: (1) Housing Production Trust Fund; (2) Community Development Block Grant Program; (3) HOME Investment Partnership Program; (4) Neighborhood Stabilization Program; (5) The Low Income Housing Tax Credit and/or (6) any other source of local or federal funding that may be generated at the time of the grant/loan.

The Applicant should consult an attorney and/or design professional to ensure that the construction of the multi-family development complies with the accessible and adaptive design and construction requirements of the Fair Housing Act.

EXHIBIT B

Kitchen Example, Fortitude at Delta Towers



1 Bedroom Example, Todd A Lee Senior Residences:



Studio Example, Todd A Lee Senior Residences:



EXHIBIT C

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

ZONING COMMISSION ORDER NO. 20-12

Z.C. Case No. 20-12

Westminster Presbyterian Church, Westminster Community Partners, Bozzuto Development Company, and Bozzuto Homes Inc.

(Consolidated PUD and Related Map Amendment @ Square 499, Lot 52)

DATE

Pursuant to notice, at its public meeting on October 28, 2021, the Zoning Commission for the District of Columbia (the “Commission”) considered a request from Westminster Presbyterian Church, Westminster Community Partners, Bozzuto Development Company, and Bozzuto Homes Inc. (collectively, the “Applicant”) for a consolidated planned unit development (“PUD”) and Zoning Map amendment to construct a new mixed-use building that includes a new Westminster Presbyterian Church (the “Church”) and approximately 222 new residential units (the “Application”) at 400 I Street, SW (Square 499, Lot 52) (the “PUD Site”). The Commission reviewed the Application pursuant to the Commission’s Rules of Practice and Procedures, which are codified in Subtitles X and Z of Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016, the “Zoning Regulations,” 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 following are automatically parties in the proceeding pursuant to Subtitle Z § 403.5:
 - The Applicant; and
 - Advisory Neighborhood Commission ("ANC") 6D, in which district the PUD Site is located and so an "affected ANC" pursuant to Subtitle Z § 101.8.
2. The Commission received no requests for party status.

NOTICE

3. The Office of Zoning ("OZ") published notice of the initially scheduled public hearing in the *D.C. Register* on January 26, 2021 (68 DCR 0006, published on February 5, 2021) as well as through the calendar on OZ's website.
4. The public hearing date was initially scheduled for April 12, 2021, but was continued to June 14, 2021 (Ex. 36 and Ex. 37), and continued again to October 4, 2021.

THE PUD SITE

5. The PUD Site is located at 400 I Street, SW and is known as Lot 52 in Square 499. The PUD Site is rectangular in shape and is located on the south side of I Street, SW, close to the intersection of 4th and I Streets, SW.
6. The PUD Site is bounded by I Street, SW to the north, Makemie Place, SW to the west, and an undeveloped L-shaped lot owned by the District to the east and south. (the “District Lot”). Fourth Street, SW is directly to the east of the District Lot.
7. As shown on the Surveyor’s Plat (Ex. 3A), the PUD Site has approximately 30,375 square feet of land area.
8. The PUD Site is presently improved with the Westminster Presbyterian Church building, which was originally constructed circa 1965, and with associated surface parking.
9. As shown on the Zoning Map (Ex. 3B), the PUD Site is zoned R-3.
10. At the time of the October 4, 2021, public hearing on this Application, and all Commission votes thereafter the PUD Site is located within a Neighborhood Conservation Area on the Comprehensive Plan's Generalized Policy Map (the "GPM").
11. The PUD Site is designated as Mixed Use (Low Density Commercial / Medium Density Residential) on the Comprehensive PlanFuture Land Use Map ("FLUM"), as revised pursuant to D.C. Act A24-0110 (Comprehensive Plan Amendment Act of 2020).

II. THE APPLICATION

12. The Application proposes to construct a new mixed-use building (the “Project”) with:

- A maximum building height of 90 feet;
- Approximately 214,338 square feet of gross floor area ("GFA");
- An approximate overall 7.06 FAR;
- Approximately 18,513 square feet devoted to new facilities for the Church;
- 99 residential units located in the western tower of the Project (the “West Tower”);
- 123 residential units located in the eastern tower of the Project (the “East Tower”) that will be devoted to senior affordable housing reserved for households earning up to 50% and 60% of the median family income (“MFI”) for the first 40 years of the Project; and
- A single-level of below-grade parking with approximately 60 parking spaces.

Flexibility Requested

13. The Application requested the following PUD flexibility pursuant to Subtitle X § 303:

- Rezoning the PUD Site pursuant to Subtitle X §§ 300.4 and 303.12 from the current R-3 zone to the MU-2 zone ("Map Amendment").
 - Flexibility for penthouse walls of unequal height and number of penthouse heights (11-C DCMR § 1500.9);
 - Flexibility from the lot occupancy requirements (11-G DCMR § 304.1)
 - Flexibility from the rear yard requirements (11-G DCMR § 305.1)
 - Flexibility from the Inclusionary Zoning "IZ" requirements for concentration of unit tenure (11-C DCMR § 1005.5)
14. The Application requested that the Commission authorize design flexibility from the final plans submitted with the Application consistent with the design flexibility that the Commission has granted in recent cases, including the following flexibility:
- To provide a range in the number of residential units to plus or minus 10%.
 - To vary the location and design of all interior components, including amenities, partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, and to vary the layout and exact size of the Church facilities, provided that the variations do not materially change the exterior configuration of the building, and to vary the layout and exact square footage of the Church.
 - To make refinements to the garage configuration, including the layout, number of parking spaces, and/or other elements, so long as the number of parking spaces does not decrease below the minimum level required by the Zoning Regulations.
 - 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.
 - 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, windows, and skylights.
 - To vary the number and mix of affordable units if the total number of dwelling units changes within the range of flexibility requested, provided that the location and proportionate mix of the affordable units will substantially conform to the layout shown on the approved Plans.
 - To vary the location, attributes, and general design of the approved streetscape to comply with the requirements of, and the approval by, the DDOT Public Space Division.
 - To vary the approved sustainable features of the Project, including the final layout of the landscape elements, provided the total number of LEED and/or Enterprise Green Communities points achievable for the Project does not decrease below the minimum required for the LEED and/or Enterprise Green Communities standards specified by the order.
 - To vary the color, font, message, and logo of the approved signage, provided that (i) permanent digital and neon signage shall not be permitted on the exterior of the project; (ii) the maximum overall dimensions and signage materials are consistent with the signage on the plans approved by the order; and (iii) the signage is compliant with the DC signage regulations.

APPLICANT'S SUBMISSIONS & TESTIMONY

15. The Applicant submitted a January 14, 2021 (Ex. 14-15M, the "Prehearing Submission") filing, that included the following:

- Additional information in support of the proposed affordable housing plan.
- A list of Church programs that will be continued or expanded, and the duration of each commitment, as a part of the Project.
- Additional information in support of the requested penthouse, lot occupancy, and rear yard relief.
- A letter from Westminster Presbyterian Church that describes the importance of the Project's design to the Church's mission and the Church's use of the building.

16. The Applicant submitted a March 12, 2021 Transportation Statement (Ex. 21, the "Transportation Statement"), that assessed the transportation impacts of the Project and concluded that:

- The redevelopment is forecasted to generate a net increase of 25 vehicular trips during the AM, 29 vehicular trips during the PM peak, and 5 vehicular trips during the Sunday peak hours. The projected vehicle trip generations are minimal and would not have any adverse impacts on the roadway network.
- The multi-modal network, including the pedestrian, bicycle, and transit facilities surrounding the development sufficiently connect residents and church attendees to local and regional destinations in the District, Maryland, and Virginia area.
- The project will provide 60 vehicle parking spaces, as well as two Electric Vehicle (EV) charging spaces. The project will meet total parking requirements and is consistent with ZR-16's minimum parking ratios. DDOT has reviewed and concurs with the proposed parking.
- The project will also meet the bicycle parking requirements by providing 74 long-term bicycle parking spaces and 20 short-term bicycle parking spaces.
- The Applicant has committed to a Loading Management Plan (LMP) to minimize undesirable impacts to pedestrians and to building tenants, reduce conflicts between truck traffic using the loading facilities and other street users, and ensure smooth operation of the loading facilities. The plan may be adjusted as necessary to address the specific loading challenges with the project.
- The Applicant has committed to Transportation Demand Management (TDM) measures to minimize traffic and parking impacts. The TDM plan is consistent with DDOT's guidance for residential TDM strategies.

17. The Applicant submitted a March 23, 2021 filing (Ex. 23) that included Updated Architectural Plans and Elevations that incorporate revisions to the Project based on comments from the Commission at the July 27, 2020 setdown meeting and by the Office of Planning ("OP") in their setdown report dated July 17, 2020 (Ex. 11).

18. The Applicant submitted a September 14, 2021 filing (Ex. 46, the "Applicant's Supplemental Pre-hearing Statement"), that included:

- An updated analysis as to how the application is not inconsistent with the Comprehensive Plan, as recently adopted by the D.C. Council pursuant to D.C. Law L23-0217 (Comprehensive Plan Amendment Act of 2017) and D.C. Act A24-0110 (Comprehensive Plan Amendment Act of 2020), including the Future Land Use and Generalized Policy Maps.
- Responses to the specific comments and requests for information from OP in its hearing report (Ex. 26).
- Responses to each of the specific comments and concerns raised by ANC 6D in its resolution dated April 5, 2021 (Ex. 28).

19. At the October 4, 2021 public hearing, the Applicant:

- Presented the Application, supported by the testimony of:
 - Rev. Ruth Hamilton, on behalf of the Westminster Presbyterian Church
 - Jeff Kayce, on behalf of Bozzuto Development Company/Bozzuto Homes
 - Joel Patterson, on behalf of Dantes Partners
 - Iffat Afsana, AIA, LEED AP BD+C, of KGD Architecture, accepted by the Commission as an expert in architecture; and
 - Shane Dettman of Holland & Knight LLP, accepted by the Commission as an expert in zoning and land use planning.
- Confirmed its agreement to the each of the conditions raised in the DDOTs report (Ex. 27 and Ex. 42).
- Confirmed its agreement to the condition in OP's Second Supplemental Report (Ex. 47).

20. In response to the Commission's request at the October 4, 2021 public hearing, the Applicant submitted an October 15, 2021 filing (Ex. 52, the "Post Hearing Submission") that provided:

- Updated Architectural Plan and Elevation sheets that included more details regarding the color palette for the East Tower, the proposed panels at the base of the Project, and more details regarding the light feature on the East Tower.
- Confirmation that the Applicant agrees with the racial equity analysis included in OP's Second Supplemental Report, a citation to the Applicant's racial equity analysis (Ex. 46A), and a letter from the Church that describes the Church's long-standing commitment to racial equity and inclusion.
- Supplemental analysis addressing whether the Project is not inconsistent with the Comprehensive Plan even if the Commission deemed it inconsistent with the FLUM.
- Justification for the proposed LEED level of certification and description of why the Project does not include solar panels.

Consolidated PUD

21. The Application proffered the following benefits and amenities:

- a. Superior Urban Design, Architecture, and Superior Landscaping (11-X DCMR § 305.5(a) and (b), including:
 - i. The Project has been carefully designed to relate to the neighborhood context, including surrounding building heights and densities.
 - ii. The use of balconies and bay windows.
 - iii. The building design includes significant façade articulation, bay window projections, and high-quality materials.
 - iv. The public space adjacent to the Site will be enhanced with new paving, street trees, landscaping, and widening of sidewalk along Makemie Place.
 - v. The Project also includes landscaping within the courtyard and at the roof levels.
- b. Site Planning and Efficient and Economical Land Utilization; Streetscape Plans and Implementation (11-X DCMR §§ 305.5(c) and (l)), including:
 - i. Establishing a new mixed-income community with a variety of unit types and at varying income levels to accommodate a wide range of District residents.
 - ii. Incorporating the Church back into the Site's development program allows the long-established religious institution to continue to serve the surrounding community.
 - iii. Replacement of existing underutilized site (elimination of surface parking lot).
 - iv. Creation of a pedestrian-friendly streetscape which includes new public space improvements including planter beds, bicycle racks, scored concrete paving, and ADA-compliant sidewalks.
 - v. Providing bulb outs at the corner of Makemie Place and I Street and mid-block on Makemie Place to create shorter walking distances for pedestrians crossing Makemie Place.
 - vi. All public space improvements will be subject to final review and approval by the DDOT Public Space Committee.
- c. Housing that Exceeds the Amount Required through Matter-of-Right Development under Existing Zoning (11-X DCMR § 305.5(f)), including:
 - i. Creation of new housing consistent with the goals of the Zoning Regulations, the Comprehensive Plan, the SW Plan, the Mayor's Housing Report, and the Mayor's Order.
 - ii. Replacement of an underutilized site with approximately 222 new residential units and approximately 197,941 square feet of residential GFA approximately 54,675 square feet of residential GFA could be developed on the Site as a matter of right, based on the R3 development standards.
 - iii. The Project's unit mix includes studio, 1-bedroom, 1-bedroom with den, and 2-bedroom units to accommodate a wide range of District residents including families.

- iv. Approximately 123 units (approximately 52.9% of the Project's residential GFA and penthouse floor area) will be dedicated as senior affordable housing.
- d. Affordable Housing that Exceeds the Amount Required through Matter-of-Right Development Under Existing Zoning (11-X DCMR § 305.5(g)), as follows:
 - i. The Project will significantly exceed the amount of affordable housing that would be required at the Site through matter-of-right development under the existing R-3 zoning.
 - ii. As a matter of right, the IZ set aside of the Project would be approximately 5,468 square feet (approximately 10% of the maximum permitted residential GFA of 54,675 in the R-3 zone).
 - iii. As proposed, for the first 40 years of the life of the building, the Applicant will dedicate approximately 102,761 square feet of GFA and penthouse area to affordable housing (approximately 52.9% of the residential GFA and penthouse floor area). The affordable units will be provided at 60% of the MFI, except that an area equal to 8% of the building's total penthouse habitable space will be provided at 50% of the MFI. After year 40, the building will include at least the minimum amount of affordable housing required by the Inclusionary Zoning regulations.
- e. Uses of Special Value to the Neighborhood and the District of Columbia as a Whole (11-X DCMR § 305.5 (q)), as follows:
 - i. The Project will replace the existing Westminster Church building, originally constructed circa 1965, with the new mixed-use building that includes approximately 18,513 square feet of GFA dedicated to new state-of-the art church and community-serving facilities.
 - ii. Prior to the issuance of a certificate of occupancy for the Project, the Applicant shall submit to the Zoning Administrator a letter addressed to each designated beneficiary listed below offering the benefit listed:
 - 1. SW Public Housing Resident Councils - For the life of the project, the free use of designated church spaces, as available, for Council meetings and events;
 - 2. Government of the District of Columbia - For the life of the project, the free use of designated church spaces, as available, for meetings and events;
 - 3. Narcotics Anonymous - For the life of the project, the free use of designated church spaces, as available, for its meetings;
 - 4. Southwest Catering Company - For the life of the project, the free use of designated church spaces, as available, for its community-based catering job training program for DC residents;
 - 5. Southwest Renaissance Development Corporation (a nonprofit) - For the life of the project, the free use of designated church spaces, as available, for its "Jazz Night in D.C." and "Blue Monday Blues," multicultural, multi-racial, multi-generational preservation projects

- serving thousands of D.C. residents and supporting hundreds of D.C.-based jazz and blues artists
- 6. TransPride Festival - For the life of the project, the free use of designated church spaces, as available, for at least one event per year; and
- 7. Seated Yoga Program - For the life of the project, the free use of designated church spaces, as available, for its weekly health and fitness programs for seniors.

Not Inconsistent with Comprehensive Plan and Other Adopted Public Policies (Subtitle X § 304.4(a))

- 22. The Application asserted it was not inconsistent with the Comprehensive Plan, including its maps and policies, and that it furthers many of its elements as set forth below.
- 23. As shown on the GPM, the Site is located within a Neighborhood Conservation Area. This designation encompasses the entire Southwest neighborhood with the exception of the Southwest Waterfront (Wharf) and the Southwest Town Center along 4th Street, which are designated as Regional Center and Neighborhood Commercial Center, respectively. According to the Framework Element, areas within a Neighborhood Conservation Area designation “have little vacant or underutilized land and are generally residential in character.” 10A DCMR § 225.4.
- 24. The Framework Element further provides that “[m]ajor changes in density over current (2017) conditions are not expected [within a Neighborhood Conservation Area] but some new development and reuse opportunities are anticipated, and these can support conservation of neighborhood character where guided by [Comp Plan] policies and the [FLUM]. 10A DCMR § 225.4.
- 25. “The guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods, but not preclude development, particularly to address city-wide housing needs...The diversity of land uses and building types in these areas should be maintained and new development, redevelopment, and alterations should be compatible with the existing scale, natural features, and character of each area...Densities in Neighborhood Conservation Areas are guided by the [FLUM] and [Comp Plan] policies. 10A DCMR § 225.5.”
- 26. As the Framework Element states, the Neighborhood Conservation Area designation is not intended to preclude development. It is also not intended to be interpreted as requiring conservation of existing development on a particular site or only permitting small scale development. Perhaps most importantly, the Neighborhood Conservation Area designation is not intended to be interpreted the same way across the District. Rather, the Neighborhood Conservation Area designation is intended to maintain “the diversity of land uses and building types” of a particular area.

27. Overall, the diverse development pattern of the Southwest neighborhood that the GPM aims to maintain is reflective of the mid-century planning ideals that permeated throughout Southwest in the 1940s – 1950s. For the Project, the diversity of land uses in the Southwest neighborhood predominately includes moderate- to high-density residential interspersed with cultural, institutional , and park uses and concentrated nodes of high-density mixed-use development (Southwest Town Center and the Wharf) and local public facilities (Southwest Government Cluster). As to building types, the Southwest neighborhood is predominately characterized by rowhouses and high-rise residential buildings (townhomes and towers) with high-density residential and office buildings concentrated at the Southwest Town Center and the Wharf.
28. The Project is not inconsistent with the Site’s designations on the GPM as a Neighborhood Conservation Area as it is compatible with the diversity of land uses and building types found in the surrounding area, as well as with the scale and character of the neighborhood, both existing and as envisioned in the SW Plan. The Project consists of a medium-density mixed-use development that is not inconsistent with the FLUM, consistent with recommendations in the Southwest Neighborhood Plan, and compatible with the scale, pattern, and character of the surrounding context. Further, consistent with the guiding philosophy in Neighborhood Conservation Areas the Project will help address citywide housing needs on a Site that is in close proximity to Metrorail and numerous neighborhood services and amenities.
29. The FLUM designates the Site as Mixed Use (Low Density Commercial / Medium Density Residential). The “Mixed Use” designation is assigned to areas where two or more uses are encouraged, and is generally assigned to established, pedestrian-oriented commercial areas that also include substantial amounts of housing, typically on the upper stories of buildings with ground-floor retail or office uses, among others. 10A DCMR § 227.20(a).
30. Typically, the general density and intensity of development within a given Mixed Use area is determined by the specific mix of uses shown on the FLUM. If the desired outcome is to emphasize one use over the other, the FLUM may note the dominant use by showing it at a slightly higher density than the other use in the mix. The Comprehensive Plan Area Elements may also provide detail on the specific mix of uses envisioned. 10A DCMR § 227.21. Applying this to the mixed-use FLUM designation for the Site suggests that the District envisions medium density mixed-use development with an emphasis on residential use.
31. The Project, including the PUD-related map amendment to the MU-2 zone, are not inconsistent with the Comp Plan as a whole, including the GPM and FLUM. The Site is situated in a transitional location along the I Street, SW corridor. To the south, the area contains several high-density buildings with heights ranging between 94 and 130 feet that were constructed pursuant to approved PUDs (e.g. Z.C. Order No. 02-38 et seq., Z.C. Order No. 05-38 *et seq*, and Z.C. Order No. 12-14, *et seq*). To the north, across I Street, SW, a portion of the area has been designated as medium density. The remaining area is characterized primarily by residential development consisting of moderate-density row

homes and multi-family apartments interspersed with a scattering of taller, high-density residential towers that are surrounded by areas of open space.

32. The proposed MU-2 zone is an appropriate zone given the FLUM designations for the Site, its transitional location, and scale and pattern of surrounding development. This is particularly true within the context of a PUD where the potential impacts of the Project can be mitigated or determined to be acceptable through an evaluation of the Project's design and public benefits.
33. The Project's height, density, and design are not inconsistent with the Site's Mixed Use (Medium Density Residential / Low Density Commercial) FLUM designation for the following reasons:
 - a. The Zoning Regulations specifically describe the MU-2 zone as being intended to permit "medium-density areas predominately developed with residential buildings but also permitting non-residential buildings." Emphasis added. 11-G DCMR § 300.3.;
 - b. The purposes of the MU-2 zone are to: "(a) act as a buffer between adjoining non-residential and residential areas, and to ensure that new development is compatible in use, scale, and design with the transitional function of this zone, and (b) preserve and protect areas adjacent to non-residential uses or zones that contain a mix of row houses, apartments, offices, and institutions at a medium to high density, including buildings of historic and architectural merit." Emphasis added. 11-G DCMR § 300.1.
34. Consistent with the purposes of the MU-2 zone, the Project's density and height will provide an appropriate buffer between the adjoining non-residential and residential areas at a compatible scale to the surrounding context, and will serve to protect the diverse development pattern of nearby residential uses from non-residential encroachment. The MU-2 zone is specifically described in the Zoning Regulations as being a transitional zone that is suitable for medium density areas predominately developed with residential buildings. Given the surrounding context, this is the ideal zone for the Site and for accommodating the proposed mix of residential and institutional uses in the Project.
35. Furthermore, despite being a PUD the Project will be consistent with the MU-2 matter-of-right height and density parameters. Specifically, as a matter-of-right the MU-2 zone permits up to 6.0 FAR (7.2 FAR with IZ), of which 3.5 FAR may be devoted to non-residential uses. The Project will have a maximum density 7.06 FAR, of which approximately 0.60 FAR will be devoted to non-residential use. Thus, consistent with the FLUM's preference for residential use on the Site, 90% of the Project is devoted to residential use. Regarding height, the MU-2 zone permits a maximum building height of 90 feet, not including penthouse. The Project will have a maximum height of 90 feet, not including the penthouse.
36. Moreover, the Project's height and density are consistent with the diverse development pattern of the surrounding area. The proposed building height will establish an appropriate

transition between the 130 foot high-density commercial buildings to the south and the residential buildings to the north, which range from 3 to 9 stories. With respect to use, the vast majority of the Project is devoted to residential use. The only non-residential use within the Project are the new facilities for Westminster Presbyterian Church, which are valued by the community and compatible with the institutional and residential uses found to the north.

37. The Project also fits within the varied development pattern along the I Street, SW corridor, where taller multi-family buildings exist alongside three-story townhomes. Existing development at the west end of the corridor consists of medium- to high-density residential towers, including the recently redeveloped Riverside Baptist Church, an approved PUD containing a new two-story church and 90 foot residential tower (Z.C. Order No. 15-05). To the east of Riverside Baptist Church are 9- and 10-story residential buildings that are adjacent to moderate-density two- and three-story townhomes and apartment buildings. The townhomes are located more than 350 feet from the Site. East of the townhomes is the former Southeastern University site, which is approved for a 48-foot mixed-use development containing residential and arts, design, and creation uses. *See* Z.C. Order No. 17- 21. Developments to the east of the Site are also varied in height and density. Along the north side of I Street, buildings closest to the Site are 9 and 6 stories, with lower heights further east approximately 500 feet away. Along the south side of I Street are the Christ United Methodist Church site, and the Greenleaf public housing site which is planned to be redeveloped at a greater height and density in the future.
38. The Project's mix of uses is not inconsistent with the FLUM, despite the Project's lack of traditional commercial uses. Consistent with the intent of the Site's Mixed Use FLUM designation, the Project is indeed a mixed use development containing residential and institutional uses. Although the Project does not contain traditional [neighborhood-serving] commercial uses, the Commission finds that many of the community-serving programs offered by the Church will effectively serve the southwest community similar to traditional commercial uses. In fact, given the Site's close proximity to the retail and service uses at the Southwest Town Center, the Commission finds the numerous programs offered by the Church will serve the community better than if the Project contained traditional commercial uses.
39. Notwithstanding the above, to the extent the Commission determines that the project density is inconsistent with the FLUM, this does not prevent the Commission from concluding that the project is not inconsistent with the Comp Plan overall, when read as a whole and upon balancing any competing policies and considerations.
40. The D.C. Court of Appeals have provided clear guidance on this very issue, stating:

“[E]ven if a proposal conflicts with one or more individual policies associated with the Comprehensive Plan, this does not, in and of itself, preclude the Commission from concluding that the action would be consistent with the Comprehensive Plan as a whole.” *Durant v. District of Columbia Zoning Comm'n*, 65 A.3d 1161, 1168 (D.C. 2013). The Comprehensive Plan reflects numerous “occasionally competing policies and goals,” and, “[e]xcept where specifically provided, the Plan is not binding.” *Id.* at 1167, 1168 (internal

quotation marks omitted). Thus “the Commission may balance competing priorities in determining whether a PUD is consistent with the Comprehensive 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). “[I]f the Commission approves a PUD that is inconsistent with one or more policies reflected in the Comprehensive Plan, the Commission must recognize these policies and explain [why] they are outweighed by other, competing considerations.” Friends of McMillan Park v. District of Columbia Zoning Comm’n, 149 A.3d 1027, 1035 (D.C. 2016) (brackets and internal quotation marks omitted).

41. Based on the guidance of the Court, to the extent the Commission finds the proposed PUD inconsistent with the FLUM, such inconsistency is far outweighed by the project’s consistency with the GPM, and numerous Comp Plan policies related to the following:

a. **Lower Anacostia Waterfront/Near Southwest Area Element**

- i. The Project is not inconsistent with the policies set forth in the Lower Anacostia Waterfront/Near Southwest Area Element, and in particular those listed below. The Project will redevelop the Site with a new mixed-use development that incorporates significant new housing, including affordable senior housing, and the community-serving Westminster Presbyterian Church use (AW-2.5.1, AW-2.5.4, AW-2.5.11). The Project will contribute new housing and improved community/cultural space within Westminster Presbyterian Church to the 4th Street, SW Town Center, the commercial heart of the Southwest neighborhood (AW-2.5.1, AW-2.5.8).
- ii. The Project will help maintain Southwest as a model of equity and inclusion by providing substantial new housing, including dedicated affordable senior housing, which supports this Element’s goal of encouraging affordable and equitable access to housing with a range of housing types to support every segment of the population, including older adults (AW-2.5.4, AW-2.5.11). In doing so, the Project also includes market-rate housing, which is consistent with this Element’s goal of providing a mix of affordable and market rate residential units to best serve the community’s needs. In addition, the Project is fully consistent with the policies and goals set forth in the Southwest Neighborhood Plan (AW-2.5.2).
- iii. The Project advances the following Lower Anacostia Waterfront/Near Southwest Area Element, Southwest Neighborhood Policy Focus Area policies:

AW-2.5: Southwest Neighborhood

- AW-2.5.1: 4th Street SW as a Thriving Town Center
- AW-2.5.2: Southwest Neighborhood Plan
- AW-2.5.4: An Equitable and Inclusive Southwest Neighborhood
- AW-2.5.8: Southwest Arts and Culture
- AW-2.5.11: Affordable and Family-Sized Housing in Southwest

b. Land Use Element

- i. The Project is not inconsistent with the Land Use Element. The Project exemplifies the principles of transit-oriented development (LU-1.4.1, LU-1.4.2, LU-1.4.B). The Site is located directly adjacent to the Waterfront Metrorail station, is served by several major bus routes and bike routes, and is otherwise conveniently located near numerous other alternative forms of transportation.
- ii. Development of the Site utilizes the Metrorail station as an anchor for economic and civic development, and is located so as to reduce automobile congestion, improve air quality, increase jobs, provide a range of services, enhance neighborhood stability, and create a stronger sense of place (LU-2.1.3, LU-2.3.5, LU-2.3.6, LU-2.3.12).
- iii. The Project has been designed to encourage transit use and help to enhance the safety, comfort, and convenience of passengers walking to the Metrorail station and to local Metrobus stops. The Project will incorporate active ground floor amenity uses and community space for the Church that will animate the street frontages, and will provide additional improvements that are proven to increase pedestrian safety such as new lighting, signage, and landscaping.
- iv. The Project is designed to improve the visual aesthetic of the Site and the neighborhood in general. Development of the Site will improve its existing condition, particularly because the Project will replace an existing underutilized site that is currently improved with a building in need of repairs and a surface parking lot. The Project will also incorporate new streetscape and landscape elements to enhance the pedestrian experience and improve the visual quality of the surrounding area. The new streetscape will include substantial improvements such as new paving for sidewalks, lighting, landscaping, canopies above the building entrances, and short term bicycle racks.
- v. The Project balances the desire to increase housing supply in the area and expand neighborhood commerce, with the parallel goal of protecting the neighborhood character and restoring the environment (LU-1.4.2, LU-1.4.3, LU-2.1.3). The Project satisfies these goals by providing a new residential community with different levels of affordability that will take advantage of the Site's mixed-use, transit-oriented location at a scale and density that is compatible with the existing neighborhood.
- vi. Consistent with policies aimed at maintaining and expanding religious facilities as neighborhood anchors, the Project will include brand new facilities for the Church, which has been located on the Site for several decades (LU-2.3.5, LU-2.3.6). The Applicant is working with the Church,

its community, the ANC, and other neighborhood stakeholders to ensure that the new Church facilities successfully address transportation needs, operation, and expansion of the Church, and fully maximize the Church's ability to maintain its position as an important neighborhood religious and cultural institution (LU-2.3.12).

- vii. The Project advances the following Land Use Element policies:

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.B: Zoning Around Transit

LU-2.1: A District of Neighborhoods

- LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods

LU-2.3: Residential Land Use Compatibility

- LU-2.3.4: Transitional and Buffer Zone Districts
- LU-2.3.5: Institutional Uses
- LU-2.3.6: Places of Worship and Other Religious Facilities
- LU-2.3.12: Arts and Culture Uses in Neighborhoods

c. Transportation Element

- i. The Project will establish new transit-oriented development within one block of the Waterfront Metrorail station and in proximity to multiple other forms of public transportation and bicycle infrastructure (T-1.1.8, T-2.6.1).
- ii. The Project also includes various transit-oriented development-related improvements, including the construction of new mixed-uses along two major transportation corridors (4th and I Streets, SW), bicycle storage areas, and public space improvements, including new paving, lighting, landscaping, and bicycle racks (T-2.3.1, T-2.4.1, T-2.4.2).
- iii. The Applicant will also repave the streetscape surrounding the Site according to DDOT's standards, and will otherwise improve the public realm by making new landscape and lighting improvements to enhance the pedestrian experience and general safety of the surrounding area (T-2.3.1). Together, these physical improvements to the streetscape will improve bicycle and pedestrian safety in the area. In addition, all access to parking and loading for the Project is located on Makemie Place, SW, which will minimize pedestrian and vehicular conflicts (T-2.4.2).

- iv. The Project will be located one block north of the Waterfront Metrorail station and in close proximity to numerous Metrobus routes, and will therefore be easily accessible for the senior residents of the Project, their visitors, and the congregants to the new Church facilities (T-2.6.1, T-2.6.2).
- v. The Project will also include a strong TDM program that reduces the number of vehicle trips and miles traveled and increases the efficiency of the transportation system. As part of the TDM program the Applicant will unbundle the cost of parking from the cost of renting or purchasing a residential unit, which will help to discourage residents from buying or renting parking spaces (T-3.2.D).
- vi. The Project advances the following Transportation Element policies:

T-1.1 Land Use: Transportation Coordination

- T-1.1.4: Transit-Oriented Development
- T-1.1.8: Minimize Off-Street Parking

T-2.3 Bicycle Access, Facilities, and Safety

- T-2.3.1: Better Integration of Bicycle and Pedestrian Planning

T-2.4 Pedestrian Access, Facilities, and Safety

- T-2.4.1: Pedestrian Network
- T-2.4.2: Pedestrian Safety

T-2.6 Addressing Accessibility for All Residents

- T-2.6.1: Transportation Access
- T-2.6.2: Transit Needs

T-3.1.1: TDM Programs

- T-3.2.D: Unbundle Parking Cost

d. Housing Element

- i. The Project helps meet the housing needs of present and future District residents at locations consistent with District land use and housing policies and objectives. The Project will include a significant number of new residential units, including affordable units reserved exclusively for seniors, which will result in a substantial contribution to the supply of District housing that is in close proximity to Metrorail stations, and to the District's goal of producing 36,000 new housing units by 2025 (H-1.1.2, H-1.1.3).
- ii. The Project will develop the new housing on an underutilized property in a rapidly growing and changing mixed-use neighborhood. Housing provided on the Site will include market rate and affordable housing for seniors to ensure that a sufficient housing supply is provided for District residents at all income levels and stages of life (H-1.2.1, H-1.2.11, H-4.3.2, H-4.3.3).

- iii. The Project is also consistent with the goals of promoting mixed use development, as it incorporates residential and institutional (church) uses on the Site, which is located in a mixed-use neighborhood and adjacent to a Metrorail station.
- iv. A significant number of the new housing units included in the Project will be dedicated as affordable senior units in an amount that is significantly in excess of the amount otherwise required by IZ.
- v. The Project will help achieve the District's affordable housing production targets, and will do so at a development site that will help to distribute mixed-income housing equitably across the District. In doing so, the Applicant will take advantage of the density bonus afforded by the IZ regulations (H-1.1.2, H-1.1.3, H-1.2.7).
- vi. The Project substantially advances the following Housing Element policies:

H-1.1: Expanding Housing Supply

- H-1.1.2: Production Incentives
- H-1.1.3: Balanced Growth
- H-1.1.5: Housing Quality

H-1.2: Ensuring Housing Affordability

- H-1.2.1: Low- and Moderate-Income Housing Production as a Civic Priority
- H-1.2.7: Density Bonuses for Affordable Housing
- H-1.2.11 Inclusive Mixed-Income Neighborhoods
- H-1.2.J: Affordable Housing and Nonprofit and Faith Based Institutions

H-1.3: Diversity of Housing Types

- H-1.3.2: Tenure Diversity

H-2.1: Preservation of Affordable Housing

- H-2.1.4: Avoiding Displacement

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

e. Environmental Protection Element

- i. The Project is not inconsistent with the policies of the Environmental Protection Element. As part of the Project the Applicant will reconstruct the streetscape adjacent to the Site, which will include new street trees that will add tree canopy, provide shade, improve air quality, provide urban habitat, and add aesthetic value (E-2.1.2).

- ii. The Project will incorporate significant landscaping, including sustainable landscaping practices, which will enhance and beautify the streetscape, reduce storm water runoff, and strengthen the character of the public realm (E-2.1.3).
- iii. The building includes a landscaped courtyard above the second level, landscaping on the roof terrace, and landscaping in the public space surrounding the Site. The Project will also incorporate green roofs and other natural elements that will enhance and beautify the streetscape, reduce storm water runoff, and strengthen the character of the public realm (E-2.1.3).
- iv. The Project will incorporate energy-efficient systems and methods for insulation, heating, and cooling, which will help to conserve natural resources and reduce energy costs for residents (E-3.2.7).
- v. The Project advances the following Environmental Protection Element policies:

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-3.2: Conserving Energy and Reducing GHG Emissions

- E-3.2.7: Energy-Efficient Building and Site Planning

E-4.1: Green Infrastructure

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

f. Urban Design Element

- i. The Project will help achieve the goals of the Urban Design Element through its thoughtful massing and quality materials that respond to the surrounding context and through improvements to adjacent public space (UD-2.2.1, UD-2.2.2, UD-2.2.4).
- ii. The design achieves a balance in responding to existing buildings in and around the Southwest Town Center while also presenting a new aesthetic that conveys the presence of Westminster Presbyterian Church and the importance of its mission and contributions to the community. The height and massing of the Project is responsive to the context to the north and south, as well as to the development pattern along the I Street corridor. Specifically, the proposed 90 foot height, two tower massing of the Project will establish an appropriate transition between the high-density Southwest Town Center to the south and the varied development pattern of residential and institutional uses north of I Street (UD-2.2.4, UD-4.2.1).

- iii. The articulation and materials of the building facades have been designed with consideration given to the surrounding context and attention to enhancing the human/pedestrian scale at street level (UD-2.2.4).
- iv. The proposed Zoning Map amendment specifically advances the following Urban Design Element policies:

UD-2.2: Designing for Vibrant Neighborhoods

- UD-2.2.1: Neighborhood Character and Identity
- UD-2.2.2: Areas of Strong Architectural Character
- UD-2.2.4: Transitions in Building Intensity

UD-2.4: Inclusive Community Spaces

- UD-2.4.1: Inclusive and Diverse Neighborhood Spaces

UD-3.2: Designing the Active District

- UD-3.2.2: Social and Community Meeting Spaces

UD-4.2: Designing Architecture for People

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

No Unacceptable Potential Project Impacts (Subtitle X § 304.4(b))

- 42. The Project will not result in any unacceptable impacts on the surrounding area or on the operation of city services and facilities, and will instead have a favorable impact on the surrounding area. The Project will benefit the neighborhood with the addition of new housing, including affordable senior housing. Moreover, the Project has been designed to relate to the surrounding architectural context and consider the variety of nearby uses. The Project includes sustainable landscape design and streetscape improvements that will enhance the pedestrian experience and beautify the public realm.
- 43. The Applicant evaluated the potential impacts of the Project as it relates to land use, transportation, housing, environmental protection, economic development, parks, recreation and open space, urban design, historic preservation, educational facilities, infrastructure, and community services, and found that for each topic area the potential impacts would be favorable or capable of being mitigated.
- 44. The potential transportation impacts of the Project were specifically analyzed in the Applicant's Transportation Statement (Ex. 21), which was prepared in coordination with and reviewed by DDOT. The Transportation Statement found that the Project will not have any adverse impacts on the roadway network.
- 45. In order to mitigate any adverse impacts caused by loading activities at the Project, the Applicant agreed to implement a Loading Management Plan for the life of the Project.

46. In order to mitigate any potential adverse impacts to trees regarding Special-sized trees and one Heritage tree on the DGS property adjacent to the project site, the Applicant agreed that: "Prior to issuance of a building permit for the project, the Applicant will submit, receive approval from UFD, and implement a tree preservation plan for the Heritage Tree on the adjacent DGS site and other on-site or adjacent non-hazardous Special Trees and street trees, as determined appropriate by Urban Forestry Division." (See DDOT report, Ex. No. 42).

Requested PUD Flexibility Balanced Against Public Benefits (Subtitle X § 304.4 (c))

47. The Application asserted that the Map Amendment for the PUD Site to the MU-2, with the additional density it authorizes, will:

- Permit the development of the PUD Site with a mixed-use development;
- Not be inconsistent with either the GPM or FLUM designations;
- Allow the development of the PUD Site to be comparable with the mix of uses in the surrounding area; and
- Allow the Project to provide more housing, including affordable housing, than could be provided as a matter-of-right under the existing R3 zone.

48. The Application asserted that it met the standard for PUD flexibility for penthouse walls of unequal height and number of penthouse heights (11-C DCMR § 1500.9) because:

- Although the stair tower's enclosing walls are not a uniform height, the penthouse has been designed to minimize its visibility from all directions and meet the setback requirement. If the Applicant maintained the 8-foot height for the entirety of the structure, it would not meet the setback requirement and would be more visible.
- The Applicant notes that amendments to the text of the penthouse regulations are currently being reviewed by the Zoning Commission in Z.C. Case No. 14-13E. If approved, the uniform height requirement would be removed for enclosing walls of stairwells providing access to a roof, and rooftop access stairwells would not be required to be setback from an open court. See Z.C. Case No. 14-13E, proposed Subtitle C, Section 1503.4(d) and 1505.1(a).
- Although multiple penthouse heights are proposed, every portion of the penthouse will be setback a minimum of 1:1 from the exterior walls of the building.
- Providing multiple penthouse heights is necessary to ensure that the mechanical screen wall meets the setback requirement. Increasing the wall's height to match the 11.5 foot tall habitable space (and thus meet the requirement to provide a maximum of three penthouse heights) would make the screen wall more visible and would not meet setback requirement.
- Granting relief from 11-C DCMR § 1500.9 will result in a design that is more consistent with the goal of the penthouse regulations to minimize visibility as much as possible.

49. The Application asserted that it met the standard for PUD flexibility from the lot occupancy requirements because:

- The ground floor of the building has to be designed to accommodate three distinct uses: (i) the market rate residential uses and associated amenity spaces, including building entries, lobby, mail room, trash facilities, and mechanical spaces, among others; (ii) the affordable residential uses and associated amenity spaces, including building entries, lobby, mail room, leasing office, trash facilities, and mechanical spaces, among others; and (iii) the Church uses and its associated facilities, including building entries, offices and conference rooms, assembly room, dining and kitchen/serving facilities, and gallery space and art studios, among others. Due to the combination of these distinct uses, as opposed to a more traditional building with a single or potentially two uses, the overall Project needs to occupy a greater extent of the ground floor area, thus resulting in non-compliance with the minimum lot occupancy requirements.
- Despite exceeding the maximum permitted lot occupancy at the ground level, the Project includes a large interior courtyard, has significant step-backs on the upper floors, has open space between the towers, and will have less FAR than is permitted for a PUD in the MU-2 zone.
- The Project will not overcrowd the Site or create any adverse impacts.
- The Site is surrounded by public streets to the north and west and a large unimproved parcel of District-owned land to the east and south, which results in unimpeded light and air surrounding the Site.

50. The Application asserted that it met the standard for PUD flexibility from the rear yard requirements because:

- The ground floor of the building has to be designed to accommodate a variety of uses. Due to the combination of these distinct uses, as opposed to a more traditional building with a single or potentially two uses, the overall Project needs to occupy a greater extent of the ground floor area, thus resulting in non-compliance with the minimum rear yard depth requirements.
- The building is surrounded by public streets on two sides such that the Project will not overcrowd the Site or create any adverse impacts as a result of the lack of a rear yard.
- The Project also includes a large interior court that will provide additional light, air, and ventilation. The Project also includes roof decks which provide outdoor areas for residents.
- The Southwest Duck Pond is located to the immediate west of the Site.
- In addition, the unimproved and irregularly-shaped District-owned site is located at the rear of the Site, which provides approximately 45 feet of open space between the rear wall of the Project and the closest property to the south.

51. In this case, for the first 40 years of the Project, the Project will be exempt from the requirements of the IZ program of Subtitle C, Chapter 10 pursuant to Subtitle C § 1001.6 (a) ("IZ Exemption") since the Applicant anticipates being "subject to a mandatory affordable housing requirement that exceeds the requirements of this chapter as a result of District law or financial subsidies funded in whole or in part by the Federal or District Government and administered and/or monitored by the Department of Housing and

Community Development (DHCD), the District of Columbia Housing Finance Agency (DCHFA), or the District of Columbia Housing Authority (DCHA)."

52. If the units in the West Tower are delivered as rental units, then:

- a. For the life of the Project, the West Tower shall dedicate a minimum of 8% (approx. 7,200 square feet) of the residential GFA in the West Tower as affordable housing for households earning up to 60% MFI and shall dedicate within the West Tower a minimum of 8% (approx. 265 square feet) of the penthouse habitable space as affordable housing for households earning up to 50% MFI. The affordable housing required as a result of the penthouse habitable space is not required to be located within the penthouse.
- b. For the first 40 years of the Project, the East Tower shall dedicate 100% (approx. 102,236 square feet) of the residential GFA in the East Tower as affordable housing for households earning up to 60% MFI and shall dedicate within the East Tower a minimum of 8% (approx. 525 square feet) of the penthouse habitable space as affordable housing for households earning up to 50% MFI. The affordable housing required as a result of the penthouse habitable space is not required to be located within the penthouse.
- c. For the remaining life of the Project, the East Tower shall dedicate a minimum of 8% (approx. 8,179 square feet) of the residential GFA in the East Tower as affordable housing for households earning up to 60% MFI and shall dedicate within the East Tower a minimum of 8% (approx. 192 square feet) of the penthouse habitable space as affordable housing for households earning up to 50% MFI. The affordable housing required as a result of the penthouse habitable space is not required to be located within the penthouse.

53. If the units in the West Tower are delivered as for-sale units, then:

- a. For the life of the Project, the West Tower is not required to include any affordable housing.
- b. For the first 40 years of the Project, the East Tower shall dedicate 100% (approx. 102,236 square feet) of the residential GFA in the East Tower as affordable housing for households earning up to 60% MFI and shall dedicate within the East Tower a minimum of 8% (approx. 525 square feet) of the penthouse habitable space as affordable housing for households earning up to 50% MFI. The affordable housing required as a result of the penthouse habitable space is not required to be located within the penthouse.
- c. For the remaining life of the Project, the East Tower shall dedicate in the East Tower a minimum of 15% (approx. 15,379 square feet) of the total residential GFA of the Project as affordable housing for households earning up to 60% MFI and shall dedicate within the East Tower a minimum of 8% (approx. 457 square feet)

of the total penthouse habitable space of the Project as affordable housing for households earning up to 50% MFI. The affordable housing required as a result of the penthouse habitable space is not required to be located within the penthouse.

54. If the scenario outlined in Finding of Fact 51 occurs, relief from Subtitle C, § 1005.5 is not necessary.

55. However, if the scenario outlined in Finding of Fact 52 occurs, in year 41 and beyond relief would be necessary from Subtitle C, § 1005.5 since all of the IZ units would be located in the East Tower.

56. The Application asserted that it met the standard for PUD flexibility from the Inclusionary Zoning Requirements for Concentration of Unit Tenure because:

- Under either scenario, the Project will have affordable housing for the life of the Project.
- The Applicant's affordable housing proffer is to dedicate 102,761 square feet of residential gross floor area ("GFA") in the overall single building. This proffer amounts to approximately 52.9% of the project's total residential GFA, provided in 123 affordable housing units.
- The Applicant is providing significantly more affordable housing than would otherwise be required for the Project for the first 40 years.
- The Project will always have an affordable component, with at least 102,761 square feet affordable for years 1-40 and at least 15,836 square feet affordable for year 41 and beyond.
- The project will always, at least, meet the minimum IZ requirement.
- After year 40, existing residents in the senior tower will not be displaced if the building ownership accepts market rate tenants above the IZ requirement.
- The Commission has previously approved projects that separate market-rate and affordable housing into separate towers within a single building. *See, e.g.* Z.C. Case No. 14-08 and Case Nos. 13-14(6) and 13-14(B).

III. RESPONSES TO THE APPLICATION

OFFICE OF PLANNING

57. OP submitted a July 17, 2020 report (Ex. 11, the "OP Setdown Report") that:

- The Application is not inconsistent with the Comprehensive Plan, the Council-adopted Southwest Small Area Plan that is advisory to the Comprehensive Plan, and with the pattern of development between I and M Streets, SW that has been approved by the Zoning Commission in PUDs located near the PUD Site.
- The Application would be not inconsistent with the Comprehensive Plan. While there are aspects of the current Comprehensive Plan with which the proposal may not be consistent, the proposed public benefits of affordable housing and the

retention of the community-oriented Westminster Church more than balance these inconsistencies.

- The Project would, on balance, also be not inconsistent with written elements of the Comprehensive Plan. The Land Use, Transportation, Housing, Urban Design and Lower Anacostia Waterfront/Near Southwest Area Element include policies and recommended actions with which the proposal is congruent.
- The benefits and amenities, particularly the affordable housing and the retention of the church and its programs, are sufficient for set down.
- Indicated that OP did not support the Applicant's request for flexibility from Subtitle C § 1005.5.
- The OP report included a list of additional information needed from the Applicant after setdown in order to further evaluate the Application.

58. OP submitted a April 2, 2021 report (Ex. 26, the "OP Hearing Report") that:

- Reiterated the OP Setdown Report's conclusions that the proposal would be not inconsistent with the Comprehensive Plan.
- Indicated that the Applicant demonstrated that it satisfied the requirements for the requested penthouse, lot occupancy, and rear yard flexibility.
- Continued to note that OP did not support the Applicant's request for flexibility from Subtitle C § 1005.5.
- Requested additional information from the Applicant prior to the hearing.
- Recommended that the Commission approve the Application.

59. OP submitted a April 9, 2021 report (Ex. 31A, the " OP Supplemental Report") that indicated the Applicant should clarify how the project will meet IZ requirements after the end of the eastern (affordable) tower's financing-related control period during which the project would be exempted from IZ (Subtitle C § 1001.6). OP noted that at that time:

- The project should provide all of the square footage required by Subtitle C, § 1003 --i.e., ~15,836 SF by the applicant's calculations; and
- The IZ units should be distributed between the eastern and western towers to comply with Subtitle C § 1005.5 restrictions on the over-concentration of IZ units, unless the residential units in the western tower are ownership units, rather than rental units.

60. OP Submitted a September 28, 2021 report (Ex. 47, the " OP Second Supplemental Report" that:

- Included an analysis of the Project's consistency with the newly revised and adopted 2020 Comprehensive Plan, including the new FLUM designation for the PUD Site.
- Concluded that Project is not inconsistent with the 2020 Comprehensive Plan, including the updated FLUM.
- Included a racial equity analysis of the Project.
- Determined that the Project would deliver several benefits that would integrate racial equity.

- Continued to recommend that the Commission approve the Application, subject to the following condition:
 - If the West Tower is delivered as a rental property, it shall, at initial occupancy and thereafter, include the proportion and distribution of Inclusionary Zoning (IZ) units that would have been required in that tower had Subtitle C §1001.6 not temporarily exempted the project from delivering IZ units until the end of the financing-related IZ exemption period for the senior affordable housing in the East Tower.

61. At the October 4, 2021 public hearing, OP testified in support of the Application.

DDOT

62. DDOT submitted a April 2, 2021 (Ex. 27, the "DDOT Report) stating that DDOT:

- Due to the site's low parking supply, low parking ratio, low weekday trip generation and Applicant's commitment to implement a Transportation Demand Management (TDM) plan, DDOT determined the site met the "Low Impact Development Exemption" criteria from a Comprehensive Transportation Review (CTR) study and Traffic Impact Analysis (TIA), as outlined in the 2019 Guidance for Comprehensive Transportation Review.
- In lieu of a CTR with TIA, the Applicant provided a Transportation Statement, dated February 26, 2021 (Ex. 21).
- The combined residential and church vehicle trips are anticipated to be 26 vehicles in the weekday morning peak hour and 53 vehicles in the evening peak hour. Church service on Sundays is anticipated to generate approximately 21 vehicle trips, as more than 2/3 of attendees are expected to travel by non-auto modes.
- With the limited number of parking spaces and Enhanced Tier TDM Plan, the projected vehicle trip generation is expected to be minimal and can be mitigated with the TDM Plan.
- DDOT finds the proposed TDM plan sufficient to encourage residents and church attendees to use nonautomotive means of travel.
- DDOT noted a number of items that would need to addressed during the public space permitting process.
- DDOT concluded that it has no objection to the approval of the Application with the following conditions included in the Final Zoning Order:
 - The Applicant will implement the Transportation Demand Management (TDM) Plan as proposed by the Applicant in the February 26, 2021 Transportation Statement (Exhibit 21), for the life of the project, unless otherwise noted, with the following minor revisions requested by DDOT:
 - Note that two (2) proposed electric vehicle charging stations will be provided; and
 - Clarify the bulb-outs on Makemie Place SW are subject to DDOT approval.
 - The Applicant will implement the Loading Management Plan (LMP) as proposed by the Applicant in the February 26, 2021 Transportation

Statement (Exhibit 21), for the life of the project, unless otherwise noted.

63. DDOT submitted a June 8, 2021 (Ex. 42, the "DDOT Supplemental Report") stating that the Applicant has agreed to work with DDOT to hire an arborist to create a DDOT approved tree preservation plan. As such, DDOT continues to have no objection to the approval of the Application with the following additional condition:

- Prior to issuance of a building permit for the project, the Applicant will submit, receive approval from UFD, and implement a tree preservation plan for the Heritage Tree on the adjacent DGS site and other on-site or adjacent non-hazardous Special Trees and street trees, as determined appropriate by Urban Forestry Division.

64. At the October 4, 2021 public hearing, DDOT testified in support of the Application.

ANC 6D

65. ANC 6D submitted a June 16, 2020 (Ex. 10, the "ANC 6D Setdown Report") indicating that at a regularly scheduled and properly noticed public meeting on June 8, 2020 with a quorum being present, a quorum being four Commissioners, ANC 6D voted 6-0-1 to support the setting down the Application for a public hearing.

66. ANC 6D submitted a April 5, 2021 (Ex. 28, the "ANC 6D Report") indicating that at a regularly scheduled and properly noticed Special Public Meeting held on March 30, 2021, with a quorum being present, a quorum being four Commissioners, ANC 6D voted 5-0-2 to oppose ZC Case 20-12.

67. The ANC 6D Report indicated that the ANC has a number of concerns and outstanding questions about:

- whether any of the residential units in the Project would be build-first units for the Greenleaf redevelopment project;
- the potential impacts of DDOT's current planning efforts to potentially convert the I Street bike lanes from conventional lanes to protected bike lanes, and the impact of this proposal on access, particularly access for senior citizens, to the Project;
- the interior configuration and features of the senior units;
- the design and operation of the proposed light feature on the project; and
- more information regarding the building's impact on the plantings in the linear park to the south of the Project.

68. ANC 6D submitted a April 9, 2021 (Ex. 28A, the "Clarification to ANC 6D Report") indicating that at a regularly scheduled and properly noticed Special Public Meeting on March 30, 2021, with a quorum being present, a quorum being 4 Commissioners, ANC 6D voted 7-0-0 to have Commissioner Andy Litsky represent and speak on behalf of ANC-6D at the Commission's public hearing on the Application.

69. The written testimony of ANC Commission Andy Litsy summarizing the ANC 6D Report is included in the record as Ex. 35
70. The written testimony of ANC Commissioner Fredrica Kramer is included in the record as Ex. 44, 48 and 48A.
71. ANC 6D submitted a October 20, 2021 (Ex. 53 "ANC 6D Resolution") indicating that at a duly noticed public meeting on October 18, 2021, with a quorum present, a quorum being four Commissioners, ANC 6D voted 6-0-0 to provide conditional approval for the Application.
72. The ANC 6D Resolution indicated that ANC 6D voted to approve the Application with the following conditions:
 1. Prior to the Final Order, the Application will be required to produce a complete analysis of options for maintaining affordability after the expiration of the Low-Income Housing Tax Credits. After expiration of LIHTC, current residents in the affordable units shall not be subject to an immediate rent increase to market rate. Rather, they shall be subject for the life of their residency to rent increases only as is usual and customary in other DC all affordable housing properties.

Further, senior affordable housing at below market rate within this project is proffered as the most significant community benefit in this PUD. ANC-6D expects that, after the expiration of LIHTC, continued affordability shall remain no less than double the 2021 IZ requirement of (8% -10%) and that shall continue for the life of the building.
 2. The Final Order will require the completion of a curbside management plan prior to issuance of a building permit. The plan will be developed by DDOT in consultation with the Applicant, will ensure safe access and egress at building entrances, segregation, and management of bicycle traffic in the protected bike lanes that front the building, and will include the final decision for the placement of the no-parking entrances on I St. SW or Makemie Place.
 3. ANC-6D opposes the current design of the light tower, which is nonfunctional and is solely a decorative embellishment. ANC-6D recognizes that, as such, it is inconsistent with the strong policy the Commission has embraced regarding other non-functional lighting in Southwest, Navy Yard and Buzzard Point. To embrace this 90-foot light tower would create a terrible precedent as when others come before our Commission. We ask that the Zoning Commission reject this tower.
73. ANC 6D also requested that an illustrative model of specific in-unit senior accommodations, as well as consideration of a second common laundry facility in addition to the one facility on the third floor, be provided as part of the Final Order.

LETTERS IN SUPPORT AND IN OPPOSITION

74. The record includes a number of letters in support of the application (Exs. 13, 15G, 15H, 15I, 15 J, 22, 25, and 30) and one letter in opposition (Ex. 33).

CONCLUSIONS OF LAW

1. Pursuant to the authority granted by the Zoning Act (June 20, 1938, 52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2018 Repl.)), the Commission may approve a Consolidated PUD consistent with the requirements of Subtitle X, Chapter 3, and Subtitle § 300.
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 find that the proposed development:

- *Is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site;*
 - *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*
 - *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.*
4. Pursuant to Subtitle X § 304.4(a), the Commission shall find that the proposed development is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site. The purposes of the Comprehensive Plan are six-fold:
 - a. to define the requirements and aspirations of District residents, and accordingly influence social, economic and physical development;

- b. to guide executive and legislative decisions on matters affecting the District and its citizens;
 - c. to promote economic growth and jobs for District residents;
 - d. to guide private and public development in order to achieve District and community goals;
 - e. to maintain and enhance the natural and architectural assets of the District; and
 - f. to assist in conservation, stabilization, and improvement of each neighborhood and community in the District (D.C. Code §1-245(b)).
5. In determining whether a PUD is not inconsistent with the CP, the Commission shall balance the various elements of the CP. The D.C. Court of Appeals discussed this balancing test in its review of the PUD and related Zoning Map amendment for the redevelopment of the McMillan Reservoir Slow Sand Filtration Site (Z.C. Order No. 13-14(6)) (the "McMillan PUD"). In its decision affirming the Commission's approval of the McMillan PUD, the Court stated the following:

“The Comprehensive 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) (internal quotation marks omitted). ‘[E]ven if a proposal conflicts with one or more individual policies associated with the Comprehensive Plan, this does not, in and of itself, preclude the Commission from concluding that the action would be consistent with the Comprehensive Plan as a whole.’ Durant v. District of Columbia Zoning Comm’n, 65 A.3d 1161, 1168 (D.C. 2013). The Comprehensive Plan reflects numerous ‘occasionally competing policies and goals,’ and, ‘[e]xcept where specifically provided, the Plan is not binding.’ Id. at 1167, 1168 (internal quotation marks omitted). Thus ‘the Commission may balance competing priorities’ in determining whether a PUD is consistent with the Comprehensive 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).) ‘[I]f the Commission approves a PUD that is inconsistent with one or more policies reflected in the Comprehensive Plan, the Commission must recognize these policies and explain why they are outweighed by other, competing considerations.’” (Friends of McMillan Park v. District of Columbia Zoning Comm’n, 149 A.3d 1027, 1035 (D.C. 2016).)

CONSISTENCY WITH THE CP AND PUBLIC POLICIES (Subtitle X § 304.4(a))

6. Based on the case record and the Findings of Fact, the Commission concludes the Application is not inconsistent with the CP, when considered in its entirety, because the Application will further the following CP map designations and policies.
7. The Commission concludes that the Application is not inconsistent with the GPM’s Neighborhood Conservation Area designation for the PUD Site, but will instead further this GPM designation, because:

- The Project will help address citywide housing needs, specifically the need for senior affordable housing, while respecting the residential character of the neighborhood while not creating any stark changes in density compared to surrounding properties; and
 - There is a diversity of land uses and building types within the immediate area, and the Project is designed in a manner that is compatible with these existing development patterns and will respect the surrounding scale, natural features, and character of the neighborhood.
8. The Commission concludes that the Project is not inconsistent with the FLUM's Mixed Use (Low Density Commercial / Medium Density Residential) designation for the PUD Site because:
- The FLUM designation is applied to “[d]evelopment that includes residential uses, particularly affordable housing, ...typically achieved through a Planned Unit Development or in a zone district that allows such a mix of uses.” (10A DCMR 227.20).
 - The MU-2 zone is intended to permit medium-density areas predominantly developed with residential buildings but also permitting nonresidential buildings. (11-G DCMR 300.3).
 - The MU-2 zone is a transitional zone intended to preserve and protect adjacent areas and permit new residential at a higher density than new office or institutional developments. (11-G DCMR 300.1).
 - The Project's density is consistent with MU-2 matter-of-right height and density. (11-G DCMR 302.1-303.1).
 - The Project's height and density is consistent with the development pattern of the surrounding southwest neighborhood, and specifically along the Eye Street corridor.
 - The Project is not inconsistent with the generalized policy guidance provided in the GPM.
 - The Project is consistent with the supplemental guidance provided in the Southwest Neighborhood Plan.
 - The Commission believes that to the degree that the Application may be inconsistent with the FLUM, it is outweighed by the Application's furtherance of other CP elements, particularly housing and affordable housing.
9. The Commission concludes that the Project is not inconsistent with the Southwest Neighborhood Plan because:
- Both the Plan and Project call for Mixed Use (Low Density Commercial / Medium Density Residential) development on the PUD Site.
 - The Project implements a number of the design principles in the Plan, which recommends:
 - Encouraging a mix of building heights;
 - Enhance green space through landscaped perimeters and internal green or amenity spaces;
 - Incorporating sustainable building and site design;

- Maintaining a mix of affordable and market-rate housing that better serves community needs; and
 - Building on and market existing cultural assets and institutions to reinforce the concept of an arts and cultural destination.
10. The Commission concludes that the Application is not inconsistent with the CP's Lower Anacostia Waterfront/Near Southwest Area Element because the Application will redevelop the Site with a new mixed-use development that incorporates significant new housing, including affordable senior housing, and the community-serving Westminster Presbyterian Church use. The Project also includes market-rate housing, which is consistent with this Element's goal of providing a mix of affordable and market rate residential units to best serve the community's needs.
11. The Commission concludes that the Application furthers the CP's Land Use, Transportation, Housing; Environmental Protection, and Urban Design Elements because the Application will:
- Establish a new mixed-use and mixed-income building with a variety of unit types and at varying income levels to accommodate a wide range of District residents.
 - Eliminate surface parking and replace the existing Westminster Church building, originally constructed circa 1965, with the new mixed-use building that includes approximately 18,513 square feet of GFA dedicated to new state-of-the art church and community-serving facilities.
 - Create new housing consistent with the goals of the Zoning Regulations, the Comprehensive Plan, the SW Plan, the Mayor's Housing Report, and the Mayor's Order.
 - Deliver 222 new residential units and approximately 197,941 square feet of residential GFA and penthouse floor area. In contrast, under the current R-3 zoning, only approximately 54,675 square feet of residential GFA could be developed on the Site as a matter of right, based on the R3 development standards.
 - Deliver 123 new units of senior affordable housing.
 - Provide residential development in a transit rich area and include a number of transportation related improvements including bicycle parking and storage, and pedestrian and public space improvements.
 - Incorporate several sustainable features including landscape and streetscape improvements, and green roofs.

Potential Unacceptable Impacts - How Mitigated or Outweighed (Subtitle X § 304.4(b))

12. The Commission finds that the Project will not result in any unacceptable project impacts, and that any potential impacts will be favorable, capable of being mitigated, or acceptable of given the quality of public benefits provided by the Application.
13. Specifically, the Commission finds that the Project will benefit the neighborhood by providing new housing, including affordable senior housing, at an amount that is

significantly greater than what could be built as a matter of right on the site. The Commission finds that the Project design relates to the surrounding architectural context and considers the variety of nearby uses. The Project includes sustainable landscape design and streetscape improvements that will enhance the pedestrian experience and improve the public realm.

Requested Flexibility Balanced by Public Benefits (Subtitle X § 304.4(c))

14. The Commission concludes that the Application's public benefits outweigh the requested zoning flexibility, as well as any potential adverse impacts that are not capable of being mitigated, as discussed below:

- **Urban Design, Architecture and Superior Landscaping** - The Commission concludes that the Project's urban design, architecture, and landscaping, for the reasons advanced by the Applicant and OP, qualify as superior public benefits that will improve the surrounding neighborhood to a significantly greater extent than would likely result from matter-of-right development;
- **Site Planning and Land Utilization** – The Commission concludes that the Project's site planning and land utilization qualifies as a public benefit because it replaces an underutilized property with a new mixed-use development; includes public space improvements, and the Project will be compatible with the scale and character of surrounding development.
- **Housing, Affordable Housing, and Senior Housing** - The Commission concludes that the Project will provide superior housing and affordable housing benefits because the Project will have affordable housing for the life of the Project. The Project will include 102,761 square feet of affordable housing for 40 years, which is approximately 52.9% of the project's total residential GFA results in 123 affordable housing units. The Project is providing significantly more affordable housing than would otherwise be required for the Project for the first 40 years and more affordable housing than would be provided if the PUD Site were developed as a matter-of-right. Finally, the Project will always have an affordable component, with at least 102,761 square feet affordable for years 1-40 and at least 15,836 square feet affordable for year 41 and beyond.
- **Transportation Infrastructure** – The Commission concludes that the Project will provide transportation benefits, beyond any mitigation measures required to address potential adverse impacts by widening the sidewalk along Makemie Place.
- **Uses of Special Value to the Neighborhood** – The Commission concludes that rebuilding of space for the Westminster Church, the programs offered by Westminster Church, and the use of Westminster Church's facilities by outside groups constitute uses of special value to the neighborhood.

“GREAT WEIGHT” TO THE RECOMMENDATION OF OP

15. 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).)

16. The Commission carefully considered the OP Reports and testimony in this case and concludes that OP's analysis of the Project's consistency with the Comprehensive Plan, racial equity analysis, potential impacts, and proffered benefits is persuasive. Accordingly, the Commission concurs with OP's recommendation to grant the Application.

“GREAT WEIGHT” TO THE WRITTEN REPORT OF THE ANC

17. 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).))
18. The Commission carefully considered the ANC 6D Report (Ex. 28) and the ANC 6D Resolution (Ex. 53), and is giving great weight to those submissions. The Commission has also carefully considered the testimony of the ANC Commissioners.
19. The Commission agrees with ANC 6D's ultimate vote to recommend approval of the Application. However, the Commission declines adopting the three conditions recommended by ANC 6D for the following reasons:
 - a. As described in Findings of Facts Nos. [REDACTED], the Commission finds the Applicant's housing proposal exceeds the amount of affordable that would be required if the PUD Site were developed as a matter-of-right; the Project provides a significant amount of affordable housing for the first 40 years of the Project; and Project will always provide at least the amount of affordable housing required by the IZ regulations.
 - b. The use and distribution of public space is subject to the jurisdiction of the Public Space Committee, not the Commission. Therefore, the Commission declines to impose a condition that requires DDOT to take certain actions prior to or as a condition for an Application to secure a building permit. The Commission notes that, as acknowledged by DDOT in their report (Exhibit 27, pp. 2 and 3), the Applicant will continue to work with DDOT during the public space permitting process to ensure that the bike lane includes sufficient safety measures to protect project residents and other pedestrians from passing cyclists. However, the Commission will include a requirement that prior to the issuance of a certificate of occupancy for the Project, the Applicant shall submit to DDOT a proposed curbside management plan, which plan shall design features and specifications to ensure safe access and egress at building entrances, mitigation measures within DDOT's

proposed protected bike lane to ensure that cyclists slow down as they pass the project site, and the proposed placement of any no-parking entrances on I St. or Makemie Place. The final design of the curbside management is subject to DDOT approval.

- c. ANC 6D opposes approval of the light feature included as part of the Project's design because the ANC believes the feature is "inconsistent with the strong policy the Commission has embraced regarding other non-functional lighting in Southwest, Navy Yard and Buzzard Point." ANC 6D also stated that "[t]o embrace this 90-foot light tower would create a terrible precedent as when others come before our Commission." However, the Zoning Commission reviews each application based upon the specific facts and merits of the case before the Zoning Commission. As such, the Zoning Commission concludes that our approval of the light feature in this Application does not jeopardize or otherwise restrict our ability to review light features proposed in any other application that comes before the Zoning Commission. With respect to the light feature in this case, the Zoning Commission finds the information included in the Application's Post-Hearing Submission (Ex. 52) to be persuasive regarding the amount of light that will be generated by the light feature (i.e., 5 foot candles), that the amount of light emitted by the light feature will not adversely impact the immediately surrounding uses, and that the amount of light generated by the light feature will be generally consistent with the light levels generated within the surrounding neighborhood.

DECISION

In consideration of the case record, and the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission **ORDERS APPROVAL** of the Application. This approval is subject to the following guidelines, conditions, and standards. Whenever compliance is required prior to, on or during a certain time, the timing of the obligation is noted in bold and underlined text.

A. PROJECT DEVELOPMENT

1. The PUD Site shall be developed in accordance with the Architectural Plans and Elevations prepared by KGD Architecture, dated March 23, 2021, included in the record at Exhibit 23A1-23A10, and the Updated Architectural Plans and Elevations sheets, dated October 15, 2021, included in the record at Exhibit 52A (collectively the "Approved Plans"), as modified by the guidelines, conditions, and standards herein.
2. The Applicant shall have design flexibility from the Approved Plans as follows:
 - a. To provide a range in the number of residential units to plus or minus 10%.
 - b. To vary the location and design of all interior components, including amenities, partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, and to vary the layout and exact size of the Church facilities, provided that the variations do not materially change the exterior configuration of the building, and to vary the layout and exact square footage of the

- Church, provided the square footage reserved for the Church does not decrease by more than 10%.
- c. To make refinements to the garage configuration, including the layout, number of parking spaces, and/or other elements, so long as the number of parking spaces does not decrease below the minimum level required by the Zoning Regulations spaces (i.e. plus or minus six spaces, with an upper limit of 66 spaces and a lower limit of 54 spaces).
 - d. 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. 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, windows, and skylights.
 - f. To vary the color, font, and message of the proposed signage, provided that the maximum overall dimensions and signage materials are generally consistent with those shown on the Approved Plans, provided there is no significant change in the proposed location of the signage and no signage is located above the second floor.
 - g. To vary the number and mix of affordable units if the total number of dwelling units changes within the range of flexibility requested, provided that the location and proportionate mix of the affordable units will substantially conform to the layout shown on the approved Plans.
 - h. To vary the location, attributes, and general design of the approved streetscape to comply with the requirements of, and the approval by, the DDOT Public Space Division.
 - i. To vary the approved sustainable features of the Project, including the final layout of the landscape elements, provided the total number of LEED and/or Enterprise Green Communities points achievable for the Project does not decrease below the minimum required for the LEED and/or Enterprise Green Communities standards specified by the order.
 - j. To vary the color, font, message, and logo of the approved signage, provided that (i) permanent digital and neon signage shall not be permitted on the exterior of the project; (ii) the maximum overall dimensions and signage materials are consistent with the signage on the plans approved by the order; and (iii) the signage is compliant with the DC signage regulations.
3. In accordance with the Approved Plans, the Project shall have:
- a. A maximum building height of 90 feet;
 - b. A maximum density of 7.06 FAR;
 - c. Approximately 214,338 square feet of gross floor area;
 - d. Approximately 18,513 square feet devoted to new facilities for the Church;
 - e. 99 residential units located in the western tower of the Project;
 - f. 123 residential units located in the eastern tower of the Project;
 - g. 60 below-grade parking spaces.

4. The affordable units in the Project must be constructed concurrently with the market rate units. All components of the Project, including the East and West Towers, will be constructed concurrently as a whole. If all components of the Project cannot be constructed entirely concurrently, the East Tower (which includes the church and senior housing) must be constructed first.
5. Prior to issuance of a building permit for the Project, the Applicant will submit, receive approval from UFD, and implement a tree preservation plan for the Heritage Tree on the adjacent DGS site and other on-site or adjacent non-hazardous Special Trees and street trees, as determined appropriate by Urban Forestry Division.
6. For the life of the Project, the 123 units in the East Tower and the 99 units in the West Tower will be entirely new housing stock in Southwest; neither will be proffered as Build First units for Greenleaf seniors, families or other current residents; and units within the Project will be separate and apart from any other units that the Applicants may develop in Southwest. However, this provision should not be construed in any way to allow or require the Applicant to violate any Fair Housing Act, anti-discrimination, tenant protections, or other Federal or District laws regarding the use and occupancy of residential buildings, such as the acceptance of vouchers.
7. For the life of the Project, the senior portion of the East Tower will be separate from and operated separately from the Westminster Presbyterian Church. For example:
 - The residential units and church component shall have separate ownership;
 - The residential units and Church component shall have separate utilities; and
 - The residential units shall have separate elevator access, and the resident key card will only access the residential floors of the East Tower.

B. CERTIFICATE OF OCCUPANCY REQUIREMENTS

1. Prior to the issuance of the first certificate of occupancy for the Project, the Applicant shall demonstrate to the Zoning Administrator that it has:
 - Designed the East Tower of the Project to achieve the equivalent of a minimum of 45 points under the 2020 Enterprise Green Communities Standards.
 - Designed the West Tower of the Project to achieve the equivalent of a minimum of 50 points under the LEEDv4 for BD+C: New Construction and Major Renovation standards.
 - Submitted an executed Certified Business Enterprise ("CBE") agreement to D. C. Department of Small and Local Business Development that requires the Applicant to comply with all applicable CBE subcontracting requirements related to the East Tower of the Project.

- Submitted to the D.C. Department of Employment Services a signed First Source Employment Agreement ("FSEA") consistent with the First Source Employment Agreement Act of 1984 and consistent with the form of agreement included as Ex. 46F in the record of this case.
- Installed the public space improvements including the Approved Plans, including the widening of Makemie Place adjacent to the PUD Site, subject to any modifications required to obtain DDOT's approval during public space permitting.
- Submitted to DDOT a proposed curbside management plan, which plan shall include design features and specifications to ensure safe access and egress at building entrances, mitigation measures within DDOT's proposed protected bike lane to ensure that cyclists slow down as they pass the PUD Site, and the proposed placement of any no-parking entrances on I St. or Makemie Place. The final design of the curbside management is subject to DDOT approval.
- Submit to the Zoning Administrator a letter addressed to each designated beneficiary listed below offering the benefit listed:
 - SW Public Housing Resident Councils - For the life of the project, the free use of designated church spaces, as available, for Council meetings and events;
 - Government of the District of Columbia - For the life of the project, the free use of designated church spaces, as available, for meetings and events;
 - Narcotics Anonymous - For the life of the project, the free use of designated church spaces, as available, for its meetings;
 - Southwest Catering Company - For the life of the project, the free use of designated church spaces, as available, for its community-based catering job training program for DC residents;
 - Southwest Renaissance Development Corporation (a nonprofit) - For the life of the project, the free use of designated church spaces, as available, for its "Jazz Night in D.C." and "Blue Monday Blues," multicultural, multi-racial, multi-generational preservation projects serving thousands of D.C. residents and supporting hundreds of D.C.-based jazz and blues artists;
 - TransPride Festival - For the life of the project, the free use of designated church spaces, as available, for at least one event per year; and
 - Seated Yoga Program - For the life of the project, the free use of designated church spaces, as available, for its weekly health and fitness programs for seniors.

C. REQUIREMENTS FOR THE LIFE OF THE PROJECT

1. **For the life of the Project**, the Applicant shall dedicate approximately 192,236 square feet of GFA to residential use, as follows.
2. If the units in the West Tower are delivered as rental units, then:

- a. For the life of the Project, the West Tower shall dedicate a minimum of 8% (approx. 7,200 square feet) of the residential GFA in the West Tower as affordable housing for households earning up to 60% MFI and shall dedicate within the West Tower a minimum of 8% (approx. 265 square feet) of the penthouse habitable space as affordable housing for households earning up to 50% MFI. The affordable housing required as a result of the penthouse habitable space is not required to be located within the penthouse.
 - b. For the first 40 years of the Project, the East Tower shall dedicate 100% (approx. 102,236 square feet) of the residential GFA in the East Tower as affordable housing for households earning up to 60% MFI and shall dedicate within the East Tower a minimum of 8% (approx. 525 square feet) of the penthouse habitable space as affordable housing for households earning up to 50% MFI. The affordable housing required as a result of the penthouse habitable space is not required to be located within the penthouse.
 - c. For the remaining life of the Project, the East Tower shall dedicate a minimum of 8% (approx. 8,179 square feet) of the residential GFA in the East Tower as affordable housing for households earning up to 60% MFI and shall dedicate within the East Tower a minimum of 8% (approx. 192 square feet) of the penthouse habitable space as affordable housing for households earning up to 50% MFI. The affordable housing required as a result of the penthouse habitable space is not required to be located within the penthouse.
3. If the units in the West Tower are delivered as for-sale units, then:
 - a. For the life of the Project, the West Tower is not required to include any affordable housing.
 - b. For the first 40 years of the Project, the East Tower shall dedicate 100% (approx. 102,236 square feet) of the residential GFA in the East Tower as affordable housing for households earning up to 60% MFI and shall dedicate within the East Tower a minimum of 8% (approx. 525 square feet) of the penthouse habitable space as affordable housing for households earning up to 50% MFI. The affordable housing required as a result of the penthouse habitable space is not required to be located within the penthouse.
 - c. For the remaining life of the Project, the East Tower shall dedicate in the East Tower a minimum of 15% (approx. 15,379 square feet) of the total residential GFA of the Project as affordable housing for households earning up to 60% MFI and shall dedicate within the East Tower a minimum of 8% (approx. 457 square feet) of the total penthouse habitable space of the Project as affordable housing for households earning up to 50% MFI. The affordable housing required as a result of the penthouse habitable space is not required to be located within the penthouse.

4. Each control period shall commence upon the issuance of the first certificate of occupancy for the Project.
5. The affordable housing described in Section 2 and 3 above assumes that the Applicant will be granted an exemption from the requirements of the IZ program of Subtitle C, Chapter 10 for the first 40-year period for the Project, pursuant to Subtitle C § 1001.6 (“IZ Exemption”), although the Commission takes no position as to whether the IZ Exemption should be granted;
 - a. Should the IZ Exemption be granted, the affordable housing requirements of this condition shall be stated in the covenant required by Subtitle C § 1001.6(a)(4); and
 - b. Should the IZ Exemption be denied, the Applicant shall provide a minimum of (8%) affordable to households earning up to 60% of MFI. The Applicant shall record the covenant required by the Inclusionary Zoning Act as to a minimum of 8% of the residential GFA of the Project and shall execute the monitoring and enforcement documents required by Subtitle X § 311.6.
6. **For the life of the Project**, the Applicant shall implement the Transportation Demand Management Plan as set forth below:
 - 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.
 - 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.
 - Provide Transportation Coordinators’ contact information to goDCgo, and report TDM activities and data collection efforts to goDCgo once per year.
 - Transportation Coordinators 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.
 - Transportation Coordinators will receive TDM training from goDCgo to learn about the TDM conditions for this project and available options for implementing the TDM Plan.
 - 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.
 - 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.
 - Transportation Coordinator will subscribe to goDCgo’s residential newsletter.

- Post all TDM commitments on website, publicize availability, and allow the public to see what commitments have been promised.
- Provide a FREE SmarTrip card to every new resident and a complimentary Capital Bikeshare coupon good for one ride.
- Meet ZR16 short- and long-term bicycle parking requirements. Long-term bicycle space will be provided free of charge to residents. Provide a minimum of 11 residential plus 8 church short-term spaces, and 74 residential plus 2 church long-term spaces.
- Install a Transportation Information Center Display (electronic screen) within the lobby containing information related to local transportation alternatives. At a minimum the display should include information about nearby Metrorail stations and schedules, Metrobus stops and schedules, carsharing locations, and nearby Capital Bikeshare locations indicating the availability of bicycles.
- Offer an annual CaBi membership to each unit for the first year after the building opens.
- Provide a bicycle repair station in each long-term bicycle parking storage room.
- Provide a total of five to encourage residents to walk to the grocery shopping and run errands.
- Provide two (2) electric vehicle charging stations.
- Subject to DDOT approval, install bulb-out(s) on Makemie Place SW to reduce the distance for pedestrians crossing Makemie Place SW.

7. **For the life of the Project**, the Applicant shall implement the Loading Management Plan as is set forth below:

- The property manager will be responsible for coordinating with tenants to schedule deliveries and move-ins/move-outs, and will work with the community and neighbors to resolve any conflicts should they arise.
- Reverse maneuvers will be required to access the loading berth; therefore, an on-site manager will be provided to ensure safety while exiting the loading berth.
- All tenants will be provided with information regarding loading dock restrictions, rules, and suggested truck routes at lease signing.
- All residential tenants will be required to schedule move ins/outs.
- The maximum size for on-site delivery vehicles is 30 feet in length.
- If an unscheduled delivery vehicle arrives while the dock is full, that driver will be directed to return at a later time when the loading berth would be available

8. **For the life of the Project**, the Church shall make space available as follows:

- SW Public Housing Resident Councils - the free use of designated church spaces, as available, for Council meetings and events;
- Government of the District of Columbia - the free use of designated church spaces, as available, for meetings and events;
- Narcotics Anonymous - the free use of designated church spaces, as available, for its meetings;

- Southwest Catering Company - the free use of designated church spaces, as available, for its community-based catering job training program for DC residents;
- Southwest Renaissance Development Corporation (a nonprofit) - the free use of designated church spaces, as available, for its "Jazz Night in D.C." and "Blue Monday Blues," multicultural, multi-racial, multi-generational preservation projects serving thousands of D.C. residents and supporting hundreds of D.C.-based jazz and blues artists;
- TransPride Festival - the free use of designated church spaces, as available, for at least one event per year; and
- Seated Yoga Program - the free use of designated church spaces, as available, for its weekly health and fitness programs for seniors.

D. MISCELLANEOUS

1. No building permit shall be issued for the 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 the Attorney General and the Zoning Division, Department of Consumer and Regulatory Affairs. 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 PUD shall be valid for a period of two years from the effective date of this Order. Within such time an application shall be filed for a building permit, with construction to commence within three years of the effective date of this Order.
3. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act") the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.