

# Dance Loft PUD

## Applicant's Rebuttal and Closing

### 4608-4618 14<sup>th</sup> Street NW

### Z.C. Case No. 21-18



# Outline of Rebuttal

PUD Comprehensive Plan/Small Area Plan

PUD No Unacceptable Impacts

PGN Rebuttal of FOFS Design Evidence

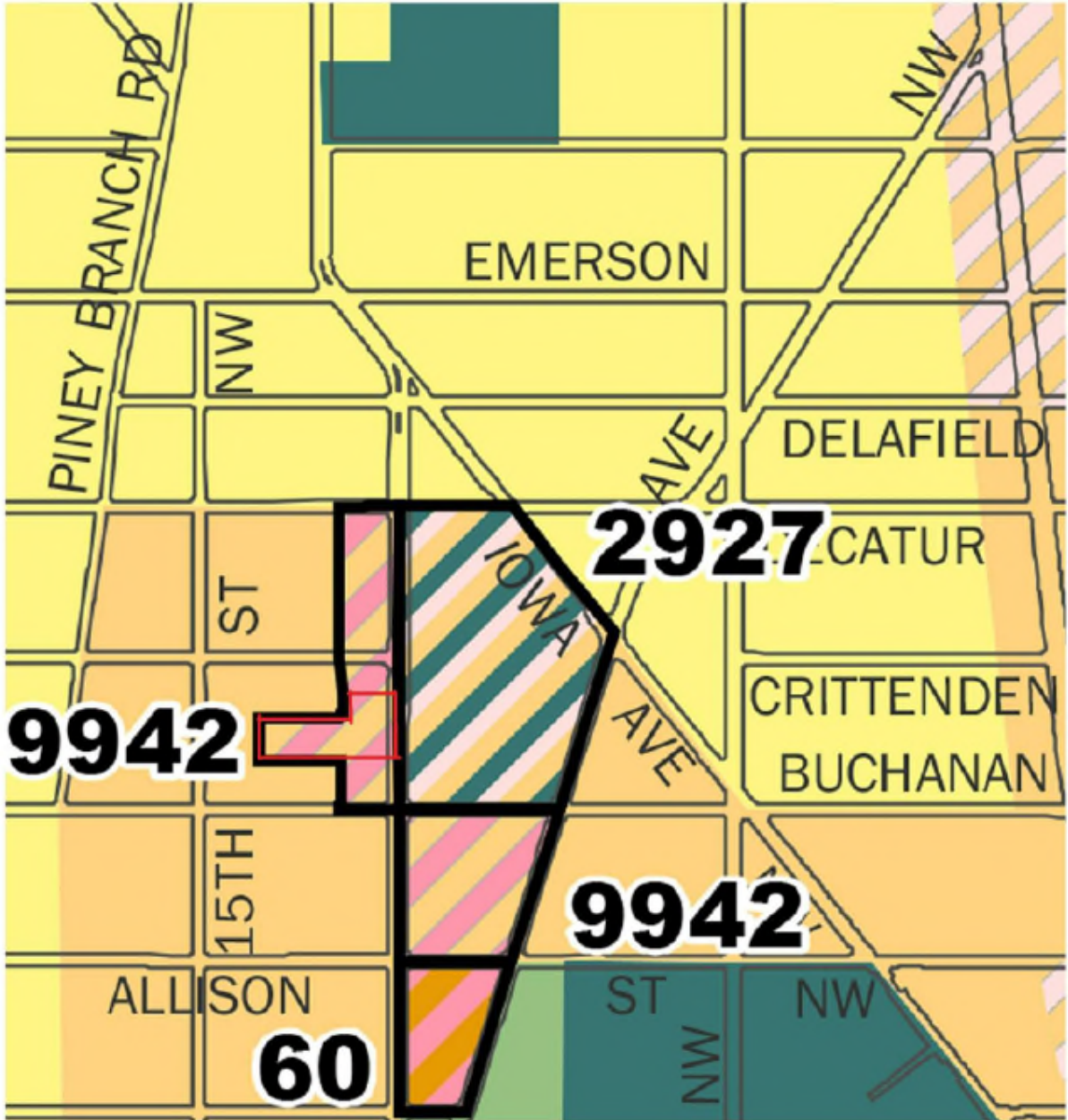
PGN No Current “Three Story Option”



# Comprehensive Plan

PUD

Moderate Density = FAR of 2.5-4.0 (project = 3.79)  
MU-5A is listed as compatible w/ Moderate Density



“The MU-5 and MU-7 Zone Districts are representative of zone districts consistent with the Moderate Density Commercial category, and other zones may also apply.”

10-A DCMR 227.11



# Comprehensive Plan/Small Area Plan

PUD

Small Area Plan = Central 14<sup>th</sup> Street Vision Plan





# No Unacceptable Project Impacts

## Construction-Period Impact Mitigation Conditions

### ANC conditions:

- Point of contact for questions/concerns
- Notice of shut-offs
- Pest abatement

### DDOT conditions:

- Upgrades to street crossings

PUD



# No Unacceptable Project Impacts

## Construction-Period Impact Mitigation

- No known hazardous materials on site
- Limited excavation (no basement)
- Coordination w. WMATA bus garage construction (e.g., re. 14<sup>th</sup> Street and TCP)

PUD





# No Unacceptable Project Impacts

## Construction Management Plan

- Specific precautions for adjacent homes
- Form to be included in post-hearing submission
- Area of potential compromise w. FOFS

PUD



# No Unacceptable Project Impacts

Transportation Impact Analysis



PUD



# DDOT Scoping

- 101 du, 1,888 sf retail & 9,459 sf dance studio w/ 10,847 sf of rental theater space
- 40 vehicular parking spaces (Approximately 1 per 3 dwelling units for residential)
- TDM Plan and LMP Approved by DDOT
  - Includes CaBi station expansion and ADA & pedestrian improvements at Crittenden Street / 14<sup>th</sup> Street intersection.
- Trip generation below 25 peak-hour peak-direction trips – vehicular analyses not required – DDOT confirmed
- Parking relief was previously being sought prior to RPP removal (no longer needed) – this triggered a parking occupancy study requirement in the initial scope and CTR statement.

# Residential Vehicular Mode Share

## Existing area based on Census data

- 2012-2016 American Community Survey
- Primarily single-family residential w/ 971 occupied residential units & 1,162 vehicles available
- Vehicle ownership of 1.2 veh/household
- **Vehicle mode share of 46%**
  - 40% single occupant + 6% carpool

## Proposed Project

- 101 housing units in multi-family building
- Approximately 33 residential parking spaces
- Low residential parking ratio of 0.33 per unit
- Access to new 16<sup>th</sup> Street Bus Lanes & 14<sup>th</sup> Street Priority Corridor Metrobus Route
- Access to 14<sup>th</sup> Street bike lanes
- Implementation of robust TDM Plan
- 66% Affordable – FHWA study finds lower income housing has reduced reliance on vehicular travel mode
- **Vehicle mode share assumption of 35%, approved by DDOT**



# Vehicular Mode Share (Continued)

- 101 du, 1,888 sf retail & 9,459 sf dance studio w/ 10,847 sf of rental theater space
- No on-site retail customer parking
- No on-site dance studio patron parking
- No on-site theater parking
- Approximately 7 parking spaces available for retail and Dance Loft employees
- Theater space operates outside of the weekday commuter peak periods

Land Use	Mode			
	Auto	Transit	Bike	Walk
Residential	35%	50%	5%	10%
Retail	35%	40%	5%	20%
Theater	45%	45%	5%	5%
Dance Studio	35%	50%	5%	10%

Reviewed & Approved by DDOT

# Trip Generation

- 14 total AM peak hour trips and 48 total PM peak hour trips
  - Not including reduction for 24,000 sf of existing retail uses to be removed
  - Below 25 peak hour peak direction threshold for vehicular analyses
  - The theater space does not operate during the commuter peak periods on a weekday. The estimate of 10 trips has been applied during the peak hour to provide a conservatively high estimate and does not represent the trip generation during an event. Events will occur outside of the peak period where significant capacity is available along 14<sup>th</sup> Street.

Mode	Land Use	AM Peak Hour			PM Peak Hour		
		In	Out	Total	In	Out	Total
Auto (veh/hr)	Residential	3	10	13	9	6	15
	Retail	1	0	1	1	2	3
	Theater	--	--	--	4	6	10
	Dance Studio	--	--	--	10	10	20
	<b>Total</b>	<b>4</b>	<b>10</b>	<b>14</b>	<b>24</b>	<b>24</b>	<b>48</b>

4608-4618 14<sup>th</sup> Street NW



# WMATA Northern Bus Garage Project

As identified in the supplemental traffic assessment, the bus garage site was not in operation at the time the traffic counts were collected.

- With minimal delay along 14<sup>th</sup> Street, we expect sufficient capacity to be available for the WMATA site (confirmed by April 1, 2022 WMATA assessment).
- WMATA released Document of Categorical Exclusion in April of 2022. This document was not available when the supplemental traffic assessment was prepared. This document provided additional information on proposed uses and parking for their project.
  - Reduce bus capacity from 175 buses to 150 buses. Designed to be WMATA's first all-electric bus garage with infrastructure needed to run 100% electric vehicles. Switch to EV will be a transitional process, and the garage may not open at 100% EV level.
  - Upgraded facility will relocate current on-street employee parking around the site to all internal parking on-site. Existing parking supply of 212 spaces will be increased to 306 spaces. Spaces to be occupied over multiple shifts and arrivals/departures will be staggered to reduce peak trip generation and reduce vehicular impact to area roads.
  - Retail intended to be neighborhood serving and only small amount of office space for Uptown Main Street

4608-4618 14<sup>th</sup> Street NW

# WMATA Traffic Assessment, Dated April 1, 2022

“E. Traffic Impacts: This project is not anticipated to create unacceptable conditions on the regional roadway network. The number of buses stored and maintained at the garage will be reduced from 175 buses to 150 buses, thus reducing bus travel on the surrounding road network. Employee arrivals and departures are broadly dispersed throughout the day and evening. As a result, traffic from the proposed employee parking would have a negligible impact on nearby intersections.

Traffic volumes on the adjoining street network are relatively low and can readily accommodate the bus and employee traffic associated with the facility without creating unacceptable conditions. In 2018, the Average Annual Daily Volume on 14th Street NE adjacent to Northern Bus Garage was approximately 11,000 vehicles per day.<sup>1</sup> The volume on Buchanan Street NE was approximately 1,000 vehicles per day.

Currently, there are 212 on-site parking spaces for employees and non-revenue vehicles. The proposed project includes 306 onsite parking spaces for employees and non-revenue vehicles as well as 20 parking spaces for retail employees. The 326 parking spaces would be occupied over multiple shifts. This would result in only a limited amount of traffic being generated by the parking at any time.

Generally, the maximum acceptable conditions capacity for urban streets is based on intersection capacity. Based on DDOT Signal Optimization Synchro files using 2019 traffic counts, the Highway Capacity Manual Existing Conditions Level of Service (LOS) for the 14th Street NE and Buchanan Street NE intersection is shown in Table 2. The existing conditions are LOS A in the AM Peak Period and LOS B in the PM Peak. Since bus and employee traffic is distributed throughout the day rather than during peak periods, conditions are not anticipated to degrade to an unacceptable LOS E or F.”

Table 2 – Existing LOS at 14<sup>th</sup> Street and Buchanan Street NE

Period	Average Delay (seconds)	Level of Service
AM Peak	6.4	A
PM Peak	11.4	B

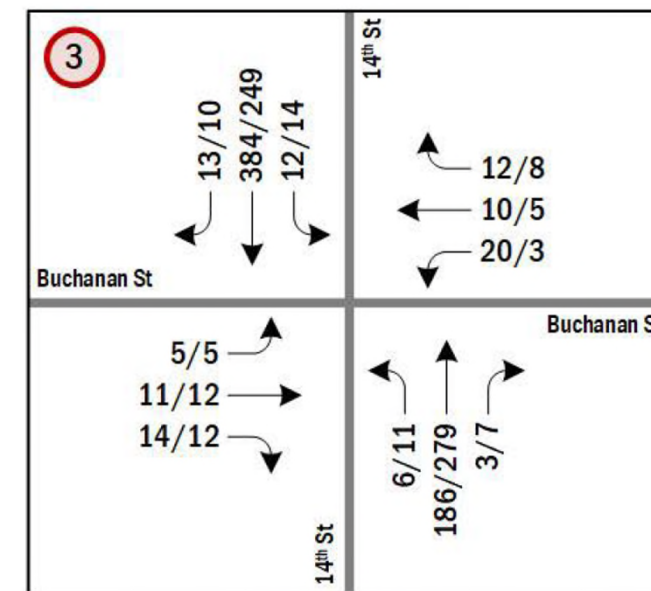
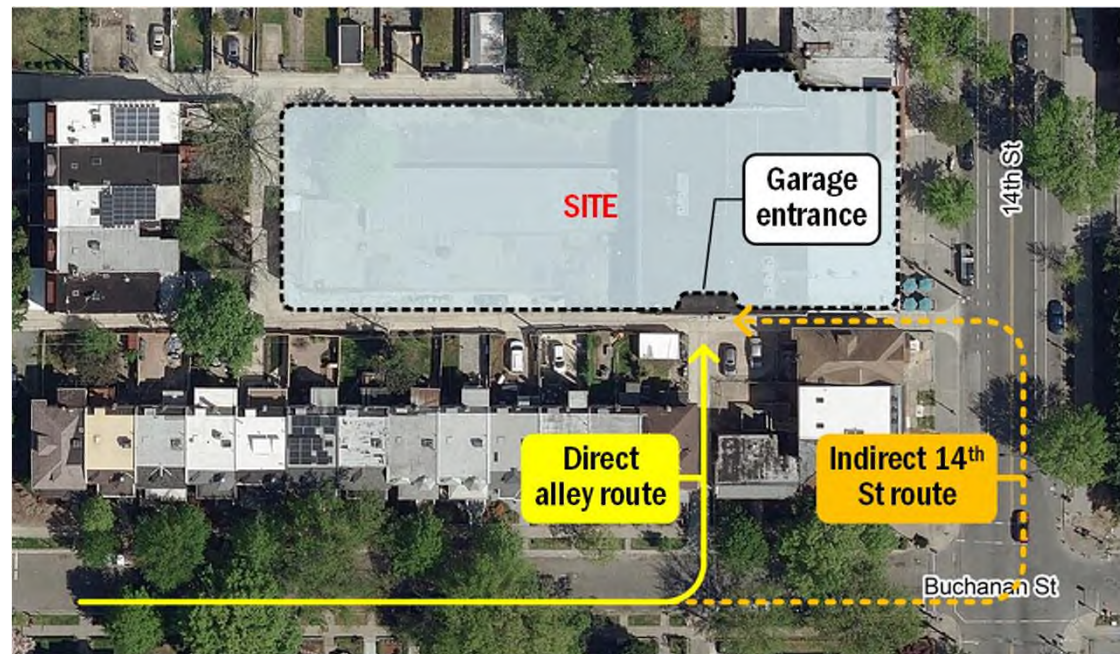
4608-4618 14<sup>th</sup> Street NW



# Trip Routing

Traffic should primarily use 14<sup>th</sup> Street to reach the subject property. Crittenden Street and Buchanan Street to the west do not represent primary travel routes, as indicated by the existing traffic volumes.

- At the 14<sup>th</sup> Street intersection with Buchanan Street, 84% of the AM and 86% of the PM peak hour traffic consists of the north-south through movements
- The side street approaches of Buchanan Street are at LOS D due to the limited allotment of green time that prioritizes 14<sup>th</sup> Street. Delays on the side street could be reduced by changing the signal timing.
  - The intersection operates with a volume-to-capacity ratio of 0.41 during the AM peak hour and 0.34 during the PM peak hour, indicating significant capacity is available at the intersection.
- A north-south alley connection is available directly from the site's garage to Buchanan Street – further reducing the likelihood that vehicles would travel through the 14<sup>th</sup> Street/Buchanan Street intersection to/from the west to access the site.



Existing Traffic Volumes

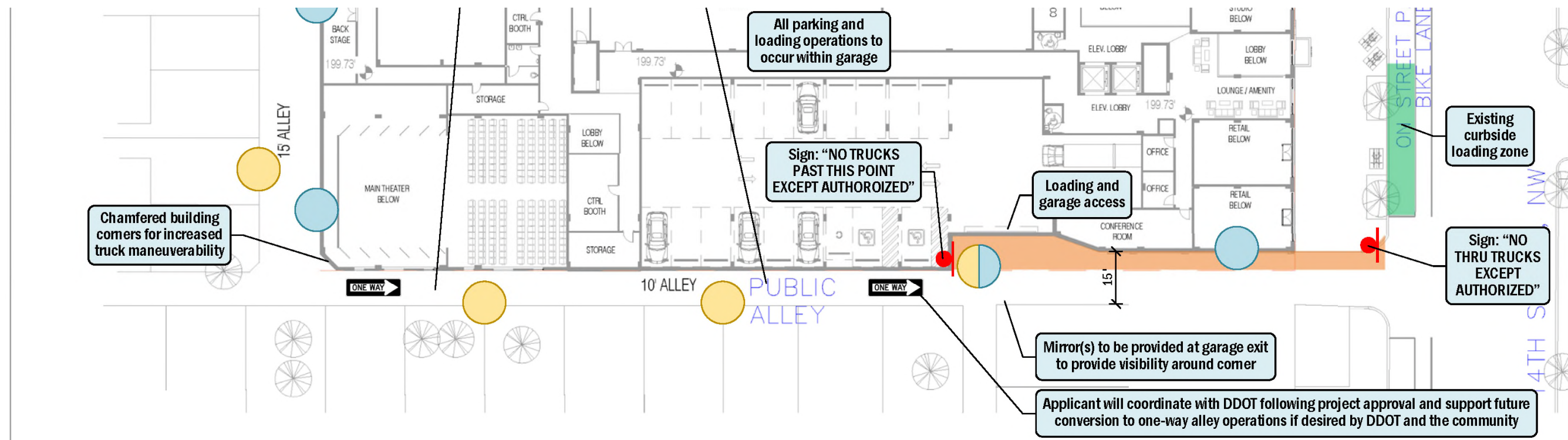
4608-4618 14<sup>th</sup> Street NW

# Parking

- RPP eligibility for the project has been removed at the DMV and from DDOT's public facing map – New residents in the proposed building will not be able to obtain RPP
- 28 parking spaces required by zoning, and 40 spaces are proposed
  - Parking requirement before allowable 50 percent reduction is 55 spaces (parking is not required for the cellar space)
- The automated lift spaces are allowed by zoning and thus count toward the requirement:
  - Section 711.4: “An automated parking garage shall meet the requirements of Subtitle C § 711.3, although individual parking spaces provided as part of the automated parking garage do not.”
- Parking occupancy study identified overall area occupancy below 70% occupancy during peak weekday and weekend times
  - WMATA bus garage project will be relocating existing on-street parking for employees to all on-site
- The church located adjacent to the site appears to operate from a converted row house. Given the small size of the church and that services are unlikely to overlap with the theater space's events, the approved parking study assessed the appropriate peak parking times

# Alley Network

- The project will not be narrowing any part of the existing public alley right of way.
- The project will be widening the alley on the south side of the building to a minimum of 15-feet between 14<sup>th</sup> Street and the garage entrance to increase maneuverability and provide head vehicular and loading access to/from 14<sup>th</sup> Street for the project's parking and loading within the garage.
- The corners at the western end of the building have been chamfered to provide increased maneuverability turning around the building.
- Applicant will coordinate with DDOT after the building opens to identify if additional measures are warranted in the alley.



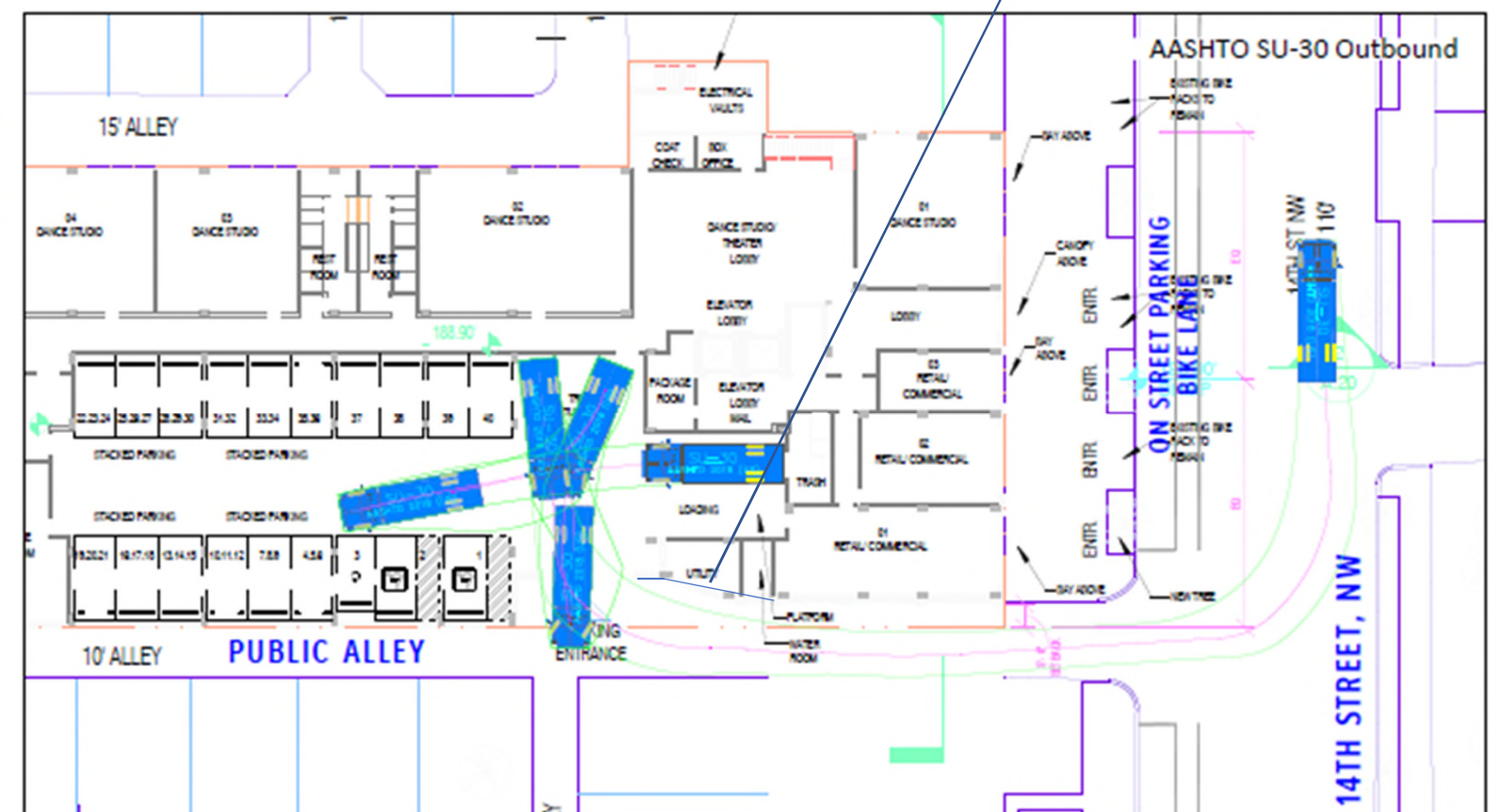
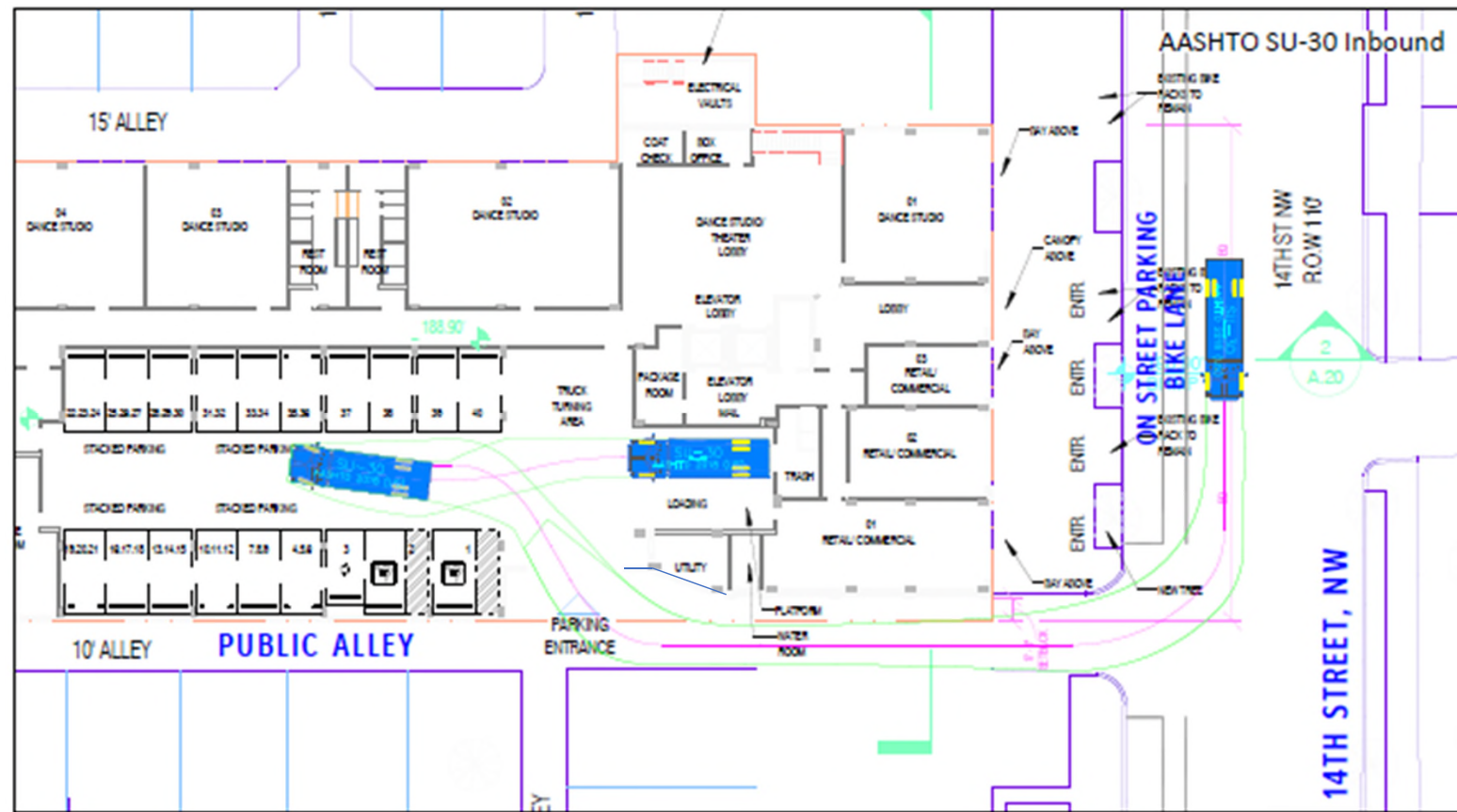
4608-4618 14<sup>th</sup> Street NW



# Loading Operations

- The widened alley and chamfering of the building will allow for head-in and head-out movements to/from 14<sup>th</sup> Street.
- An optional outbound route is also available directly to Buchanan Street via the north-south alley connection.

Chamfered to increase turning maneuverability

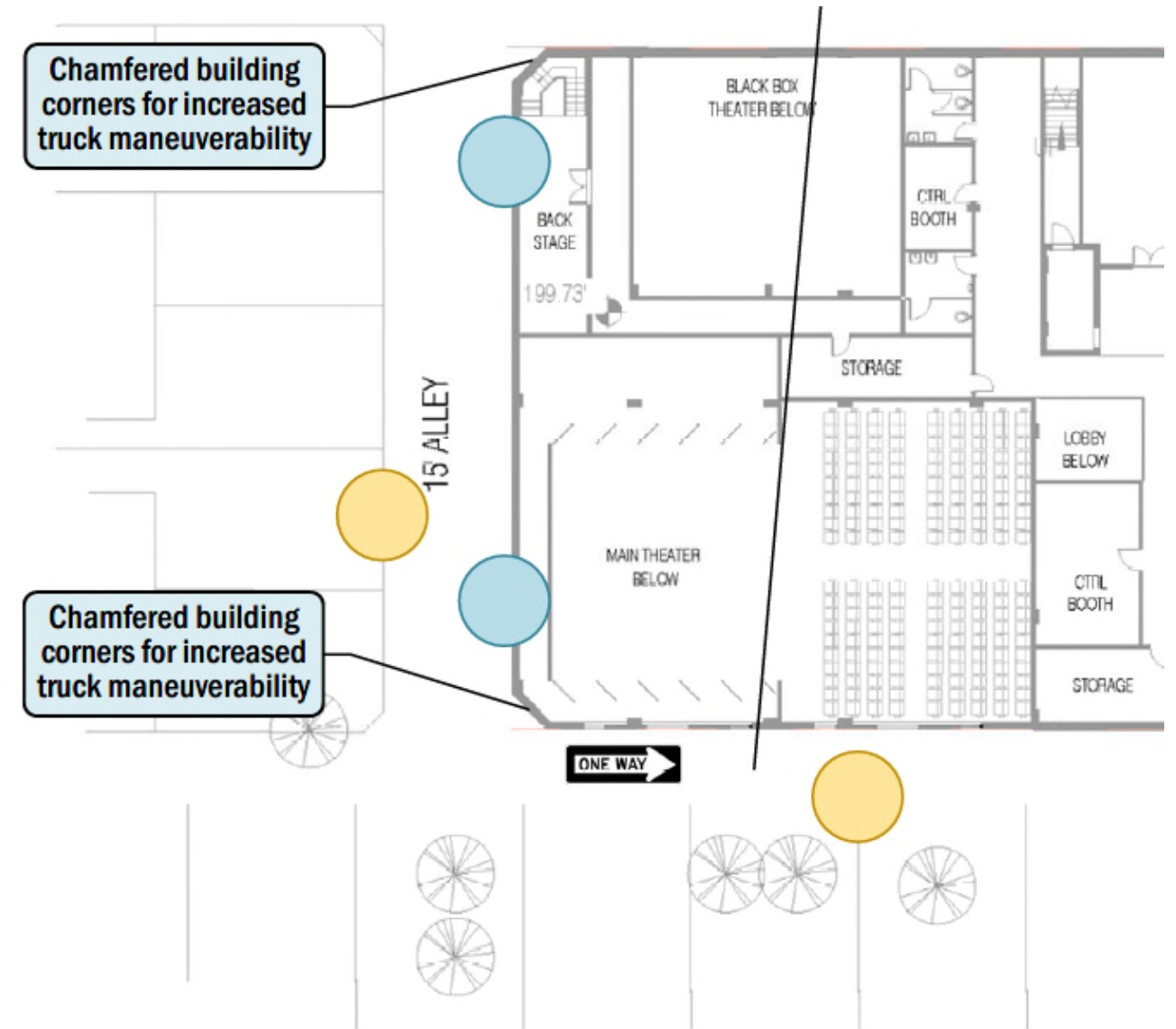


4608-4618 14<sup>th</sup> Street NW

# No Unacceptable Project Impacts

## Alley Impact Analysis

- No alley “narrowing”
- Alley widening by 5 ft. from garage to 14<sup>th</sup>
- Building chamfered for truck turns
- Cars, trucks, and FEMS vehicles can traverse alleys





# No Unacceptable Project Impacts

## Environmental Impact Mitigation

- Phase I = no adverse conditions
- EISF during permitting
- EGC+ wellness and ventilation amenities
- WMATA garage to be all-electric



PUD



# Rebuttal of FOFS Evidence

## FOFS Model

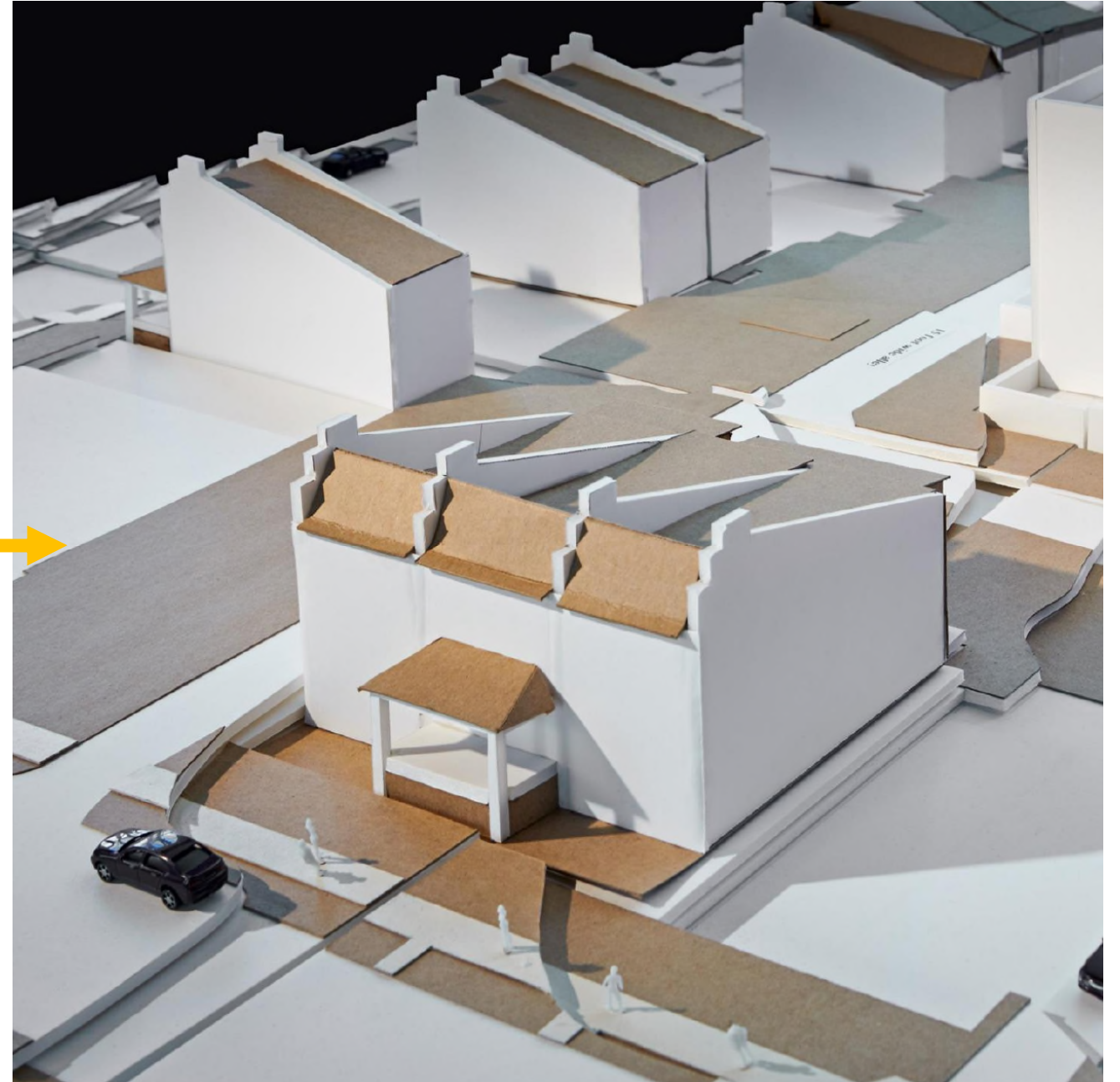
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- Unvalidated data
- “Context” model omits context
- Incorrect topography

PGN

# Rebuttal of FOFS Evidence

## FOFS Model

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PGN



# Rebuttal of Opponent Evidence

## Exhibit 772 Images



4600 block 14th Street NW with Heleos' proposed development

See Exhibit 772

PGN



# Rebuttal of Opponent Evidence

## Exhibit 772 Images



4600 block 14th Street NW with Heleos' proposed development

See Exhibit 772

PGN



# Rebuttal of Opponent Evidence

## Exhibit 772 Images



4600 Block 14th Street NW with proposed Heleos development

4600 block of 14<sup>th</sup> Street with the proposed Dance Loft / Heleos development

See Exhibit 772

PGN



# Rebuttal of Opponent Evidence

## Exhibit 772 Images



4600 Block 14th Street NW with proposed Heleos development

4600 block of 14<sup>th</sup> Street with the proposed Dance Loft / Heleos development

See Exhibit 772

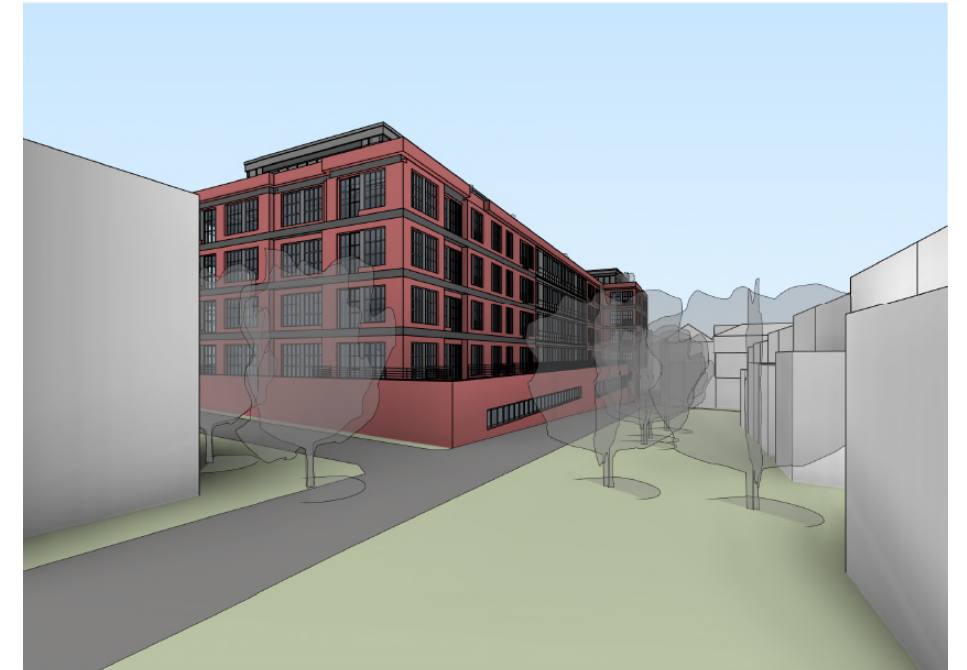
PGN



# No Current “Three Story Option”

History of prior three-story option

- June 2021: three-story option presented
- Reduced height + reduced setbacks (i.e., same GFA)
- Not desired by neighbors
- ANC commissioners present at June 2021 meeting



PERSPECTIVE - ALLEY



PERSPECTIVE - ALLEY

# No Current “Three Story Option”

FOFS three-story option is not feasible

- Reducing a story in interior and increasing a story on 14<sup>th</sup> Street loses building efficiency
- High-rise construction is infeasible for DHCD subsidy and less efficient
- Less consistent with Comp. Plan and Small Area Plan

# No Current “Three Story Option”

FOFS three-story option is not feasible (cont’d.)

- Considerable lost time and expense to fundamentally change massing
- ANC and OP support current design
- Other areas for compromise:
  - (1) Construction Mitigation
  - (2) Alley operations w. DDOT



# Questions and Discussion



???



# Outline of Closing Statement

DLV Changes and Concessions

PUD Standards Are Satisfied

PHS Post-Hearing Deliveries

???

Questions and Discussion

# Responsive Changes to Project

DLV

- Parking count (20 to 40)
- RPP removal
- Alley widening
- Alley improvements
- Retail uses
- Existing tenant commitments
- First Source
- CBE commitment
- Construction mitigation
- Building electrification
- Sewer heat recovery
- Capital BikeShare
- Pedestrian improvements
- Streetscape improvements
- EGC+

See Exhibit 525D



# Responsive Changes to Project

DLV

- Amenity space relocated
- Generator location
- Design inspiration from neighborhood elements
- No “back” of building
- Setbacks
- Alternative massing
- Revised door on 14<sup>th</sup>
- Improved top
- Improved brickwork

*See Exhibit 525D*

# Responsive Changes to Project

DLV

- Every time neighbor feedback could be incorporated or adopted, it was
- Except further reducing the size of the project and, therefore, the amount of affordable housing

See Exhibit 525D



# PUD Standards: Three Prongs

- Not inconsistent with Comprehensive Plan
- Does not result in unacceptable project impacts on the surrounding area or on the operation of city services and facilities
- Includes specific public benefits and project amenities of the proposed development

11-X DCMR 304.4

PUD



# PUD Standards: Basis for Opposition

PUD

FOFS Opposition	Response
Height, density and bulk	Project is consistent with moderate density and SAP
Inadequate height and design concession	Project has changed, but further concessions are not a basis to withhold approval
(Alleged) Small Area Plan inconsistencies and transportation impacts	Project is fully consistent with the Small Area Plan All transportation impacts are mitigated; DDOT in support
(Alleged) Flaw in Zoning and Small Area Plan	The map amendment is more consistent with FLUM
Minimal Public Benefits	67 affordable units, arts, etc.

# PUD Standards: Balance and Reconcile

“the Zoning Commission shall 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”

11-X DCMR 304.3

PUD

# PUD Standards: Balance and Reconcile

PUD

## Public Benefits

- Superior design
- Efficient land use
- Housing
- Affordable Housing
- 3-BR Units
- CBE/First Source
- Dance Loft
- Retail uses
- EGC+ and CaBi

## Incentives

- MU-3A to MU-5A

## Potential Adverse

- Shadows/Views
- Privacy
- Noise
- Construction
- Parking/Traffic
- Retail Tenants



# Post-Hearing Submission Recap

- Views from alley
- Mechanical parking information
- EFIS/brick boundary on north elevation
- Vent specs
- Access to green roof
- Information about Dance Loft public school programming
- Construction Management Plan
- Affordable housing flexibility

PHS



# Questions and Discussion



???



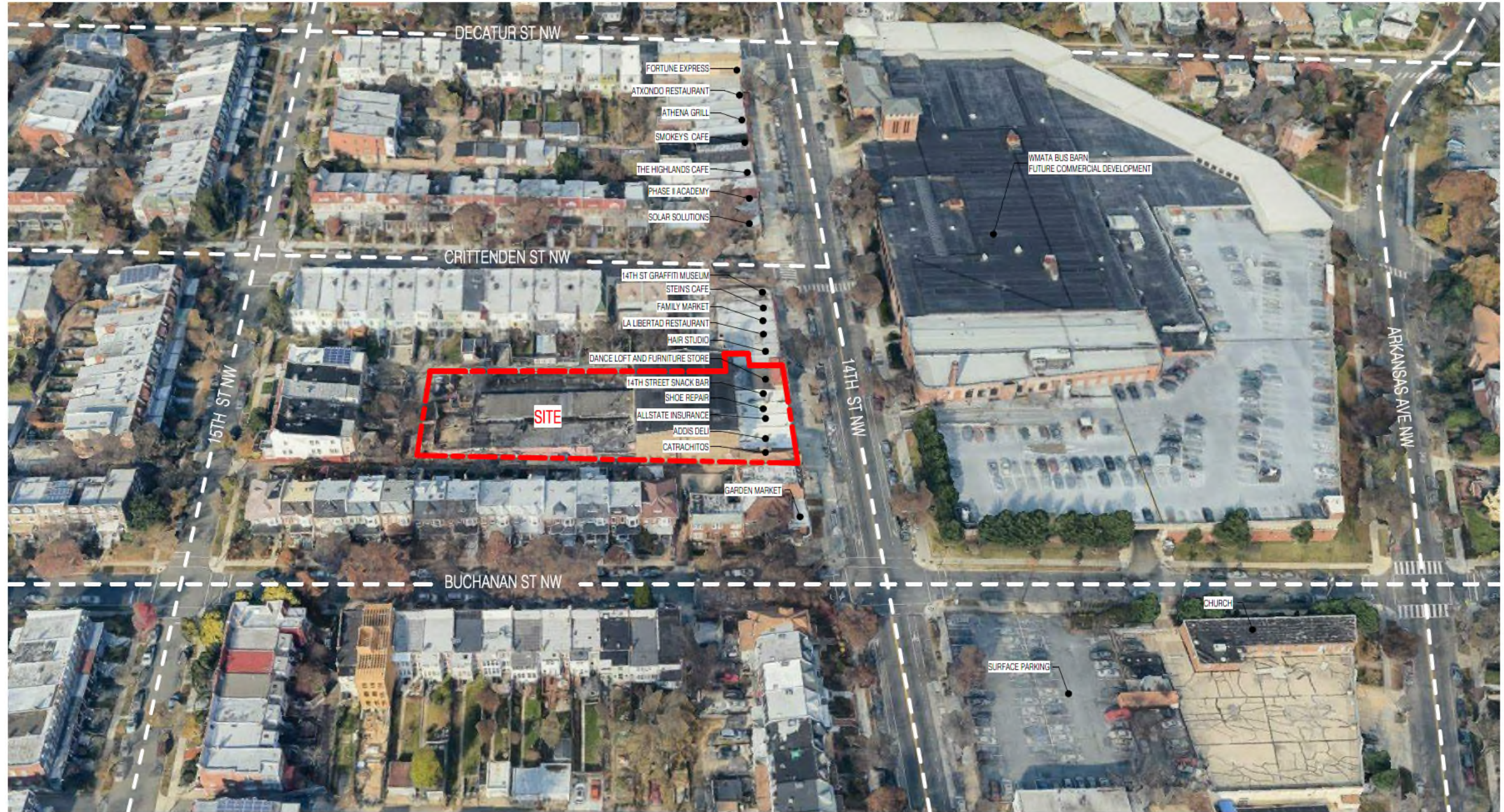
# Appendix





# Background on Project

DLV





# Background on Project

DLV

## Public Benefits

- Dance Loft
- Housing = 101 units
- Affordable = 67 units
- 3-BR Units = 24 units
- Superior design
- Efficient land use
- CBE/First Source
- Retail uses
- EGC+ and CaBi

*See Exhibit 525I*



# Background on Project

DLV

**22 units at 30% MFI**

**23 units at 50% MFI**

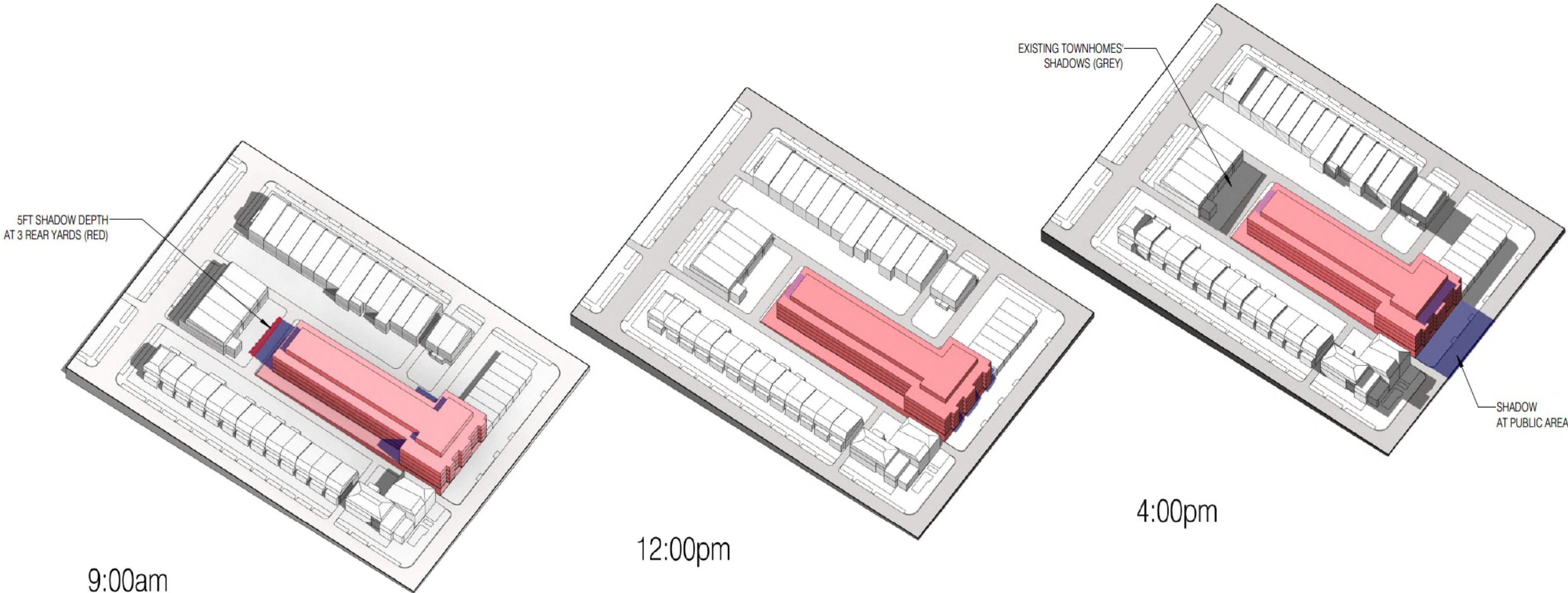
**22 units at 60% MFI**

**24 3-BR units**

**16 affordable 3-BR units**

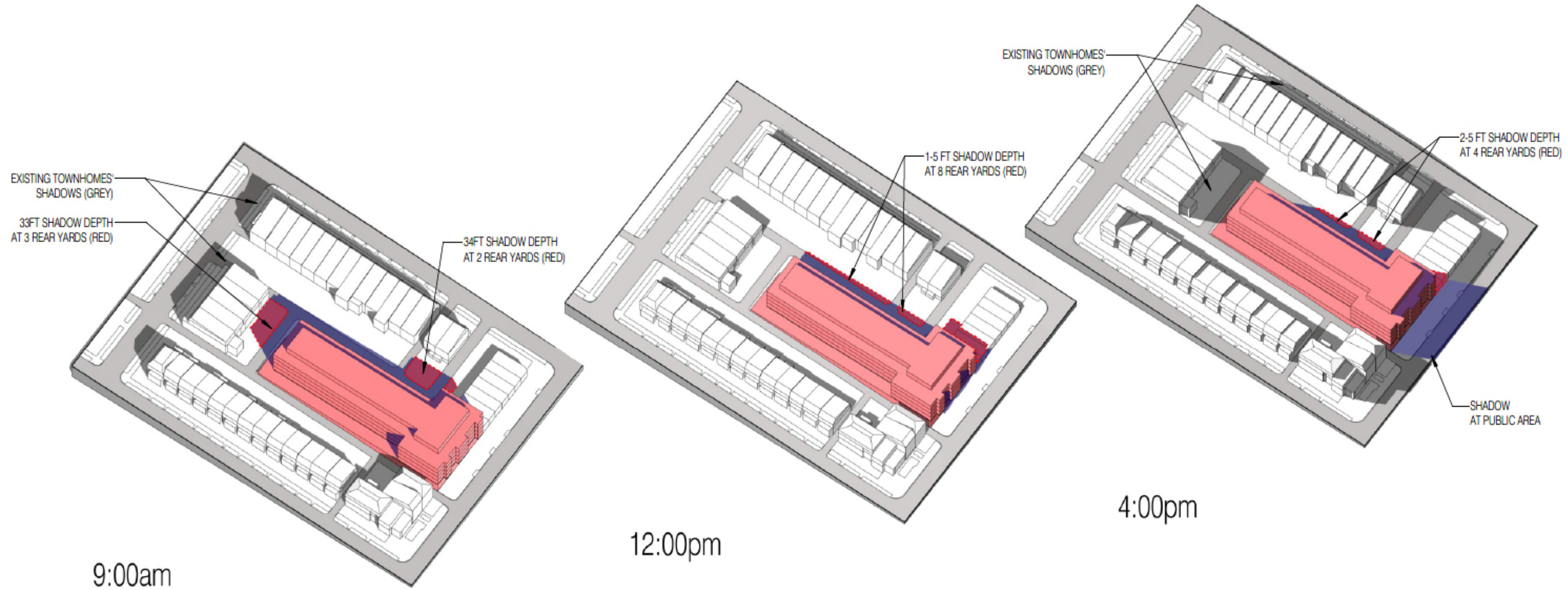


# Shadow Studies



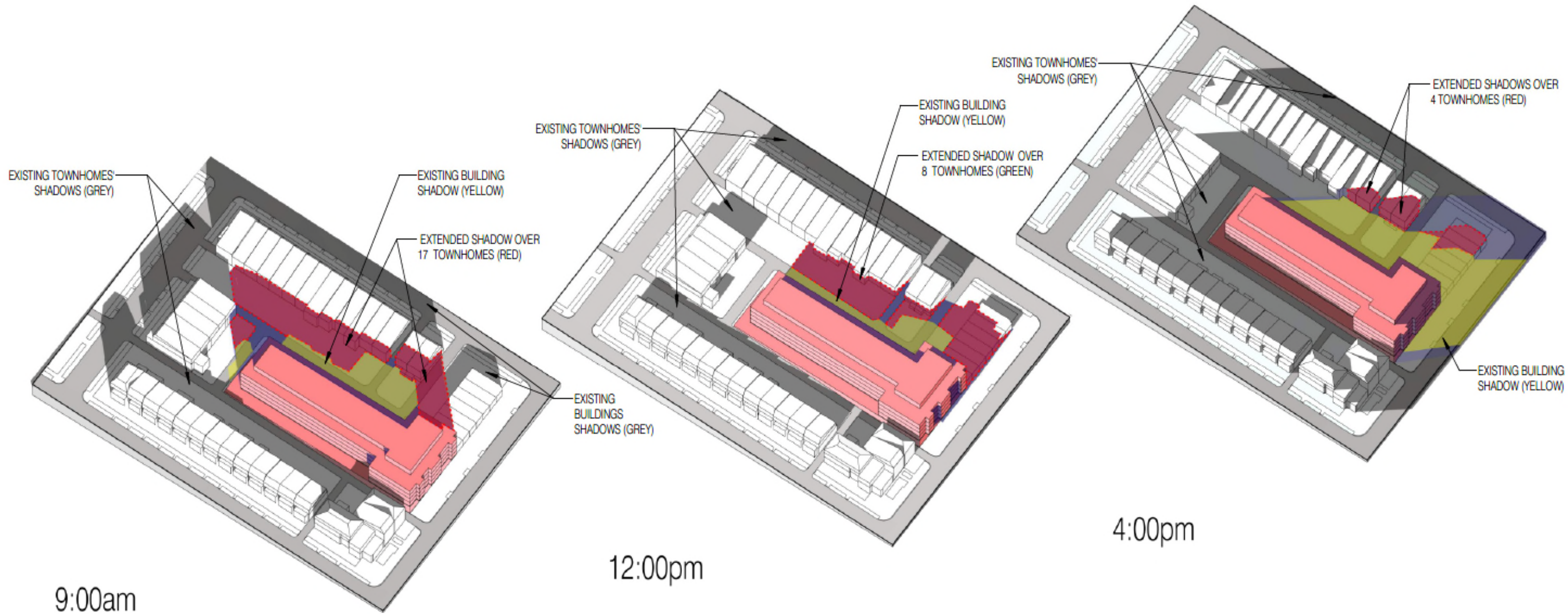


# Shadow Studies



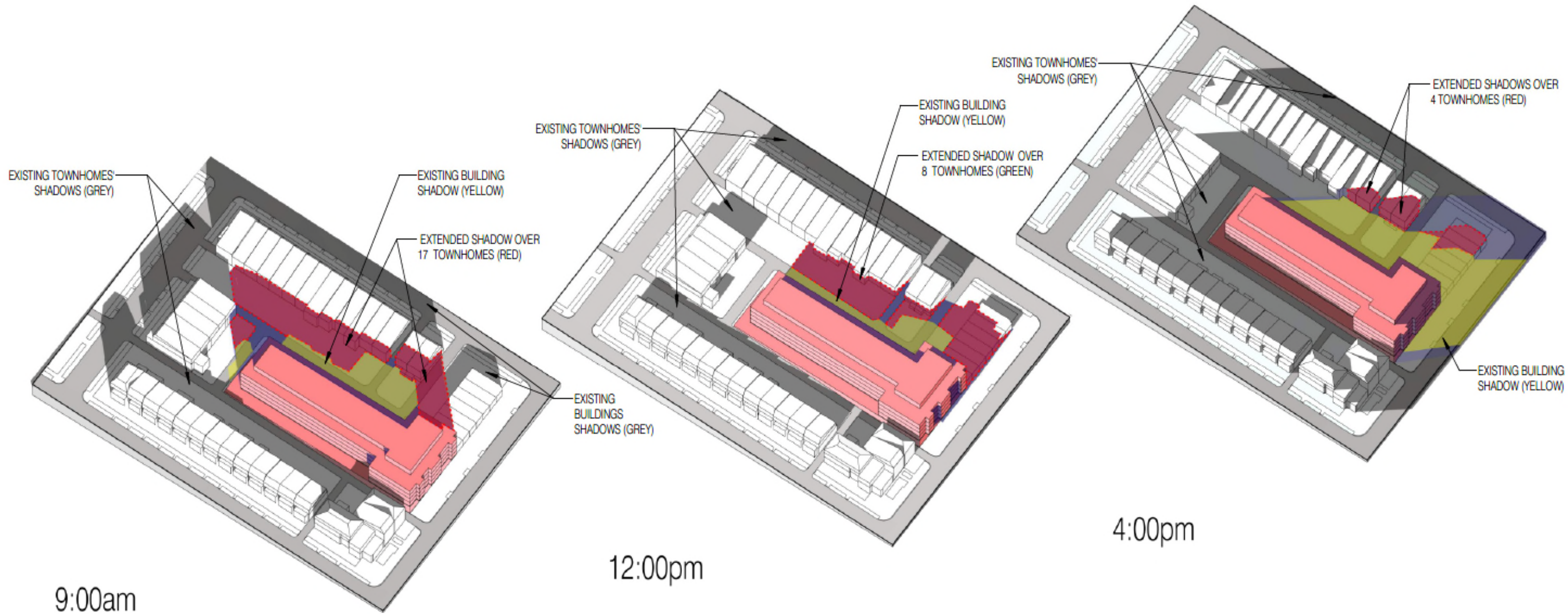


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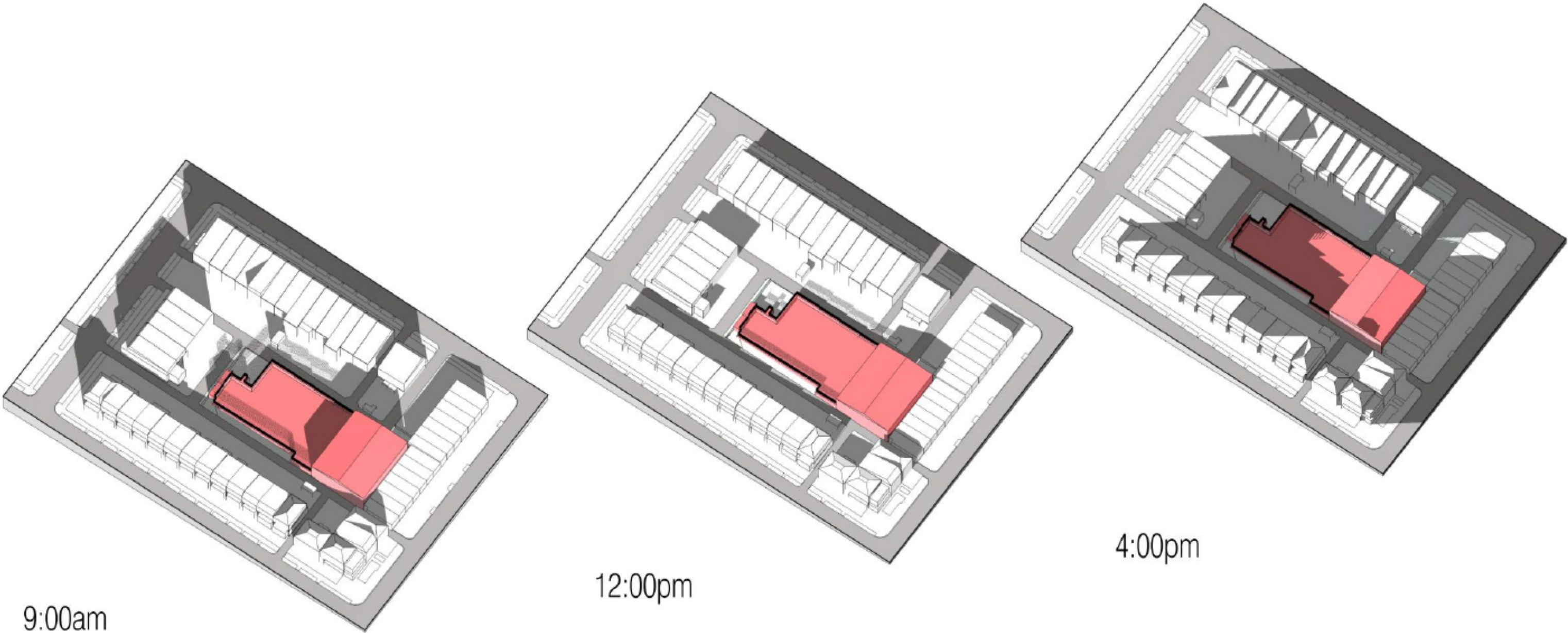


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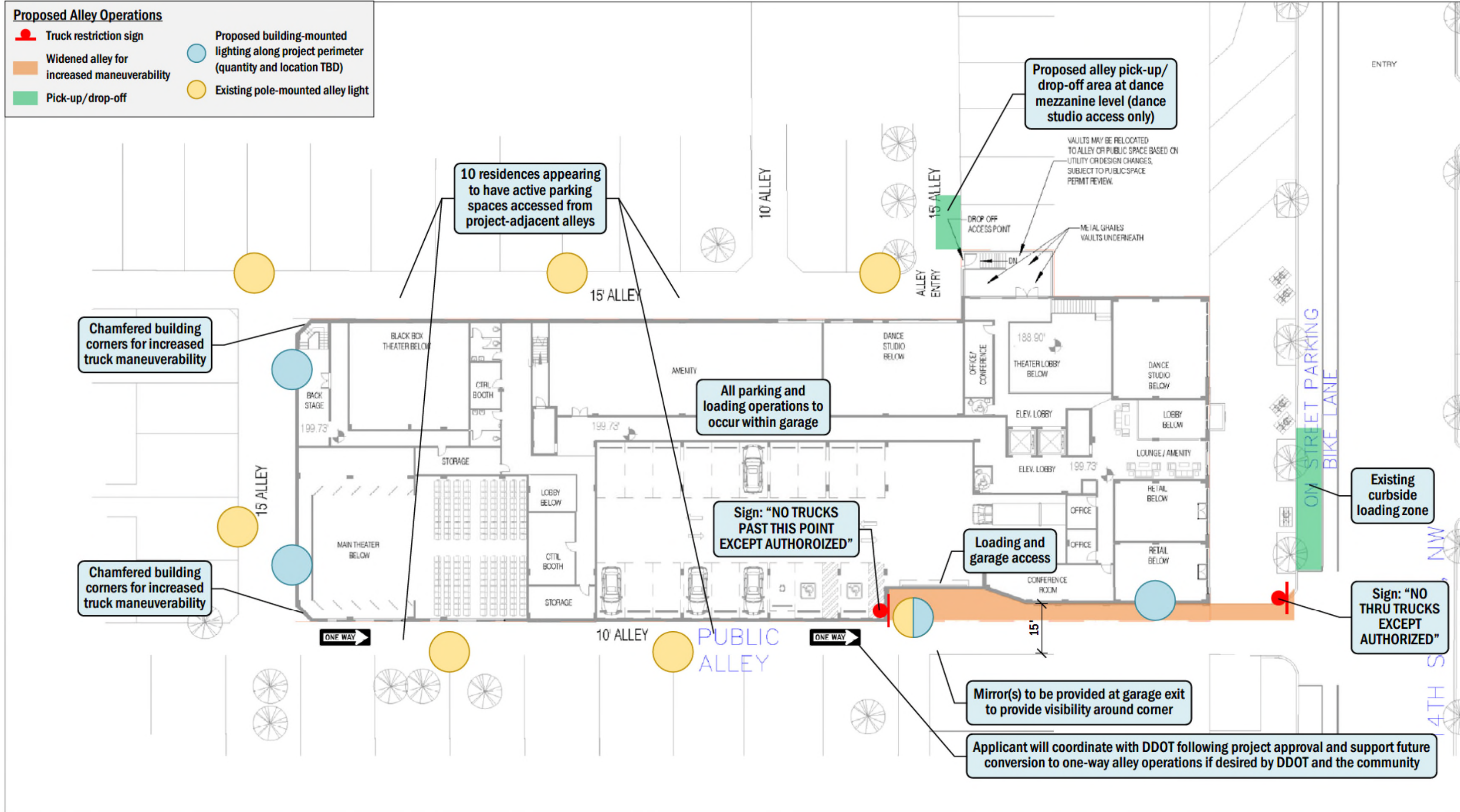




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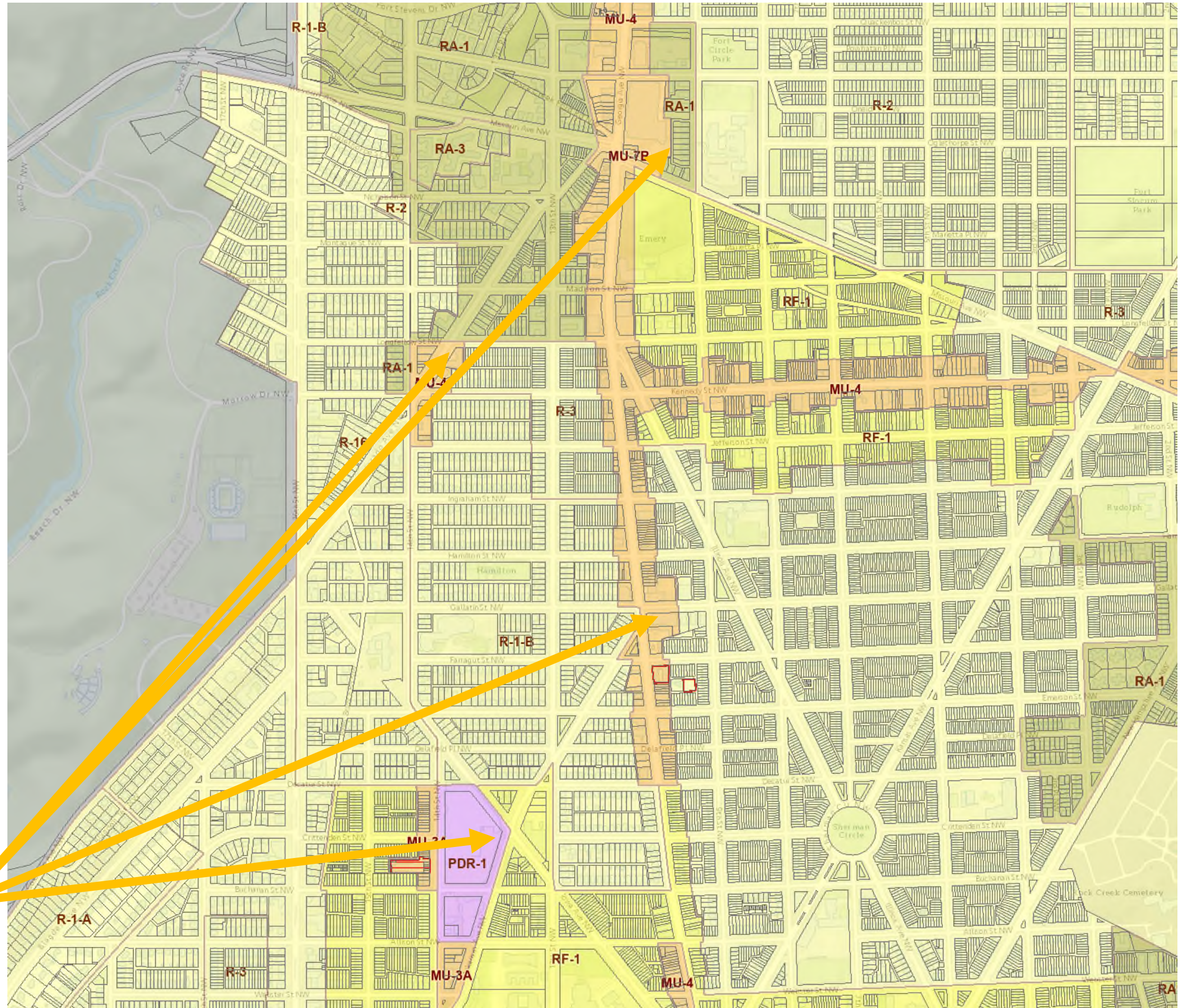
# Alley Study





# Zone Study

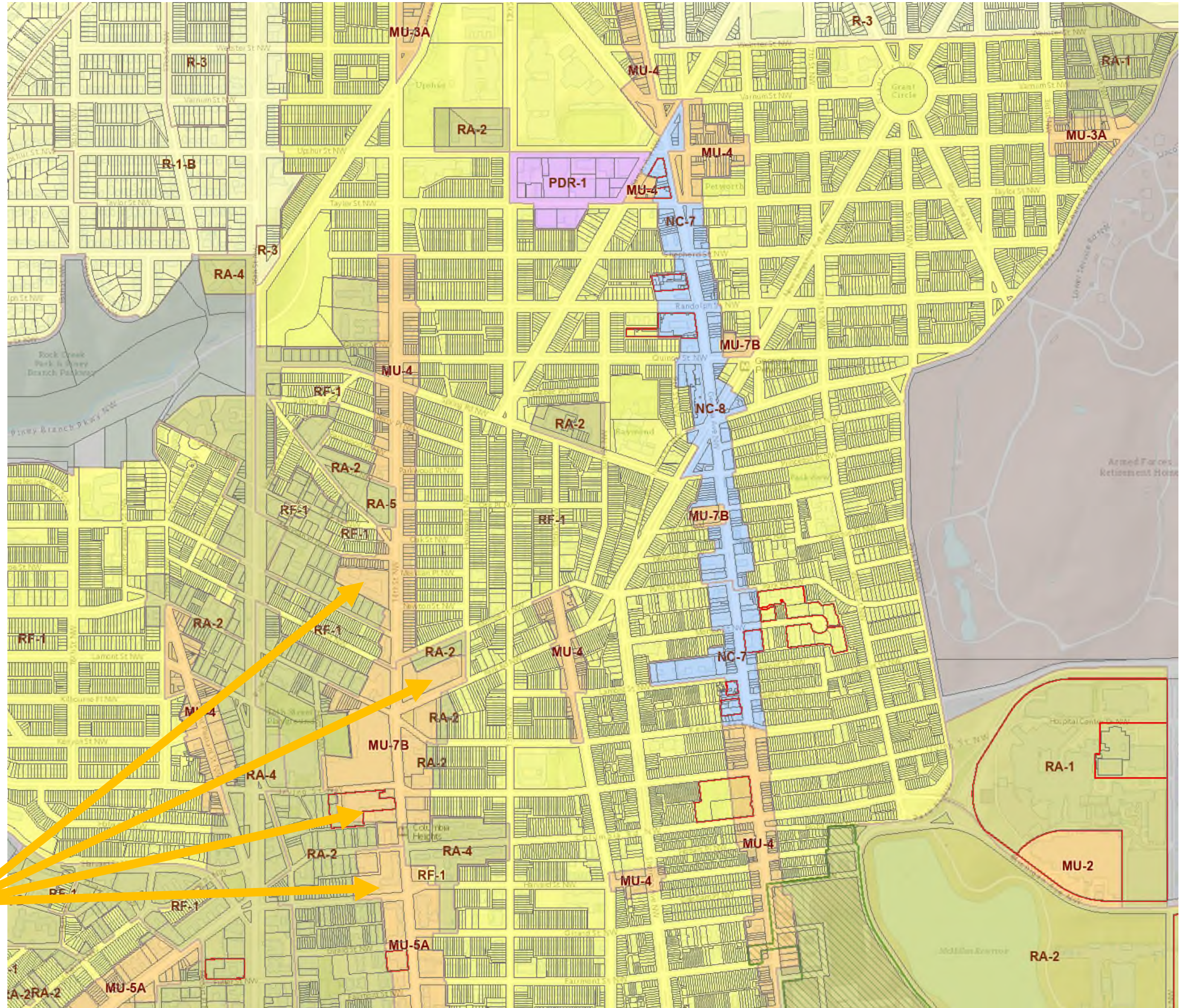
Other MU-zones extend at least as far from 14<sup>th</sup> Street and other Ward 4 commercial streets as the Dance Loft site's MU-5A zone





# Zone Study

Other MU-zones extend at least as far from 14<sup>th</sup> Street and other Ward 4 commercial streets as the Dance Loft site's MU-5A zone





**Rebuttal to FOFS Written Testimony and Other Opposition Letters**

<p>This document provides the Commission with rebuttal to the claims made about the Project in letters and written testimony filed in the record of this proceeding and updates an earlier document at Exhibit 525F that provided responses to opposition testimony filed in the record prior to April 15, 2022.</p>	
Opponent Theme	Rebuttal
<p><b>1. Allegations of Inconsistency with the Comprehensive Plan and Small Area Plan</b></p>	
<p><b>Small Area Plan:</b> The party opponents selectively excerpt elements from the Small Area Plan in an effort to allege inconsistency with that document:</p>	<p>The Application is not inconsistent with the Small Area Plan as explained in detail in previous filings. See Exhibit 525H. Nothing in the opponents’ filings should reverse that conclusion.</p>
<ul style="list-style-type: none"> <li>• “Please note that the Small Area Plan says: “Pursue land use changes and infill development that is designed with contextual sensitivity...” (emphasis added) and specifically addresses the Value Furniture site by identifying it as the “best redevelopment potential” and outlines its favorable attributes from that perspective and goes further to say that “that the development concept includes ground floor retail, ideal for a neighborhood grocery, with two to three floors of residential above.”” Exhibit 759 at 3.</li> </ul>	<p>The Project is not inconsistent with this statement or with the Node Two guidance as a whole. The Project is designed with sensitivity to context, including the context of the adjacent rowhouses, by providing generous setbacks. The Project is also sensitive to the commercial context, considering the Future Land Use Map for 14<sup>th</sup> Street, NW. The Project has 4 stories of residential above retail, one more than the amount in the Small Area Plan, but potentially producing a building of the same height as contemplated under the Small Area Plan, when one considers the retail they were envisioning was likely a double-height grocery space. In addition, to the extent that the Project is larger than the guidance from the Small Area Plan, <u>all</u> of such additional envelope can be attributable to affordable housing at 30% MFI.</p>
<ul style="list-style-type: none"> <li>• “While the recently adopted Comprehensive Plan identifies this area as a potential site for more intensive development, the Small Area Plan speaks to our concern in a more holistic way “This part of 14th Street serves as a natural transitional block for lower density commercial uses and is compatible with the residential uses on the west side of the corridor.”” <i>Id.</i></li> </ul>	<p>This statement misleadingly omits statements from the Small Area Plan, which expressly calls for an increase in density on the Small Area Plan and a subsequent upzoning (“To facilitate development, <u>this plan proposes to modify the current Comprehensive Plan Future Land Use Map designation of low-density commercial to mixed use moderate density residential and commercial.</u> This modification would apply to those properties fronting 14th Street between Allison Street and Decatur Street and <u>would enable an appropriate increase in zoning.</u>” Emphasis added.)</p> <p>Moreover, nothing about what is cited here precludes or argues against the type of zoning action sought here or the proposal for the Project. The Project is a transition from the bus garage to lower density residential uses to the west.</p> <p>Finally, the opponents provide no rebuttal or justification for ignoring the Future Land Use Map, with which the Project is ideally consistent and which provide primary guidance for the Commission’s PUD and map amendment consideration.</p>

**Rebuttal to FOFS Written Testimony and Other Opposition Letters**

1. Allegations of Inconsistency with the Comprehensive Plan and Small Area Plan	
<ul style="list-style-type: none"> <li>• “The Small Area Plan continues “The surrounding residential uses between Crittenden and Buchanan consist of single-family homes with rear yard backing to the opportunity (Dance Loft PUD) site, in all cases, height and density should front 14th Street and step back away from existing residential neighborhoods. Community residents emphasized the need for future development in this node, remain sensitive to the surrounding neighborhood character and height. Adequate setbacks from adjacent residential properties should be supported as appropriate.” <i>Id.</i> and 756.</li> </ul>	<p>The Project is consistent with these objectives as has been previously discussed. The opponents do not explain how anything previously provided by the Applicant is untrue or incorrect.</p> <p>The Project does step away from existing rowhouses and is sensitive to character and height. The Project has adequate setbacks. In fact, the setbacks provided by the Project are more significant than those typically seen in similar urban contexts around the City. At a minimum of 61 feet of setback at the south of the Project, such distance is the width of the Buchanan Street public right of way itself. At the north, the setback dimension is more than 75 feet.</p>
<ul style="list-style-type: none"> <li>• “This site had been largely overlooked by the city as zoning regulations evolved and our neighborhood remained largely unchanged for many years as a mix of town and single-family houses with only nominal consideration of the potential outcomes as evidenced in the Small Area Plan.” Exhibit 759 at 5.</li> <li>• “Throughout this process, we also became frustrated with the city for its shortsightedness and failure to protect residents from this exact scenario: a developer trying to take advantage of neglectful zoning with a proposal that at face value is a clear overreach. Had the city simply recognized that the existing structure at 4618 14th Street NW encroaches in a unique and burdensome way on the surrounding homes (which the alley system was constructed to service) and acted accordingly to amend the allowable zoning, we would not be here today arguing over the height and footprint of this proposed project.” <i>Id.</i> at 28.</li> </ul>	<p>This statement is demonstrably false. The site has not been overlooked. It was expressly studied as part of the Small Area Plan and singled out for inclusion in the Future Land Use Map amendment in 2021. The Small Area Plan’s focus on this site cannot reasonably be characterized as “nominal.” Instead it includes a detailed evaluation of possible <i>and preferred</i> outcomes for the Property, all of which the Project is consistent with.</p> <p>The proposed zoning is not “neglectful”. It is the culmination of a detailed planning process as part of the Small Area Plan (going back more than a decade) and the Council’s action in 2021 on the Future Land Use Map.</p> <p>The alley system was not constructed only for the surrounding homes.</p> <p>The opponents, many of whom tout their long tenure as residents of the neighborhood, had ample opportunity to shape the Small Area Plan.</p>
<ul style="list-style-type: none"> <li>• “Commercial and mixed-use zones in our area of 14th Street; and identified in the Small Area Plan, are typically 80’-100’0” back from the property lines at 14th Street – this one is 295’0” back, almost three times the depth!” <i>Id.</i> at 5.</li> </ul>	<p>This statement is incorrect. Mixed use (“MU”) zones in Ward 4 regularly extend 300 feet or more from the corridor they front on. See slides 51-52 above. The existing PDR zone immediately across 14<sup>th</sup> Street, NW from the Property is as deep as the proposed rezoning.</p> <p>Further, the Small Area Plan identifies the Property as having the “best redevelopment potential” in the Plan area because it is “mid-block” and has a “deep footprint.”</p> <p>Finally, the existing MU-3A zone extends to the depth of the property. The proposed MU-5A is not inconsistent with the existing dimensions of the Square’s zoning.</p>
<ul style="list-style-type: none"> <li>• “The Small Area Plan touches on this matter by talking about engagement with the surrounding residential community, but does not go far enough to restrict this type of invasive proposal.” <i>Id.</i> at 5.</li> </ul>	<p>The Small Area Plan does not restrict the Project because the Project is exactly the type and scale of development envisioned by the Small Area Plan for the Property.</p>



**Rebuttal to FOFS Written Testimony and Other Opposition Letters**

1. Allegations of Inconsistency with the Comprehensive Plan and Small Area Plan	
<ul style="list-style-type: none"> <li>• “The Small Area Plan, noting the neighborhood’s prominent charm, advocated for development to be contextually sensitive and to attract a medium scale grocery anchor to support existing businesses and spur increased foot traffic from neighbors west of the bus barn. While the applicant’s proposal may not violate the letter of the plan, it does not align with the spirit of it. Infill in this area is not contextually sensitive to neighbors nor does it support current businesses.” <i>Id.</i> at 25.</li> </ul>	<p>This statement is also incorrect. The Small Area Plan does not mandate a grocery store, only calling the site “ideal” for grocery use. (Moreover, it is highly unlikely that the opponent neighbors would support a grocery store, which has far greater impacts than the Dance Loft will have. Further, a grocery store is very likely to have a double-height retail bay, so a four-story building with a grocery store is likely to be the same height as a five-story building.)</p> <p>Consistent with both the letter and the “spirit” of the Small Area Plan, the Project does provide an anchor institution to generate foot traffic and draw patrons who will support nearby small businesses.</p> <p>Finally, the Project is contextually sensitive for the reasons stated above.</p>
<ul style="list-style-type: none"> <li>• The Small Area Plan listed parking as a concern for neighbors as well as businesses and should be considered as part of the redevelopment process. It has been a concern of abutting neighbors from the first conversation. <i>Id.</i> at 25.</li> </ul>	<p>The Project has fully addressed and directly responded to neighbors’ parking concerns by doubling the original parking proposal and making the Project’s future residents ineligible for RPP parking.</p>
<ul style="list-style-type: none"> <li>• The Small Area Plan identified multiple parcels to support the need for affordable housing with considerable neighborhood support. <i>Id.</i> at 26.</li> </ul>	<p>This is not true. The Small Area Plan, does not refer to the term “affordable housing” <i>at all</i> and certainly does not imply or require that other parcels provide affordable housing in lieu of such housing at the Property.</p>
<p><b>Area Element:</b> One neighbor alleges inconsistency with the Area Element of the Comprehensive Plan. Exhibit 756. The cited language reads “The Comprehensive Plan makes a similar point “Development on these sites should be in keeping with the scale of the surrounding community...[and] address parking and traffic issues.” Likewise, Policy RCE-1.1.2 notes new developments should “respect the scale and densities of adjacent properties.””</p>	<p>This opponent misleadingly isolates individual passages from the Area Element of the Comprehensive Plan, which should be read “as a whole.” In any event the enumerated objective of the Area Element does not preclude the Project.</p> <p>The first passage, from the prefatory language in the Area Element also includes an objective to “serve a variety of incomes” which the opponents omit to reference. See 10-A DCMR § 2207.3. The Project is in “keeping with the scale” of the overall surrounding community, including the large buildings immediately across 14<sup>th</sup> Street NW and the 4-5 story buildings elsewhere in the vicinity of the Property. Similarly, the Applicant has “addressed parking and traffic issues” not inconsistent with that language or with the Area Element as a whole.</p> <p>Policy RCE-1.1.2 arguably does not even <i>apply</i> to the Project, and even if it does, includes language contradicting the opponent’s use of it. Policy RCE-1.1.2 reads in full: “Ensure that renovations, additions, and new construction <u>in the area’s low-density neighborhoods</u> respect the scale and densities of adjacent properties, <u>provide new housing opportunities</u>, and preserve parklike qualities, such as dense tree cover and open space.” <i>Id.</i> § 2208.3 (emphasis added). The first underlined passage in the cited objective makes clear that the objective applies to “low density neighborhoods.” The residential blocks all surrounding the Property are designated as moderate density</p>

**Rebuttal to FOFS Written Testimony and Other Opposition Letters**

<p><b>1. Allegations of Inconsistency with the Comprehensive Plan and Small Area Plan</b></p>	
	<p>residential on the Future Land Use Map. Arguably this section does not apply to them. Also, this section has an inherent contradiction in both encouraging “respect” and its objective to “provide new housing opportunities.” The Project strikes that balance.</p>
<p><b>Historic Alley Buildings Survey:</b> The party opponents and one other neighbor raise the “Historic Alley Buildings Survey” a 2012 document that does not pertain to the Property, as the neighbors acknowledge. Exhibit 661, 759 at 6. The <i>neighbors</i> assert without citation or justification that “Regardless of the context, alley buildings, such as garages or carriage houses are typically smaller than the surrounding residential or commercial development in the area and do not seek to dominate it.” <i>Id.</i></p>	<p>The Historic Alley Buildings Survey, while a valuable resource, is not applicable in this proceeding. Section 304.4(a) of Subtitle X directs the Zoning Commission to consider whether an application is “not inconsistent with the Comprehensive Plan and with <i>other adopted public policies and active programs related to the subject site</i>”. Though the Comprehensive Plan consistency analysis should (and here does) consider policy guidance beyond the Comprehensive Plan itself, the Commission is not boundless in the policies that it may consider. The policies must be “related to the subject site.” Here the Alley Buildings Survey, by its express terms, does not apply to the Property.</p> <p>Moreover, the Project is <u>not</u> an alley building. It is a single building that fronts on 14<sup>th</sup> Street, NW and extends into the center of Square 2704. Although the Project is designed so as not to have a rear façade, that does not mean that the Project fronts on the alley. Rather that means that the Project does not subordinate the quality of exterior design or façade materials in the interest of cost savings at the rear of the building. Similarly, the Property is not an alley lot. As a result, the Property is able to provide the opportunity for the Project and for redevelopment, in accordance with the Comprehensive Plan and Small Area Plan.</p>



**Rebuttal to FOFS Written Testimony and Other Opposition Letters**

**2. Alleged Impacts: Height-, Density-, and Design-Related Concerns**

**Height and Density:** The most commonly cited objection to the Project relates to its height and density. Exhibits 475, 485, 486, 521, 599, 610, 671, 690, 736, 741, 745, 747, 754, 758, 759 at 2 and 4, 766, 762, 765, 756, 769, 772. (“This is not a building of “modest size” and is completely out of place in this DC neighborhood where it would sit in such close proximity to row houses of much lesser height.” “I oppose the size, height, and density of the Dance Loft Ventures PUD 101-unit project in a residential neighborhood where the RF-1 zoned two-story town homes in Square 2704 will be dwarfed.” “The planned development is too big.” “This development, as proposed, will overwhelm the community’s RF-1 zoned two-story homes and residences.” “The size of the building does not fit in the structure of the neighborhood. The building will tower over the entire block.” “The project will overwhelm the surrounding homes on Crittenden, Buchanan and 15th Streets as proposed: it’s inconsistent with the attendant neighborhood development in this part of the city.” “[T]he proposed development is inconsistent with the existing neighborhood and overwhelms it.” “[N]ot compatible or considerate of the existing neighborhood.” And “Has no look or resemblance to any buildings around it and will overwhelm the residential nature of the neighborhood.” “The project is massively out of scale for this location and this neighborhood.”)

The Project is five stories at the front and four stories at the rear (due to topography), plus a habitable and mechanical penthouse (which is setback in accordance with the Zoning Regulations). The proposed height and density conservatively fit into the Comprehensive Plan and Small Area Plan property designation and planning framework, as confirmed by the Office of Planning. The Project has been deliberately and significantly sculpted back in response to the context and planning guidance. At the rear (nearest the existing rowhomes), the height of the building’s main roof line is nearly the same height as surrounding homes. Further the primary volume of the building has ample setbacks from those homes, ranging from 61-75 feet.

Moreover, the height and density proposed are necessary in order to provide an amount of affordable housing that is (i) consistent with the planning and neighborhood context, (ii) consistent with the supportive ANC report, and (iii) necessary for constructing a financially feasible project. The Project strikes the balance necessary to help realize important housing and arts preservation goals.

Further, there is no strict requirement that the Project be the same size as adjacent buildings. Such a requirement would obviate the need for the Future Land Use Map and the PUD process generally and would be inconsistent with the Comprehensive Plan for this site specifically. The Future Land Use Map’s density designation prevails over the opponent neighbors’ subjective assessment of character or consistency with nearby buildings.

Finally, the subjective assessment of some neighbors is vigorously contradicted by others who live on the block, by hundreds of supporters within several blocks and yet more throughout Ward 4. The ANC itself concluded that:

“We agree that a 5-story building along a major commercial corridor (14<sup>th</sup> Street) that scales back to 4 stories at the rear closest to surrounding rowhomes, and which is separated by an alley and has ample setbacks of 61’7”-75’4” ft from those homes, is contextually appropriate in this neighborhood and that the applicant has mitigated any negative impacts sufficiently. Any further reduction in the size of the project would compromise the project’s numerous and substantial community benefits and amenities.”

Exhibit 605.

**Rebuttal to FOFS Written Testimony and Other Opposition Letters**

<b>2. Alleged Impacts: Height-, Density-, and Design-Related Concerns</b>	
<p><b>Height and Density and Public Benefits:</b> The party opponents also attempt to disentangle the Project’s density from its affordable housing benefit, but this is inappropriate. Exhibit 759 at 15 (“However, our primary concern and opposition has been and remains the height and density, <i>which are each separate and apart from supporting the arts and affordable housing.</i>”)</p>	<p>The Project’s affordable housing and arts benefits are largely unachievable without the requested height and density. A PUD permits additional height and density in part in exchange for a project’s benefits and amenities, which are certainly provided in this case, largely but not only through the delivery of a significant degree of affordable housing.</p>
<p><b>Misstatements about Height:</b> Some opponents make material misstatements about the Project’s height. Exhibits 759 at 2-4 (“[T]he completed project elevation 81’10” above the measuring point in 14th Street NW.” “This is considerably higher than the adjacent row houses, that are typically 22’0” to 25’0” at their highest elevation in the rear yards facing the proposed Dance Loft Ventures project.” “How does a building proposing to extend into the alley at a height that is between 2 ½ to 3 times taller than its immediate neighbors really make sense?”).</p>	<p>These misrepresentations about the Project misunderstand the Project’s context and building height under the Zoning Regulations, instead looking only at the nominal heights of the Project and surrounding buildings. In context and accounting for the block’s topography, the top of the primary component of the Project is roughly the same elevation as the top of nearby rowhouses on Crittenden Street, NW. The Project will not appear to be 2½-3 times its immediate residential neighbors given the change in grade and real relative heights.</p>
<p><b>Context:</b> Some opponents incorrectly state that there are no other tall buildings of comparable size anywhere nearby. Exhibit 759 at 19, 772.</p>	<p>Although the definition of “nearby” is subjective, there are similarly tall, 4-5 story buildings one block to the southeast of the Property and more such buildings farther north and south along 14<sup>th</sup> Street, NW.</p>
<p><b>Design:</b> The party opponents object to the quality of the Project’s rear design. Exhibit 759 at 6 (“the Applicant squandered a tremendous opportunity to show us how a contextually rich and thoughtful design could establish a model for alley redevelopment throughout the city that would be welcomed by all”).</p>	<p>The Project provides an exemplary façade on all three sides that face alleys. Therefore, this is truly a building with no “back.” However, the Project is not an “alley development” with a primary entrance on an alley. Instead, the Project’s primary façade faces the commercial corridor on 14<sup>th</sup> Street, NW.</p>
<p><b>Balconies:</b> Some opponent also object to the Project’s balconies. Exhibits 496, 759 at 9 (“Balconies should not be a part of this proposed development. They would further negatively impact the light, air, privacy, and quiet enjoyment for the neighbors who currently live on abutting blocks”).</p>	<p>Balconies are important for the health of those living within the Project’s affordable units. The owners of the surrounding single-family houses have yards and private outdoor space, and the future occupants of the Project should not be excluded from outdoor fresh air, particularly after recent lessons taught by the pandemic.</p>
<p><b>Privacy:</b> Some abutters object to a perceived loss of privacy. Exhibits 754, 759 at 2, and 762 (“[W]e would lose the existing sense of privacy we have in the rear rooms of our home, including our child’s bedroom.” “Occupants of the building will be able to view residents’ private space”).</p>	<p>As noted previously in Exhibit 525F, the Project’s potential impacts on neighbors’ privacy are not unique to the PUD (i.e., similar interactions would exist in a matter-of-right building) and are not unique to the property (i.e., similar or more extreme conditions exist elsewhere in Square 2704). The Applicant did eliminate communal amenity space on the penthouse level and moved the space to a mezzanine level in response to neighbor privacy concerns (objecting to future residents who might have views from the roof into nearby yards).</p>



**Rebuttal to FOFS Written Testimony and Other Opposition Letters**

<b>2. Alleged Impacts: Height-, Density-, and Design-Related Concerns</b>	
<p><b>Light/Air/View Impacts:</b> Other abutters object to potential adverse effects on light, air, and views. Exhibits 661, 664, 736, 756 and 759 at 29 (“[H]omes on this square – and particularly those on the Buchanan Street side, already have significantly smaller backyards than most of our neighbors on nearby blocks, giving use very little space between our homes and the proposed development.” “A 10’ alley gap is not sufficient and affected neighbors will literally be staring at a brick wall.”)</p>	<p>The Project’s potential adverse effects on light and air are consistent with the moderate density designation on the Future Land Use Map. These are also minor in nature and will not harm the living experience in nearby rowhouses. Overall, these impacts are acceptable given the proposed public benefits.</p> <p>Alleged view impacts are unfounded as many neighbors have 6-foot (or higher) opaque fences surrounding their yards.</p>
<p><b>Noise/Lights:</b> Some neighbors raise concerns about noise and light impacts emanating from the Project. Exhibits 690 and 745 (“This is a byproduct of the existing density of the area. We can hear someone cutting grass from blocks away and we can also hear the music from church festivals and parties many blocks away. The vibration and noise from the construction of this massive project will be overwhelming and will be heard and felt far beyond the 88 homes abutting it.” “Moreover, the light pollution will impact the area as well”)</p>	<p>The Project will comply with all applicable noise and light regulations. It is not anticipated that the Project will create adverse light or noise impacts as claimed in these exhibits. However, to the extent these impacts are created, they would not be unique to the PUD: a matter-of-right building would have similar noise and light impacts as the Project.</p>
<p><b>Shadow Impacts:</b> During cross examination, the party opponents’ counsel asked about shadow impacts. Recording of Zoning Commission Public Hearing (“Hearing”) at 2:58:44 available at <a href="https://youtu.be/dt-feYIORQE?t=10726">https://youtu.be/dt-feYIORQE?t=10726</a>.</p>	<p>The Applicant has previously provided evidence that the Project provides minimal shadow impacts beyond those cast by existing buildings within Square 2704 today. See Exhibit 525B at Sheet A.39.1-A.39.5. As show in this exhibit, a detailed shadow study of the Project’s shadow impacts during all four seasons of the year, no additional shadow impact is created during three seasons of the year, with only the winter months showing seasonal impacts on a handful of buildings to the north of the Property. It is remarkable that the Project is able to create such a small shadow impact – largely due to the placement of the building in the middle of the square and its meaningful setbacks.</p>
<p><b>Construction-Period Impacts:</b> Abutters raise concerns, largely speculative, about construction-period impacts. Exhibit 759 at 6-7 and 20.</p>	<p>The Applicant will provide a robust Construction Mitigation Plan (“<b>CMP</b>”) as part of its post-hearing submission to address these concerns.</p> <p>Further, the Project will comply with all regulatory and permitting requirements, mitigating potential impacts on adjacent properties.</p>

**Rebuttal to FOFS Written Testimony and Other Opposition Letters**

<p><b>3. Alleged Impacts: Transportation-Related Concerns Generally</b></p>	
<p><b>Parking:</b> Opponents of the Project complain that the Project does not include sufficient parking for the future residents and Dance Loft employees and visitors. Exhibits 475, 496, 521, 599, 610, 661, 737, 745, 747, 749, 759, 766, 772. The party opponents allege that the Project has only 20 spaces and incorrectly assert the Project requires parking relief.</p>	<p>The Applicant doubled the proposed parking from 20 to 40 spaces at significant cost and has made the Project RPP-ineligible, in response to neighbor comments. The RPP removal has been enacted at the DMV and is reflected on DDOT’s RPP map. Future residents will not be able to obtain RPP. DDOT has indicated that the amount of parking currently proposed by the Project is sufficient. The Project is zoning-compliant with respect to parking space count and no parking relief is requested.</p>
<p><b>Traffic Safety and Transportation Impacts:</b> A few opponents raised concerns about traffic safety and congestion. See Exhibits 754 and 766. Other opponents alleged the Project’s transportation analysis was deficient because it did not evaluate the potential impacts from the WMATA bus barn. Exhibits 661, 748, 759 at 25, and 756. One opponent alleged the trip generation assumptions are too low and flawed. Exhibit 496.</p>	<p>The PUD will not have adverse safety impacts because it will add a relatively small number of cars to the neighborhood, and that number is no greater than the number of cars that could be added as part of a matter-of-right development of the property. Traffic safety impacts are mitigated by the Project’s robust TDM measures.</p> <p>The Applicant’s transportation study concluded that the Project is not expected to have adverse impacts in light of the mitigation measures proposed. The Project’s transportation study evaluated the Project in accordance with DDOT-prescribed requirements. There is no indication that the Bus Barn’s development will impose materially different conditions that would cause <i>the Project</i> to have adverse effects. This is supported by WMATA’s recently released Document of Categorical Exclusion for the Northern Bus Barn project (April 2022). Additional transportation analysis is provided in part 2 of this presentation.</p>
<p><b>Alley Operations:</b> Some neighbors raised concerns about alley operations and safety. Exhibits 496, 599, 661, 737, 756, 758 at 28-29, and 765 (“I don’t believe that the current application or traffic study adequately address the negative impact of increased large vehicle, service vehicle, or passenger vehicle trips that will occur in the surrounding alleys.” “These alleys are too narrow for the marked increase in car and truck traffic that will occur. This increase in car traffic will negatively impact safety, quiet, and will add the presence of more fumes.” “I have grave concerns about what this PUD means for emergency vehicle access.” “It also impacts trash and recycle removal as it would be impossible for both garbage trucks and trash cans to be in the alley at the same time.” “This is not wide enough for those who live here to continue to safely traverse the alley and makes it impossible for sanitation vehicles to pass, especially on trash pickup days when we are directed by the city to leave our trash and recycling cans in the alley, while also severely narrowing the existing alleyway turning radius around the rear corners of the proposed building.” “The alleys are far too narrow to handle traffic that will accompany such a large building. The proposed development will increase risks to pedestrian and driver safety. The surrounding alleys all</p>	<p>The existing alley to the south of the Project is 10 feet wide, and the Applicant proposes to effectively widen it to a minimum of 15 feet between 14<sup>th</sup> Street and the Project garage and loading area by setting the Project back a minimum of 5 feet from the property line at ground level. Additional setback is provided at the garage entrance to increase maneuverability. Doing so allows all vehicular access and egress to occur from 14<sup>th</sup> Street, NW and eliminates the need for any additional traffic load in the remainder of the alley network. The Applicant has extensively studied alley operations, including access for trash trucks, emergency vehicles, and loading operations, all of which will serve the Project from the widened alley at 14<sup>th</sup> Street, NW. Further, the Applicant has chamfered the building at the southeast of the parking garage/loading entrance/exit to allow for truck turns to be made around this corner.</p> <p>The Applicant expressly analyzed emergency vehicle access and confirmed that emergency vehicles can access the alley from 14<sup>th</sup> Street NW. FEMS also confirmed that it has no objections to the Project’s design. The Applicant also analyzed trash operations in the alley and determined that trash trucks can also traverse the alley. The Applicant is studying other measures (lighting, one-way signage, mirrors, etc.) in coordination with DDOT to improve safety throughout the entire alley network. A</p>



**Rebuttal to FOFS Written Testimony and Other Opposition Letters**

<p><b>3. Alleged Impacts: Transportation-Related Concerns Generally</b></p>	
<p>reach the street through blind approaches, with row house walls immediately bordering.”)</p>	<p>condition of the Loading Management Plan is for the Project to engage with DDOT on assessing alley operations one-year after the Project opens to determine the necessity of additional measures, such as signage, striping or converting the alley to one-way operations. To this end, the Applicant also chamfered the northwest and southwest corners of the building to allow for enhanced truck turns in the adjacent alley. Finally, at the hearing DDOT testified that it had no concerns about the alley operations, Hearing at 3:18:12, and that it is wide enough to accommodate the Project. Hearing at 3:20:10.</p>
<p><b>Alley Misstatements:</b> Some neighbors misstate that the Project is narrowing the existing alleys. Exhibit 737, 759 at 28-29 (“If Heleos/ Dance Loft are able to encroach upon the alley to decrease the width to 10 feet”; “they are unsafely narrowing the rest of the space that is utilized by existing residents.”)</p>	<p>The Project does not narrow any existing public alleys. The Project will occupy existing at-grade areas on the Property (private property) adjacent to the alleys. That private property may be built upon as a matter-of-right. The only area where the Project will result in a change to the alley width will be where the Project is <i>widening</i> the existing 10-foot alley to a minimum of 15 feet between 14<sup>th</sup> Street NW and the garage entrance by setting the building back a minimum of 5 feet.</p>
<p><b>Testimony from FOFS Transportation Consultant</b></p>	
<p><b>Adequacy of CTR:</b> Section 3.2.5 of the DDOT Guidelines for Comprehensive Transportation Review (CTR) Requirements states that at a minimum, the study area will include intersections where site impacts are most likely to occur, including all access points, adjacent streets/intersections at the boundary of the site.</p> <p>Section 3.2.6 of the CTR requirement further states that if the site currently generates traffic, all current site access driveways will be included in the TMCs. The current study only focuses on three (3) intersections on 14th street adjacent to the site. No traffic counts were performed at the intersection of the alley with 15th Street NW and Crittenden Street NW. No intersections were studied to the west of the site. Therefore, the current activity levels on the public alleys adjoining the proposed site and operational analysis on neighborhood streets were not adequately studied.</p>	<p>The Project’s potential impact on neighboring streets and the alley was more than adequately studied in the Applicant’s two transportation reports.</p> <p>The opponents’ transportation consultant either misunderstands or is not familiar with DDOT’s CTR guidelines and appears not to have reviewed the DDOT-approved Scoping Form for this Project which is included in the record at Exhibit 308. This Application provides a much more robust transportation impact study than is ordinarily required by DDOT for this type of project and more robust than DDOT required during the scoping process for this specific application. In particular, DDOT did not require vehicular analyses for the Project because the Project is not expected to generate 25 or more peak hour peak direction trips.</p> <p>Reviewing the area road network, Gorove Slade does not anticipate the need for site users to approach from 15th Street NW, Buchanan Street NW, or Crittenden Street NW. 14th Street NW connects to the north past Military Road NW. Project visitors approaching from the north on 16th Street NW would likely use Military Road to reach southbound 14th Street NW and proceed to the Property. As noted in the Gorove Slade report and by Mr. Radhakrishnan, the alley system west of the Property is narrow, and Gorove Slade would expect Project visitors to prefer to approach the Property from 14th Street NW to use the widened alley section to reach the garage. That widened alley is specifically for garage users, as rideshare services would pick up and drop off along 14th Street NW and would not be expected to route through the alleys. If garage</p>

**Rebuttal to FOFS Written Testimony and Other Opposition Letters**

<p><b>3. Alleged Impacts: Transportation-Related Concerns Generally</b></p>	
	<p>users were to prefer to utilize Buchanan Street NW to travel west, there is a direct north-south alley connection between the garage and Buchanan Street NW. Therefore, these vehicles would not travel through the 14th Street NW intersection with Buchanan Street NW.</p> <p>To and from points south, 14th Street NW connects all the way into downtown DC. As a result, Gorove Slade expects Project visitors to travel to 14th Street NW and not need to approach through the side streets. From the south on 16th Street NW, Arkansas Avenue NW provides a convenient diagonal cut across to 14th Street NW.</p> <p>Gorove Slade does believe some traffic may approach from the east via Buchanan Street NW coming from Georgia Ave NW and the Petworth area, and therefore did add some traffic to/from that direction.</p> <p>It is important to note that the peak direction trip generation for the Project is 24 vehicles per hour. Dividing this up to the north and south results in approximately 12 vehicles in each direction. With this low of a magnitude of trips, sending 10 percent, or even 20 percent to the side streets of Crittenden Street NW or Buchanan Street NW represents only 1 or 2 vehicles per hour in each direction, or up to 1 vehicle every 30 minutes, an amount of traffic that would not have a noticeable impact on operations along either of those roadways.</p>
<p><b>Consideration of WMATA Garage Redevelopment:</b> Section 3.2.8 of the CTR requirement states the CTR will account for vehicle trips generated by developments in the study area that have an origin/destination within the study area. The WMATA Northern Garage across the proposed site is currently nonoperational for redevelopment. The redevelopment project is anticipated to begin in 2022 with a total duration of three to four years and is expected to be operational in 2026.</p> <p>The Gorove/Slade study did not include this project as part of the Background traffic. The study states that “sufficient details are not currently available to estimate the net increase trips for this site relative to the existing operations for this garage.”</p> <p>Some of the pertinent details on this project are available on the WMATA website and are as follows: about 150 buses are expected to be stored and maintained at this facility. Additionally, the project includes amenities within the building such as office space for Uptown Main Street; 27,500 square feet of retail space; and a community room with capacity of up to 150 seating and</p>	<p>Again, the Project’s potential impact on neighboring streets and the alley was more than adequately studied in the Applicant’s two transportation reports and the scope of that study was approved by DDOT.</p> <p>Gorove Slade was aware of the WMATA Garage renovation when it prepared its report and recognized it in the report. Gorove Slade spoke with WMATA and its contractor in late 2021. WMATA indicated that the only lane impact would be converting Buchanan Street NW to one-way eastbound between 14th Street NW and Arkansas Avenue NW for the duration of the WMATA project. WMATA did not indicate any other anticipated road or lane closures.</p> <p>In any event, the WMATA Garage renovation is unlikely to change the conclusions of the Applicant’s study. As noted in the supplemental traffic assessment, significant capacity is available along 14th Street NW with the northbound and southbound approaches operating at LOS A and B at the signalized Buchanan Street NW intersection. Traffic added by the bus garage project would be able to utilize this available capacity and signal timing adjustments could be made if more green time were needed for the side street approaches of Buchanan Street NW. This is supported</p>



**Rebuttal to FOFS Written Testimony and Other Opposition Letters**

<p><b>3. Alleged Impacts: Transportation-Related Concerns Generally</b></p>	
<p>up to 200 standing. The redevelopment project will include 306 onsite parking spaces for employees and non-revenue vehicles as well as 20 parking spaces for retail employees. The primary access to the facility would be via the 14th Street NW.</p> <p>It is anticipated that construction-related impacts such as lane closures will last for the duration of construction which is 3-4 years, even with the implementation of maintenance of traffic measures.</p> <p>The inclusion of traffic from this project and capacity reduction scenario due to long-term lane closures is an important element that were not addressed in the traffic study. Moreover, the concurrent nature of construction activity of these two projects on both sides of 14th Street NW is anticipated to increase the per vehicle delay during peak periods at neighborhood intersections during the construction period. The traffic from this project is likely to have a significant impact on the neighborhood streets and should have been included in the traffic study for both the background, and total conditions.</p>	<p>by the recently released report for the bus garage project, dated April 1st, 2022. (“E. Traffic Impacts: This project is not anticipated to create unacceptable conditions on the regional roadway network. The number of buses stored and maintained at the garage will be reduced from 175 buses to 150 buses, thus reducing bus travel on the surrounding road network. Employee arrivals and departures are broadly dispersed throughout the day and evening. As a result, traffic from the proposed employee parking would have a negligible impact on nearby intersections. Traffic volumes on the adjoining street network are relatively low and can readily accommodate the bus and employee traffic associated with the facility without creating unacceptable conditions. In 2018, the Average Annual Daily Volume on 14th Street NE adjacent to Northern Bus Garage was approximately 11,000 vehicles per day.<sup>1</sup> The volume on Buchanan Street NE was approximately 1,000 vehicles per day. Currently, there are 212 on-site parking spaces for employees and non-revenue vehicles. The proposed project includes 306 onsite parking spaces for employees and non-revenue vehicles as well as 20 parking spaces for retail employees. The 326 parking spaces would be occupied over multiple shifts. This would result in only a limited amount of traffic being generated by the parking at any time. Generally, the maximum acceptable conditions capacity for urban streets is based on intersection capacity. Based on DDOT Signal Optimization Synchro files using 2019 traffic counts, the Highway Capacity Manual Existing Conditions Level of Service (LOS) for the 14th Street NE and Buchanan Street NE intersection is shown in Table 2. The existing conditions are LOS A in the AM Peak Period and LOS B in the PM Peak. Since bus and employee traffic is distributed throughout the day rather than during peak periods, conditions are not anticipated to degrade to an unacceptable LOS E or F.”)</p> <p>Some of the opponents’ other comments are immaterial. Uptown Main Street is expected to occupy only approximately 500 sf and not generate a meaningful transportation impact. It does not appear that the WMATA redevelopment would include retail parking other than 20 spaces for employees and thus the vehicular trip generation may be minimal. In sum, the existing capacity available on 14<sup>th</sup> Street NW is expected to accommodate that WMATA project as well as the Project.</p>
<p><b>Trip Generation Analysis:</b> Section 3.2.3 of the CTR Requirements states that a CTR is expected to include further analysis of vehicle impacts if the proposed site generates 25 vehicle trips in the peak directions for either peak period, AM, PM, or weekend. The current study estimates the PM peak hour trip to be 24 vehicle trips. The trip computations assumed that only 35% of the residential trips are going to be based on the auto-mode of travel. The consequence of this assumption is underestimation of peak hour</p>	<p>The trip generation analysis for the Project is not erroneous and was completed in accordance with DDOT guidance and approved by DDOT.</p> <p>The Project’s trip generation is realistic and appropriate given the Project and site factors. More particularly, the site is located immediately adjacent to the 14th Street NW bike lanes and the 14th Street Priority Corridor Metrobus Route, as well as within 1,000 feet of the 16th Street Priority Corridor Metrobus Route. Further, the site is</p>

**Rebuttal to FOFS Written Testimony and Other Opposition Letters**

<p><b>3. Alleged Impacts: Transportation-Related Concerns Generally</b></p>	
<p>vehicle trips as the study assume more people would use the metro than travel by cars. This assumption is erroneous as the nearest metro rail station is 0.9 miles away and well outside the 0.5- mile walkshed.</p>	<p>implementing a robust TDM plan that includes expanding the nearby Capitol Bikeshare Station from 11 to 19 docks, installing new crosswalks, ADA ramps and curb extensions at the Crittenden Street NW-14th Street NW intersection, exceeding Zoning Regulations’ long term and short term bike parking requirements and additional TDM measures, as outlined in the TDM plan and approved by DDOT.</p> <p>The site also provides less vehicular parking than is ordinarily required by the Zoning Regulations for a similar size and mix of uses as a result of to the site’s proximity to the priority corridor metrobus routes, which recognizes that such proximity is conducive to a higher non-auto mode share.</p> <p>DDOT’s position is that a reduced parking supply reduces auto mode share trips. Multifamily buildings that provide a lower parking supply attract residents more likely to use non-auto modes of transportation when compared to those that provide more parking and thus more personal automobile availability. Further, the Project’s residents will not be eligible for RPP permits. The Project provides 40 parking spaces, which is below DDOT’s recommended maximum parking. These factors are all taken into consideration when identifying the auto mode share, not just the proximity to metrorail. The auto mode share assumptions were approved by DDOT.</p>
<p><b>Trip Generation Analysis/Mode Share:</b> The WMATA Development Related Ridership Survey (DRRS) shows the auto-mode to be 39% for the study area. This survey shows the distance between the residential site and station have a stronger correlation with mode share. The Metrorail use decreases by 0.87 percent for every 100 feet increase in distance a residential site is located from the station. Furthermore, the Census Transportation Planning Products (CTPP) which provides information on the characteristics about where people live and work, their journey to work, commuting patterns, and the modes they use for getting to work, finds the auto-mode to be about 46% for the study site area. Based on these survey data, the conservative assumption for auto-mode travel is about 45%. Computing residential trips on this basis will increase the PM peak hour trips to more than 25 vehicle trips thereby triggering the Traffic Impact Analysis Component of CTR.</p>	<p>The mode share assumptions for the Project are reasonable, if anything conservative, and were moreover approved by DDOT.</p> <p>The DRRS information cited by the opponents is faulty because it is based on single-family homeowners typically and not the multifamily residents who will occupy the Project and who have a different transit profile (i.e., the Project’s residents are more likely to favor transit).</p> <p>The Project is a multifamily building with a parking rate of approximately 1 space per 3 units. This is in contrast to the majority of single-family row homes in the area where the ratio of available spaces per residence, based on the census tract data, is approximately 1.2 vehicles per household. The reduced vehicle ownership of the Project’s residents has a direct impact on the mode share options and results in a lower vehicular mode share. Additionally, the Project’s TDM conditions promote non-auto modes of transportation, which further supports a reduced vehicular mode share. The TDM plan and mode share assumptions for this project were vetted by and approved by DDOT.</p>
<p><b>Weekend Traffic:</b> The two land uses, Retail and Theatre are expected to generate considerable traffic during the weekend. The table below shows</p>	<p>The traffic estimates cited by the opponents are inappropriate here given that the Project has only 1,888 square feet of what will very likely be neighborhood-serving</p>



**Rebuttal to FOFS Written Testimony and Other Opposition Letters**

<p><b>3. Alleged Impacts: Transportation-Related Concerns Generally</b></p>	
<p>weekday versus weekend trips generated by the site. These trips were estimated using the ITE Trip Generation Handbook. The AM and PM trips were computed by Gorove/Slade and the weekend trips were computed by MCV.</p>	<p>retail. Weekend traffic assessments are primarily applicable for sites with a large retail component, as those retail uses would layer onto the mid-day Saturday peak period. The proposed site has less than 2,000 sf of retail space and would not qualify for requiring a Saturday analysis. The peak traffic conditions on the area roads for the site are represented during the AM and PM weekday commuter peak periods when the site traffic layers onto commuter traffic on 14th Street NW. During the evening on weekends, theater traffic will not be layering onto a baseline traffic volume on 14th Street NW comparable to weekday commuter traffic, and thus sufficient capacity on 14<sup>th</sup> Street NW will be available for Project-related weekend trips.</p>
<p><b>Weekend Peak Hour Analysis:</b> As seen, the weekend trips are considerably higher than the weekday peak hour trips. The study should have also analyzed the peak hour traffic during the weekend period. Further, as DDOT points out the ITE code 460 used in the Trip Generation for the Theater Land Use has a sample size of only one study. Data from similar land uses in the Washington DC area should have been collected for the weekday and weekend period to capture reliable trip generation rates and to estimate the peak hour trips.</p>	<p>Weekend analysis is unnecessary here. As discussed in the supplemental traffic assessment and the CTR traffic statement, the theater use does not hold events during the weekday commuter peak period, and traffic was generated using the closest available land use in order to provide a conservatively high estimate. Counting other theater spaces during the commuter peak period with no events taking place would be unlikely to generate useful data. Further, the Project’s theater space would not generate traffic during the peak weekend mid-day traffic flow on 14th Street NW as events are typically held during the evening.</p>
<p><b>Trip Distribution Assumptions:</b> The trip distribution of site generated trips does not consider the existing count patterns and do not assign trips on east-west streets, some of which are currently operating at levels of service D. Almost all the trips in the study are assigned north and south on 14th Street NW and few inbound trips on Buchanan St, west of 14th Street NW. The trip distribution conspicuously ignores assigning trips on the Crittenden St NW and Buchanan St NW, east of 14th St NW and as it is the norm to distribute trips generated by the site throughout the study area network.</p>	<p>The Project’s trip generation assignments are also reasonable, conservative, and applied according to a DDOT-approved design. The opponents’ consultant seems to misunderstand the configuration of the site’s alley network and how visitors are likely to access the Project.</p> <p>More particularly, there is a north-south alley connection to Buchanan Street NW leading directly to and from the Project’s garage. There would be no need for this traffic to pass through the 14<sup>th</sup> Street NW-Buchanan Street NW intersection to the east if coming from or going to the west.</p> <p>Further, at the Buchanan Street NW-14th Street NW intersection, the northbound and southbound through movements make up 84% of the total intersection volume during the AM peak hour and 86% during the PM peak hour. The eastbound approach of Buchanan Street NW and Crittenden Street NW do not represent the primary travel routes to the Property. Vehicles have numerous convenient opportunities to the north and south to orient onto 14th Street NW to travel to the site. The side street approach of Buchanan Street NW with LOS D represents less than 5% of the total volume at the intersection, while the mainline 14th Street NW approaches with 90 percent of the intersection volume operate at LOS A and B. This is because the signal timings at this intersection are designed to move traffic efficiently on the mainline while allowing</p>

Rebuttal to FOFS Written Testimony and Other Opposition Letters

3. Alleged Impacts: Transportation-Related Concerns Generally	
	<p>increased delay for the side streets. Given a higher delay on Buchanan Street NW and a lower delay on 14th Street NW, 14th Street NW represents the most convenient route to the site. The available north-south alley connection would also eliminate the need for site traffic to travel through that intersection if approaching from or traveling to the west on Buchanan Street NW.</p> <p>Even if more trips were distributed onto Buchanan Street NW and/or Crittenden Street NW the absolutely small number of trips results in no material effects. With only 12 vehicles to apportion to the south of the site, applying even 20 percent to Buchanan Street NW, would only represent approximately 2 vehicles per hour, which would not have a noticeable impact to operations along that roadway. With the delay on the approach at approximately 37 seconds per vehicle, those few additional vehicles would not have increased the delay to above DDOT’s threshold of 55 seconds per vehicle (LOS E) for adequacy. Therefore, it would not trigger mitigation requirements, even if the Project were subject to the vehicular adequacy test, which it is not.</p> <p>It is also important to note that the eastbound queues associated with the existing LOS D condition on Buchanan Street NW are fewer than two vehicles, which does not represent a significantly constrained traffic condition. It is also worth noting that mitigation at this intersection to reduce delays for Buchanan Street NW could easily be accomplished by adjusting the signal timing. However, the Project’s proposed TDM measures, including the CaBi Station expansion and extensive pedestrian and ADA improvements at Crittenden Street NW and 14th Street NW would more than mitigate any site traffic impact at this intersection, regardless of how much of the site traffic were apportioned to the west on Buchanan Street NW.</p> <p>Similarly, at Crittenden Street NW is unlikely to be a route for inbound or outbound site traffic when compared to the options to the north on 14th Street NW, especially with only 24 peak direction trips to be distributed. With the side street operating at LOS B with fewer than 12 seconds of delay, adding a few vehicles would not have any potential of resulting in a failing condition and had no bearing on distribution assumptions.</p>
<p><b>Parking Compliance:</b> The study proposes to provide 19 parking spaces and 21 noncompliant stacked spaces.</p> <p>This is 55 spaces less than the ZR16 parking minimum of 74 spaces.</p>	<p>The Project’s stacked parking spaces are all compliant, and this statement is untrue. The opponents’ consultant does not appear to be familiar with the District’s Zoning Regulations. Per Subtitle C, Section 711.4: “An automated parking garage shall meet the requirements of Subtitle C § 711.3, although individual parking spaces provided as part of the automated parking garage do not.” Therefore, the Project’s stacked parking spaces are exempt from complying with parking dimensional requirements.</p>



**Rebuttal to FOFS Written Testimony and Other Opposition Letters**

<p><b>3. Alleged Impacts: Transportation-Related Concerns Generally</b></p>	
	<p>In addition, the Project provides the Zoning-required number of parking spaces as documented elsewhere.</p>
<p><b>Visitor Parking:</b> The study does not address visitor parking and the demand on neighborhood streets as result. The study analyzed parking conditions on a weekday evening and a Saturday evening.</p>	<p>This statement misunderstands the purpose of the Gorove Slade parking study. The study was an assessment of existing parking occupancy to identify the current availability of parking in the area. The study found the overall area at below 70% occupancy, which would indicate available parking for future site users, including visitors. The parking study was scoped, review and approved by DDOT. It was originally required because the project was previously seeking parking relief. The site is no longer seeking parking relief. Further, the recently released WMATA Document of Categorical Exclusion identifies that the WMATA Northern Bus Garage project will be permanently moving employee parking on-site where employees previously utilized on-street parking surrounding the site.</p>
<p><b>Sunday Parking:</b> Based on the adjacent land uses, particularly the church, a Sunday analysis should also be done. The Ethiopian Orthodox Tewahedo Religion Church is at proximity to the site, and it seems that parking is an issue during the times when the church services are active. With limited parking proposed at the site, and the proposed theatre expected to attract more infrequent visitors, the parking analysis on Sunday evening should have been done.</p>	<p>The Project’s parking study is adequate to demonstrate no adverse parking effects from the Project. One nearby church operates out of the adjacent converted rowhouse on the south side of the alley. Given the small size of the church and the theater event unlikely to overlap with church services, the applicable study times for the parking occupancy study was a weekday and Saturday evening, as approved by DDOT. The Project’s theater uses do not typically occur during the times that church services are active.</p>

**Rebuttal to FOFS Written Testimony and Other Opposition Letters**

**3. Alleged Impacts: Transportation-Related Concerns Generally**

**Alley Impacts:** The current activity levels on the public alley are not captured adequately in the existing conditions as no traffic counts were performed at the intersection of the alley with 15th Street NW and Crittenden St NW. Many residents rely on the alley for vehicular access to their property. The alleys are not wide enough for two-way operations. This poses a challenge for vehicles entering/exiting the site from/to multiple access points at the same time having to negotiate the long alleys with limited sight distances. This will most likely increase the chance of conflicts.

The Application includes adequate alley impact analysis, which is the subject of ongoing DDOT-required investigation.

The Project includes widening of the alley from the Project's garage to 14th Street NW in order to accommodate site traffic. Project visitors are not expected to utilize the alley to the west, given the constrained nature of the alleyway and the widened and more convenient access to 14th Street NW. The Project has included a commitment in the loading management plan to coordinate with DDOT following the opening of the building to identify whether additional signage or striping is needed in the alley or if the alley should be converted to one-way only operations.

Regarding traffic volumes at the west end of the alley, Gorove Slade does not expect those volumes to be very different from the east end of the alley where only 1 AM and 2 PM peak hour vehicles were observed using the alley. Given the relatively low traffic volumes on 15th Street NW and the negligible volume of alley traffic, a stop control delay analysis at that location would not likely show significant delays for any of the approaches and it would not represent a location applicable for inclusion in a vehicular capacity assessment. The 14<sup>th</sup> Street NW alley intersection, where mainline 14<sup>th</sup> Street NW traffic far exceeds traffic flow on 15<sup>th</sup> Street NW, represents the likely maximum potential impact of the site, and that location was identified to operate at acceptable traffic conditions with the project.



**Rebuttal to FOFS Written Testimony and Other Opposition Letters**

<b>4. Alleged Impacts: Environmental and Other Concerns</b>	
<p><b>Air Quality Impacts:</b> Some neighbors complain about air quality impacts from the nearby WMATA garage. Exhibits 759 at 22-23 (“The city hasn’t agreed to implement an electric fleet raising the red flag on a residential large apartment building directly across from the construction and eventual return of a diesel fueled bus barn.” “Further, the proposed building sits on top of a bus stop. If diesel buses run again, they will contribute to dirty unhealthy air.”).</p>	<p>These are poorly-reasoned justifications for attempting to exclude the Project and would apply to and exclude any smaller building or any matter-of-right building. Further, the argument fully contradicts opponents who otherwise extol the value of their private outdoor spaces. Finally, as cited in Exhibit 525F, WMATA has committed to electrify the fleet operations at the Northern Bus Garage, eliminating or significantly mitigating these concerns.</p>
<p><b>Other Environmental Impacts:</b> The party opponents, in their written testimony, for the first time raise concerns about other environmental impacts. Exhibits 759 at 7 (“It is very likely that the Applicant obtained an environmental report, prior to closing, outlining potential hazardous materials at the site along with recommendations for further action related to abatement and the like, why hasn’t this information been shared with us?” “[W]hat’s happening at the Dance Loft site on the environmental front? Lead paint, asbestos and other contaminants are common in buildings constructed in the 1920s.”).</p>	<p>Included with this filing is the Phase I environmental report for the Project. The Applicant has not shared this with neighbors previously because the neighbors have never previously asked for this document. The Applicant is happy to share relevant information. The Phase I report shows that the Property does not have known environmental contamination concerns. To the extent unknown issues are discovered during demolition (e.g., with asbestos, lead paint and the like) those items will be remediated in accordance with applicable health and safety regulations.</p> <p>Separately, the Applicant will provide an EISF during the building permit process for the Project.</p>
<p><b>Green Space:</b> Two opponents lament that the building lacks green space for new residents and is not proximate to family-serving businesses. See Exhibits 759 at 25 and 769. Another baselessly speculates that the Project lacks “natural light in most of the units because of close row homes” and is “creating a dark, dank, air trapped building with no natural ventilation.” Exhibit 759 at 23.</p>	<p>The Project includes balconies and both indoor and outdoor amenity spaces for residents. Moreover, multiple parks including Rock Creek Park, the Carter Barron recreational facility, and Upshur Park are located within 2-5 blocks away. Similarly, the Project is well-suited for transit access to a variety of shops and businesses elsewhere along 14<sup>th</sup> Street, NW.</p> <p>The units in the Project will have robust natural light. Likewise, there is no basis for concern about natural ventilation. The Project’s ventilation systems will be roof-mounted and the Project includes operable windows and balconies for fresh air.</p> <p>Moreover, the Project’s EGC+ level of design means that the Project will include high-quality indoor air quality and related wellness measures that are not typically found in matter-of-right buildings and which address the types of concerns that the opponents raise.</p>
<p><b>Trash and Pests:</b> One opponent is concerned about trash and rodent impacts. Exhibit 754.</p>	<p>The Project’s trash room is fully-enclosed within the Project’s garage, a configuration that dramatically mitigates trash and rodent impacts on adjacent homes. Trash collection will occur regularly by professional services and pest control will occur as needed post-construction and as part of the CMP during construction.</p>

**Rebuttal to FOFS Written Testimony and Other Opposition Letters**

<b>4. Alleged Impacts: Environmental and Other Concerns</b>	
<p><b>Unspecified Impacts:</b> Two opponents raised concerns about unspecified impacts. Exhibits 739 and 759 at 4 (“the project’s scale will create special problems with respect to how it impacts our homes over the long term” and “the proposed height is clearly inappropriate for the site and would impose unacceptable project impacts on the residents of the neighboring RF-1 zone”).</p>	<p>Although it is difficult to respond to non-particularized impacts, the Project will improve upon the existing conditions and add numerous and commendable public benefits. Although the opponents’ fears about neighborhood change are understandable, the Project will improve the condition of the property in a manner superior to the existing condition and superior to any matter-of-right development.</p>
<b>5. Value of Public Benefits</b>	
<p><b>Dance Loft Benefit:</b> One opponent questions the value of preserving Dance Loft as a “public benefit” under the PUD procedures of the Zoning Regulations because the Dance Loft is not “new”. Exhibit 772.</p>	<p>The preservation of an existing viable arts use is a per se public benefit under 11-X DCMR § 305.5(j) (“Public benefits of the proposed PUD may be exhibited and documented in any of the following or additional categories: Building space for special uses including, but not limited to, community educational or social development, <u>promotion of the arts or similar programs</u> and not otherwise required by the zone district”) (emphasis added). That Dance Loft and Heleos have partnered on the PUD makes it an innovative model of arts preservation and does not diminish the public benefit value of the Project.</p> <p>Similarly, Dance Loft would cease to operate at the Property if it had not acquired the property for the purpose of pursuing this Project via a PUD.</p>
<p><b>Ward 4 Affordable Housing:</b> The party opponents criticize the Project as being part of too much new housing in Ward 4, and others levy criticism that the Project is concentrating too much affordable housing in one building. Exhibits 759 at 24, 765.</p> <p>One neighbor incorrectly asserts that “The neighborhood would simply not gain anything from this over matter-of-right development. The city would gain affordable housing, but this can only be considered an indirect benefit/amenity in the PUD process”. Exhibits 765.</p>	<p>These complaints are unfounded and untrue. The District is short thousands of units of affordable housing, especially the 30% and 50% MFI units and 3-bedroom units that the Project will include. The District’s own Housing Equity Report demonstrates that there is a significant deficit of affordable housing within the Rock Creek East planning area.</p> <p>Many of the projects cited by the party opponents are not new construction but are rehabilitation projects that do not add to the supply of affordable housing in Ward 4 (even if they importantly preserve affordable housing).</p> <p>In addition, the Project’s affordable housing and other housing components (e.g., three-bedroom units) are among the highest priority public benefits and are a <u>direct</u> benefit of the Project. Those benefits mitigate surrounding house price increases, add residents to support nearby businesses, and provide other benefits to “the neighborhood.” It is simply false that the neighborhood would not gain anything from this Project.</p>



**Rebuttal to FOFS Written Testimony and Other Opposition Letters**

<b>6. Process-Related Concerns</b>	
<p><b>Support Letters:</b> Some opponents discourage the Commission from considering the views of supporters of the Project, particularly those who do not live in the immediate vicinity of the Property. Exhibits 759 at 31, 749 (“Most letters of support are from individuals that do not live in the immediate area surrounding this project and thus, are not representative of individuals that will be negatively directly impacted by this project.”).</p>	<p>As discussed previously in Exhibit 525F, the Applicant recognizes that the Commission considers a wide view of perspectives in acting on a proposed PUD.</p> <p>The Applicant is disheartened that the opponents would seek to exclude voices from participating in a public PUD process that reaches a better result when more, not fewer, voices are heard.</p> <p>The significant support letters for the Dance Loft from supporters around the region, which indicate its importance as an institution for the District and surrounding region, the local support, should not be put aside. Even if non-local support were to be discounted, there is passionate and overwhelming from immediate neighbors who live on Square 2704, neighbors in 16<sup>th</sup> Street Heights, and other Ward 4 residents, along with the full ANC, the Ward 4 Councilmember, the local faith community, the Uptown Main Street organization, local commercial businesses, and others, all of whose input should not be discounted.</p>
<p><b>Plans and Drawings:</b> Several opponents called into question the accuracy and validity of the Applicant’s drawings. Exhibits 690, 737, 759 at 4, and 766 (“Please look carefully at the developer’s renderings of this project because they do not show the full-scope of this project and many of the renderings are distorted” “[The Applicant’s] renderings of the proposed structure do not accurately represent the size and scale of the proposed development and streets around it.” “[R]eview the actual measurements of the building and the proximity to existing homes, setting aside the building’s purpose and use.”)</p>	<p>The Applicant’s drawings are prepared by a licensed architect who has been recognized by the Commission as an expert and whose credentials were unchallenged. Moreover, the Applicant has a strong incentive to provide accurate drawings because the drawings will be the basis for the building permit submission. Said another way, if the drawings submitted for permit do not match the approved set of PUD drawings, it would not be possible to obtain a building permit.</p> <p>In sum, the Applicant’s drawings and renderings are accurate.</p> <p>Further, the opponents’ assertions are without reference or foundation and alternative images submitted by opponents (see below) are demonstrably inaccurate.</p>
<p><b>Views:</b> The party opponents have asked for additional views from the perspective of abutting residences. Exhibit 759 at 28 (“Not once have I seen a rendering that accurately represents what we will face from our backyards.”).</p>	<p>The Applicant will provide multiple views from nearby properties as part of its post-hearing submission.</p>

**Rebuttal to FOFS Written Testimony and Other Opposition Letters**

<p><b>6. Process-Related Concerns</b></p>	
<p><b>Opponents Drawings:</b> The party opponents introduced photos of a physical model purporting to depict the Project. Exhibits 759 at 4 and 764 (“In an effort to fundamentally understand the impact this project will have on our neighborhood, our group pooled resources to build a 1/8” = 1’0” scale model of the proposed project in Square 2704.” “The model brought the kind of physical clarity that the Applicant was unwilling to provide.”).</p> <p>Another opponent provided sample drawings that are obvious distortions and should be dismissed. Exhibit 772 (“I have made my own versions of approximately what it would look like, based on measurements taken at the site and from the developers during public meetings, and I include them below”).</p>	<p>The opponents’ model is flawed and should not be accepted as evidence, or if accepted as evidence, viewed with a high level of skepticism. The model’s fundamental problems are that the surrounding context, which is the whole point of this model, is shown incorrectly.</p> <p>First, the opponent who created the model repeatedly and publicly refused (without explanation) to provide documentation of the dimensions used to construct the model, so the accuracy of the model cannot be fully vetted. It appears designed to distort and mislead based on other materials provided by the opponents. Based on a flier and a website circulated in the community by the project opponents, it is possible if not likely that the model is based on a building that is six-stories (rather than five) and utilized questionable topography depictions. The opponents’ intent is not to show an objective representation of the Project in context.</p> <p>Second, based on measurements by the Applicant’s consultants at an in-person inspection of the opponents’ model on February 28, 2022, aspects of the model differ from reality by as much as 25%. More specifically, the model understates the surrounding topographic changes by up to 25% which has the effect of making the Project appear taller than it will be relative to the surrounding context.</p> <p>Third, the model strategically omits important context, leaving out the nearby houses that have the greatest overall elevation and similar in height to the top of the Project’s primary façade. Based on scaled measurements, the model shows a building that is approximately 10% incorrect.</p> <p>The opponent’s concept renderings in Exhibit 772 are flawed and are not based on any discernible scale. Images comparing these renderings to scaled drawings of the Project are included for comparison purposes. See slides 23-26 above. As can be seen this exhibit, Exhibit 772 introduces a full story to the project and distorts the project’s size and scale, along with completely altering its façade design.</p> <p>These images are inaccurate and were presented to the public and elected officials (including this Commission) well after fully dimensioned elevations and civil engineering drawings and data were available.</p>
<p><b>Financial Viability and Transparency:</b> Opponents alternately criticize the Applicant for not providing more financial information and for not ensuring financial viability. Exhibits 741, 759 at 10, 765 (“The applicant cannot ensure financing for this project.” Neighbors “only heard the standard trope that it would be too costly and reduce profits if changes were made. However, the developer has failed to support this assertion in any meaningful way.”).</p>	<p>The Applicant provided information about the subsidy required to construct the Project, why the density proposed is required to attain such subsidy, and about the parameters of the subsidy that the Applicant intends to pursue. The Project’s cost estimates will fluctuate based on DHCD parameters and construction costs but are the best available information about the Project’s feasibility at this point. It would be unusual to provide more detailed financial information as part of a PUD review.</p>

**Rebuttal to FOFS Written Testimony and Other Opposition Letters**

<p><b>6. Process-Related Concerns</b></p>	
<p><b>ANC Process:</b> Opponents complain about the nature of the ANC-led and Applicant-led meetings and about whether the Applicant proceeded in good faith during neighborhood discussions. Exhibits 599, 741, 744, and 772 (“It would be a gross mischaracterization of the meetings to describe them as engaging with neighbors meaningfully or that conversations occurred in good faith.” “Unfortunately, when the community engaged the developer to seek a compromised solution we were met with an unwillingness to substantively address any of our concerns” “The Dance Loft has been unfair and un-neighborly in its interaction with the neighboring community.”).</p> <p>One opponent complained about the virtual format of many meetings and her ability to participate in that forum. Exhibit 744 (During virtual meetings about the Project “community members have no participant rights - we cannot see what other community members are logged on, we have to be unmuted one at a time, and can be re-muted at any time. Project proponents - e.g. developers -- have co-host rights, they can be seen by each other, by all those logged on, and can unmute and speak at any time. Furthermore, in the community consultation meetings specific to the Heleos project, meeting participants could only send chat comments to the co-panelists, and these comments could not be read by other participants.” “[W]e have not been afforded fair and effective community consultation.” “Our ANC has not represented the views of our neighborhood.”)</p>	<p>These complaints have been discredited by the ANC report, which documents in detail the exhaustive and lengthy community outreach effort. Neither the ANC nor the Applicant stifled or limited community input or feedback. The ANC 4C03 commissioner held several meetings over the course of more than a year specifically for adjacent neighbors only and held a special in-person meeting on February 28, 2022 specifically for Project opponents to present. That meeting was well-attended by the public including three ANC commissioners and representatives of the Ward 4 Councilmember. The Applicant held yet more community meetings, particularly for immediate neighbors.</p> <p>There is no doubt that Zoom meetings constrain participation in a way that in-person meetings do not. However, web meetings also enhance participation by allowing a much broader segment of the public to participate in ways that in-person meetings preclude. There are trade-offs, and the Applicant has met opponents both in person and online on numerous occasions over a lengthy period of engagement. In addition, the virtual discussions hosted by the Applicant and ANC 4C are essentially the same in format as the virtual hearing conducted by the Commission and all other ANCs around the City. Finally, as a thorough rebuttal to these complaints, the Applicant, ANC 4C, and Councilmember all met in person multiple times with neighbors and other interested stakeholders.</p> <p>These opponents mislabel procedural complaints with displeasure about the substance of the Project.</p>
<p><b>Consideration of Alternative Massing Proposals:</b> Project opponents advance a number of complaints about and requests for alternative massing for the Project.</p> <p>On the one hand some opposing neighbors and party opponents complain about an alternative design previously shown by the Applicant in public meetings, whereas others are dismayed about the putative lack of consideration of alternatives. Exhibits 599, 671, 690, 754, and 759 at 8, 12-13, 15, 28-30. <i>Compare</i> Exhibit 759 at 8 (“During the presentation that I attended, the Applicant showed us a sketch of a proposal and simply put it aside without any opportunity for conversation and debate.” ) and at 28 (“The one alternative proposal presented after we repeatedly expressed concerns over the height of the PUD lowered the height by one floor, but removed all setbacks, bringing the entire mass of the building to the edge of the property line, just ten feet from our back fence.”) <i>with</i> Exhibit 759 at 12 (“[T]he Applicant flatly refused to make any concession or compromise on</p>	<p>In response to concerns about alternative designs for the Project, the Applicant offers the following timeline and detail.</p> <p>Early in the engagement with neighbors, in the spring of 2021, the Applicant proposed a 99-unit project that on a gross square footage basis was slightly larger than the ultimately-proposed 101-unit program currently before the Commission. Although the unit count increased marginally the overall size of the building was slightly reduced.</p> <p>Subsequently, in direct response to neighbor concerns, at a neighborhood meeting in summer of 2021, the Applicant introduced an alternative that reduced the rear of the building by one story (to three stories in the rear) but also decreased the setback distances from adjacent rowhouses. This alternative was largely rejected by neighbor attendees, and the Applicant decided against pursuing this massing alternative further. Indeed, many of the individuals who form the FOFS opposition group attended the meeting. At no point during the meeting or in the following nearly full year of intensive community engagement and dozens of meetings did any representative of the group</p>



## Rebuttal to FOFS Written Testimony and Other Opposition Letters

### 6. Process-Related Concerns

the height or density, *or even take into consideration where it could scale the building differently and maintain the necessary density to remain eligible for affordable housing subsidies*") (emphasis added).

The party opponents also suggest alternatives that would not include any market rate housing or that would displace Dance Loft. *Id.* at 13 ("The Applicant has not considered any reduction or restructure of the other 34 residential units not classified as affordable; or even reconfiguring the Dance Loft retail space. These two obvious considerations can and could have been made to address some of the density concerns, which could impact the available height and scale options, while still maintaining eligibility for applicable affordable housing subsidies.")

Party opponents also suggest reducing the height at the rear of the Project and increasing that density along 14<sup>th</sup> Street NW. *Id.* and 599 ("In relation to addressing the height concerns, we would like this Commission to require a height reduction to the rear two-thirds of the building and shift those units to the front of the building on 14th Street. This scale alternative would be a reasonable compromise with FOFS and immediately impacted properties. Reducing the floors to the rear/back approximately 2/3rds of the building could consist of four levels (three levels above ground) and a setback penthouse; and the front approximately 1/3 of the building can scale up on the 14th Street commercial corridor and consist of six levels and a penthouse." "We have asked the developers to consider focusing the building's density on 14th Street where better access is available and the impact to abutting neighbors lessened.") Although there is some confusion on this request because other opponents want no more than matter-of-right density at the middle of the Square. Exhibit 759 at 29-30 ("All we want is development of the interior alley portion within the constraints of the current zoning").

One opponent incorrectly states that a much smaller version of the Project was proposed. Exhibit 690 ("Our understanding is that a proposal exists that would have 75 units and limit the height.") Others point out that the Project has gotten larger since original presentations. Exhibits 759 at 26 and 599 ("the developers maximized every inch of its property footprint, even increasing its density from an original plan of 99 units to 101.")

Opponents claim that the Project puts profit motives first. Exhibit 759 at 30 ("The developer has repeatedly stated that any reduction in the number of

reach out to request further consideration of the alternative.

There is no requirement and little value in presenting alternative designs, especially alternatives with no discernable support, as part of the PUD process. Further, advancing multiple designs in parallel is an expense that an affordable housing development cannot bear (and does not typically bear as part of a PUD). Such review also would lead to an inefficient PUD review process. As the Office of Planning testified, the three-story-rear approach would be less consistent with the Small Area Plan than the current proposal.

As described at the same community meeting in the summer of 2021, the Applicant also considered and analyzed, but was unable to pursue, a massing that reduced the height at the rear of the building, retained the setbacks, and increased the height along 14<sup>th</sup> Street, NW. This approach is infeasible from a construction cost perspective and produces a less efficient building that is not as consistent with the relevant planning guidance as the Project. Some opponents even recognize that the Applicant explained the justification for rejecting this approach. Exhibit 599 ("We have asked the developers to decrease the number of floors. Repeatedly, developers rejected the idea due to financial constraints, e.g. citing construction costs for steel and concrete.") Others claim that the Project's continuation as originally proposed is a failure to engage. Exhibit 759 at 15 ("To date, the Applicant has done nothing but decline to engage on these very specific concerns because it simply believed it did not have to, and unfortunately was never compelled to do so by our ANC Commissioners.") In any event, it is not clear that the opponents would be satisfied with this approach because some take a hard line at wanting no more than matter-of-right density at the interior of the Property.

Opponents are incorrect, and the record contradicts, in their assertion that the Applicant never took "into consideration where it could scale the building differently and maintain the necessary density to remain eligible for affordable housing subsidies".

Regarding one opponent's suggestion that the Project's market rate units and Dance Loft component be stricken, while such a move would reduce the Project's density, the DHCD funding that the Applicant seeks prioritizes some amount of market rate housing as part of a predominantly affordable program. The rationale for such priority is to create truly mixed-income communities. For its part, Dance Loft occupies largely below-grade space that is ill-suited to residential units. Removing Dance Loft would not address the neighbors' density concerns (and is contrary to the District's planning goals as well).

**Rebuttal to FOFS Written Testimony and Other Opposition Letters**

<p><b>6. Process-Related Concerns</b></p>	
<p>units would make the project financially unviable, by which they mean their model becomes less profitable.”).</p> <p>Finally, other opponents request still further alternatives. Exhibit 754 (“There are multiple reasonable proposals [the Applicant] could put forward that would assuage our concerns about size and maintain everybody’s commitment to affordable housing”).</p>	<p>The Applicant has never proposed a 75-unit configuration, contrary to assertions. It has shown that a 79-unit building—that is, one story shorter than the Project—would be infeasible from a construction cost perspective. Perhaps that is the genesis of the confusion. It is also unclear what the opponent in Exhibit 754 is referencing. The Applicant has not put forth other alternatives beyond those mentioned above. Each of the alternatives above were not feasible or were not desired by the community.</p> <p>One opponent suggests moving the density for the Project into the interior of Square 2704 and away from 14<sup>th</sup> Street, NW, contrary to all other opponents and contrary to planning guidance. See Exhibit 772. This opponent latches onto a very early iteration of the Project’s design that preceded the Menkiti-owned lots along 14<sup>th</sup> Street NW being included in the Project. This suggestion is flawed for a number of reasons: (i) it is contrary to all other public input, (ii) it reduces the number of affordable units, (iii) it is inconsistent with the Small Area Plan, (iv) it arguably violates numerous objectives of the Comprehensive Plan, (v) it lacks a holistic view of the overall site plan which now includes the Menkiti retail properties on 14<sup>th</sup> Street NW, (vi) it reduces setbacks from neighboring residential properties, and (vii) it has not been remotely considered or studied for more than a year.</p> <p><b>This Project is not a matter of a developer looking to maximize profit. A building with 67 affordable units and 22 30% MFI units is not looking to maximize profit. This Project seeks to qualify for DHCD subsidy based on the guidelines that DHCD publishes and is designed accordingly.</b></p>
<p><b>“Three-Story Solution”:</b> At the public hearing, counsel for the party opponent asked and referenced a so-called “three-story solution” on multiple occasions. Hearing at 3:02:10, 3:07:20, and 3:21:53.</p>	<p>The Applicant wishes to make clear that there is currently no three-story option for the Project before the Commission. At the request of neighbors, many of whom now comprise the party opponent, nearly a year ago the Applicant studied a plan for the Project’s massing to hold constant the gross floor area, reduce the height of the building, <u>and</u> reduce the Project’s setbacks. Such concept was introduced in a Jun 2021 meeting with adjacent residents. The neighbors expressed no support for that approach, and the Applicant discarded it and moved forward with the design of the Project before the Commission, at significant cost.</p> <p>At no point since the Applicant proposed the alternative design in 2021 has any member of what is now the party opponent (or any other opponent of the Project) indicated to the Applicant in an email, conversation, or otherwise that the now-discarded three-story is acceptable.</p> <p>The Applicant does not believe that further discussion with the neighbors about that approach would be fruitful and believes that any request for further evaluation of this</p>

**Rebuttal to FOFS Written Testimony and Other Opposition Letters**

<b>6. Process-Related Concerns</b>	
	approach would needlessly delay the delivery of much-needed affordable housing.
<b>PUD Requirements:</b> One opponent asserts that “the zoning regulations state a PUD should not result in more than a 20% increase in density”. Exhibit 765.	This statement is not correct. The PUD regulations permit a 20% increase in density over the matter of right zone accounting for any inclusionary zoning bonus. 11-X DCMR § 303.3.



**Rebuttal to FOFS Written Testimony and Other Opposition Letters**

7. Allegations Regarding Precedent	
<p><b>Lack of Precedent:</b> Opponents assert that the Project is somehow flawed because of a lack of precedent for buildings situated similarly. Exhibits 475 and 759 at 16, 19 (“Although its proponents frequently liken the height of the proposed development to several existing apartment buildings at the intersections of 14th and Allison, Webster, Upshur, Quincy, Randolph, and Spring in Ex. M-1, these existing buildings appear to be at least one story less in height. It should also be noted that some of these comparison buildings are more than one mile from the proposed project, situated in more commercial areas without surrounding homes to overshadow.” “Our research reflects no other lots like this in all of DC” “The Applicant has not provided any precedent for erecting a structure that will double in size, dwarfing surrounding homes, which by great measure changes the character and environment of the homes abutting the Applicant’s property.”)</p>	<p>Besides being untrue these statements are irrelevant in a PUD proceeding.</p> <p>First, the Applicant has provided examples of precedents and offers here examples of “buildings extend into the alley system, impacting abutting properties on the blocks that run both parallel and perpendicular to the property—like that which is proposed by the Applicant for Square 2704” as decreed at Exhibit 759 at 16.</p> <p>Second, there are “other lots like [the Property] in all of DC.”</p> <p>Finally, notwithstanding that the provision of precedent is not a criterion upon which the Commission is obligated to evaluate a PUD, there are many examples from Ward 4 and along 14th Street, both new buildings and buildings that have co-existed alongside two-story rowhouses for decades, some even in projects approved by the Zoning Commission.</p>
<p><b>Non-Precedential:</b> Opponents also complain that the Project will become precedential. Exhibits 260, 262, 321, 399, 485, 486, 765, 772</p>	<p>As the Commission is well aware, this Application does not create precedent. 11-X DCMR § 300.4 (“PUD-related map amendments <i>establish no precedent</i> for the Zoning Commission’s consideration of permanent changes to the zoning of the PUD site or adjacent areas or for consideration of future PUDs.”)</p> <p>The Commission evaluates each application on a case-by-case basis on its own merits, which is one reason the Applicant has been hesitant to raise examples of precedent.</p>