

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Zoning Commission**



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 16-11**  
**Z.C. Case No. 16-11**  
**Park View Community Partners and the District of Columbia**  
**(Consolidated PUD and Related Map Amendment**  
**@ Square 2890, Part of Lot 849)**  
**March 13, 2017**

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on December 5 and December 8, 2016, to consider applications for a consolidated planned unit development (“PUD”) and a related Zoning Map amendment filed by Park View Community Partners and the District of Columbia (“Applicant”). The Commission considered the applications pursuant to Chapters 24 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”)¹. The public hearing was conducted in accordance with the provisions of Subtitle Z, Chapter 400. For the reasons stated below, the Commission **HEREBY APPROVES** the applications.

**FINDINGS OF FACT**

**The Applications, Parties, Hearings, and Post-Hearing Filings**

1. On May 13, 2016, the Applicant filed applications with the Commission for consolidated review of a PUD and a related Zoning Map amendment from the R-4 and C-2-A Zone Districts to the R-5-B and C-2-B Zone Districts for Part of Lot 849 in Square 2890 (“PUD Site”).
2. Concurrent with filing the subject applications, the Applicant and the District of Columbia Housing Authority together filed applications for a PUD and related Zoning Map amendment for the Park Morton public housing site, located at Lots 124-126 and 844 in Square 3040, Lots 128-134 and 846 in Square 3039, and Lots 18-20 in Square 3043.
3. The PUD Site has a land area of approximately 77,531 square feet and is bounded by Irving Street, N.W. to the north, Georgia Avenue, N.W. to the east, Columbia Road,

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¹ Chapter 24 and all other provisions of Title 11 DCMR were repealed on September 6, 2016, and replaced with a Chapter 3 of Subtitle 11-X. However, because these applications were set down for hearing prior to that date, the Commission’s approval was based upon the standards set forth in Chapter 24. Since the hearing was held on December 5, 2016, the procedural requirements of the 2016 Zoning Regulations were applied to this case.

N.W. and the southern portion of Lot 849 to the south, and private property to the west. At the time of filing the applications, the eastern portion of the PUD Site along Georgia Avenue was zoned C-2-A and the western portion of the PUD Site was zoned R-4. The Applicant proposes to rezone the eastern portion of the PUD Site to the C-2-B Zone District and the western portion of the PUD Site to the R-5-B Zone District.

4. The PUD Site is presently improved with a temporary park. The Applicant proposes to replace the existing facilities with a new mixed-income development that includes an apartment house, a senior building, and eight townhomes (“Project”). Approximately 44,000 square feet will remain and will be developed by the District for park and recreation uses.
5. The PUD Site is surrounded by a variety of uses, including retail, service, and dining opportunities along Georgia Avenue; a variety of elementary, middle, and high schools; Howard University; and dense residential urban development that includes townhomes, low-rise multi-family buildings, and medium-density apartment homes. The PUD Site is also well served by public transportation: the Columbia Heights Metrorail station is located approximately 0.5 miles to the west of the PUD Site, the Petworth Metrorail station is located approximately 0.5 mile to the north of the PUD Site, and there are a variety of Metrobus routes running along the surrounding corridors.
6. The Project will establish a mixed-income community with diverse housing options. The Project will include a total of 273 residential units, with 189 units in the apartment house, 76 units in the senior building, and eight townhomes. Ninety units will be public housing replacement units, 109-113 units will be workforce affordable units, and 70-74 units will be market rate.
7. The Project will also include approximately 4,545 square feet of community service/retail space in the apartment house with frontage on Georgia Avenue. The PUD Site and proposed development will serve as the “build-first” site for the Park Morton public housing site, a site that is targeted as part of the District’s New Community’s Initiative.
8. The overall PUD Site will be developed with approximately 275,747 square feet of gross floor area with a density of 3.6 floor area ratio (“FAR”). The apartment house will contain approximately 191,333 square feet of gross floor area and a maximum height of 90 feet; the senior building will contain approximately 70,817 square feet of gross floor area and a maximum height of 60 feet; and each townhome will contain approximately 1,685 square feet of gross floor area and a maximum height of 40 feet. The total lot occupancy for the PUD Site will be approximately 53%.
9. Ninety-nine on-site parking spaces will be provided in a parking garage below the apartment house and senior building. Sixteen surface parking spaces will be provided on a new 22-foot-wide private street that will be created as part of the PUD, connecting Columbia Road to Irving Street. The new street will enhance circulation through and to the PUD Site, decrease traffic congestion in the surrounding neighborhood, and

significantly improve the experience for pedestrians and bicyclists. Loading facilities for the apartment house and senior building will also be accessed from the new private street.

10. By report dated July 15, 2016, the District of Columbia Office of Planning (“OP”) recommended that the applications be set down for a public hearing. (Exhibit [“Ex.”] 14.) At its public meeting on July 25, 2016, the Commission voted to schedule a public hearing on the application.
11. The Applicant filed a prehearing submission on August 5, 2016 and a public hearing was timely scheduled for the matter. (Ex. 16-17.) On September 22, 2016, the notice of public hearing was sent to all owners of property located within 200 feet of the PUD Site; Advisory Neighborhood Commission (“ANC”) 1A, the ANC in which the PUD Site is located; ANC 1B, the ANC located adjacent to the PUD Site; Commissioner Rashida Brown, the Single Member District commissioner for ANC 1A10, and to Councilmember Brianne Nadeau. A description of the proposed development and the notice of the public hearing in this matter were published in the *DC Register* on September 30, 2016.
12. On November 4, 2016, the Applicant filed its Transportation Impact Study. (Ex. 33.) On November 15, 2016, the Applicant filed its supplemental prehearing submission. (Ex. 34-35.) The supplemental prehearing submission included: (i) revised architectural plans and elevations, and (ii) an analysis describing how the Project is not inconsistent with the Comprehensive Plan’s designation for the PUD Site as a Local Public Facility.
13. On November 28, 2016, OP submitted a hearing report. (Ex. 43.) The OP hearing report recommended approval of the application and advised that, at the public hearing, the Applicant should: (i) document flexibility for the provision of eight non-garage compact parking spaces for the townhomes; (ii) provide additional enlarged details for the townhomes and apartment house demonstrating their residential character; and (iii) provide additional information on the proposed façade materials. The OP report also noted that the application is not inconsistent with the Comprehensive Plan and would further many of its policies, while also realizing the Council-approved Park Morton Redevelopment Initiative Plan (“Park Morton Plan”). (Ex. 43, p. 1.)
14. On November 25, 2016, the District Department of Transportation (“DDOT”) submitted a hearing report. (Ex. 44.) The DDOT hearing report indicated no objection to the application subject to the conditions set forth in Finding of Fact (“FF”) No. 183 of this Order.
15. ANC 1A submitted a resolution in support of the Project, indicating that at its regularly scheduled and duly noticed public meeting of September 14, 2016, at which a quorum of commissioners was present, ANC 1A voted 10-0-0 to support the applications. (Ex. 32-32A.) The resolution stated that ANC 1A “supports the request for flexibility from zoning regulations and the community benefits,” and that the PUD “has offered a number of project amenities and public benefits commensurate with the development incentives and flexibility requested.” (Ex. 32-32A, pp. 3, 5.)

16. ANC 1B, the ANC located adjacent to the PUD Site, submitted a resolution in support of the Project, indicating that at its regularly scheduled and duly noticed public meeting of October 6, 2016, at which a quorum of commissioners was present, ANC 1B voted 7-0-0 to support the applications. (Ex. 28.) ANC 1B also noted its support for the requested zoning flexibility, and stated that the Applicant had offered a number of benefits and amenities commensurate with the development incentives and flexibility requested. (Ex. 28, pp. 2, 3.)
17. On November 21, 2016, the Park Morton Resident Council, the resident council for the individuals currently living at the Park Morton public housing site, submitted a request for party status in support of the application. (Ex. 37-38.) The Commission granted party status for the Park Morton Resident Council at the public hearing. The Resident Council stated that the redevelopment of Park Morton is long overdue, is necessary to improve the living conditions and long-term opportunities for existing Park Morton residents, and that redevelopment of the PUD Site is the way forward in order to make the redevelopment of Park Morton a reality. (Ex. 38, p. 1.) The Resident Council asserted that its residents need quality housing that is clean, safe, and a place to call home, and indicated that because the Project provides housing opportunities for both low- and moderate-income earners, it will ensure that existing Park Morton residents and others in the community will have an opportunity to live in a place that they can afford. (*Id.*)
18. The Project also received over 100 letters of support for the Project, and many individuals attended the public hearing to testify in support of the Project. (Ex. 28, 45-109, 111-147, 150, 164-165, 172-180, 193-195, 199-219.)
19. On November 14, 2016, a group of owner-residents located within 200 feet of the PUD Site (“Park Neighbors”) submitted a request for party status in opposition to the applications. (Ex. 36.) The Commission granted party status for the Park Neighbors at the public hearing.
20. On November 21, 2016, the Georgia Avenue Corridor Neighbors (“GAN”), a group of individuals that “live and work and play along the Georgia Avenue corridor” also submitted a request for party status in opposition to the applications. (Ex. 39.) The Commission denied party status for GAN at the public hearing because there was no evidence in the record indicating that GAN was more uniquely affected by the Project than others in the surrounding neighborhood.
21. The Project received several letters in opposition to the Project, which are included in the record. (Ex. 20-21, 40, 148, 151-163, 166-167, 168, 170-171, 187-188, 191, and 220-229.)
22. The parties to the case were the Applicant, ANC 1A, ANC 1B, the Park Morton Resident Council, and the Park Neighbors.

23. The Commission convened a public hearing on December 5, 2016, which was continued to December 8, 2016, and concluded that evening. At the December 5, 2016 hearing, the Applicant presented five witnesses in support of the applications: Robert Fossi and Buwa Binitie on behalf of the Applicant; Angie Rogers on behalf of the Office of the Deputy Mayor for Planning and Economic Development (“DMPED”); Sarah Alexander of Torti Gallas + Partners, architect for the Project; and Nicole White of Symmetra Design, transportation consultant for the Project. Based upon their professional experience and qualifications, the Commission qualified Ms. Alexander as an expert in architecture and Ms. White as an expert in transportation planning and engineering.
24. At the December 8, 2016 hearing, the Applicant presented its rebuttal and closing testimony through four witnesses: Angie Rogers of DMPED; Sarah Alexander of Torti Gallas + Partners; Shane Dettman, Director of Planning Services at Holland & Knight LLP, land use and planning consultant for the Project; and Marcelo Lopez of Wiles Mensch, civil engineer for the Project. Based upon his professional experience and qualifications, the Commission qualified Mr. Dettman as an expert in land use, planning, and zoning.
25. Stephen Mordfin of OP and Jonathan Rogers of DDOT testified in support of the applications at the public hearing.
26. At the conclusion of the public hearing on December 8, 2016, the Commission closed the record except for the limited purposes of allowing: (i) the Applicant to submit the specific post-hearing items filed in Exhibit 237, including an update of the Applicant’s continued discussions with the Park Neighbors; and (ii) the Park Neighbors to submit an update on their continued discussions with the Applicant.
27. On January 10, 2017, the Applicant filed its post-hearing submission, which included the following materials and information requested by the Commission at the public hearing: (i) updated architectural plans and elevations responding to comments raised at the public hearing; (ii) details and confirmation on development of the adjacent park and maintenance of the private street; (iii) updates regarding the residential use of the PUD Site; (iv) summary of the Applicant’s discussions with the Park Neighbors following the public hearing; (v) confirmation of the Applicant’s employment proffer; (vi) additional information regarding the Applicant’s request for flexibility to provide compact parking spaces on the PUD Site; (vii) a commitment to withdraw the market-rate units from residential parking permit (“RPP”) eligibility; and (viii) copies of approval letters from the District Department of Housing and Community Development (“DHCD”), the District Department of Energy and the Environment (“DOEE”), the District Fire and EMS Department (“FEMS”) and DC Water. (Ex. 237-237H.)
28. On January 10, 2017, the Park Neighbors filed its post-hearing submission, which reiterated its opposition to the Project. (Ex. 236.)

29. On January 17, 2017, the Park Neighbors submitted its proposed findings of fact and conclusions of law (Ex. 239.)
30. On January 16, 2017, ANC 1A Chairman Kent Boese submitted a letter stating a concern about the Project. (Ex. 238.) The contents of the letter and the Commission's response are discussed below.
31. On January 18, 2017, the Applicant submitted its proposed findings of fact and conclusions of law and a response to the Park Neighbor's filing of January 10, 2017. (Ex. 240-240A.)
32. On January 18, 2017, the Park Morton Residents Council submitted a letter in support of the Project, that responded to the Park Neighbors submission. (Ex. 241.)
33. At the public meeting of January 30, 2017, the Commission reviewed the additional materials submitted to the record and took proposed action to approve the applications. The Commission considered the letter submitted by the ANC 1A Chairman, and as described more fully below, agreed with his contention that the Commission should reject the proposed restriction on RPP-eligibility for the market-rate units. The Commission requested revised drawings showing views into and out of the courtyard, and building elevations.
34. The proposed action was referred to the National Capital Planning Commission ("NCPC") on February 2, 2017, pursuant to § 492 of the Home Rule Act. (Ex. 242.)
35. On February 6, 2017, the Applicant submitted its proposed proffers and conditions. (Ex. 243-244.)
36. On February 16, 2017, the Applicant submitted updated drawings responding the requests made by the Commission when it took proposed action. (Ex. 245-246.)
37. On February 28, 2017, the Applicant submitted revised proffers and conditions. (Ex. 247-248.)
38. The Executive Director of NCPC, by delegated action dated February 24, 2017, found that the Project would not be inconsistent with the Comprehensive Plan and other federal interests. (Ex. 249.)
39. The Commission took final action to approve the PUD on March 13, 2017.

#### **The PUD Site and Surrounding Area**

40. The PUD Site consists of a portion of Lot 849 in Square 2890. The PUD Site has a land area of approximately 77,531 square feet and is bounded by Irving Street, N.W. to the



north, Georgia Avenue, N.W. to the east, Columbia Road, N.W. and the southern portion of Lot 849 to the south, and private property to the west.

41. The Applicant requested a zoning map amendment to rezone the eastern portion of the PUD Site from the C-2-A Zone District to the C-2-B Zone District, and to rezone the western portion of the PUD Site from the R-4 Zone District to the R-5-B Zone District. As detailed in FF Nos. 105-128, the Commission finds that the requested map amendment is consistent with the Comprehensive Plan Future Land Use Map designation of the PUD Site as a Local Public Facility.
42. The PUD Site is located within a diverse mosaic of neighborhoods with strong identities and rich historic fabric. The PUD Site is also located adjacent to the dynamic Georgia Avenue corridor, which is one of the most rapidly changing areas of the city, but still includes significant pockets of concentrated poverty where residents lack quality housing, supportive services, and access to quality open space, healthcare, and recreation. (*See* Park Morton Plan, p. 6.)
43. The Park Morton Plan is a plan developed by DMPED and DCHA that seeks to create a healthy, mixed-income community with integrated services that offer families better housing, employment, and educational opportunities. The Park Morton Plan protects affordable housing, improves economic integration, engages residents in community decision making, decreases crime through proven crime reduction strategies, and creates opportunity through better jobs, education, training, human services and other programs. (*Id.* at 2.)
44. As part of the District's Great Street Initiative, the vision for the Georgia Avenue corridor is a revitalized, pedestrian friendly corridor anchored by mixed-use development at key sites. This vision for Georgia Avenue was conceived through the Georgia Avenue-Petworth Metro Station Area Plan, which was completed in 2004. A number of planned and under-construction private developments are leading to the revitalization of the broader neighborhood, and several public investments are being made on the Georgia Avenue corridor. (*Id.* at 7.)
45. The Georgia Avenue-Petworth Metro Station Area Plan provides a framework to guide growth and development on Georgia Avenue while preserving and enhancing the quality of life in the community. To ensure that neighborhood and city-wide concerns were balanced, the Plan is designed to leverage the public investment of the Georgia Avenue-Petworth Metro Station and employ transit-oriented development principles; balance growth and development by identifying and guiding opportunities for redevelopment; identify strategies to encourage a better mix of uses, including quality neighborhood-serving retail and housing; maintain and enhance neighborhood character; and prioritize when and where public investment should occur. See Overview of Georgia Avenue-Petworth Metro Station Area Plan at OP's website, available at <http://planning.dc.gov/page/georgia-avenue-petworth-metro-station-and-corridor-plan-ward-1-and-ward-4>.

### **Existing and Proposed Zoning**

46. The eastern portion of the PUD Site along Georgia Avenue is presently zoned C-2-A, and the western portion of the PUD Site is presently zoned R-4. As a matter of right, property in the C-2-A Zone District can be developed to a maximum building height of 50 feet, a maximum density of 2.5 FAR, and a maximum lot occupancy of 60%. (11 DCMR §§ 770.1, 771.2 and 772.1.) As a matter of right, property in the R-4 Zone District can be developed to a maximum building height of 40 feet and three stories. (11 DCMR § 400.1.) The maximum lot area and width for a row dwelling or flat in the R-4 Zone District is 1,800 square feet and 18 feet, respectively. (11 DCMR § 401.3.)
47. The Applicant proposes to rezone the PUD Site to the C-2-B and R-5-B Zone Districts. The C-2-B Zone District is designated to serve commercial and residential functions similar to the C-2-A Zone District, but with high-density residential and mixed uses. (11 DCMR § 720.6.) The C-2-B Zone Districts shall be compact and located on arterial streets, in uptown centers, and at rapid transit stops. (11 DCMR § 720.7.) In the C-2-B District, building use may be entirely residential or a mixture of commercial and residential uses. (11 DCMR § 720.8.)
48. The C-2-B Zone District permits, as a matter of right, a maximum building height of 65 feet, a maximum density of 3.5 FAR, and a maximum lot occupancy of 80%. (11 DCMR §§ 770.1, 771.2 and 772.1.) For projects subject to the Inclusionary Zoning (“IZ”) regulations, a maximum height of 70 feet and a maximum density of 4.2 FAR is permitted. (11 DCMR § 2604.1.) For a PUD in the C-2-B Zone District, a maximum building height of 90 feet and a maximum density of 6.0 FAR is permitted. (11 DCMR §§ 2405.1 and 2405.2.)
49. The R-5-B Zone District permits, as a matter of right, a maximum building height of 50 feet with no limit on the number of stories, a maximum density of 1.8 FAR, and a maximum lot occupancy of 60%. (11 DCMR §§ 400.1, 402.4, and 403.2.) For projects subject to the IZ regulations, a maximum density of 2.16 FAR is permitted. (11 DCMR § 2604.1.) For a PUD in the R-5-B Zone District, a maximum building height of 60 feet and a maximum density of 3.0 FAR is permitted. (11 DCMR §§ 2405.1 and 2405.2.)
50. Consistent with the C-2-B and R-5-B development parameters, the Applicant will develop the PUD Site with a mixed-income community comprised of an apartment house, a senior building, and eight townhomes. A tabulation of the PUD’s development data is included on Sheets G11-G13 of the Architectural Plans and Elevations dated January 10, 2017 (the “Plans”). (Ex. 237A.)

### **Description of the PUD Project**

51. As shown on the Plans, the Applicant is seeking a consolidated PUD and Zoning Map amendment to redevelop the PUD Site with a mixed-income community with a variety of



residential unit types and new public open space. The Project will have superior design that has a contemporary identity while contributing to the spirit of the emerging growth along the Georgia Avenue corridor.

52. The Project will include a total of 273 residential units, with 189 units in the apartment house, 76 units in the senior building, and eight townhomes. The new residential units will be as follows: 90 units will be public housing replacement units, 109-113 units will be workforce affordable units, and 70-74 units will be market rate. The Project will also include approximately 4,545 square feet of community service/retail space with frontage on Georgia Avenue. The PUD Site and proposed development will serve as the “build-first” site for the Park Morton public housing site, a site that is targeted as part of the District’s New Community’s Initiative. “Build-first” is the principle of developing new housing prior to the demolition of existing housing stock in order to minimize displacement and disruption of existing residents.
53. Due to the extensive amount of public and affordable housing developed on the PUD Site, the Project is exempt from the IZ Regulations. The public and affordable housing will be provided as set forth below:

Residential Unit Type	GFA/Percentage of Total	Units	Income Type	Affordable Control Period	Affordable Unit Type
<b>Total</b>	275,747 sf of GFA (100%)	273			Rental
<b>Market Rate</b>	71,694 sf of GFA (26%)	70-74	Market Rate	NA	Rental
<b>Public Housing Replacement Units</b>	90,997 sf of GFA (33%)	90	HUD Requirements/ LIHTC Rules	Life of the Project	Rental
<b>Affordable Housing</b>	113,056 sf of GFA (41%)	109-113	Up to 60% AMI	Life of the Project	Rental

54. The overall PUD Site will be developed with approximately 275,747 square feet of gross floor area (3.6 FAR). The apartment house will contain approximately 191,333 square feet of gross floor area and a maximum height of 90 feet; the senior building will contain approximately 70,817 square feet of gross floor area and a maximum height of 60 feet; and each townhome will contain approximately 1,685 square feet of gross floor area and a maximum height of 40 feet. The total lot occupancy for the PUD Site will be approximately 53%.
55. Ninety-nine on-site parking spaces will be provided in a parking garage below the apartment house and senior building. Sixteen surface parking spaces will be provided on a new 22-foot-wide private street that will be created as part of the PUD, connecting Columbia Road to Irving Street. The new street will provide access to parking, loading, and trash facilities for the apartment house and senior building; it will enhance circulation

through and to the PUD Site, decrease traffic congestion in the surrounding neighborhood, and significantly improve the experience for pedestrians and bicyclists. Shared loading facilities for the apartment house and senior building will also be accessed from the new private street.

56. The Project will serve as “off-site” replacement public housing for the Park Morton site, in order to meet the Guiding Principles of the New Communities Initiative and the Park Morton Plan. In particular, the Project helps the District to achieve the principle of “build-first,” wherein new housing is built in the immediate neighborhood of public housing prior to its demolition. To date, 27 replacement public housing units have already been built for Park Morton residents at The Avenue, located at 3506 Georgia Avenue, N.W., which delivered in 2012. The Project will provide an additional 90 replacement public housing units, thus creating a true “build-first” experience. The remaining 57 replacement public housing units will be reconstructed at Park Morton. Development of the PUD Site and Park Morton will be implemented by the same master development team.
57. As indicated by DMPED, implementation of the build-first principle through the Project serves several key purposes. First, it minimizes displacement and the need for temporary relocation of Park Morton residents, while maximizing the opportunities for one-time, permanent moves. Second, it allows for the phased redevelopment of Park Morton while keeping existing residents on-site. Third, the Project spreads the density of the total Park Morton redevelopment, as conceived under the Park Morton Plan, across multiple land parcels in order to achieve the New Communities Initiative’s Guiding Principles of one-for-one replacement of public housing units and mixed-income development. The development program for the PUD Site, paired with the redevelopment of Park Morton, incorporates a unit mix that accommodates the housing needs of current families of Park Morton.
58. The apartment house and the senior building will each have a private courtyard for use by building residents. The apartment house’s courtyard will be bounded on three sides by the building itself, and will be open on the fourth side to adjacent property that will be developed as a park. The senior building’s courtyard will be bounded on two sides by the building, on one side by the apartment house, and on the fourth side by Irving Street to the north. Both courtyards will be extensively landscaped. The townhomes will each have a front yard, rear yard, and a path connecting the sidewalk to the front stoop. The townhomes will have frontage along the new north-south private street developed as part of the Project.
59. The apartment house’s residential lobby entrance will be located at the corner of Georgia Avenue and Irving Street, and the ground-floor community/retail space will be located along Georgia Avenue to activate the street and enhance the pedestrian experience. The senior building’s residential lobby entrance will be located on the corner of Irving Street and the new private street.

60. The landscape design for the Project will include significant public space enhancements and ample outdoor green space. The Applicant will improve the sidewalks along Georgia Avenue, Irving Street, and Columbia Road through new plantings, street trees, and sidewalk connections to the new public park. The new private street will provide a mid-block pedestrian connection with trees lining both sides.
61. The Project's design contains various features to provide a superior quality of architecture and break up the buildings' massings into distinct elements. The apartment house will include bay windows and a corner glass element to create an iconic presence on Georgia Avenue. The senior building will respond to its context by stepping down in height along Irving Street to respect the lower density of the adjacent rowhouses. The townhomes will relate in massing to the surrounding rowhouse context while also mimicking the character of the multi-family buildings to create a unified language of architecture on the PUD Site.
62. The Project will incorporate durable and time-tested materials in a contemporary language for a design that will endure and enhance the identity of the neighborhood. The distinct architectural styles of the apartment house and senior building will follow a consistent color scheme through the use of contrasting colors. Large display windows, corner entrances, varied materials, and balcony and bay elements will create a residential, human-scaled design and enhance the pedestrian experience.
63. In addition, the Project will integrate a host of sustainable, environmentally friendly features, such that the apartment house and senior building will be certified with a minimum of 57 points under the Enterprise Green Communities ("EGC") standards, and the townhomes will be certified with a minimum of 50 points under the EGC standards. *See* Conceptual Enterprise Green Communities scorecards included with the Plans. Certification under the EGC standards only requires a minimum of 30 points.

### **Zoning Flexibility**

64. The Applicant requested the areas of flexibility from the Zoning Regulations discussed below.
65. Multiple Buildings on a Single Record Lot. Pursuant to 11 DCMR § 2516, the Applicant requests flexibility to permit multiple buildings on a single record lot, with some buildings having no frontage on a public street. The eight townhomes, which consist of two semi-detached dwellings (the end units) and six row dwellings (the middle units) will be located on a single record lot fronting the new private street. Although the south side of the lot has frontage on Columbia Road, allowing the southernmost semi-detached dwelling to front a public street, the remaining seven units will front a private street. Thus, the Applicant proposes dividing the lots into theoretical building sites, thus necessitating relief pursuant to 11 DCMR § 2516.

66. The Applicant provided a thorough analysis of how the Project complies with the standards set forth in 11 DCMR §§ 2516.2-2516.11 and 3104.1. (Ex. 6D.) OP also reviewed the flexibility and found that the request was reasonable given that each townhome would “face a street that would be open to vehicular and pedestrian traffic, allowing for vehicular and pedestrian access to those units.” (Ex. 43, p. 7.) Based upon the Applicant’s detailed analysis and OP’s review and support for the flexibility, the Commission finds that locating multiple townhomes on a single record lot, and permitting seven of the townhomes to have no street frontage, is appropriate in this case and will be in harmony with the general purpose and intent of the Zoning Regulations and zoning map and will not tend to affect adversely the use of neighboring property.
67. Side and Rear Yards. The Applicant proposes to incorporate a new north-south private street through the PUD Site in order to create small, walkable blocks and an enhanced sense of community. Given these constraints, as well as the desire to have reasonable footprints and layouts for the proposed buildings, the Applicant requests side yard relief for the apartment house, senior building, and the two end townhomes, and rear yard relief for the apartment house and the senior building.
68. The apartment house has a side yard of 10 feet along Georgia Avenue; the senior building has a side yard of four feet along the new private street; and the two end townhomes have side yards of three feet (northern-most townhome) and nine feet, three inches (southern-most townhome). Although the Applicant is seeking flexibility, side yards are not required by the Zoning Regulations. However, the Applicant is providing the side yards to create additional open space, light, air, and ventilation for the occupants of the buildings.
69. Rear yard relief is necessary for the apartment house, which has a rear yard depth of five feet, and the senior building, which has a rear yard depth of eight feet. Granting flexibility for the rear yards will not result in any adverse impacts because the rear yards are located adjacent to the proposed new public park, which will provide significant light and air to building residents, despite the substandard rear yard depth. Moreover, both the senior building and the apartment house have large courts at the ground level that can be accessed for exterior use and provide additional light and air.
70. Based on the foregoing, the Commission finds that the reduced side and rear yard dimensions will allow for an improved site layout over what is permitted as a matter of right, and will not result in any adverse impacts. Providing the minimum required side and rear yards would adversely impact the layout and design of the Project and would hinder the Applicant’s ability to provide a reasonable footprint and layout for the proposed buildings. As noted by OP, reducing the width of the side yards will “allow for more continuity in the street walls, consistent with existing development,” and increasing the size of the new public park at the expense of the rear yard depth will “benefit the entire community as a whole, allowing additional open space not associated with the apartment buildings. As the two apartment buildings back onto the [] park the reduce[d] size of their rear yards would not be readily apparent.” (Ex. 43, p. 7.) Thus based on the

Applicant's submission to the record and the support from OP, the Commission approves the requested side yard and rear yard relief.

71. Loading. Subsection 2201.1 of the Zoning Regulations requires one loading berth at 30 feet deep and one loading berth at 55 feet deep; one loading platform at 100 square feet and one loading platform at 200 square feet; and one service/delivery space at 20 feet deep for the Project. The Applicant proposes to provide two loading berths at 30 feet deep, one loading platform at 100 square feet, and one service/delivery space at 20 feet deep, thus necessitating flexibility.
72. The Commission finds that the proposed loading facilities are appropriate for the type of residential development provided, and that the requested flexibility is consistent with the Comprehensive Plan's recommendations to consolidate loading areas within new developments, minimize curb cuts to the greatest extent possible, and provide shared loading spaces. The Applicant proposes to provide shared loading facilities for the apartment house and senior building, which will limit the amount of space dedicated to loading and minimize the number and extent of curb cuts. Given the nature and size of the residential units, residents are not anticipated to need a 55-foot berth to move in and out of the buildings. Moreover, the Commission agrees with OP that because the buildings are designed to share one garage, "the sharing of the loading facilities is logical and in an amount sufficient to serve those buildings." (Ex. 43, p. 7.) Thus, the Commission concludes that the loading facilities as proposed will not create any adverse impacts and will adequately serve the proposed residential development on the PUD Site.
73. Lot Occupancy. The Applicant requests flexibility from the lot occupancy requirements for the senior building. Pursuant to 11 DCMR § 772.1, 60% lot occupancy is required, but the Applicant proposes to provide 68% lot occupancy.
74. The senior building is surrounded by Irving Street to the north, a large open court and the apartment house to the east, the community park to the south, and the newly created private street to the west. Thus, although the Applicant proposes to increase the lot occupancy to eight percent more than permitted, there is still significant open space surrounding the building. Together, the court, park, and surrounding streets will provide significant light, air, and ventilation to building residents, and the court and park will provide high-quality exterior amenity spaces. Moreover, the overall lot occupancy for the PUD Site is 53%, which is well within the 60% lot occupancy permitted. Therefore, the Commission finds that the non-compliant lot occupancy for the senior building will not result in any negative impacts to building residents or surrounding properties.
75. Compact Parking Spaces. Subsection 2116.1 of the Zoning Regulations requires parking spaces to be located on the same lot as the building that it serves. Subsection 2115.1 provides that all required parking spaces must be a minimum of nine feet width and 19 feet in length. Subsection 2115.2 provides that any accessory parking area containing 25 or more required parking spaces may designate up to 40% of the parking spaces for compact cars. In this case, the Applicant proposes to provide 16 surface parking spaces

located on the private street within the PUD Site, eight of which will be reserved for the eight townhome units, and all of which will be compact in size and measure 7'x20'. Thus, flexibility from §§ 2116 and 2115 is required because the parking spaces are not located on the same lot as the townhomes that they serve, the parking area contains less than 25 spaces, and because all 16 spaces will be compact in size and measure 7'x 20'.

76. The Commission finds that flexibility is appropriate in this case. Locating an off-street parking space on each townhome lot is not practical because the townhomes do not have rear vehicular access. The Applicant designed the townhomes without a rear alley in order to minimize traffic adjacent to the existing row dwellings to the west of the PUD Site. Providing a parking space at the front of the townhomes is also not practical because doing so would create an unwanted physical and visual barrier between the townhomes, the public park, and the other buildings on the PUD Site, thus upsetting the PUD Site's continuity. Providing parking on the private street in front of the townhomes will be convenient to its occupants and will not have any adverse impacts on the neighborhood, and results in more spaces being provided than would be if all spaces were full size.
77. Moreover, the Commission finds that providing all of the 16 spaces as compact spaces will maximize efficiency of the private street. The compact spaces are only compact in terms of their width, not their length, which is necessary in order to meet the drive aisle width requirements for the new private street. Decreasing the street width in order to increase the width of the compact spaces would have the adverse effect of: (i) reducing the rear yard depths for the adjacent townhomes (to the west of the street), and/or (ii) reducing the width of the sidewalk adjacent to the park (to the east of the street). Therefore, the Commission finds that the requested flexibility allows for the most efficient use of the PUD Site, will not have any adverse effects, and will allow the Applicant to most effectively provide parking for the project's residents.
78. Phasing. Pursuant to 11 DCMR § 2408.8, PUDs approved by the Commission are valid for a period of two years, within which time an applicant must file for a building permit. Pursuant to 11 DCMR § 2408.9, construction of a PUD must begin within three years of the date of final approval. The Applicant proposes that the final PUD should be valid for a period of six years, and that construction must begin within seven years of the date of final approval.
79. The Commission finds that this request is appropriate in this case because extending the PUD approval timeline will minimize displacement for current Park Morton residents. As set forth in the Applicant's Phasing Plan, the Applicant proposes to redevelop the PUD Site and the Park Morton site in phases (Bruce Monroe first, and Park Morton second), which will allow for a true "build-first" scenario and properly respect the living conditions of the existing Park Morton residents. (Ex. 6B.) Thus, the Commission finds that the proposed PUD Phasing is appropriate and necessary in this case.



## **Development Flexibility**

80. The Applicant also requests flexibility in the following additional areas:
- a. To be able to provide a range in the number of residential units of plus or minus 10%;
  - b. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the buildings;
  - c. To vary or reduce the number, location and arrangement of parking (vehicular and bicycle) spaces, provided that the total is not reduced below the number required under the Zoning Regulations;
  - d. To vary the sustainable design features of the Project, provided the total number of points achievable for the apartment house and senior building is not below 57 points, and the points achievable for the townhomes is not below 50 points utilizing the EGC rating standards;
  - e. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and to make minor refinements to exterior details, locations, and dimensions, including: window mullions and spandrels, window frames, doorways, glass types, belt courses, sills, bases, cornices, railings, canopies and trim; and any other changes in order to comply with all applicable District of Columbia laws and regulations that are otherwise necessary to obtain a final building permit; and
  - f. To vary the features, means and methods of achieving: (i) the code-required Green Area Ratio (“GAR”) of 0.3 for the apartment house and 0.4 for the senior building; and (ii) storm water retention volume and other requirements under 21 DCMR Chapter 5 and the 2013 Rule on Stormwater Management and Soil Erosion and Sediment Control.
81. The Commission does not approve the requested flexibility related to parking spaces for three reasons. First, the Applicant did not adequately explain why it needs the flexibility. Second, the flexibility requested contradicts several conditions the Applicant proposed to mitigate potential adverse effects of the project on neighborhood parking, made in response to testimony at the hearing. And third, the flexibility undermines the justification of the finding the Commission makes in this Order that the project would not result in increased demand for parking on existing public streets, which was based on the number of spaces included in the Project. The Commission also only partially granted

the Applicant's request for flexibility in the final selection of the exterior materials because it believes the Applicant's request was overly broad.

### **Project Benefits and Amenities**

82. Urban Design, Architecture, and Open Space (11 DCMR § 2403.9(a)). The Project will implement a number of best planning practices within a site that has not seen significant improvement or redevelopment for decades. These practices include creating density to establish a renewed neighborhood, incorporating a variety of building heights and residential unit types, introducing a new private street that will enhance circulation, and establishing new open green spaces that are adequately lit and easily surveyed. The proposed architecture is appropriately scaled to match the diverse mixed-use character of the surrounding neighborhood, and the buildings will be made of high quality materials that will blend well with the surrounding urban context. The landscape design includes large courtyards, significant public space enhancements, and ample outdoor green space. Improved sidewalks along Georgia Avenue, Irving Street, and Columbia Road will provide for a better pedestrian experience through the use of street trees, landscaping, and sidewalk connections to the park and the new private street will provide a pedestrian mid-block connection with trees lining both sides.
83. Housing and Affordable Housing (11 DCMR § 2403.9(f)). The Project's most significant benefit is the creation of new housing, including public housing replacement units and additional new affordable housing units, consistent with the goals of the Zoning Regulations, the Comprehensive Plan, the New Communities Initiative, and the Mayor's housing initiative. The Project will provide 90 off-site replacement public housing units for Park Morton, allowing new public housing to be built prior to the demolition of existing public housing. Coordinated redevelopment of the PUD Site and Park Morton will minimize displacement, maximize opportunities for permanent moves, allow for phased redevelopment of Park Morton to keep existing residents on-site, and spread the density of Park Morton across multiple land parcels in order to achieve a one-for-one replacement of public housing units and mixed-income development.
84. Pursuant to Chapter 26 of the Zoning Regulations, the Project is only required to dedicate eight percent or 10% of its residential gross floor area to households earning up to 80% of the AMI.<sup>2</sup> In this case, the Project includes a significantly greater amount of affordable housing and at a much steeper subsidy level.
85. The Project includes a total of 273 residential units, of which 90 units will be public housing replacement units, 109-113 units will be workforce affordable units, and 70-74 units will be market rate. Thus, approximately 74% of the units in the Project will be devoted to affordable housing.

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<sup>2</sup> In the C-2-B Zone District, eight percent of residential gross floor area is required to be devoted to households earning up to 80% of the AMI. In the R-5-B Zone District, 10% of residential gross floor area is required to be devoted to households earning up to 80% of the AMI. (11 DCMR §§ 2603.1 and 2603.2.)

86. The Project also includes a variety of housing types to serve households of all sizes. The townhomes will each have three bedrooms; the apartment building will have studio, one-bedroom, two-bedroom, and three-bedroom units; and the senior building will have one-bedroom units. This housing mix is carefully designed to meet local demand and to contribute to a vibrant, diverse, safe, and functional neighborhood.
87. The breakdown of affordable housing by gross floor area and level of affordability is set forth below:

Residential Unit Type	GFA/Percentage of Total	Units	Income Type	Affordable Control Period	Affordable Unit Type
<b>Total</b>	275,747 sf of GFA (100%)	273			Rental
<b>Market Rate</b>	71,694 sf of GFA (26%)	70-74	Market Rate	NA	Rental
<b>Public Housing Replacement Units</b>	90,997 sf of GFA (33%)	90	HUD Requirements/ LIHTC Rules	Life of the Project	Rental
<b>Affordable Housing</b>	113,056 sf of GFA (41%)	109-113	Up to 60% AMI	Life of the Project	Rental

88. Environmental Benefits (11 DCMR § 2403.9(h)). The Project promotes environmental sustainability by implementing a variety of sustainable design features. The proposed site plan opens the PUD Site to the surrounding community by creating a new private street, ensuring increased pedestrian access to public transportation options, and maximizing green park space. The Project also provides environmental benefits consistent with the recommendations of 11 DCMR § 2403.9(h), including new landscaping, street tree planting and maintenance, energy efficient and alternative energy sources, methods to reduce stormwater runoff, and green engineering practices. The Project will be designed to integrate a host of sustainable features, such that the apartment house and senior building will be certified with a minimum of 57 points under the EGC standards, and the townhomes will be certified with a minimum of 50 points under the EGC standards. *See* Conceptual EGC scorecard included with the Plans.
89. Employment and Training Opportunities (11 DCMR § 2403.9(e)). The Applicant has indicated that expanding employment opportunities for residents and local businesses is a priority of the Applicant. Therefore, the Applicant will: (i) enter into a Certified Business Enterprise (“CBE”) Agreement with the District Department of Small and Local Business Development (“DSLBD”); (ii) enter into a First Source Employment Agreement with the District Department of Employment Services (“DOES”), consistent with the First Source Employment Agreement Act of 1984; and (iii) meet the U.S. Department of Housing and Urban Development’s (“HUD”) Section 3 requirements by providing job training, employment, and contract opportunities for low- or very-low income residents in

connection with development of the Project. The Commission finds that execution of these agreements constitutes a public benefit under 11 DCMR § 2403.9(e).

90. Transportation Benefits (11 DCMR §2403.9(c)). The Applicant incorporated a number of elements into the Project that will promote effective and safe access to the PUD Site, convenient connections to public transit services, and on-site amenities that encourage pedestrian and bicycle activity. The Project includes a new north-south private street that connects Irving Street to Columbia Road, thus creating new access points and enhanced circulation in the square. The new street will have sidewalks on both sides, incorporate pedestrian-oriented streetscape features, establish improved facilities for vehicles, bicyclists, and pedestrians, and increase community safety. The overall Project incorporates designs for enhanced sidewalks and streetscapes, which will encourage pedestrian activity and improve walkability.
91. Vehicle parking will primarily be provided below-grade to preserve green space and minimize spill-over parking onto the surrounding streets. Access to the parking and loading facilities will be made from the private street. Ample and secure long- and short-term bicycle parking will be provided.
92. The Applicant will also install the following infrastructure improvements, as requested by DDOT:
  - a. Install pavement marking enhancements to a stop bar on Georgia Avenue at Hobart Place to better delineate stopping locations as a means to manage queue lengths; and
  - b. Install pavement markings (i.e., “puppy tracks”) at the study area intersections along Georgia Avenue, subject to DDOT approval.

### **Transportation Demand Management**

93. In addition to the transportation amenities described above, the Applicant will implement the following transportation demand management (“TDM”) strategies to reduce travel demand:
  - a. Offer each apartment unit and townhome an annual carsharing membership or an annual Capital Bikeshare membership for a period of three years;
  - b. Provide, as a one-time incentive, 189 helmets for apartment building occupants and eight helmets for townhome occupants;
  - c. Offer a pre-loaded \$10 SmarTrip card for each residential unit in the apartment house, senior building, and townhome, at the initial sale or lease of each unit;

- d. Unbundle the cost of parking spaces from the cost of lease or purchase of the market-rate units;
- e. Provide two on-street carsharing spaces on the new private street;
- f. Provide a bicycle repair station in the apartment building;
- g. Install a transit screen in the lobby of the apartment house and senior building (two total);
- h. Post all TDM commitments online;
- i. Designate a TDM leader;
- j. Provide 90 long-term and 16 short-term bicycle parking spaces; and
- k. Provide six shopping carts for multi-family residential tenants to run daily errands.

#### **Consistency with District Plans and Policies**

- 94. As set forth below, the Commission finds that the Project is consistent with the Generalized Policy Map and Future Land Use Map, advances the purposes of the Comprehensive Plan, complies with the guiding principles in the Comprehensive Plan, and furthers a number of the major elements of the Comprehensive Plan. The Commission also finds that the Project is consistent with the Petworth Metro Station Area and Corridor Plan Revitalization Strategy (the "Strategy Plan"), the Park Morton Plan, and the District's New Communities Initiative.

#### **Interpretation of the Comprehensive Plan**

- 95. The Comprehensive Plan guides the District's development, both broadly and in detail. (10A DCMR § 103.2.) The Comprehensive Plan includes detailed maps and policies for the physical development of the District, and addresses social and economic issues that affect and are linked to the development of the city and its citizens. The Plan allows the District to ensure that its resources are used wisely and efficiently and that public investment is focused in the areas where it is needed most. (10A DCMR § 100.14.)
- 96. The Comprehensive Plan "is a broad framework intended to guide future land use planning decisions for the District." (*Tenley & Cleveland Park Emer. Comm. v. D.C. Bd. of Zoning Adjustment*, 550 A.2d 331, 337 (D.C. 1988).) It has several purposes, including "[d]efin[ing] the requirements and aspirations of District residents, and accordingly influenc[ing] social, economic, and physical development" and "[a]ssist[ing] in the conservation, stabilization, and improvement of each neighborhood and community in the District." (D.C. Code § 1-306.01(b)(1), (6).)

97. The Comprehensive Plan includes Citywide Elements that each address a topic that is citywide in scope, and Area Elements that focus on issues that are unique to particular parts of the District. (10A DCMR §§ 104.4-104.5.) It also includes a Generalized Policy Map and a Future Land Use Map, which are incorporated as part of the plan and provide the foundation for land use decision-making and zoning. (10A DCMR § 108.3.) Subsection 226.1(d) of the Comprehensive Plan provides that the “zoning of any given area should be guided by the Future Land Use Map, interpreted in conjunction with the text of the Comprehensive Plan, including the citywide elements and the area elements, as well as approved Small Area Plans.” In this case, the Commission finds that the Future Land Use Map designations, combined with the text of the Comprehensive Plan, have appropriately guided the proposed use and development of the PUD Site.
98. The Commission notes that the Comprehensive Plan, including the Future Land Use Map and the Generalized Policy Map, is not a code of compulsory requirements. (10A DCMR § 226.1; *Durant I v. Dist. Of Columbia Zoning Comm’n*, 65 A.3d 1161, 1168 (D.C. 2013).) Rather the Comprehensive Plan is “an interpretative guide, which the Commission must consider holistically.” (*Durant I*, 65 A.3d at 1168; cf. *Tenley & Cleveland Park*, 550 A.2d at 338 (“[a]lthough the Plan serves as an important policy guide, its legal mandate is more limited. Except as provided by other law or the Plan itself, the District elements are advisory”).)
99. Moreover, even if a PUD application arguably “conflicts with one or more individual policies associated with the Comprehensive Plan, this does not, in and of itself, preclude the Commission from concluding that the action would be consistent with the Comprehensive Plan as a whole.” (*Durant I*, 65 A.3d at 1168.) The Comprehensive Plan reflects numerous “occasionally competing policies and goals,” and, “[e]xcept where specifically provided, the Plan is not binding.” (*Id.* at 1167, 1168 (internal quotation marks omitted).) Thus “the Commission may balance competing priorities” in determining whether a PUD is consistent with the Comprehensive Plan as a whole. (*D.C. Library Renaissance Project/West End Library Advisory Grp. v. District of Columbia Zoning Comm’n*, 73 A.3d 107, 126 (D.C. 2013).)

### **Generalized Policy Map**

100. **The Project is Consistent with the Generalized Policy Map.** The Comprehensive Plan Generalized Policy Map designates the eastern portion of the PUD as a Main Street Mixed Use Corridor and the western portion of the PUD Site as a Neighborhood Conservation Area. Main Street Mixed Use Corridors are traditional commercial business corridors with a concentration of older storefronts along the street. Their common feature is that they have a pedestrian-oriented environment with traditional storefronts. Many have upper-story residential or office uses. Conservation and enhancement of these corridors is desired to foster economic and housing opportunities and serve neighborhood needs. Any development or redevelopment that occurs should support transit use and enhance the pedestrian environment. (10A DCMR § 223.14.)



101. The Commission finds that the proposed rezoning and redevelopment of the PUD Site is consistent with the policies indicated for Main Street Mixed Use Corridors. The proposed C-2-B Zone District for the eastern portion of the PUD Site is consistent with the physical character and development objectives established for Main Street Mixed-Use Corridors. For example, the Project is sensitive to Georgia Avenue as a traditional commercial business corridor. Georgia Avenue includes commercial properties, older storefronts, and sidewalks on both sides of the street. The PUD will conserve this existing character by bringing new developed frontage to Georgia Avenue, improving the pedestrian experience through streetscape enhancements and pedestrian-oriented amenities, and increasing safety by putting additional eyes and ears on the street. Moreover, the PUD will bring significant new housing to the area, which will foster economic development for the existing businesses along Georgia Avenue and will attract new business and investment to the corridor. For these reasons, the Commission concludes that the eastern portion of the PUD Site is consistent with the Main Street Mixed-Use Corridor designation on the Generalized Policy Map.
102. The Framework Element describes Neighborhood Conservation Areas as areas that “have very little vacant or underutilized land. They are primarily residential in character. Maintenance of existing land uses and community character is anticipated over the next 20 years. Where change occurs, it will be modest in scale and will consist primarily of scattered site infill housing, public facilities, and institutional uses. Major changes in density over current (2005) conditions are not expected but some new development and reuse opportunities are anticipated.” (10A DCMR § 223.4.) “The guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods. Limited development and redevelopment opportunities do exist within these areas but they are small in scale. The diversity of land uses and building types in these areas should be maintained and new development and alterations should be compatible with the existing scale and architectural character of each area. Densities in Neighborhood Conservation Areas are guided by the Future Land Use Map. (10A DCMR § 223.5.)
103. The Commission finds that the proposed zoning map amendment to the R-5-B Zone District and the corresponding residential development on the western portion of the PUD Site is consistent with the objectives set forth for Neighborhood Conservation Areas. The western portion of the PUD Site will replace an underutilized portion of the PUD Site with lower-scale residential uses that respect the neighborhood’s existing architectural character and scale. The southwestern-most portion of the PUD Site (closest to the existing row dwellings on the north side of Columbia Road) will be developed with corresponding new townhomes, built to a maximum height of 40 feet and set back from the existing dwellings. The new townhomes will front onto the new private street and will be sited along traditional sidewalks and landscaping. The Commission finds that the proposed development on this portion of the PUD Site will enhance the established neighborhood and, as described in more detail below, the new development will be compatible with the general existing scale and character of the area.

104. The northwestern-most portion of the PUD Site (near the existing row dwellings on the south side of Irving Street) will be developed with the 60-foot tall senior building. The senior building will be separated from the closest existing row dwellings by a new private street, sidewalks, and landscaping, such that approximately 60 linear feet will be provided between the senior building and the closest row dwellings, thus creating a setback distance that is equal to the height of the senior building. The senior building mimics many other apartment houses that have been built as infill developments in the area. Thus, because the townhomes and senior building respect and maintain the existing scale and character of the surrounding neighborhood, the Commission concludes that this portion of the Project is consistent with the Neighborhood Conservation Area designation on the Generalized Policy Map.

### **Future Land Use Map**

105. The Future Land Use Map shows the general character and distribution of recommended and planned uses across the city. (10A DCMR § 200.5.) The Future Land Use Map is “intended to provide generalized guides for development and conservation decisions.” (10A DCMR § 206(a).) The land use category definitions on the Future Land Use Map describe the general character of development in each area, citing typical building heights (in stories) as appropriate. (10A DCMR § 226.1(c).) However, the granting of density bonuses (for example, through PUDs) may result in heights that exceed the typical ranges cited. (*Id.*) The densities within any given area on the Future Land Use Map “reflect all contiguous properties on a block,” but there may be “individual buildings that are higher or lower than these ranges within each area.” (*Id.*)
106. The Comprehensive Plan does not require that each block “strictly correspond” with the general description of the associated land use designation on the Future Land Use Map. (*See* Z.C. Order No. 08-15, Finding of Fact No. 74(a) (stating that each block need not strictly correspond with the general description).) Indeed, the “Future Land Use Map is not a zoning map. Whereas zoning maps are parcel-specific, and establish detailed requirements for setbacks, height, use, parking, and other attributes, the Future Land Use Map does not follow parcel boundaries and its categories do not specify allowable uses or dimensional standards. By definition, the Map is to be interpreted broadly.” (10A DCMR § 226.1(a); Ex. 233, p. 4.)
107. The District of Columbia Comprehensive Plan Future Land Use Map designates the PUD Site in the Local Public Facilities land use category. The Local Public Facilities designation includes the following:

“land and facilities occupied and used by the District of Columbia government or other local government agencies (such as WMATA), excluding parks and open space. Uses include public schools including charter schools, public hospitals, government office complexes, and similar local government activities. Because of the map scale, local public facilities smaller than one acre—including some of the District’s libraries, police and fire stations, and similar uses—may not appear on

the Map. Zoning designations vary depending on surrounding uses.” (10A DCMR § 225.15.)

108. **Interpretation of the Local Public Facilities Designation.** The Commission credits the testimony of Mr. Dettman, who was qualified as an expert in land use, planning, and zoning at the public hearing, and who asserted that the PUD Site’s Future Land Use Map designation, combined with the text of the Comprehensive Plan, have appropriately guided the planning and design of the PUD. (Ex. 233, p. 4.)
109. The Comprehensive Plan states that the intent of the Future Land Use Map is to show use rather than ownership. The Local Public Facilities designation includes high-impact uses such as solid waste transfer stations and stadiums, as well as low-impact uses such as schools. (10A DCMR § 226(g).) Importantly, the Future Land Use Map does not show density or intensity on Local Public Facilities sites. Therefore, the Comprehensive Plan states that if a change in use occurs on these sites in the future (for example, a school becomes surplus or is redeveloped), the new designations should be comparable in density or intensity to those in the vicinity. (10A DCMR § 226(h) (*emphasis added*); Ex. 233, p. 3.)
110. This Commission has previously applied the standard of 10A DCMR § 226(h) in approving PUDs and zoning map amendments for properties designated in the Local Public Facilities category on the Future Land Use Map as follows:
  - a. In Z.C. Order No. 06-31, the Commission granted a consolidated PUD and a Zoning Map amendment from the R-5-B Zone District to the C-2-B Zone District for property located at 5220 Wisconsin Avenue, N.W. The Commission found that the PUD and map amendment applications were not inconsistent with that site’s partial designation as a Local Public Facility based on (i) the “general character of the area,” (ii) the existing surrounding zone districts, (iii) the existence of many surrounding projects developed as PUDs, and (iv) because “the project is located and designed in a way that provides for a transition from the height and density of the project to the nearby lower scale neighborhoods”; (Z.C. Order No. 06-21, FF Nos. 21-22 and 29.)
  - b. In Z.C. Order No. 11-02/11-02A, in approving a new Campus Plan and further processing of an approved Campus Plan for construction of a new student center, the Commission found that the proposed Campus Plan was not inconsistent with the Local Public Facilities designation because it “called for building heights that are complimentary to the surrounding residential context.” (Z.C. Order No. 11-02/11-02A, FF Nos. 34 and 37.) The height of the student center would be 56 feet, which was consistent with the Moderate-Density Commercial designation adjacent to that site; and
  - c. In Z.C. Case No. 11-10, the Commission granted an application for a Zoning Map amendment from the R-4 Zone District to the R-5-B Zone District for properties

designated as a Local Public Facility. In approving that application, the Commission noted that the Comprehensive Plan “indicates that the zoning designations for these areas vary depending on surrounding uses. The Future Land Use Map recommends moderate density residential land uses for the areas immediately adjacent to the Subject Property. (Z.C. Order No. 11-10, FF No. 40.)

111. The Commission applies the standard of 10A DCMR § 226(h) in this case by comparing the proposed PUD Site density to the surrounding neighborhood context, including existing and approved PUDs, and to the surrounding Future Land Use Map designations. Based on this analysis, and as testified to by Mr. Dettman at the public hearing, the Commission finds that the proposed R-5-B and C-2-B Zone Districts proposed for the PUD Site are appropriate for the PUD Site and consistent with the Local Public Facilities designation. (Ex. 233.)
112. **The Project is Consistent with the Surrounding Neighborhood Context.** The neighborhood surrounding the PUD Site is mixed-use, with a variety of housing types and densities that include both apartment houses and townhomes. Commercial buildings are also located along Georgia Avenue with ground-floor retail uses. As shown on the Development Map and New Development Along Georgia Avenue Sheets of the Plans, there are a number of existing and approved apartment buildings in the immediate vicinity of the PUD Site that have heights within the 72-90-foot range. For example, pursuant to Z.C. Order No. 13-10, the Commission approved a PUD at 3212-3216 Georgia Avenue (one block to the north of the PUD Site) to have a maximum height of 87 feet, eight stories, and 5.95 FAR. Pursuant to Z.C. Order No. 10-26, the Commission approved a PUD for 3221-3335 Georgia Avenue (two blocks to the northeast of the PUD Site) to have a maximum height of 90 feet, eight stories, and 5.37 FAR. Pursuant to Z.C. Order No. 08-26, the Commission approved a PUD at 3232 Georgia Avenue (two blocks north of the PUD Site) to have a maximum height of 80 feet, six stories, and 4.54 FAR.<sup>3</sup>
113. It is within this context that the Applicant proposes to develop the PUD Site with an apartment house at 90 feet and 5.9 FAR, a senior building at 60 feet and 3.9 FAR, and eight townhomes at 40 feet and FAR ranging from 1.2 FAR to 1.7 FAR. The Commission finds that these proposed building heights and densities are equal to or less than the heights and densities approved for PUDs within the immediate neighborhood. The Commission also credits the testimony of Mr. Dettman, who asserted that the proposed rezoning is “appropriate, given the (i) surrounding FLUM designations and corresponding zone districts, and (ii) nearby PUDs with similar heights and densities.” (Ex. 233, p. 4.) Therefore, the Commission finds that the Project is consistent with the surrounding neighborhood context.
114. **The Project is Consistent with the Surrounding Future Land Use Map Designations.** The Commission finds that the Project is consistent with the Future Land Use Map

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<sup>3</sup> The buildings at 3212-3216 Georgia Avenue and 3221-3335 Georgia Avenue have been approved; the building at 3232 Georgia Avenue has been approved and constructed.

designations for properties surrounding the PUD Site. The Future Land Use Map designates properties to the immediate north and east of the proposed C-2-B portion of the PUD Site as mixed-use: Moderate-Density Commercial and Medium-Density Residential. The Future Land Use Map designates properties to the immediate north and west of the proposed R-5-B portion of the PUD Site as Medium-Density Residential.

115. The corresponding zone districts for the Moderate-Density Commercial designation are C-2-A, C-2-B, and C-3-A (10A DCMR § 225.9), which permit the following PUD heights and densities (i) a maximum height of 65 feet and 3.0 FAR (C-2-A); (ii) a maximum height of 90 feet and 6.0 FAR (C-2-B); and (iii) a maximum height of 90 feet and 4.5 FAR (C-3-A). The corresponding zone districts for the Medium-Density Residential designation are R-5-B and R-5-C (10A DCMR § 225.5), which permit the following PUD heights and densities: (i) a maximum height of 60 feet and 3.0 FAR (R-5-B); and (ii) a maximum height of 75 feet and 4.0 FAR (R-5-C). (11 DCMR §§ 2405.1 and 2405.2.)
116. Because the portion of the PUD Site proposed to be designated in the C-2-B Zone District is within the stated heights and densities for the Moderate-Density Commercial designation, the Commission finds that this portion of the Project is consistent with the surrounding Future Land Use Map designations. Similarly, because the portion of the PUD Site proposed to be designated in the R-5-B Zone District is within the stated heights and densities for the Medium-Density Residential designation, the Commission finds that this portion of the Project is consistent with the surrounding Future Land Use Map designations.
117. Moreover, the mixed-use Moderate-Density Commercial and Medium-Density Residential designation extends on both sides of Georgia Avenue, including across from the PUD Site, such that the Commission finds no reason to believe that this designation would have been cut off at the PUD Site if it were not already designated as a Local Public Facility.
118. The Comprehensive Plan also notes that mixed-use categories on the Future Land Use Map are used for “[c]ommercial corridors or districts which may not contain substantial amounts of housing today, but where more housing is desired in the future.” (10A DCMR § 225.19(b) (*emphasis added*)). In this case, the Applicant proposes increased height and density on the PUD Site for the specific purpose of providing new housing and affordable housing along the Georgia Avenue commercial corridor. Doing so is also specifically encouraged by the Comprehensive Plan’s Housing Element (*see, e.g. Policy H-1.1.4 – “Promote mixed use development, including housing, on commercially zoned land, particularly... along Main Street mixed-use corridors”*). Moreover, as described in more detail below, the Commission finds that the additional height and density are necessary to achieve the goals of the build-first principle, which will minimize displacement, maximize one-time, permanent moves, and implement the phased redevelopment of Park Morton.



119. The Commission finds that reviewing the Comprehensive Plan’s Citywide Elements is appropriate in this context, given the guidance of 10A DCMR § 226.1(d), which provides that “the zoning of any given area should be guided by the Future Land Use Map, interpreted in conjunction with the text of the Comprehensive Plan, including the citywide elements and the area elements, as well as approved Small Area Plans.” (10A DCMR § 226.1(d); *see also, e.g.* Z.C. Order Nos. 14-19 and 15-14.) Therefore, the Commission finds that the surrounding Future Land Use Map designations specifically call for development of housing in the future.
120. The Comprehensive Plan also states that the “general density and intensity of development within a given Mixed Use area is determined by the specific mix of uses shown. If the desired outcome is to emphasize one use over the other (for example, ground floor retail with three stories of housing above), the Future Land Use Map may note the dominant use by showing it at a slightly higher density than the other use in the mix.” (10A § DCMR 225.19.) In this case, the PUD Site is surrounded by Moderate Density Commercial and Medium Density Residential designations, which indicates the District’s intent in emphasizing the residential use over the commercial use on the properties surrounding the PUD Site (Medium Density being a higher density designation than Moderate Density). The Commission finds that the Project is consistent with that interpretation because the majority of the uses constructed on the PUD Site will be residential, with only a small area on the ground floor of the apartment house devoted to commercial use.
121. **The Project is Consistent with Corresponding Zone Designations.** In order to maintain consistency with the surrounding land uses, building heights, and densities, the Applicant proposes to rezone the eastern portion of the PUD Site along Georgia Avenue to the C-2-B Zone District, and the western portion of the PUD Site to the R-5-B Zone District. Because these zone districts are specifically listed within the Moderate-Density Commercial and Medium-Density Residential designations (the land use designations for the areas surrounding the PUD Site), the Commission finds that they are not inconsistent with the Comprehensive Plan.
122. **The Proposed Height and Density for the PUD Site is Consistent with the Surrounding Future Land Use Map Designations and Proposed Zone Designations.** The Commission finds that the proposed heights and densities for the buildings within the PUD Site are consistent with the development parameters of the C-2-B and R-5-B Zone Districts as follows:
- a. The C-2-B Zone District (which is the district on which the apartment house will be located) permits as a PUD a maximum height of 90 feet and a maximum density of 6.0 FAR. The Applicant proposes to construct the apartment house to 90 feet and 5.9 FAR, which is consistent with the C-2-B Zone District; and
  - b. The R-5-B Zone District (which is the district on which the townhomes and senior building will be located) permits as a PUD a maximum height of 60 feet and 3.0



FAR. The Applicant proposes to construct the townhomes to a maximum height of 40 feet and 1.7 FAR, and the senior building to 60 feet and 3.9 FAR. Although senior building's FAR is not within the development parameters for the R-5-B Zone District, the portion of the PUD Site that will be rezoned to R-5-B will have an average density of 1.9 FAR, which is significantly less than the maximum permitted density of 3.0 FAR and less than the 4.0 FAR which is permitted in the R-5-C Zone District. As described in FF No. 73-74, the Commission concludes that flexibility from the lot occupancy requirements for the senior building are appropriate in this case.

123. In addition to the proposed heights and densities being consistent with the applicable zone designations, the Commission also finds that the proposed height and density is appropriate for the PUD Site due to the PUD Site's location along the Georgia Avenue corridor and its close proximity to Metrorail. The scale, height, and design of this Project does not overpower the surrounding context. The proposed design orients the higher height and density portion of the Project towards Georgia Avenue, where similarly sized buildings exist or have been approved, and steps down to relate to the existing lower-scale residential neighborhood to the north and west. In addition to the lower building heights proposed along the western portion of the PUD Site, the scale and density of the Project is further reduced through the massing and articulation of the proposed buildings, separation provided by existing and proposed streets, substantial streetscape improvements, and the future public park that will be developed adjacent to the PUD Site. (Rebuttal Testimony of Mr. Dettman, Ex. 233 and testimony of Ms. Alexander regarding the various options considered for the scale, height, design, and layout of the PUD Site.)
124. Mr. Dettman and Ms. Alexander were qualified as expert witnesses at the public hearing. The Commission notes that "[w]hile agencies are not always bound to accept expert testimony over lay testimony," (*Marjorie Webster Jun. C., I. v. Dist. of Columbia Bd. of Zoning Adjustment*, D.C.App., 309 A.2d 314, 319 (1973)), "the opinions of qualified experts are not to be lightly disregarded and the probative value of lay opinions is often doubtful." (*Goldstein v. Zoning Board of Review, City of Warwick*, 101 R.I. 728, 227 A.2d 195 (R.I.1967); *see also Shay v. Dist. of Columbia Bd. of Zoning Adjustment*, D.C. App., 334 A.2d 175, FN10 (1975).) Therefore, based on the evidence in the record, including the testimony of expert witnesses presented at the public hearing, the Commission finds that the proposed height and density for the PUD Site are appropriate in this case.
125. **The Proposed Number of Stories is Consistent with the Surrounding Future Land Use Map Designations and Permitted Zone Designations.** The Applicant proposes to construct the 60-foot senior building with six stories and the 90-foot apartment house with eight stories plus a mezzanine. The Medium-Density Residential designation, which surrounds the PUD Site is "used to define neighborhoods or areas where mid-rise (four to seven) apartment buildings are the predominant use," and "also may apply to taller residential buildings surrounded by large areas of permanent open space." (10A DCMR

§ 225.5.) Buildings within the Moderate-Density Commercial designation are “larger and/or taller than those in low density commercial areas but generally do not exceed five stories in height.” (10A DCMR § 225.) Although the Moderate-Density Commercial designation states that buildings generally do not exceed five stories, the Commission finds that this limitation is inconsistent with the Moderate-Density Commercial’s corresponding zone districts, which specifically permit building heights of up to 90 feet. At 90 feet, approximately seven-nine stories could be achieved, assuming an average ceiling height of 10 feet. The proposed apartment house on the PUD Site will have eight stories and significant step-downs, which the Commission finds is consistent with the number of stories that could be built in the zone districts listed as being consistent with the Medium Density Commercial designation.

126. Moreover, the Commission finds that the language of the Comprehensive Plan refers to *existing* buildings when discussing number of stories. (See 10A DCMR § 225.5, stating that “[a]reas with this designation range from small business districts that draw primarily from the surrounding neighborhoods to larger business districts uses that draw from a broader market area. Buildings are larger and/or taller than those in low density commercial areas but generally do not exceed five stories in height.”) Based upon our interpretation and application of the Comprehensive Plan, the Commission finds that this language could not reasonably be read to permit 90-foot buildings that are limited to five stories.
127. This analysis is true for the Medium-Density Residential designation as well, which also surrounds the PUD Site, and which states that which mid-rise (four-seven stories) apartment buildings are the predominant use. This limitation is inconsistent with the Medium Density Residential’s corresponding zones, which allow buildings of up to 75 feet in height. At 75 feet, approximately seven-eight stories could be achieved, assuming an average ceiling height of 10 feet. The proposed senior building will have six stories, which the Commission finds is consistent with the realistic number of stories that could be built in the zone districts listed as being consistent with the Medium-Density Residential designation.
128. The language of the Comprehensive Plan also refers to *existing* buildings within the land use category of having four-seven stories. (See 10A DCMR § 225.5 stating that “[t]his designation is used to define neighborhoods or areas where mid-rise (4-7 stories) apartment buildings are the predominant use. Pockets of low and moderate density housing may exist within these areas.”) The Commission finds that this language could not reasonably be read to permit 75-foot buildings that are limited to five stories.

### **The Project is Consistent with the Comprehensive Plan’s Goals for Housing and Open Space**

129. Housing. The Comprehensive Plan includes many policies that encourage development of new housing and affordable housing, as well as policies that encourage the preservation of open space. The Commission finds that the Applicant’s proposal to

develop the PUD Site primarily with housing, and thus reduce some of the open space that currently exists on the PUD Site, is still consistent with the Comprehensive Plan.

130. The Land Use Element of the Comprehensive Plan requires a balancing of priorities to accommodate a multiplicity of land uses within the boundaries of the District of Columbia. (10A DCMR § 300.1.) Land use policies must “ensure that all neighborhoods have adequate access to commercial services, parks, educational and cultural facilities, and sufficient housing opportunities while protecting their rich historic and cultural legacies.” (10A DCMR § 309.1.)
131. Because the Land Use Element integrates the policies and objectives of all the other District Elements, “it should be given greater weight than the other elements as competing policies in different elements are balanced.” (10A DCMR § 300.3.)
132. As stated in the Applicant’s response to opposition filings, the Land Use Element cites a number of policies that specifically aim to establish new housing and affordable housing. (Ex. 196, 197.) (*See, e.g. Policy LU-1.2.1: Reuse of Large Publicly-Owned Sites; Policy LU-1.2.5: Public Benefit Uses on Large Sites; and Policy LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods.*) *Policy LU-1.4* provides that “infill development on vacant lots is strongly supported by the District of Columbia, provided that such development is compatible in scale with its surroundings and consistent with environmental protection and public safety objectives. In residential areas, infill sites present some of the best opportunities in the city for “family” housing and low-to-moderate-density development. In commercial areas, infill development can fill gaps in the streetwall and create more cohesive and attractive neighborhood centers.” (10A DCMR § 307.2.) The Project is consistent with these and other policies in the Land Use element because it involves the reuse and development of a large publicly-owned infill site that will be developed with appropriately scaled housing that will fill gaps in the street wall and create a more attractive and cohesive neighborhood. The Commission finds that developing the PUD Site in this manner meets the Land Use element’s important goals of building new housing.
133. The Commission finds that the Project is also consistent with other elements of the Comprehensive Plan that encourage the production of quality affordable housing. (*See, e.g. Policy H-1.2.1: Affordable Housing Production as a Civic Priority; Policy H-1.2.3: Mixed Income Housing; Policy H-1.2.5: Workforce Housing; Policy H-1.2.7: Density Bonuses for Affordable Housing; Policy H-1.3.1: Housing for Families; Policy H-1.4.4: Public Housing Renovation; and Action H-1.4.A: Renovation and Rehabilitation of Public Housing.*) The Commission agrees with the evidence and testimony submitted by the Applicant stated that the Project is a direct response to these policies, which call for the development of low and moderate-income housing through a variety of housing types and sizes, as well as the transformation of distressed public housing projects into viable, mixed-income neighborhoods. The Project is consistent with these goals because it proposes an equal number of public housing, workforce affordable housing, and market-rate housing, and does so through development of one-, two-, and three-bedroom units

that can accommodate a wide range of households. The Project also involves the one-for-one replacement of the Park Morton public housing units through private sector support, which fulfills the goals of the New Communities Initiative, which the Comprehensive Plan specifically highlights as a program that should be supported in order to rehabilitate and rebuild the city's public housing units. (Action H-1.4.A: Renovation and Rehabilitation of Public Housing.) Moreover, the Project is consistent with policies in the Housing Element that specifically encourage development of housing for seniors (*Policy H-4.2.2: Housing Choice for Seniors*) because the Project includes an entire building devoted to affordable senior housing.

134. The Commission also finds that the Project is consistent with the Mid-City Element, which states a number of policies that encourage the development of affordable housing. Issues that are relevant to the Mid-City Area “must be addressed to protect the quality of life, balance growth and conservation, and provide economic opportunity and stability for all members of the community.” (10A DCMR § 2000.10.)
135. The Mid-City Element highlights the dire need for new housing opportunities for all income levels. (*See, e.g.* 10A DCMR § 2007.2, stating that “housing opportunities should be increased for people at all income levels so that Mid-City can remain a diverse neighborhood...” *See also Policy MC-1.1.7: Protection of Affordable Housing*: “[s]trive to retain the character of Mid-City as a mixed income community by protecting the area’s existing stock of affordable housing units and promoting the construction of new affordable units.”)
136. The Mid-City Element calls for Park Morton to be redeveloped as a “new community,” replacing the existing public housing development with an equivalent number of new public housing units, plus new market-rate and workforce housing units, to create a new mixed income community. The Mid-City Element also values the importance of ensuring that “every effort possible is made to avoid permanent displacement of residents if this action is followed.” (10A DCMR § 2011.12.) The Commission finds that the Project embodies these and other policies of the Mid-City element by providing an equivalent number of new public housing units, workforce housing units, and market-rate units at the PUD Site, and avoiding entirely the permanent displacement of existing Park Morton residents through the careful phasing of the PUD Site and the Park Morton site.
137. In addition to finding that development of the PUD Site is consistent with the Comprehensive Plan’s goals for housing, the Commission also finds that the amount of housing density proposed for the PUD Site is appropriate, given testimony and evidence submitted by DMPED. DMPED testified that the proposed housing density allows for the implementation of the build-first principle, which will minimize displacement, maximize one-time, permanent moves, and implement the phased redevelopment of Park Morton. DMPED is the District office charged with executing the Mayor’s economic development strategy, which includes increasing affordable housing as a primary goal. Through partnerships with the District’s housing agencies, DMPED is tasked with producing,

preserving, and protecting affordable housing through several key initiatives, including land disposition and the New Communities Initiative.

138. The Commission agrees with and adopts DMPED's view that the density proposed for the PUD Site is necessary to successfully implement the build-first principle for three primary reasons: (i) the PUD Site's close proximity to Park Morton, which allows residents to remain in the neighborhood in which they currently reside and maintain their existing networks and relationships; (ii) the PUD Site's size (approximately three acres) and condition (relatively unimproved land), which allows for development of a large number of replacement units in the first phase, thus reducing the number of families who will have to wait for housing in phases 2 or 3 at Park Morton and/or face temporary relocation to support such development; and (iii) the PUD Site's location along Georgia Avenue where the Comprehensive Plan supports a higher density zoning designation, and thus development at-scale, consistent with other completed and planned projects along the corridor. (DMPED's January 10, 2017 letter (Ex. 237D).)
139. Moreover, the Commission credits language in the Mayor's September 16, 2016 transmittal letter of the Bruce Monroe Surplus Declaration and Approval Resolution of 2016 and the Bruce Monroe Disposition Approval Resolution of 2016, which states that the project "will provide replacement public housing units, much needed additional affordable housing units, market-rate units, and commercial or community space," and that "approval of the proposed resolutions will declare surplus and allow for the disposition of the Property to the Developer to redevelop the space into a vibrant mixed-use development where residents have quality affordable housing options, economic opportunities, and access to appropriate human services in a manner consistent with the NCI guiding principles." (Mayor's transmittal letter (included in Ex. 197, p. 2).)
140. Thus, the Commission finds that the PUD Site's proposed building heights and density will enable the successful relocation of public housing residents and fulfil the important goals and policies for housing development in the Comprehensive Plan.
141. Open Space. The Commission acknowledges the many policies within the Comprehensive Plan that encourage the preservation of open space. (*See, e.g.* 10A DCMR § 2000.8, stating that the Mid-City Area has a "severe shortage of parkland. As the densest part of the city, and one with many young children, recreational needs are among the highest in the city. Most of the areas's parks lack the land and amenities to meet these needs." *See also* 10A DCMR §§ 2007.2(e) and (j).)
142. The Commission finds that the Project is consistent with the goals of preserving open space, even though the PUD Site will be developed with housing and will result in the net reduction of open space currently on the PUD Site. This finding is based on the District's commitment to develop approximately 44,000 square feet of land adjacent to the PUD Site as a public park, such that the Applicant's proposal to developing the PUD Site with housing creates a balanced approach to development of Lot 849 that is consistent with the Comprehensive Plan.



143. The District, which will retain ownership of the 44,000 square foot parcel, is committed to the park's development as evidenced by (i) the Mayor's submission of the Bruce Monroe Surplus Declaration and Approval Resolution of 2016 and the Bruce Monroe Despoliation Approval Resolution of 2016 to the Council (both included at Ex. 197); and (ii) DMPED's November 23, 2015 Open Letter to Park Morton and Bruce Monroe Community Residents and Stakeholders (the "DMPED Open Letter"), which detailed the District's commitment to maintaining park and recreation uses on the PUD Site. (DMPED letter dated December 7, 2016, and DMPED's Open Letter, both included in Ex. 232.)
144. Following public outreach, DMPED recognized the desire for continued park and recreation space at the PUD Site. (*See, e.g. Notice of Public Meeting Regarding Surplus Resolution Pursuant to D.C. Official Code § 10-801.*) Prior to selecting the PUD Site as the build-first site for Park Morton, DMPED decided that a reprogrammed and reconfigured park would be established at the PUD Site, and that the remaining portion of the PUD Site was most suitable for mixed-use development, and primarily mixed-income residential development. (*Id.* at 3.) DMPED found that the size and location of the PUD Site presented an excellent opportunity to meet critical District priorities of developing new affordable housing and open space. Indeed, using public land for the creation of affordable housing "is one of the most effective strategies a municipality can use to leverage the creation and preservation of affordable housing." (*Id.* at 4.)
145. As set forth in the DMPED Open Letter (included in Ex. 232), DMPED "looked at many possibilities for Build First options, including... sites proposed by community groups. In addition, a review of the corridor was performed to determine if [DMPED] missed any viable parcels. These potential sites included government owned parcels in Wards 1 and 4, and ten privately owned parcels, most of which were along the Georgia Avenue corridor. [DMPED] looked for sites that were in the neighborhood and would yield enough replacement public housing units (60+ family-sized units) to allow us to implement 'Build-First.' The Bruce Monroe site was viewed as the best option to facilitate the Build First concept and move the Park Morton project forward for the following reasons:
- a. No Displacement. Allows for replacement of all public housing units without having to move Park Morton residents out of the neighborhood;
  - b. Accelerates Redevelopment. Facilitates Park Morton redevelopment on the fastest timeline, as it is a single site versus multiple sites that would need to be purchased and developed over time;
  - c. Site Ownership Already. DC government owned site, therefore no need to acquire other sites; and



- d. Cost Effective. Government owned site where the value can be used to subsidize affordability, a District priority for use of public parcels.” (DMPED Open Letter (included in Ex. 232, p. 1).)
146. In addition to evaluating the PUD Site as the best option for build-first, DMPED acknowledged the community’s priority to maintain park and recreation use on the PUD Site. DMPED stated that it is “supportive of a plan only if it includes park and recreational space returning to the site. The current proposal preserves half of the site as a park, which would allow all of the site’s current uses including courts, playground, and garden, to be brought back to the site. In addition, the proposal provides for some amount of park space to be open and operational for most of the construction period and for the permanent park space to be brought back to the site first. This plan will maximize the public and community value of the site by creating significant affordable housing capacity and improving on existing park space at the same time.” (*Id.* at 2.)
147. DMPED testified regarding its work with partner agencies to determine the process for designing, building, and operating the proposed park, and its commitment to engaging the community to receive feedback on proposed park plans. The Applicant also testified at the public hearing that the design and programming of the park will occur during a public engagement process initiated in early 2017.
148. Moreover, development of the park is a condition of this Order, thus ensuring that the 44,000-square-foot parcel will be preserved as a park. Therefore, the Commission agrees with DMPED’s findings that the PUD Site “allows for both the development of housing AND the opportunity to provide improved urban park land in perpetuity,” and that the Project will include “a first class urban park of approximately one acre.” (DMPED’s January 10, 2017 letter (Ex. 237D).)
149. The Commission also accepts the Applicant’s and DMPED’s testimony that the PUD Site was never intended to remain a park in its entirety. The PUD Site previously housed the Bruce Monroe Public School, which was closed in 2008 and demolished in 2009. In response to community feedback, DMPED committed funds to improve the PUD Site as a temporary public park, with permanent improvements intended to be pursued in the future. (*See* Building Permit and solicitation/award for the “interim” use of Bruce Monroe included in Ex. 197.) The fact that the PUD Site has been slated for redevelopment since the Bruce Monroe School was demolished “has been reiterated publicly in the community discussions around this project that have taken place over the last year.” (January 10, 2017 DMPED Letter (Ex. 237D, p. 1).) Thus, although the PUD Site is presently used as a public park, the Commission credits DMPED’s testimony that the site has not operated in this manner for long, and that it was never intended to be preserved as a park in its entirety in perpetuity.
150. The Commission also accepts the District Council’s intentions for the PUD Site, as set forth in the Bruce Monroe Surplus Declaration and Approval Resolution of 2016 and the Bruce Monroe Despoliation Approval Resolution of 2016 (both included at Ex. 197).

These resolutions provide evidence of the District's determination that the "intended use of the Property is a mixed-use development providing for affordable housing, residential market rate housing, commercial or community amenities space and any ancillary uses." (Bruce Monroe Disposition Approval Resolution of 2016, p. 2.) The resolutions also call for establishing "approximately 44,404 square feet of land area [to be] devoted to a park or other public uses." (*Id.* at 2-3.)

151. Based on the foregoing, the Commission finds that the Project, including the Applicant's work with the District to develop the park, is consistent with the Comprehensive Plan's goals of developing new housing and affordable housing, while also preserving open space. The Commission values and accepts DMPED's position that the housing density proposed for the PUD Site is consistent with the Comprehensive Plan and is necessary to achieve the important goals of the New Communities Initiative.

#### **Purposes, Guiding Principles, and Major Elements of the Comprehensive Plan.**

152. **The Project is Consistent with the Purposes of the Comprehensive Plan.** The purposes of the Comprehensive Plan are six-fold: (1) to define the requirements and aspirations of District residents, and accordingly influence social, economic and physical development; (2) to guide executive and legislative decisions on matters affecting the District and its citizens; (3) to promote economic growth and jobs for District residents; (4) to guide private and public development in order to achieve District and community goals; (5) to maintain and enhance the natural and architectural assets of the District; and (6) to assist in conservation, stabilization, and improvement of each neighborhood and community in the District. D.C. Official Code §1-245(b) (§ 1-301.62).
153. The Commission finds that the Project advances these purposes by promoting the social, physical, and economic development of the District through the provision of a vibrant new mixed-income community that includes a variety of housing types for households of varying income levels. The Project will achieve District goals by providing new affordable housing that respects the character of the surrounding neighborhood, enhances the natural and architectural assets of the District, and improves the community.
154. **The Project is Consistent with the Guiding Principles of the Comprehensive Plan.** The Comprehensive Plan establishes guiding principles that express cross-cutting goals for the District's future that guide the Comprehensive Plan's policies and actions. (10A DCMR § 200.4.) Based on evidence in the record, the Commission finds that the Project is consistent with many of the guiding principles for managing growth and change, creating successful neighborhoods, increasing access to education and employment, connecting the city, and building green and healthy communities, as discussed in the paragraphs below.
155. **Managing Growth and Change.** The guiding principles of this element are focused on ensuring that the benefits and opportunities of living in the District are equally available to everyone in the city. The Commission finds that the Project is fully consistent these

principles. Specifically, the Project will help to attract a diverse population through the provision of a mix of housing types available for households of different incomes. (10A DCMR §§ 217.2 and 217.3.) The Project will help connect the PUD Site to the rest of the neighborhood and the overall urban fabric by creating a new street, enhancing the pedestrian experience with new streetscape improvements and facilities, and building new open park spaces for the use and enjoyment of the public. (10A DCMR § 217.6.)

156. Creating Successful Neighborhoods. One of the guiding principles for creating successful neighborhoods is improving the residential character of neighborhoods. (10A DCMR § 218.1.) Moreover, the production of new affordable housing is essential to the success of neighborhoods. (10A DCMR § 218.3.) Another guiding principle for creating successful neighborhoods is getting public input in decisions about land use and development, from development of the Comprehensive Plan to implementation of the plan's elements. (10A DCMR § 218.8.) The Commission finds that the Project furthers each of these guiding principles by constructing replacement public housing units, affordable housing units, and market-rate housing, all located within a single mixed-income development. As part of the PUD process, the Applicant has worked closely with ANC 1A, 1B, and a variety of other community stakeholders and organizations to ensure that the Project provides a positive impact to the surrounding neighborhood and is designed to be consistent with community goals.
157. Connecting the City. The Commission finds that the Project advances a number of the guiding principles stated within the Connecting the City Element. For example, the Project includes streetscape improvements that will improve mobility and circulation through the PUD Site, within the square, and throughout the neighborhood. (10A DCMR § 220.2.) The access points for the required parking and loading facilities are designed to appropriately balance the needs of pedestrians, bicyclists, transit users, vehicles and delivery trucks, as well as the needs of residents to move around and through the city. (*Id.*) Together, the Commission finds that these improvements will help to reinforce and improve the surrounding community. (10A DCMR § 220.3.)
158. Building Green and Healthy Communities. The Commission finds that the Project is fully consistent with the guiding principles of the Building Green and Healthy Communities element, since the Project will increase the District's tree cover, minimize the use of non-renewable resources, promote energy and water conservation, and reduce harmful effects on the natural environment. (11 DCMR §§ 221.2 and 221.3.) The proposed streetscape improvements will help to facilitate pedestrian and bicycle travel, and new green roofs will reduce stormwater runoff and create a more sustainable environment on the PUD Site.
159. The Project is Consistent with the Major Elements of the Comprehensive Plan. The Comprehensive Plan includes Citywide Elements that each address a topic that is citywide in scope, and Area Elements that focus on issues that are unique to particular parts of the District. (10A DCMR §§ 104.4-104.5.) The Commission finds that the PUD advances the objectives and policies from many elements of the Comprehensive Plan, as

set forth in detail in the Applicant's Statement in Support (Ex. 6), the Applicant's Comprehensive Plan Analysis (Ex. 35B); the OP reports (Ex. 14, 43); the Applicant's response to opposition filings (Ex. 196 and 197); and Mr. Dettman's rebuttal testimony (Ex. 233). The Commission finds that the Project is consistent with policies ranging from:

- a. Land use policies that promote infill development on large sites with a range of uses, transit oriented development, and context sensitive design and neighborhood beautification;
  - b. Transportation policies that also promote transit oriented development, improved connectivity, and improvements to pedestrian and bicycle facilities;
  - c. Environmental policies that promote streetscape enhancement, increased tree canopy, energy efficiency, and sustainable stormwater management;
  - d. Housing policies that promote private sector support in addressing the critical need for more affordable housing, mixed-income development and neighborhoods, and advancement of the District's housing initiatives such as the New Communities Initiative; and
  - e. Mid-City Area policies that promote the protection of affordable housing in this particular area of the city, and the continued revitalization of the Lower Georgia Avenue corridor.
160. Therefore, taken together, and based on all of the evidence in the record, including the testimony of expert witnesses, and consistent with the Findings of Fact above, the Commission concludes that the Project is consistent with the Generalized Policy Map and Future Land Use Map, advances the purposes of the Comprehensive Plan, complies with the guiding principles in the Comprehensive Plan, and furthers a number of the major elements of the Comprehensive Plan. (Mr. Dettman's Rebuttal Testimony (Ex. 233).)

**The Project is Consistent with the Georgia Avenue – Petworth Metro Station Area and Corridor Plan Revitalization Strategy**

161. The Comprehensive Plan requires zoning to be "interpreted in conjunction with... approved Small Area Plans." (10A DCMR § 266.1(d).) The Zoning Regulations further require consistency with "other adopted public policies and active programs related to the subject site." (11 DCMR § 2403.4.) Small area policies appear in "separately bound Small Area Plans for particular neighborhoods and business districts. As specified in the city's municipal code, Small Area Plans provide supplemental guidance to the Comprehensive Plan and are not part of the legislatively adopted document." (10A DCMR § 104.2.)

162. As set forth below, the Commission finds that the Project is consistent with the goals and priorities of the Georgia Avenue – Petworth Metro Station Area and Corridor Plan Revitalization Strategy (the “Strategy Plan”), which is the Small Area Plan applicable to the PUD Site. Similar to the Comprehensive Plan, the Strategy Plan discusses the importance of balancing development priorities, which include “the critical need to preserve and create affordable housing” (*see* Strategy Plan, p. 17) and the development of “some form of public green space or civic space as new redevelopment projects are constructed.” (*Id.* at 27.)
163. The Strategy Plan emphasizes the need for quality housing and affordable housing by encouraging “a mix of residential development along [the Georgia Avenue] corridor... [that] should be targeted in blocks that have high vacancies and/or underutilized properties.” (*Id.* at 23.) In order to ensure that existing residents receive opportunities to acquire affordable housing, the Strategy Plan aims to create a “vibrant, mixed income community, as well as potentially mak[ing] a significant contribution to providing housing for District of Columbia’s working families.” (*Id.* at 25.) The Strategy Plan strives to advance diversification of the housing stock by “encouraging redevelopment opportunities with multi-family buildings for families [and] senior citizens,” and to increase affordability by “encouraging development opportunities with a variety of housing types.” (*Id.* at 27.)
164. The Strategy Plan notes that the Park Morton site “contains poor physical layout and design. The existing suburban-style physical design contributes to the lack of safety and adds to a visible exclusion from the surrounding community. It also lacks the private space, which leads to attracting and fostering negative activity in and around the corridor.” (*Id.* at 34.) The Strategy Plan also references a “lack of public land for new development” since the “majority of lots are small and privately held.” (*Id.* at 34 and 36.)
165. The Commission finds that the Project is consistent with these and other policies set forth in the Strategy Plan because it will satisfy the great need for new housing and affordable housing in the District, particularly along the Georgia Avenue corridor. Through the District’s development of the 44,000 square foot parcel adjacent to the PUD Site, the Project also advances the Strategy Plan’s priority of preserving and protecting public parks and green space. Therefore, the Commission finds that the Project is consistent with the Strategy Plan.

#### **The Project is Consistent with the Park Morton Plan**

166. The Park Morton Plan is a plan developed by DMPED and DCHA that seeks to create a healthy, mixed-income community with integrated services that offer families better housing, employment, and educational opportunities. The Park Morton Plan protects affordable housing, improves economic integration, engages residents in community decision making, decreases crime through proven crime reduction strategies, and creates opportunity through better jobs, education, training, human services and other programs.



(Park Morton Plan, p. 2.) The Park Morton Plan is relevant in this case because the PUD Site serves as a build-first site for 90 Park Morton replacement public housing units.

167. The Commission finds that the Project is consistent with many of the goals set forth in the Park Morton Plan. A key component of the Park Morton Plan is the one-for-one replacement of existing publicly subsidized housing at Park Morton. (*Id.* at 4.) The Commission finds that the Project advances this goal because the application was submitted in conjunction with the PUD application for Park Morton. In both applications, the PUD Site was specifically identified as the build-first site for Park Morton, thus creating an opportunity to provide one-for-one replacement units. The Project establishes a true build-first scenario because it provides for a critical mass of 90 replacement public housing units, and its development will be coordinated and phased with development of Park Morton, as both sites will be implemented by the same master development team.
168. The Park Morton Plan also calls for the redevelopment of “a public housing site into a mixed-income community with an improved quality of life for families,” and for the reduction in economic segregation by “protecting existing affordable housing and building more units at workforce and market-rates.” (*Id.* at 4, 28.) The Commission finds that the Project is consistent with these objectives because it incorporates 90 new replacement public housing units, 109-113 workforce affordable units, and 70-74 market-rate units, such that a true mixed-income community will be created at the PUD Site. The housing units will range from one-, two-, and three-bedroom units in order to accommodate diverse household sizes and types that will be moving into the Project.
169. Another hallmark of the Park Morton Plan is a focus on the redevelopment of human capital through linkages to job training, asset building training and other support services. The Commission finds that the Project helps to embody this vision through the Applicant’s commitments to: (i) entering into a First Source Employment Agreement with the DOES, to ensure that District residents are given priority for new jobs created by municipal financing and development programs; (ii) entering into a CBE Agreement with DSLBD to ensure that a preference is made to District-based firms pursuing District government issued procurement opportunities; and (iii) involving economically disadvantaged communities by meeting the HUD Section 3 requirements by providing job training, employment, and contract opportunities for low- or very-low income residents in connection with development of the Project.
170. Based on the foregoing, the Commission finds that the Project is consistent with many key features of the Park Morton Plan.

### **The Project is Consistent with the New Communities Initiative**

171. The New Communities Initiative is a District government program designed to revitalize severely distressed subsidized housing and redevelop communities plagued with concentrated poverty, high crime, and economic segregation. The vision for the New Communities Initiative is for vibrant mixed-income neighborhoods that address both the



physical architecture and human capital needs, where residents have quality affordable housing options, economic opportunities and access to appropriate human services. Four guiding principles lay the framework for New Communities:

- a. One for One Replacement to ensure that there is no net loss of affordable housing units in the neighborhood;
- b. The Opportunity for Residents to Return/Stay in the Community to ensure that current residents will have a priority for new replacement units in an effort to remain in their neighborhood;
- c. Mixed-Income Housing to end the concentration of low-income housing and poverty; and
- d. Build First, which calls for the development of new housing to begin prior to the demolition of existing distressed housing to minimize displacement.

See <http://dcnewcommunities.org/about-nci/>.

172. The Commission finds that the proposed heights, densities, unit mix, and affordability levels advance the guiding principles and general goals of the New Communities Initiative. The PUD Site will serve as the build-first site for Park Morton's replacement public housing units.
173. The Commission credits the Applicant's testimony and evidence that the density proposed for the PUD Site is a result of the phasing plan for development of the PUD Site together with Park Morton. As set forth in DMPED's January 10, 2017 letter, the PUD Site is the build-first off-site location for Park Morton redevelopment. (Ex. 237D.) The Project achieves 273 new housing units, split between public housing, workforce affordable, and market rate housing. This unit count is achieved under the proposed R-5-B and C-2-B rezoning, which "would be obtained via the PUD process and is permitted in the Comprehensive Plan." (*Id.* at 2.) The Commission credits DMPED's testimony that the unit density proposed for the PUD Site allows the District to "preserve housing equity in the project and to meet the diverse household sizes of Park Morton families." *Id.* It also allows the District to "accommodate everyone from single seniors to 2-person households and families with children who require 3-bedroom townhome units." (*Id.*)
174. The availability of a proximate, off-site, at-scale development parcel for Park Morton replacement public housing units is "essential to fulfilling the [New Communities Initiative's] principles and ensuring timely completion of Park Morton revitalization. As such, Bruce Monroe is THE KEY component to delivering on the District's promise made to Park Morton residents a decade ago, by supporting the delivery of a critical mass of replacement units at Bruce Monroe within a mixed-income context consistent with overarching community development goals." (*Id.*) The development program and phasing for the PUD Site and the Park Morton site were designed to "take into account the inter-

connected relationship among 1:1 replacement, creating/maintaining true income integration, minimizing resident displacement, utilizing economies of scale, [] staying within a reasonable development timeline, complying with the Comprehensive Plan policies regarding the need for additional affordable housing, among many other factors.” (*Id.* at 2-3.)

175. The Commission credits the testimony presented that if the PUD Site’s density was reduced, it would also reduce unit count, thus “precipitat[ing] a considerable delay in project completion [that] would only be feasible via: 1) control of an additional off-site parcel to absorb the loss (at significant expense, if such a proximate site were even available), or 2) less dense Bruce Monroe reprogramed as 100% affordable, in conflict with NCI mixed-income principle (90 replacement units on a less dense Bruce Monroe site would cause investors to discount any market rate component at or below tax credit rents, with a calamitous impact on financing structure, necessitating change which would maximize LIHTC equity).” (*Id.* at 3.) Following this proposal, Park Morton residents would find themselves “once again being told to ‘wait for their turn’ while priorities of other neighbors are addressed to their satisfaction first.” (*Id.*) Thus, the Commission finds that reducing density at the PUD Site, including removing any of the proposed residential units, “entirely removes equitable housing options for larger families at Park Morton and is inconsistent with the very principles under which the New Communities program operates.” (*Id.*)
176. The Commission also finds that none of the units proposed for the PUD Site can be shifted to Park Morton in order to achieve the desired number of replacement units overall. Unlike the PUD Site, Park Morton is located within a residential neighborhood and is situated off of Georgia Avenue. Accordingly, it is prescribed a lower-density zoning designation under a PUD than that of the PUD Site, and a lower zoning designation results in a lower unit yield. (*Id.*)
177. Therefore, the Commission finds that the proposed housing density and unit mix at the PUD Site allows for the important accommodation of a variety of household types and sizes at Park Morton, which would otherwise be frustrated by the need to develop more apartment buildings with smaller units at Park Morton. Reducing density at the PUD Site would result in additional relocation of existing Park Morton residents, since greater numbers of 1-for-1 replacement units would be dependent on sites currently housing Park Morton residents, since there would be the lost opportunity to build additional units at Bruce Monroe first. (*Id.* at 4.) Therefore, the Commission finds that the Project is consistent with the New Communities Initiative.

### **Office of Planning Reports**

178. On July 15, 2016, OP submitted a report recommending setdown of the application. (Ex. 14.) The OP setdown report stated that the Project is “consistent with major policies from various elements of the Comprehensive Plan, including the Land Use,

Transportation, Housing, Environmental Protection and Urban Design citywide elements, and the Mid-City Area Element” because the Project will: (Ex. 14, p. 5.)

- a. “[R]euse this site, formerly a public elementary school and now a temporary park, as a mixed-income site, providing a range of housing from replacement housing for the Park Morton site, housing for senior citizens to market rate housing. Although not part of the application, a private park, open to the public, would be provided”; (*Id.*)
  - b. “[P]rovide a pedestrian-oriented development along Georgia Avenue, a major corridor. The proposed building heights would taper down from east to west, from Georgia Avenue to the row house neighborhood to the west, with a row of townhouses adjacent to the row houses on Columbia Road”; (*Id.* at 6.)
  - c. Provide bicycle parking “within the parking garage for the two multi-family buildings”; (*Id.*)
  - d. “[P]rovide for a mix of replacement public housing and a mixture of affordable and market rate housing. Housing types would include a mix of one-family homes and apartments in higher density multi-family buildings”; (*Id.* at 6.)
  - e. “[P]rovide the planting of trees, including street trees, green roofs and would be Enterprise Green Communities certifiable”; (*Id.* at 7.)
  - f. “[I]nclude a mixture of housing types, from family to senior citizen housing, and from replacement public housing to market rate, integrating them [] seamlessly together”; (*Id.* at 9.)
  - g. Include buildings that are “Enterprise Green Communities certifiable, with a minimum score of 50, and would exceed the minimum GAR requirement of 0.30 with a score of 0.314 for the apartment building and 0.411 for the senior citizen building. Extensive green roofs, tree planting and bioretention areas with plantings are proposed”; and (*Id.*)
  - h. “[I]mprove the aesthetics of Georgia Avenue. The building proposed to front on it has no blank walls, with the building designed to break the façade into segments. The overall site would be developed in three sections, with the largest building fronting on Georgia Avenue where other buildings of similar height have been constructed or are proposed to be built, and the smallest, the row houses, to be constructed adjacent to existing row houses.” (*Id.* at 10.)
179. The OP report further explained that the Project is consistent with the PUD Site’s designations on the Future Land Use and Generalized Policy Maps, and that OP supports the mix of housing types as proposed by the Applicant. (*Id.* at 11-12.) The OP report concluded that the proposed FAR and mix of housing types proposed for the PUD Site is

not inconsistent with the Comprehensive Plan. The OP report also listed a number of recommendations included within the Strategy Plan, such as market economics, transportation, urban design and public realm, with which it found the Project to be consistent. (*Id.* at 12-13.)

180. On November 28, 2016, OP submitted a hearing report. (Ex. 43.) The OP hearing report recommended approval of the application and reiterated that the application is not inconsistent with the Comprehensive Plan, would further many of the Comprehensive Plan's policies from various elements, and would also realize the Council-approved Park Morton Redevelopment Initiative Plan by creating a "mixed income community of low-rise and mid-rise buildings, with units for sale and for rent." (Ex. 43, p. 1, 10.) OP also found that the proposed zone districts "are comparable in density or intensity to those in the vicinity and not inconsistent with the predominate land use and the Comprehensive Plan." (*Id.* at 10.)
181. The OP hearing report advised that, at the public hearing, the Applicant should (i) document flexibility for the provision of eight non-garage compact parking spaces for the townhomes; (ii) provide additional enlarged detail for the townhomes and apartment house demonstrating their residential character; and (iii) provide additional information on the proposed façade materials. The Applicant provided the information requested by OP at the public hearing.
182. Consistent with D.C. Official Code § 6-623.04 (2001), the Commission places great weight on the OP reports and testimony in approving this application.

### **DDOT Reports**

183. On November 25, 2016, DDOT submitted a report, which indicated no objection to the application subject to the following conditions: (Ex. 44.)
  - a. Enhance the TDM plan to include the following elements:
    - i. Offer each general apartment unit and townhome an annual carsharing membership or an annual Capital Bikeshare membership for a period of three years;
    - ii. Provide six shopping carts for multi-family residential tenants to run daily errands and grocery shopping; and
    - iii. Install a transit screen in each of the lobbies for the general and senior apartments;
  - b. As proposed, install pavement marking enhancements to a stop bar on Georgia Avenue at Hobart Place to better delineate stopping locations as a means to manage queue lengths; and

- c. Commit to install pavement markings (i.e., "puppy tracks") at the study area intersections along Georgia Avenue, subject to DDOT approval at permitting.
184. At the public hearing, the Applicant agreed to all of DDOT's conditions.
185. In addition, the DDOT report found that the proposed new north-south private street would "provide multi-modal connectivity through the site," and that the PUD Site's design "has the potential to disperse site traffic in a way that minimizes the action's impact on the external road network and improve connectivity to the adjacent neighborhoods. (Ex. 44, p. 2.) DDOT also found that future residents and visitors would be "likely to utilize transit, walking, and bicycling at high rates, thus auto use is likely to be low" because the PUD Site "is well-served by rail and bus services, as well as a robust network of bicycle facilities." *Id.* Moreover, DDOT concluded that the Project would "minimally increase travel delay and queuing in the area," with only minor increases in vehicle delay as a result of the Project. *Id.*

### ANC Reports

186. ANC 1A, the ANC in which the PUD Site is located, submitted a resolution in support of the Project indicating that at its regularly scheduled and duly noticed public meeting of September 14, 2016, at which a quorum of commissioners was present, ANC 1A voted 10-0-0 to support the application. (Ex. 32-32A.) The resolution noted that ANC 1A "supports the request for flexibility from zoning regulations and the community benefits" and that the PUD "has offered a number of project amenities and public benefits commensurate with the development incentives and flexibility requested." (Ex. 32-32A, pp. 3, 5.)
187. Chairman Kent Boese of ANC 1A testified in support of the Project at the public hearing. In his testimony, Chairman Boese reaffirmed ANC 1A's unanimous support, which came "[a]fter months of community engagement, which included over 50 public meetings and workshops and careful consideration of the requested zoning relief." (Ex. 198, p. 1.) Chairman Boese stated that the "amenities that will result from this project are significant, meaningful, and critical to the long-term health and development of the lower Georgia Avenue corridor." (*Id.*) Chairman Boese also acknowledged the ANC's support for the Project's proposed height and density, asserting that it is "important to note that increasing overall density in the surrounding neighborhood is critical to revitalizing Georgia Avenue," and that "[c]ontextually, the requested height for the building on Georgia Avenue is consistent with planned new development on Georgia Avenue." He also noted that the ANC feels that "the scale, massing, and location of the buildings are appropriate." (*Id.* at 2-3.)
188. ANC 1B, the ANC located adjacent to the PUD Site, also submitted a resolution in support of the project indicating that at its regularly scheduled and duly noticed public meeting of October 6, 2016, at which a quorum of commissioners was present, ANC 1B

voted 7-0-0 to support the application. (Ex. 28.) ANC 1B also noted its support for the requested zoning flexibility, and confirmed that the Applicant had offered a number of benefits and amenities commensurate with the development incentives and flexibility requested. (Ex. 28, pp. 2, 3.)

189. On January 16, 2017, ANC 1A Chairman Kent Boese submitted a letter stating a concern about the Project. (Ex. 238.) His letter stated that the ANC was concerned about the Applicant's proposal to restrict RPP eligibility from the market rate-units. The ANC stated that it did not support the Applicant's proposal to include a condition restricting RPP eligibility from the market-rate units for several reasons. First, the ANC noted that the Applicant is complying with zoning parking requirements, and therefore was not seeking any parking relief. Second, the ANC stated it was opposed to restricting RPP eligibility in general because: (a) doing so through a covenant seemed like a bad policy; (b) it was contrary to the intent of D.C. Law 18-240, which states that, "[a]ny resident owning a vehicle registered at an address on a Ward 1 residential block may be granted a Zone 1 residential parking sticker"; and (c) DDOT and the Department of Motor Vehicles have acknowledged that it has no self-exemption process under the current regulations, thus eligible residents applying for RPPs may receive them. Third, the ANC stated it was particularly concerned with the proposal in this case, insofar as it would deny RPP-eligibility to the market-rate units only. The ANC's concerns are that it would decrease the marketability of the market rate units and thus have a negative impact on the success of the whole project, and that a successful mixed income project should provide equal amenities to all residents regardless of income.
190. Chairman Boese's letter did not indicate that the ANC had authorized its contents at a properly noticed meeting with a quorum present, so it does not meet the standard of ANC report which must be accorded great weight. The Commission nonetheless considered the contents of the letter at its public meeting on January 30, 2017, and agreed with the Chairman Boese that the RPP restriction should not apply to the market-rate units. The Commission therefore struck all references to the RPP-restriction for market rate units from the conditions of this Order.

### **Reports of Other District Agencies**

191. In addition to OP, DDOT, and the affected ANC, several other District agencies also submitted letters reviewing approval of the Project, including DHCD (Ex. 237J), DOEE (Ex. 237K), FEMS (Ex. 1237L), and DC Water (Ex. 237M). In particular, DHCD recommended approval of the Project because the Project will help meet the goals of the District's New Communities Initiative without destabilizing land value, accelerating gentrification, or displacing neighboring residents. (Ex. 237J, p. 2.) DOEE confirmed that the Project adequately addresses and will mitigate potential environmental impacts with respect to air pollution and stormwater runoff, consistent with the regulatory requirements of DOEE. (Ex. 237K, p. 1.) DC Water stated that the Project's utility plans adequately address water and sewer utility needs, and that the proposed water and sewer facilities shown on the Project's Plans would be considered adequate by DC Water. (Ex.



237M, p. 1.) Finally, FEMS indicated that the Fire Marshal has no objection to the Project moving forward and being approved. (Ex. 1237L, p. 1.)

## Contested Issues

192. The Park Neighbors, GAN, and a number of individuals in opposition to the Project raised a variety of issues concerning development of the PUD Site. A number of individuals also submitted letters in opposition to the Project. (Ex. 20-21, 40, 148, 151-163, 166-167, 168A, 170-171, 187-188, 191, and 220-229.) The Commission has carefully reviewed these issues, as submitted through written and oral testimony, and makes the findings discussed below.
193. Consistency with the Comprehensive Plan's Goal for Preserving Open Space. Opponents of the Project stated that the proposed rezoning is inconsistent with the Comprehensive Plan because it reduces the amount of available park greenspace. Individuals asserted their preference that the PUD Site should be improved with a larger park. As set forth in detail in FF Nos. 129-151, the Commission finds that the Project is consistent with the Comprehensive Plan, including its goals for preserving open space, due to Project's consistency with the equally important goals of developing new housing and affordable housing, combined with the District's commitment to develop a new public park directly adjacent to the PUD Site.
194. Consistency with Specific Policies Set Forth in the Comprehensive Plan. Written testimony was submitted to the record claiming that the Project is inconsistent with a number of specific policies set forth in the Comprehensive Plan related to quality of life, jobs and small businesses, public services, affordable housing, and transportation. (Ex. 181.) The Commission has reviewed each of these policies and finds that the Project is not inconsistent with the noted policies, as follows:
- a. *Policy E-4.1.3: Evaluating Development Impacts On Air Quality - Evaluate potential air emissions from new and expanded development, including transportation improvements and municipal facilities, to ensure that measures are taken to mitigate any possible adverse impacts. These measures should include construction controls to reduce airborne dust, and requirements for landscaping and tree planting to absorb carbon monoxide and other pollutants.*

The Commission finds that the Project is consistent with Policy E-4.1.3 because it includes a number of sustainable, environmentally-friendly features that will mitigate adverse impacts on air quality. These environmental measures include the implementation of erosion and sediment control techniques, new landscaping and street tree planting and maintenance, energy efficient and alternative energy sources, methods to reduce stormwater runoff, and green engineering practices that will together work to absorb carbon monoxide and other pollutants. In addition, the Project will be certified under the Enterprise Green Communities

standards, and will incorporate significant transportation demand management measures that will reduce travel demand and associated carbon emissions.

The Commission finds that DOEE supported the Project. (See email dated December 8, 2016 (Ex. 237K), stating that the PUD “includes measures that address and mitigate potential environmental impacts with respect to air pollution and stormwater runoff consistent with the regulatory requirements of the Agency. In addition, Certification under the Green Communities Criteria meets the minimum requirements of the Green Building Act for publicly financed developments of this scale.”)

Moreover, the Applicant will be required to comply with all applicable laws and regulations regarding construction noise and air pollution, and will address the mitigation of any construction-related impacts during the building permit process. Moreover, the Applicant submitted a Construction Management Plan, with which it will abide during construction of the Project. (Ex. 237F.) Therefore, the Commission finds that the Project is consistent with Policy E-4.1.3, and will not result in any negative impacts on air quality.

- b. *Policy E-4.3.5: Noise and Land Use Compatibility - Avoid locating new land uses that generate excessive noise adjacent to sensitive uses such as housing, hospitals, and schools. Conversely, avoid locating new noise-sensitive uses within areas where noise levels exceed federal and District guidelines for those uses.*

The Commission finds that the Project is consistent with Policy E-4.3.5 because it will not establish new land uses that generate excessive noise. The PUD Site will be developed as a residential use, which is the same use as the surrounding residential neighborhood. Moreover, the Applicant will be required to comply with all federal and District noise regulations during construction and operation of the buildings. Thus, the Commission finds that the Project will not create adverse impacts by generating excessive noise in the surrounding neighborhood.

- c. *Action E-4.5.C: Interagency Working Group - Create an interagency working group on safe drinking water to address drinking water emergencies; coordination between DCWASA and DOH, and expanded public education on water supply.*

This Commission finds that this Action item is not applicable to the Applicant’s Project. (See p. 25-46 of the Comprehensive Plan’s Implementation Element, which identifies DC Water, the District Department of Health (“DOH”), the District Department of Energy and the Environment (“DOEE”), and the Office of the City Administrator (“OCA”) as the agencies responsible for carrying out Action E-4.5.C.) Moreover, DC Water submitted a report recommending approval of the Project and stating that the Project “adequately addresses water and sewer utility needs” and that it would “work with the Applicant during the building

permit process to ensure that appropriate measures are taken to ensure that the project will not have any adverse impacts on existing or future DC Water capacity needs and will meet acceptance criteria.” (Ex. 237M.) Based on the DC Water report, the Commission finds that the Project will not have any negative impact on the safety or supply of drinking water.

- d. *Policy E-4.8.2: Expanded Outreach to Disadvantaged Communities - Expand local efforts to involve economically disadvantaged communities, particularly those communities that historically have been impacted by power plants, trash transfer stations, and other municipal or industrial uses, in the planning and development processes.*

The Applicant worked closely with existing Park Morton residents through their Resident Council and Relocation/Reentry Committee, and has the full support of the Resident Council for development of the Project. (Ex. 37-38, 176-177.) The Applicant will also involve economically disadvantaged communities by meeting the U.S. Department of Housing and Urban Development’s (“HUD”) Section 3 requirements by providing job training, employment, and contract opportunities for low- or very-low income residents in connection with development of the Project. In addition, Dantes Partners, a member of the Applicant team, is a Section 3 business and is committed to extending opportunities to other Section 3 businesses. The Applicant has entered into a CBE Agreement with DSLBD which includes equity and development participation and reporting. (Ex. 237I.) Moreover, the Project received support from several local business owners. (Ex. 109, 144, 145, 146, 147, 207.)

In addition, DHCD recommended approval of the Project and stated that the “proposed development will help to meet the goals of the District’s New Communities Initiative, which is a program designed to revitalize communities plagued with severely distressed housing, poverty, high crime and economic segregation.” (See Ex. 237J.) Thus, the Commission finds that the Applicant’s actions and the Project are consistent with Policy E-4.8.2.

- e. *Policy ED-3.2.1: Small Business Retention and Growth - Encourage the retention, development, and growth of small and minority businesses through a range of District-sponsored technical and financial assistance programs.*

Consistent with Policy ED-3.2.1, the Commission finds that the Project will encourage the retention, development, and growth of small and minority businesses since:

- i. The Applicant has entered into a First Source Employment Agreement with the DOES, consistent with the First Source Employment Agreement Act of 1984, to ensure that District residents are given priority for new jobs created by municipal financing and development programs;

- ii. The Applicant has entered into a CBE Agreement with DSLBD to ensure that a preference is made to District-based firms pursuing District government issued procurement opportunities. As noted above, the CBE requirements include equity and development participation and reporting; and
  - iii. The Applicant will involve economically disadvantaged communities by meeting the HUD Section 3 requirements by providing job training, employment, and contract opportunities for low- or very-low income residents in connection with development of the Project;
- f. *Policy ED-3.2.6: Commercial Displacement - Avoid the displacement of small and local businesses due to rising real estate costs. Programs should be developed to offset the impacts of rising operating expenses on small businesses in areas of rapidly rising rents and prices.*

Consistent with Policy ED-3.2.6, the Commission finds that the Project will not result in the displacement of small and local businesses. The PUD Site is presently operated as a temporary park, so development of the Project will not result in the closure of any existing businesses on the PUD Site itself. Moreover, development of the Project includes 4,545 square feet of gross floor area designed for “retail/community” uses, such that new retail within the Project will not compete with or displace existing businesses in the surrounding area. Rather, the Commission finds that the Project will help support small and local businesses by introducing 273 new residential units into the neighborhood where none previously existed. The new housing will be occupied by residents who will need neighborhood goods and services. This type of mixed-income development will generate diverse new customers for small and local businesses, and will not result in rising real estate costs that could potentially displace existing businesses. Moreover, several existing local businesses have expressed their support for the Project. (See Ex. 109, 144, 145, 146, 147, 207.)

- g. *Policy ED-3.2.7: Assistance to Displaced Businesses - Assist small businesses that are displaced as a result of rising land costs and rents, government action, or new development. Efforts should be made to find locations for such businesses within redeveloping areas, or on other suitable sites within the city.*

The Commission finds that the Project is consistent with Policy ED-3.2.7 because the Project will not result in the displacement of small and local businesses. To the contrary, the Project will help to spur the growth and development of businesses in the area by developing significant new housing for residents in need of local goods and services. Moreover, the Commission finds that the Applicant’s commitments regarding its First Source Employment Agreement, CBE Agreement, and compliance with HUD Section 3 requirements will help to create

new employment opportunities to local, low-income, and disadvantaged residents. With respect to assistance of displaced businesses, given that the Project is not displacing any existing businesses, there is no additional obligation on the Applicant.

- h. Action ED-3.2.A: Anti-Displacement Strategies - Complete an analysis of alternative regulatory and financial measures to mitigate the impacts of “commercial gentrification” on small and local businesses. Measures to be assessed should include but not be limited to income and property tax incentives, historic tax credits, direct financial assistance, commercial land trusts, relocation assistance programs, and zoning strategies such as maximum floor area allowances for particular commercial activities.*

Consistent with Action ED-3.2.A, the Commission finds that the Project will not result in commercial gentrification or the displacement of small and local businesses. The Project will be a benefit to the entire community and will help maintain economic stability and support the growth of small and local businesses. Moreover, pp. 25-50 of the Comprehensive Plan’s Implementation Element designates OP, DMPED, the District Office of Local Business Development (“OLBD”), and DOES as the agencies responsible for carrying out Action ED-3.2.A. As stated above, DHCD expressed its support for the Project, noting that it would not result in “the destabilization of land values, the acceleration of gentrification, or the displacement of neighboring residents.” (Ex. 237J.) OP and DMPED have also expressed their support for the Project. (Ex. 14, 43, 193.)

- i. Action ED-3.2.D: Small Business Needs Assessment - Conduct an assessment of small and minority business needs and existing small business programs in the District. The study should include recommendations to improve existing small business programs and to develop new programs as needed.*

The study required by Action ED-3.2.D is intended to be undertaken by DOES and OLBD. (See p. 25-51 of the Comprehensive Plan’s Implementation Element.) Therefore, the Commission finds that compliance with Action ED-3.2.D is not required by the Applicant for approval of the Project.

- j. Policy ED-4.2.4: Neighborhood-Level Service Delivery - Emphasize the delivery of workforce development programs at the neighborhood level. Continue neighborhood faith-based and community-based initiatives which deliver job training and placement services to unemployed and underemployed residents.*  
717.12

- k. Policy ED-4.2.7: Living Wage Jobs - Promote the attraction and retention of living wage jobs that provide employment opportunities for unskilled and semi-skilled workers. Use marketing strategies and incentives to encourage the relocation of firms with such positions to the District.*

- l. Policy ED-4.2.12: Local Hiring Incentives - Maintain requirements for resident job training and placement for projects built and/or operated with any form of public subsidy/loan, grant or other incentives. Promote incentives for similar training and hiring programs by the private sector.*

The Commission finds that the Project will advance the goals of Policies ED-4.2.7 and 4-2.12 because the Applicant will enter into a First Source Employment Agreement with DOES, enter into a CBE Agreement with DSLBD, and will meet HUD Section 3 requirements, in order to promote living wage jobs that provide unemployment opportunities for unskilled and semi-skilled workers related to development of the PUD. Thus, the Commission finds that the Project will promote the attraction and retention of living wage jobs and will provide employment opportunities for unskilled and semi-skilled workers as part of development of the PUD.

The Commission finds that the Applicant will comply with all resident job training and placement requirements. The Applicant will enter into a First Source Employment Agreement to ensure that District residents are given priority for new jobs created by the PUD; enter into a CBE Agreement to ensure that a preference is made to District-based firms pursuing procurement opportunities related to development of the PUD; and meet the HUD Section 3 requirements by providing job training, employment, and contract opportunities for low- or very-low income residents in connection with development of the Project. Therefore, the Applicant will implement training and hiring as part of development of the PUD.

With respect to Policy ED-4.2.4, the Commission finds that it does not provide direct guidance regarding development but instead provides a suggestion to “emphasize the delivery of workforce development programs at the neighborhood level.” The Commission finds that the Applicant’s employment proffer is adequate under the circumstances, even though it is not specifically focused at the neighborhood level. The Commission finds that the statement in Policy ED-4.2.4 to “[c]ontinue neighborhood faith-based and community-based initiatives which deliver job training and placement services to unemployed and underemployed residents” is inapplicable to its decision here.

- m. Policy CSF-1.1.1: Adequate Facilities - Construct, rehabilitate, and maintain the facilities necessary for the efficient delivery of public services to current and future District residents. 1103.6*

The PUD Site was never intended or encouraged by the District to be developed with facilities dedicated to the delivery of public services. The Commission finds that the Project respects the District’s goals, set forth in the Bruce Monroe Surplus Declaration and Approval Resolution of 2016 and the Bruce Monroe Despoliation Approval Resolution of 2016, of providing housing and affordable housing on the



PUD Site. The Commission also acknowledges that the Project received approval from a number of District agencies, including DC Water, DOEE, and FEMS (Ex. 237L), all of which concluded that the Project would not have any adverse effects on their utilities or facilities. (Ex. 237K-237M.)

- n. *Policy CSF-1.1.2: Adequate Land - Ensure that the District government owns a sufficient amount of land in appropriately distributed locations to accommodate needed public facilities and meet the long-term operational needs of the government.*

The Commission finds that the District government has determined that it no longer needs to own the PUD Site, as evidenced by the Bruce Monroe Surplus Declaration and Approval Resolution of 2016 and the Bruce Monroe Despoliation Approval Resolution of 2016 (both included in Ex. 197), which establish the D.C. Council's finding that the PUD Site "is no longer required for public purposes because the Property's condition cannot viably accommodate a District agency use without cost prohibitive new construction." Indeed, the Council found that the "most pragmatic solution for activating the Bruce Monroe site is to declare the Property surplus and dispose of the Property for development... the Council determines that the Property is no longer required for public purposes." (Bruce Monroe Surplus Declaration and Approval Resolution of 2016, pp. 1-2.) Therefore, the Commission defers to the Council's decision regarding the use and development of District-owned land. However, the Commission also credits the District's commitment to retaining approximately 44,000 square feet of Lot 849 to be developed as a new public park.

- o. *Policy CSF-1.2.2: Linking the Comp Plan and Capital Improvement Program - Use the District's Comprehensive Plan, particularly its analysis of growth needs and service adequacy, to establish priorities for the funding of capital improvement projects. Public facility planning should be done systematically and comprehensively and should be based on analytical data about community needs, service levels, and projections—in addition to facility condition assessments.*

Consistent with Policy CSF-1.2.2, the Commission finds that the District has already made an assessment of the PUD Site and has determined that the "intended use of the Property is a mixed-use development providing for affordable housing, residential market rate housing, commercial or community amenities space and any ancillary uses." The District also determined that "the proposed uses will include approximately 44,404 square feet of land area devoted to a park or other public uses." (Bruce Monroe Despoliation Approval Resolution of 2016, pp. 2-3.) Thus, the Commission finds that the proposed Project is a direct result of the District's stated priorities for the PUD Site, based on its analysis of growth needs and funding priorities throughout the city.

- p. *Policy CSF-1.2.6: Impact Fees - Ensure that new development pays its “fair share” of the capital costs needed to build or expand public facilities to serve that development. Consider the use of impact fees for schools, libraries, and public safety facilities to implement this policy. Adoption of any fees shall take potential fiscal, economic, and real estate impacts into account and shall be preceded by the extensive involvement of the development community and the community at large.*

The Applicant will pay all applicable application, permit, and other required fees associated with the Project. There are no specific impact fees associated with development of the PUD Site.

- q. *CSF-3.2 Library Location - The opportunity to modernize or relocate more than two dozen branch libraries creates an exciting opportunity for many District neighborhoods. High-quality public libraries can help anchor neighborhood and corridor reinvestment efforts. Libraries can also support many of the other goals articulated in the Comprehensive Plan, including the creation of space for the arts, job training and literacy programs, and the promotion of high quality civic design.*

The PUD Site was never intended or encouraged by the District to be developed with a library. The Commission finds that the Project respects the District’s goals, set forth in the Bruce Monroe Surplus Declaration and Approval Resolution of 2016 and the Bruce Monroe Despoliation Approval Resolution of 2016 by of providing housing, workforce affordable housing, and public housing on the PUD Site, and developing the public park adjacent to the PUD Site.

- r. *IN-1.2 Modernizing Water Infrastructure - In conjunction with WASA, the District must consider the impacts of new development and ensure that water infrastructure will be able to meet future demand. Planned improvements to the water system involve normal maintenance to replace aging water distribution mains and small diameter pipes, and upgrades to keep pace with population growth and new development. This may also include the addition of new water storage facilities, increasing the capacity of certain water mains, and upgrading pump stations.*

The Commission finds that the Applicant will be required to construct and maintain all public facilities and infrastructure, including water infrastructure, to accommodate future demand and maintain efficient delivery of public services for the Project. The civil sheets submitted to the record include plans for utilities, grading, erosion and sediment control, and stormwater management. Moreover, the Applicant will be required to coordinate with all applicable public utilities and District agencies during the permitting process, including DC Water, to ensure that adequate services will continue to be available for the existing and new uses.

The Commission also credits DC Water's report recommending approval of the Project, which stated that the "utility plans as presented adequately address water and sewer utility needs. The plan proposes water and sewer extensions which if placed in dedicated public space or acceptable easements would be considered adequate by DC Water." DC Water also noted that it would "work with the Applicant during the building permit process to ensure that appropriate measures are taken to ensure that the project will not have any adverse impacts on existing or future DC Water capacity needs and will meet acceptance criteria." (Ex. 237M.)

- s. *Policy IN-1.2.2: Ensuring Adequate Water Pressure - Work proactively with WASA to provide land for new storage tanks and other necessary operations so that adequate water supply and pressure can be provided to all areas of the District. The siting and design of water storage tanks and similar facilities should be consistent with the policies of the Urban Design and Environmental Protection Elements, and should minimize visual impacts and "skylining" effects on ridges or hills.*

The Commission finds that this Policy does not apply to the Applicant's development of the PUD Site because the land is not proposed to be developed for storage or any other operation facilities. The District has already determined that the PUD Site "is no longer required for public purposes because the Property's condition cannot viably accommodate a District agency use without cost prohibitive new construction." See Bruce Monroe Surplus Declaration and Approval Resolution of 2016. The Council found that the "most pragmatic solution for activating the Bruce Monroe site is to declare the Property surplus and dispose of the Property for development... the Council determines that the Property is no longer required for public purposes." (Bruce Monroe Surplus Declaration and Approval Resolution of 2016, pp. 1-2.) Therefore, the District has already determined the preferred use for the PUD Site, and that use does not involve locating storage tanks or other DC Water facilities.

- t. *Policy IN-2.1.1: Improving Wastewater Collection - Provide for the safe and efficient collection of wastewater generated by the households and businesses of the District. Ensure that new development does not exacerbate wastewater system deficiencies, and instead supports improved system efficiency and reliability.*

Consistent with Policy IN-2.1.1, and based on DC Water's statement that "the utility plans as presented adequately address water and sewer utility needs[.]" the Commission finds that the Project will comply with Policy IN-2.1.1. (Ex. 237M.)

*Policy IN-6.1.3: Developer Contributions - Require that private developers fund the necessary relocation or upgrading of existing utilities to address limitations with existing infrastructure on or adjacent to proposed development sites. For necessary upgrades to water and wastewater infrastructure, developers should*

*contribute to the cost of extending utilities to the project site or upgrading existing utilities to the specifications necessary for their proposed project.*

The Applicant will coordinate with all applicable public utilities and District agencies during the permitting process to ensure that adequate services will continue to be available for new uses on the PUD Site and for the existing uses in the surrounding neighborhood. The Applicant will pay any required costs/fees associated with securing required utility permits for the PUD Site. Thus, the Commission finds that the Project is consistent with Policy IN-6.1.3.

- u. Policy H-2.1.1: Protecting Affordable Rental Housing - Recognize the importance of preserving rental housing affordability to the well-being of the District of Columbia and the diversity of its neighborhoods. Undertake programs to protect the supply of subsidized rental units and low-cost market rate units.*
- v. Policy H-1.2.1: Affordable Housing Production as a Civic Priority - Establish the production of housing for low and moderate income households as a major civic priority, to be supported through public programs that stimulate affordable housing production and rehabilitation throughout the city.*
- w. Policy H-1.2.7: Density Bonuses for Affordable Housing - Provide zoning incentives to developers proposing to build low- and moderate-income housing. Affordable housing shall be considered a public benefit for the purposes of granting density bonuses when new development is proposed. Density bonuses should be granted in historic districts only when the effect of such increased density does not significantly undermine the character of the neighborhood.*

The Commission finds that the Project exemplifies the goals of Policy H-2.1.1, H-1.2.1, and H-1.2.7. The Project includes 273 new residential units, of which 90 will be public housing replacement units, 109-113 will be workforce affordable units, and 70-74 will be market-rate units. The units include both rental and ownership opportunities. As contemplated by Policy H-1.2.7, the Applicant requested density bonuses associated with development of the PUD in order to build the low- and moderate-income housing proposed for the PUD Site. The variety of housing options will not only create housing for the lowest-income households, but will also establish new units that are affordable for teachers, police officers, and other working professionals in the District. Therefore, the Project provides a substantial new supply of affordable rental housing while preserving the well-being of the diversity of the District's neighborhoods.

The Project will be developed in coordination with the redevelopment of Park Morton, which also advances the goal of rehabilitating existing affordable housing. DHCD recommended approval of the application, stating that the Project would help to meet the goals of the District's New Communities Initiative, which is a program designed to revitalize communities plagued with severely distressed

housing, poverty, high crime and economic segregation.” (Ex. 237J.) Moreover, OP found that the “zone districts and proposed project are comparable in density or intensity to those in the vicinity and not inconsistent with the predominate land use and the Comprehensive Plan.” (Ex. 43, p. 10.) Therefore, the Commission finds that the Project is fully consistent with the goals and purposes of these policies.

- x. *Policy H-2.1.4: Conversion of At-Risk Rentals to Affordable Units - Support efforts to purchase affordable rental buildings that are at risk of being sold and converted to luxury apartments or condominiums, in order to retain the units as affordable. Consider a variety of programs to manage these units, such as land banks and sale to non-profit housing organizations.*
- y. *Action H-2.1.A: Rehabilitation Grants - Develop a rehabilitation grant program for owners of small apartment buildings, linking the grants to income limits for future tenants. Such programs have been successful in preserving housing affordability in Montgomery County and in many other jurisdictions around the country.*
- z. *Action H-2.1.E: Affordable Set-Asides in Condo Conversions - Implement a requirement that 20 percent of the units in all condo conversions be earmarked for qualifying low and moderate income households. The requirement should ensure that at least some affordability is retained when rental units are converted to condominiums. In addition, require condominium maintenance fees to be set proportionally to the unit price so as not to make otherwise affordable units out-of-reach due to high fees.*
- aa. *Policy H-2.2.3: Tax Relief - Maintain tax relief measures for low income homeowners and low income senior homeowners faced with rising assessments and property taxes. These measures should reduce the pressure on low income owners to sell their homes and move out of the District.*
- bb. *Action H-2.2.E: Program Assistance for Low and Moderate Income Owners - Continue to offer comprehensive home maintenance and repair programs for low and moderate income owners and renters of single family homes. These programs should include counseling and technical assistance, as well as zero interest and deferred interest loans and direct financial assistance.*

The Commission finds that *Policy H-2.1.4, Action H-2.1.A, Action H-2.1.E, Policy H-2.2.3, and Action H-2.2.E* are not applicable to the Project because: (i) the PUD Site does not have any existing affordable rental buildings; (ii) the PUD Site does not include any existing apartment buildings; (iii) the PUD does not involve condo conversions; (iv) the Project will not have any impact on tax relief measures implemented by the District; and (v) the Project will not have any impact of the District’s ability to offer home maintenance and repair programs.



- cc. *Policy H-1.1.3: Balanced Growth - Strongly encourage the development of new housing on surplus, vacant and underutilized land in all parts of the city. Ensure that a sufficient supply of land is planned and zoned to enable the city to meet its long-term housing needs, including the need for low- and moderate-density single family homes as well as the need for higher-density housing.*

The Commission finds that the Project advances Policy H-1.1.3 by developing new housing on surplus, vacant and underutilized land. The District has already determined that the PUD Site is surplus and should be redeveloped with new housing, affordable housing, and open park space. (Bruce Monroe Surplus Declaration and Approval Resolution of 2016 and Bruce Monroe Despoliation Approval Resolution of 2016 (Ex. 197); DMPED Open Letter (included in Ex. 232).) Moreover, the Project will help enable the city to meet its long-term housing needs by developing low-, moderate-, and higher-density housing on the PUD Site, affordable for a range of income levels and provided at a variety of unit types and sizes.

195. Density, Scale, and Building Height. Opponents of the Project alleged that the apartment house would reduce light, air, and privacy to existing residences, and that the building's proposed height would be out of character with the surrounding row house neighborhood.
196. As described in FF Nos. 122-128, the Commission provided details regarding our determination on how the Project is consistent with the Comprehensive Plan parameters regarding height and density. The Commission further finds that the apartment house height is consistent with surrounding building heights and uses and will not negatively affect light, air, or privacy currently enjoyed by nearby properties. The apartment house provides setbacks and step-downs in deference to the scale of the surrounding row houses and to minimize the impact of its overall massing. The setbacks and step-downs were specifically designed to mitigate shadows on the nearby homes. (*See Applicant's rebuttal testimony at the 12/8/16 Tr., p. 5.*) As shown on the shadow studies for June, March, and December (included in Ex. 197), the apartment house will cast nominal shadows on the surrounding residential dwellings throughout the day. In December, when shadows are the greatest, there are no shadows on the adjacent row dwellings; and at 3:00 p.m., there is a maximum of one minimally impacted residence. (*Id.*) Therefore, the Commission finds that the apartment house will not negatively impact light or air available to surrounding residences.
197. Regarding privacy, the Commission finds that the Applicant established significant setbacks between the proposed buildings on the PUD Site and the closest residential neighbors. To the north, the apartment house and senior building are separated approximately 90 feet from the closest residential dwellings across Irving Street as a result of (i) the 60-foot right-of-way created by Irving Street; (ii) a 20-foot setback established by the front setbacks for the existing row dwellings across Irving Street; and (iii) the eight-foot setback created by the Applicant at the front of the apartment house. (Applicant's testimony at the 12/8/16 Tr., pp. 4-5.) Thus, the Applicant has provided



almost a 1:1 setback from the residential dwellings that are closest to the apartment house, which will help to ensure privacy for its residents.

198. To the west, the senior building is separated from the closest residential dwellings by the new private street, which has a right-of-way of 60 feet. Also to the west, the townhomes, which are only 40 feet in height, are separated from the closest residential dwelling by their 15-foot rear yards, a proposed three-foot, six-inch tall privacy fence, and ornamental trees. To the east of the PUD Site is the commercial corridor of Georgia Avenue, and to the south is the 44,000-square-foot parcel to be used for park and recreation purposes. Therefore, the Commission finds that the massing and placement of the buildings on the PUD Site respect the existing dwellings and will not result in any adverse impacts to light, air, or privacy to any adjacent properties.
199. In addition, the Applicant's architect testified regarding the extensive public outreach that occurred through four separate design workshops (following previous public meetings regarding the Project regarding its siting, massing, and scale. At those meetings, the Applicant brought "building blocks in which people could build with different various size and scale blocks and really locate the housing on each site as they deemed appropriate." (*Id.* at 6.) In those meetings, the Applicant "chronologized that both in a narrative, based on the conversation we heard, but also in photo form, and used those as a response to generate some of the schemes that we saw coming out of that... we looked at a number of options with the community and DMPED, in terms of how to divide the portion of land to be conveyed, and developed by the applicant, and the portion of land to remain with DMPED for park and open space purposes." (*Id.* at 6-7.) After multiple studies, the Applicant determined "after working with the community, participants, and stakeholders, that the best and most feasible way to provide a substantial amount of land as (*sic*) open space, while also meeting the important need for housing was to locate the main density of Irving Street, and to preserve the open spaces to have the needed residential use." (*Id.* at 7.)
200. At the public hearing, and in their post-hearing submission dated January 10, 2017, the Park Neighbors suggested that the footprint of the buildings should be changed. However, the Applicant's architect presented six different early development schemes for the PUD Site, which described the Applicant's process for selecting the proposed site plan and building heights, and explained why the alternative five development schemes were not selected. (Applicant's Rebuttal PowerPoint (Ex. 234, pp. 5-7).) For example, the Applicant explained that it did not locate the majority of the site density and tallest building heights on the east side of the PUD Site, along Georgia Avenue, because it was "resoundingly not supported by the community because they lost the visual connection from Georgia to the park. And that was very important to everyone... [i]t also made the park seem more private, because it was behind the building." (12/8/16 Tr., pp 7-8.) The Applicant explained that it did not locate the majority of site density to the west of the PUD Site, since it "pulled the density off of Georgia, so the... taller 90-foot portion was more into the neighborhood, would cast more shadows on to the adjacent homes, and also felt that that privatized -- it made it more like a front yard for the building, and not so

much a public park in some comments that we heard.” (*Id.* at 8.) Further, the Applicant explained that it did not locate the density/tallest buildings on the southern portion of the PUD Site because it “was not seen favorably because in contrast to the scheme we ended up with, there is no street to separate the shadow from the [park] use. So, the shadow from that building would have set directly on to the park. You didn’t have the benefit of having a street to separate it from any other use.” (*Id.*) The Applicant also explained that it chose not to “wrap” the building around the park because it “was seen as much too private and owned by the building and not open to – really open to Georgia Avenue or the community.” (*Id.* at 8-9.) Therefore, the Commission credits the Applicant’s testimony that the site plan and building heights and locations were selected based on input from the community and through the elimination of other development schemes that were rationally rejected.

201. The Park Neighbors also stated that the density at the PUD Site should be reduced by shifting units to the Park Morton PUD. However, the Commission credits the Applicant’s and DMPED’s evidence that none of the units proposed for the PUD Site can be shifted to Park Morton in order to achieve the desired number of replacement units overall. Unlike the PUD Site, Park Morton is located within a residential neighborhood and is situated off of Georgia Avenue. Accordingly, it is prescribed a lower-density zoning designation under a PUD than that of the PUD Site, and a lower zoning designation results in a lower unit yield.
202. Finally, the Commission finds that the proposed apartment house, proposed at 90 feet in height, is consistent with several other existing buildings and approved PUDs in the surrounding area. (*See, e.g.* Z.C. Order No. 13-10, approving a PUD at 3212-3216 Georgia Avenue (one block to the north of the PUD Site) with a height of 87 feet and 5.95 FAR; Z.C. Order No. 10-26, approving a PUD at 3221-3335 Georgia Avenue (two blocks to the northeast of the PUD Site) with a height of 90 feet and 5.37 FAR; Z.C. Order No. 08-26, approving a PUD at 3232 Georgia Avenue (two blocks north of the PUD Site) with a height of 80 feet and 4.54 FAR.) Thus, the Commission confirms that the apartment house’s height is consistent with other residential development projects in the area.
203. Based upon the Findings of Fact above, the Commission finds that the proposed density, scale, and building heights proposed for the PUD Site are consistent with the Comprehensive Plan. However, even if this Commission found that the proposed density, scale, and building heights were not consistent with the Comprehensive Plan, the Commission would still conclude that the overall Project is consistent with the Comprehensive Plan based on the numerous goals and policies that the Project’s development program embodies and advances. (*See Durant I*, 65 A.3d at 1168, stating that “even if a proposal conflicts with one or more individual policies associated with the Comprehensive Plan, this does not, in and of itself, preclude the Commission from concluding that the action would be consistent with the Comprehensive Plan as a whole.”) In this case, the Commission has balanced the many competing priorities within the Comprehensive Plan, and concluded that the overall Project is consistent with the

Comprehensive Plan as a whole. (See *D.C. Library Renaissance Project/West End Library Advisory Grp.*, 73 A.3d at 126, stating that “the Commission may balance competing priorities” in determining whether a PUD is consistent with the Comprehensive Plan as a whole.) As set forth in FF Nos. 105-151 of this Order, the Commission has explained why the policies related to land use, housing, and affordable housing are so important to achieving District goals, and that the Project’s density, scale, and building heights are necessary to achieve these goals.

204. Traffic. Individuals testified that the Project would exacerbate existing traffic issues on the surrounding streets and that the Project fails to adequately address parking challenges. The Park Neighbors also specifically asked the Applicant to block vehicular access to the alley from the new private street.
205. The Commission finds that the only evidence of record in this case demonstrates that the Project will not have any adverse impacts on traffic or on the existing transit system. As set forth in the Applicant’s TIS, dated November 1, 2016, and prepared by Symmetra Design, the transportation network surrounding the PUD Site is diverse and robust and the Applicant has proposed significant TDM measures that will encourage use of non-automobile modes. (Ex. 33.) Thus, the combination of transportation options and the TDM program will help to reduce traffic and parking demand associated with the PUD. Moreover, the TIS found that: (i) with build-out of the Bruce Monroe PUD, there will be a “negligible increase in delay to motorists” at two intersections within the study area, (ii) all other intersections will “continue to operate at or above the LOS [level of service] threshold,” and (iii) the intersections created by the new private street with Columbia Road and Irving Street will “both operate at LOS “A” during the AM and PM peak hours.” (Ex. 33, p. 11.) In addition, the Project will “allow for improved pedestrian conditions with new sidewalks along both sides of the new private street. Pedestrian facilities adjacent to the site will adhere to DDOT standards.” (*Id.*)
206. DDOT reviewed the TIS, confirmed that the Applicant utilized sound methodology to perform its analysis, and recommended approval of the application. In its review, DDOT found that the “site design has the potential to disperse site traffic in a way that minimizes the action’s impact on the external road network and improve connectivity to adjacent neighborhoods.” (Ex. 44, p. 2). DDOT also concluded that “future residents and retail visitors are likely to utilize transit, walking, and bicycling at high rates, thus auto use is likely to be low, resulting in the PUD generating a nominal number of new trips (40 AM trips and 57 PM trips). (*Id.* at 2 and 8 (emphasis added).)
207. With respect to parking, the Project will add 16 new on-street parking spaces located on the new private street for residents and guests of the project, as well as 99 below-grade parking spaces within the proposed buildings. This total supply of 115 spaces exceeds the 79 spaces required by the Zoning Regulations and will adequately serve the needs of the PUD Site’s residents and guests so that they will not need to utilize existing public on-street parking spaces. Moreover, DDOT determined that the “residential parking

provision of about one space per three multi-family units is generally consistent with other recent projects in similar walkable, transit-friendly neighborhoods.” (*Id.* at 7.)

208. Finally, consistent with other recently approved PUDs where the use of on-street parking was a concern, this Order includes a condition that prohibits the Applicant from seeking or supporting any change to designate the apartment house as becoming RPP-eligible.
209. Based on the evidence presented in the Applicant’s TIS and DDOT’s written report, as well as oral testimony from the Applicant’s transportation consultant and DDOT at the public hearing, the Commission concludes that that the Project will not have any adverse impacts on traffic or on the existing transit system.
210. Regarding the Park Neighbor’s request to block vehicular access to the alley from the new private street, the Commission notes that DDOT did not support this idea because doing so would hamper improved connectivity in the alley system. (Ex. 237, p. 6.) DDOT indicated its support for the alley connection because it will facilitate alley operations for the structures that currently use the existing dead-end alley, and because maintaining the alley/street connection is not anticipated to induce significant numbers of new trips in the alley, since all non-local traffic would be expected to use the streets not the alleys. (*Id.* at 5-6.) The Commission credits DDOT’s review of the alley/street connection, and concludes that blocking vehicular access in this location would hamper improved connectivity in the alley system.
211. Parking. Opposition testimony asserted that the Project would result in reduced on-street parking and would create new parking challenges. Testimony was also presented that the District’s proposed dedicated bus lanes for Irving Street and Columbia Road would eliminate half of the currently available street parking.
212. The Commission finds that the Project incorporates significant on- and off-street parking, such that existing public on-street parking will not become over-saturated as a result of the Project. The Project will add 16 new on-street parking spaces located on the new private street for residents and guests of the Project, as well as 99 below-grade parking spaces within the proposed buildings. This total supply exceeds the 79 spaces required by the Zoning Regulations and will adequately serve the needs of the PUD Site’s residents and guests so that they will not need to utilize existing public on-street parking spaces. Thus, the Commission concludes that the Project will not result in an increased parking demand in the surrounding neighborhood.
213. The Commission notes that DDOT also determined that the “residential parking provision of about one space per three multi-family units is generally consistent with other recent projects in similar walkable, transit-friendly neighborhoods.” (Ex. 44, p. 7.) DDOT found that the PUD Site “is well served by public transit. (Ex. 44, p. 9.) DDOT did not indicate that traffic or parking associated with the Project would adversely impact existing or planned bus routes on Georgia Avenue, Irving Street, or Columbia Road. Therefore, based on the findings of the TIS, DDOT’s report and testimony, the

Commission finds that the Project will not cause any adverse impacts on the availability of on-street parking.

214. Noise and Air Pollution Caused by Construction. Opponents of the Project testified that the Project would result in increased noise and air pollution as a result of construction. However, the Commission finds that the Project will not result in unmitigated or unreasonable noise or air pollution caused by construction. The Project was reviewed and approved by DC Water, DOEE, and FEMS, all of which asserted that the Project would not have any adverse effects on their utilities or facilities. The Commission credit's DOEE's findings that the Project "includes measures that address and mitigate potential environmental impacts with respect to air pollution... consistent with the regulatory requirements of the Agency. In addition, Certification under the Green Communities Criteria meets the minimum requirements of the Green Building Act for publicly financed developments of this scale." (Ex. 237K.) Moreover, the Applicant will be required to comply with all applicable laws and regulations regarding construction noise and air pollution, and will address the mitigation of any construction-related impacts during the building permit process. The Applicant also submitted a Construction Management Plan, with which it will abide during construction of the Project. (Ex. 237F.) Therefore, the Commission is satisfied that the Project will not result in adverse impacts to noise or air pollution as a consequence of construction.
215. The Commission also finds that the Project includes a variety of sustainable features and will be certified under the Enterprise Green Communities standards. Although only 35 points are required to be certified, the Applicant proposes to achieve 57 points for the apartment house and senior building each, and 50 points for the townhomes. Sustainable features that will be implemented as part of the Enterprise Green Communities certification include erosion and sediment control techniques, efficient irrigation and water reuse, advanced water conservation, surface water management, and high quality water drainage. These features will ensure that the Project does not result in negative impacts to air pollution.
216. Water Runoff. Testimony in opposition to the Project claimed that the proposed high-density units along Georgia Avenue would increase the amount of paved and impervious surfaces in the area, and thus increase water runoff. More specifically, testimony asserted that reducing the size of the existing park would eliminate one of the few remaining green spaces that helps mitigate water runoff issues in the area.
217. Based on testimony provided by the Applicant at the public hearing, the Commission understands that the majority of the PUD Site drains to the southwest, that there is little existing storm drain infrastructure on the PUD Site, and that there are no existing stormwater controls. Upon development of the PUD Site, stormwater runoff will be significantly reduced because the PUD Site will be subject to the 2013 Stormwater Management Regulations, which are more stringent than the stormwater regulations that were previously applicable to the PUD Site. All runoff will be captured on-site and safely conveyed into the public combined sewer system not onto public streets or adjacent



properties. The PUD Site's drainage characteristics will be vastly improved from existing conditions, which will alleviate existing off-site drainage concerns that may exist in the surrounding area. Moreover, stormwater in the public right-of-way, which is directed to public right-of-way storm drains, will also be reduced since the Project incorporates new planting areas along the public right-of-way. *See* testimony of Marcelo Lopez, Tr. 12/8/2016. The Commission finds there is no evidence to the contrary in the case record that would invalidate the Applicant's testimony that the Project will not result in increased or unacceptable water runoff.

218. Moreover, DC Water submitted a letter approving the Project, which noted that the "utility plans as presented adequately address water and sewer utility needs. The plan proposes water and sewer extensions which if placed in dedicated public space or acceptable easements would be considered adequate by DC Water." DC Water noted that it would "work with the Applicant during the building permit process to ensure that appropriate measures are taken to ensure that the project will not have any adverse impacts on existing or future DC Water capacity needs and will meet acceptance criteria." (Ex. 237M.)
219. DOEE also submitted a letter approving the Project, stating that the Project "includes measures that address and mitigate potential environmental impacts with respect to... stormwater runoff consistent with the regulatory requirements of the Agency. In addition, Certification under the Green Communities Criteria meets the minimum requirements of the Green Building Act for publicly financed developments of this scale." (Ex. 237K.)
220. Based on the foregoing, including testimony from the Applicant's civil engineer and the review and approval by DC Water and DOEE, the Commission finds that the Project will not result in increased or unacceptable water runoff in the surrounding area. The Commission also notes that evaluation of these types of environmental impacts are best conducted by DOEE, and accordingly will be part of the building permit process. (*See* Z.C. Order No. 13-14, Finding of Fact No. 175; *see also Foggy Bottom Association v. District of Columbia Zoning Comm'n*, 878 A.2d 1160 (D.C. 2009).)
221. Public Services: Testimony in the record claimed that the Project would create a stress on the public services serving the community (transit, water, electric, gas, environment) and that cumulative densities of projects along Georgia Avenue are not being considered holistically so to determine a comprehensive impact analysis on public services.
222. The Commission finds that development of the PUD Site will not have adverse impacts on the availability of public services. The civil sheets included in the Plans for utilities, grading, erosion and sediment control, and stormwater management, such that the details regarding all public services have been adequately reviewed and planned for in conjunction with the proposed Project. Moreover, the Applicant will coordinate with all applicable public utilities and District agencies during the permitting process to ensure that adequate services will continue to be available for the existing and new uses. The Commission also notes that the Project was approved by DC Water, DOEE, and FEMS,



which all noted that the Project would not have any adverse impacts on utility services. (Ex. 237K-237M.) FEMS in particular noted that the “Fire Marshal has no objection on the project moving forward and being approved. Fire department access needs appears to [be] on point at this stage.” (Ex. 237L.) Thus, the Commission is confident that the Project will not create an unacceptable stress on public services.

223. Impact on Property Values. Project opponents asserted that the Project would impact the value of property in the neighborhood surrounding the PUD Site, thus resulting in negative impacts to existing residents.
224. There is no evidence in the record to support a claim that the Project will have adverse impacts on land values, rents, or housing costs. To the contrary, given the Project’s mix of uses and income ranges, the Commission finds that the Project will help preserve property values and provide a variety of new housing options that will improve the surrounding area. The Commission credits DHCD’s written testimony approving the Project, which specifically noted that “[g]iven the proposed income mix, we do not believe that the proposed developments will result in the destabilization of land values, the acceleration of gentrification, or the displacement of neighboring residents.” (Ex. 237J.)
225. The Project includes replacement public housing, affordable housing, and market-rate housing, with 90 public housing replacement units, 109-113 workforce affordable units, and 70-74 market-rate units. This diverse spread of housing options will not only create housing for the lowest-income households, but will also establish new units that are affordable for teachers, police officers, and other working professionals in the District. This type of mixed-income development and diverse housing stock will not adversely impact or lead to the destabilization of land values. Rather, the Project will be a benefit to the entire community that will maintain and improve economic stability and achieve the goals of the New Communities Initiative.
226. Moreover, the provision of new mixed-income communities is consistent with Policy H-1.2.3 of the Comprehensive Plan, which states that “investment strategies and affordable housing programs [should] distribute mixed income housing more equitably across the entire city, taking steps to avoid further concentration of poverty within areas of the city that already have substantial affordable housing” (10A DCMR § 504.8)) and Policy H-1.4.4, which encourages “efforts to transform distressed public and assisted housing projects into viable mixed-income neighborhoods, providing one-for-one replacement within the District of Columbia of any public housing units that are removed. Target such efforts to locations where private sector development interest can be leveraged to assist in revitalization” (10A DCMR § 506.10). Consistent with these policies, and in deference to DHCD’s approval of the Project, the Commission finds that the Project will not create a concentration of poverty, but will instead allow for the formation of a true mixed-income community.

227. Benefits and Amenities. Opponents of the Project testified that the proposed public benefits and project amenities were insufficient, inappropriate, undesirable, and would not benefit the entire public.
228. The Commission finds that the record in this case demonstrates that the project amenities and public benefits associated with the Project, which includes the following items, are significant and support approval of the application:
- a. Significant new housing and affordable housing, including public housing replacement units and senior housing;
  - b. Infrastructure improvements that include a new north-south public street through the site that will enhance circulation and reduce traffic congestion in the square;
  - c. High quality urban design and architecture;
  - d. Effective and safe vehicular, pedestrian, bicycle access, and a robust TDM plan that includes the following elements:
    - i. Providing 189 helmets for the apartment building residents and eight helmets for the townhome residents;
    - ii. Offering a preloaded \$10 SmarTrip card for each residential unit;
    - iii. Unbundling the costs for market-rate units from the cost of lease or purchase of apartments;
    - iv. Providing two on-street carsharing spaces along the new private street;
    - v. Providing a bicycle repair station in the apartment building;
    - vi. Posting all TDM commitments online;
    - vii. Designating a TDM leader;
    - viii. Providing 90 long-term and 16-short term bicycle parking spaces;
    - ix. Offering each apartment unit and townhome an annual car-share membership or an annual Capital Bikeshare membership for a period of three years;
    - x. Providing six shopping carts for the multi-family residential tenants to run daily errands and grocery shopping; and
    - xi. Installing a transit screen in the lobby of the apartment house and senior building;
  - e. Environmental benefits, including certification of the project under the EGC standards;
  - f. A new storm water management system that will reduce runoff and improve site drainage conditions;
  - g. Public space improvements; and

- h. Employment and training opportunities, including entering into a Certified Business Enterprise Agreement with the District Department of Small and Local Business Development, entering into a First Source Employment Agreement with the District Department of Employment Services, and contracting with Section 3 businesses.
229. Together, the Commission finds that these proposed benefits holistically result in a significant value as they relate to the Commission's balancing test between the benefits offered and the development incentives and flexibility requested. (11 DCMR § 2403.8.)
230. ANC 1A and ANC 1B both noted in their separate resolutions (Ex. 32-32A and 28, respectively) that the PUD "has offered a number of project amenities and public benefits commensurate with the development incentives and flexibility requested." (See p. 3 of ANC 1A resolution and p. 2 of ANC 1B resolution.) Moreover, in recommending approval of the application, the Office of Planning also identified the above-listed items as meeting the standards set forth in § 2403.9 of the Zoning Regulations regarding public benefits and project amenities. (Ex. 43).
231. Lack of Adequate Community Engagement. Opponents testified that the Applicant did not participate in any meaningful discussion with or consider input from the surrounding community, particularly residents living within 200 feet of the PUD Site.
232. The Commission finds that the Applicant engaged in extensive community outreach. As shown on the list of community outreach meetings (included in Ex. 197), the Applicant met with adjacent impacted neighbors and stakeholders; presented to ANC 1A and 1B on multiple occasions; hosted and/or participated in public meetings and charrettes during the master planning process; attended and engaged in discussions about the Project at meetings with local community groups such as the Georgia Avenue Community Development Task Force, Park View UNC, and the Luray Warder Neighborhood Association; actively participated in Steering Committee meetings; engaged with the Park Morton residents directly via their Resident Council and Relocation/Reentry Committee meetings; conducted one-on-one meetings with residents and neighbors upon request; and knocked on the doors of every dwelling that was accessible and located within 200 feet of the PUD Site. The Applicant also submitted to the record the sign-in sheets from community engagement meetings, meeting flyers, and project fact sheets distributed to the public for over two years. (Ex. 23G.) As a result, there are more than 100 letters of support for the Project in the record. Therefore, the Commission concludes that the Applicant has made substantial efforts to meet with neighbors to discuss the Project and respond to their concerns.
233. Density of New Residents. Opponents testified that the proposed 273 new residential units would add approximately 700 new residents to the block, which is more than triple the current population. The Park Neighbors' also suggested the Applicant should revise the redevelopment plan for Park Morton to shift units (density) from the PUD Site to Park Morton by adding more apartment buildings to the Park Morton site and redesigning

the Park Morton site plan to include more or a larger apartment building similar to the theoretical concept plan shown in the Park Morton Redevelopment Initiative Plan.

234. The Commission finds that the proposed density and number of units proposed for the PUD Site is appropriate and necessary to achieve the goals and policies set forth in the Comprehensive Plan, the Strategy Plan, and the New Communities Initiative. The Project includes increased density for the explicit purpose of providing new housing and affordable housing along Georgia Avenue. Doing so is specifically encouraged by the Comprehensive Plan's Housing Element (*see, e.g. Policy H-1.1.4* – “[p]romote mixed use development, including housing, on commercially zoned land, particularly... along Main Street mixed-use corridors). It is also consistent with *Policy H-1.2.1: Affordable Housing Production as a Civic Priority*; *Policy H-1.2.3: Mixed Income Housing*, and *Policy H-1.2.7: Density Bonuses for Affordable Housing*, due to the significant amount of housing and affordable housing generated by the Project. The unit density is also consistent with a variety of goals in the Strategy Plan, which indicates the critical need to preserve and create affordable housing. *See* FF Nos. 161-165 of this Order.
235. In addition, the Commission finds that the proposed number of units and density will help to advance these and other stated policies by allowing the PUD Site to serve as the “build-first” site for Park Morton’s replacement public housing units, as part of the District’s New Communities Initiative. The proposed density at Bruce Monroe is necessary allow for the implementation of the build-first principle, which will minimize displacement, maximize one-time, permanent moves, and implement the phased redevelopment of Park Morton.
236. As set forth in FF No. 173-177, the Commission also credits the testimony of DMPED, which explained the need for density at the PUD Site and why density cannot be shifted to the Park Morton site. (Ex. 237D.)
237. With respect to the number of new residents being added to the block, the Commission credits the Applicant’s testimony that the 273 units proposed for the PUD Site includes 375 bedrooms, which will result in a range of 375 to 559 total new residents based on occupancy standards. The number of units at Park Morton will be 189 (not 126) and a total of 308 bedrooms, resulting in a range of 308 to 452 new residents at the Park Morton site based upon occupancy standards. Thus, the Commission finds that the number of actual new residents at the Bruce Monroe site is much less than that claimed by the Park Neighbors, and the number of new residents at the two sites is comparable and does not result in an “unbalanced distribution” of units as suggested by the Park Neighbors.
238. Thus, the Commission concludes that the PUD’s proposed density and number of units are consistent with the Comprehensive Plan, the Strategy Plan, and New Communities Initiative, and are necessary to successfully relocate public housing residents and fulfil the District’s requirements under the New Communities Initiative.

## **CONCLUSIONS OF LAW**

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high quality development that provides public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." (11 DCMR § 2400.2.)
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, parking and loading, yards, or courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.
3. Development of the property included in these applications carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well planned developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
4. The PUD, as approved by the Commission, complies with the applicable height, bulk, and density standards of the Zoning Regulations. The residential uses for the Project are appropriate for the PUD Site. The impact of the Project on the surrounding area is not unacceptable. Accordingly, the Project should be approved.
5. The applications can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
6. The Applicant's request for flexibility from the Zoning Regulations is consistent with the Comprehensive Plan. Moreover, the Project's benefits and amenities are reasonable tradeoffs for the requested development flexibility.
7. Approval of the PUD is appropriate because the Project is consistent with the present character of the area and is not inconsistent with the Comprehensive Plan. In addition, the Project will promote the orderly development of the PUD Site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
8. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001)), to give great weight to OP recommendations. The Commission carefully considered the OP reports in this case and, as explained in this decision, finds its recommendation to grant the applications persuasive.

9. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the issues and concerns raised in the written report of the affected ANC. The Commission carefully considered the recommendations of ANC 1A and 1B for approval of the applications, and concurs in their recommendations.
10. The application for a PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401 et seq. (2007 Repl.)).

### **DECISION**

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the applications for consolidated review and approval of a planned unit development and related zoning map amendment from the R-4 and C-2-A Zone Districts to the R-5-B and C-2-B Zone Districts for Part of Lot 849 in Square 2890. The approval of this PUD is subject to the guidelines, conditions, and standards set forth below.

#### **A. Project Development**

1. The Project shall be developed in accordance with the Architectural Plans and Elevations dated January 10, 2017 (Ex. 237A), as supplemented by the Architectural Sheets dated February 16, 2017 (Ex. 246) (the “Plans”) and as modified by the guidelines, conditions, and standards of this Order. The Project shall include new landscaping, street tree planting and maintenance, energy efficient and alternative energy sources, methods to reduce stormwater runoff, and green engineering practices, in accordance with the landscape, park, open space, and streetscape designs included as Sheets G21, A11B, A11C, A21B, A21C, A27-A30, and L01-L11 of the Plans.
2. The overall PUD Site shall be developed with approximately 275,747 square feet of gross floor area (3.6 FAR). The apartment house shall contain approximately 191,333 square feet of gross floor area and a maximum height of 90 feet; the senior building shall contain approximately 70,817 square feet of gross floor area and a maximum height of 60 feet; and each townhome shall contain approximately 1,685 square feet of gross floor area and a maximum height of 40 feet. The total lot occupancy for the PUD Site shall be approximately 53%.
3. Ninety-nine on-site parking spaces shall be provided in a parking garage below the apartment house and senior building. Sixteen surface parking spaces shall be provided on the new private street.



4. The Project shall have approximately 273 residential units, with 189 units in the apartment house, 76 units in the senior building, and eight townhomes. Of the 273 total residential units, 90 units shall be public housing replacement units, 109-113 shall be workforce affordable units, and 70-74 units shall be market rate units.
5. The Applicant is granted flexibility from the side yard, rear yard, loading, lot occupancy, compact parking space, phasing, and single building on a record lot requirements of the Zoning Regulations, consistent with the Plans and as discussed in the Development Incentives and Flexibility section of this Order.
6. The Applicant shall also have flexibility with the design of the PUD in the following areas:
  - a. To be able to provide a range in the number of residential units of plus or minus 10%;
  - b. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the buildings;
  - c. To vary the sustainable design features of the Project, provided the total number of points achievable for the apartment house and senior building is not below 57 points and the points achievable for the townhomes is not below 50 points utilizing the Enterprise Green Communities rating standards;
  - d. To vary the final selection of the exterior materials within the color ranges of the material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and to make minor refinements to exterior details, locations, and dimensions, including: window mullions and spandrels, window frames, doorways, glass types, belt courses, sills, bases, cornices, railings, canopies and trim; and
  - e. To vary the features, means and methods of achieving: (i) the code-required GAR of 0.3 for the apartment house and 0.4 for the senior building, and (ii) stormwater retention volume and other requirements under 21 DCMR Chapter 5 and the 2013 Rule on Stormwater Management and Soil Erosion and Sediment Control.

## **B. Public Benefits**

1. **Prior to the issuance of a Building Permit for the apartment house**, the Applicant shall demonstrate to the Zoning Administrator that DMPED will

convey the PUD Site to Park View Community Partners pursuant to a 99-year ground lease. The ground lease will contain a provision wherein DMPED agrees that a minimum of 44,000 square feet of land area of land in Square 2890 identified as a public park shown on Sheet G10 of the Architectural Plans and Elevations, dated January 10, 2017, and included as Exhibit 237A in the record, will only be used for park and recreation uses for the term of the ground lease. The Applicant shall have the right to use a portion of the park area as a temporary staging area during construction of the Project.

2. **Prior to the issuance of a Certificate of Occupancy for the apartment house,** the Applicant shall demonstrate to the Zoning Administrator that it has done the following:
  - a. Dedicated a minimum of 54 units in the apartment house as replacement public housing units;
  - b. Dedicated a minimum of 68 units in the apartment house as workforce affordable units;
  - c. Established the proportion of unit sizes in the apartment house according to the unit mix shown on Sheet G15 of the Plans;
  - d. Demonstrated that the affordable housing shall be provided in accordance with the table below; and
  - e. The covenant required by 11 DCMR § 2602.7(c) shall include a condition or conditions requiring compliance with this Condition.
3. **Prior to the issuance of a Certificate of Occupancy for the senior building,** the Applicant shall demonstrate to the Zoning Administrator that it has:
  - a. Dedicated a minimum of 33 units in the senior building as replacement public housing units;
  - b. Dedicated a minimum of 43 units in the senior building as workforce affordable units;
  - c. Designated all of the units within the senior building as one-bedroom units;
  - d. Demonstrated that the affordable housing shall be provided in accordance with the table below; and
  - e. The covenant required by 11 DCMR § 2602.7(c) shall include a condition or conditions requiring compliance with this Condition.

4. **Prior to entering into a contract for the lease or purchase of the first townhome completed as part of the Project,** the Applicant shall demonstrate to the Zoning Administrator that it has:

- a. Dedicated a minimum of three of the townhomes as replacement public housing units;
- b. Designated all of the townhomes as three-bedroom units;
- c. Demonstrated that the affordable housing shall be provided in accordance with the table below; and
- d. The covenant required by 11 DCMR § 2602.7(c) shall include a condition or conditions requiring compliance with this Condition.

The public housing and workforce affordable units shall maintain affordability for the life of the Project. A breakdown of the public housing, workforce affordable, and market-rate units shall be established in accordance with the following table:<sup>4</sup>

Residential Unit Type	GFA/Percentage of Total	Units	Income Type	Affordable Control Period	Affordable Unit Type
Total	275,747 sf of GFA (100%)	273			Rental
Market Rate	71,694 sf of GFA (26%)	70-74	Market Rate	NA	Rental
Public Housing Replacement Units	90,997 sf of GFA (33%)	90	HUD Requirements/ LIHTC Rules	Life of the Project	Rental
Affordable Housing	113,056 sf of GFA (41%)	109-113	Up to 60% AMI	Life of the Project	Rental

5. **During development of the Project, and for the life of the Project,** the Applicant shall comply with the applicable relocation and reentry requirements for public housing replacement units set forth in Resolution No. 16-06 “To Adopt and Re-entry Policies for New Communities Initiative Developments,” as adopted and enforced by DCHA.
6. **Prior to the issuance of a Building Permit for the apartment house, senior building, and townhomes, respectively,** the Applicant shall register each

<sup>4</sup> The Applicant has not requested flexibility from the Inclusionary Zoning Regulations, but instead will request the Zoning Administrator to grant an exemption pursuant to 11 DCMR § 2602.3(f). In the event the exemption is not granted, the Applicant must comply with the Inclusionary Zoning Regulations unless the requirements of these conditions are more stringent.

building with Enterprise to commence the Enterprise Green Communities certification process.

7. **Prior to the issuance of a Certificate of Occupancy for the apartment house,** the Applicant shall furnish a copy of its Enterprise Green Communities certification application to the Zoning Administrator. The application shall indicate that the apartment house has been designed to include a minimum of 57 points under the Enterprise Green Communities standards.
8. **Prior to the issuance of a Certificate of Occupancy for the senior building,** the Applicant shall furnish a copy of its Enterprise Green Communities certification application to the Zoning Administrator that the senior building has been designed to include a minimum of 57 points under the Enterprise Green Communities standards.
9. **Prior to entering into a contract for the lease or purchase of the first townhome completed as part of the Project,** the Applicant shall furnish a copy of its Enterprise Green Communities certification application to the Zoning Administrator that the townhomes have been designed to include a minimum of 50 points under the Enterprise Green Communities standards.
10. **Prior to the issuance of a Building Permit for each of the apartment house, senior building, and townhomes, respectively,** the Applicant shall submit to the Zoning Administrator a copy of the executed CBE Agreement with DSLBD, included as Ex. 237I; and (ii) a copy of the executed First Source Employment Agreement with DOES, included as Ex. 237H.
11. **Prior to commencing construction of any building within the PUD Site,** the Applicant shall demonstrate to the Zoning Administrator that it has entered into a Section 3 Plan that benefits low-income and very low-income district residents and/or businesses.
12. **Prior to the issuance of a Certificate of Occupancy for the apartment house or senior building (whichever is first) and for the life of the Project,** the Applicant shall demonstrate to the Zoning Administrator that it has constructed a new north-south private street that connects Irving Street to Columbia Road, with a 22-foot travel lane, 16 on-street parking spaces in a seven-foot parking lane, canopy trees in a six-foot tree strip, and six-foot sidewalks, in accordance with Sheets G10-11, G17, G21, and L08 of the Plans.
13. **For the life of the Project,** the Applicant shall maintain the private street consistent with DDOT standards.

14. **Prior to the issuance of a Certificate of Occupancy for either the apartment house or senior building (whichever is first), and for the life of the Project,** Applicant shall demonstrate to the Zoning Administrator that it has:
  - a. Installed pavement marking enhancements to a stop bar on Georgia Avenue at Hobart Place; and
  - b. Installed pavement markings (i.e. “puppy tracks”) at the study area intersections along Georgia Avenue, subject to DDOT approval.

**C. Transportation Demand Measures**

1. The Applicant shall implement the TDM measures as follows:
  - a. **For the first three years of operation of the apartment house,** the Applicant shall offer each apartment unit either one annual carsharing membership or one annual Capital Bikeshare membership;
  - b. **For the first three years of operation of each townhome,** the Applicant shall offer to each townhome either one annual carsharing membership or one annual Capital Bikeshare membership;
  - c. **Prior to the issuance of a Certificate of Occupancy for the apartment house,** the Applicant shall demonstrate to the Zoning Administrator that it has purchased 189 bicycle helmets for use by apartment house occupants;
  - d. **Prior to entering into a contract for lease or purchase of the first townhome completed as part of the Project,** the Applicant shall demonstrate to the Zoning Administrator that it has purchased eight bicycle helmets for use by townhome occupants;
  - e. **Prior to the issuance of a Certificate of Occupancy for the apartment house,** the Applicant shall demonstrate to the Zoning Administrator that it has purchased 189 pre-loaded SmarTrip cards to be offered at the initial sale or rental of each unit;
  - f. **Prior to the issuance of a Certificate of Occupancy for the senior building,** the Applicant shall demonstrate to the Zoning Administrator that it has purchased 76 pre-loaded \$10.00 SmarTrip cards to be offered at the initial sale or rental of each unit;
  - g. **Prior to entering into a contract for lease or purchase of the first townhome completed as part of the Project,** the Applicant shall demonstrate to the Zoning Administrator that it has purchased eight pre-

loaded \$10.00 SmarTrip cards to be offered at the initial sale or rental of each townhome;

- h. **Prior to the issuance of a Certificate of Occupancy for the apartment house, and for the life of the Project,** the Applicant shall demonstrate to the Zoning Administrator that it has included in the residential leases for the market-rate units a provision that the cost of residential parking is unbundled from the cost of lease or purchase of each market-rate residential unit;
- i. **Prior to entering into a contract for lease or purchase of the first townhome completed as part of the Project, and for the life of the Project,** the Applicant shall demonstrate to the Zoning Administrator that it has included in the residential leases for the market-rate townhomes a provision that the cost of residential parking is unbundled from the cost of lease or purchase of each market-rate townhome;
- j. **Prior to the issuance of a Certificate of Occupancy for either the apartment house or senior building (whichever is first), and for the life of the Project,** the Applicant shall demonstrate to the Zoning Administrator that it has designated two-on street parking spaces along the new private street to a car-share company;
- k. **Prior to the issuance of a Certificate of Occupancy for the apartment house, and for the life of the Project,** the Applicant shall demonstrate to the Zoning Administrator that it has installed a bicycle repair station within the apartment building;
- l. **Prior to the issuance of a Certificate of Occupancy for the apartment house and for the life of the Project,** the Applicant shall demonstrate to the Zoning Administrator that it has installed a transit screen in the lobby of the apartment house;
- m. **Prior to the issuance of a Certificate of Occupancy for the senior building and for the life of the Project,** the Applicant shall demonstrate to the Zoning Administrator that it has installed a transit screen in the lobby of the senior building;
- n. **Prior to the issuance of a Certificate of Occupancy for either the apartment house or senior building (whichever is first), and for the life of the Project,** the Applicant shall demonstrate to the Zoning Administrator that it has: (i) posted all of the Project's TDM commitments online, and (ii) designated a TDM leader for the Project;



- o. **Prior to issuance of a Certificate of Occupancy for either the apartment house or senior building (whichever is first)**, the Applicant shall demonstrate to the Zoning Administrator that it has: (i) installed 90 long-term and 16 short-term bicycle parking spaces on the PUD Site, and (ii) purchased six total shopping carts for residents of the apartment house and senior building; and
- p. **Prior to the issuance of a Certificate of Occupancy for the apartment house, and for the life of the Project**, the Applicant shall demonstrate to the Zoning Administrator that it has established a Georgia Avenue address for the apartment house, and for the life of the Project, the Applicant shall not seek or support any change to designate the apartment house as becoming RPP-eligible.

**D. Miscellaneous**

- 1. No building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia that is satisfactory to the Office of the Attorney General and the Zoning Division, Department of Consumer and Regulatory Affairs. Such covenant shall bind the Applicant and all successors in title to construct and use the PUD Site in accordance with this Order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
- 2. The PUD shall be valid for a period of six years from the effective date of Z.C. Order No. 16-11. Within such time, an application must be filed for a building permit, with construction to commence within seven years of the effective date of this Order.
- 3. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., (“Act”) the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

4. The Applicant shall file with the Zoning Administrator a letter identifying how it is in compliance with the conditions of this Order at such time as the Zoning Administrator requests and shall simultaneously file that letter with the Office of Zoning.


On January 30, 2017, upon the motion of Commissioner May, as seconded by Vice Chairman Miller, the Zoning Commission took **PROPOSED ACTION** to **APPROVE** the application at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter G. May, Michael G. Turnbull, and Peter A. Shapiro to approve).


On March 13, 2017, upon the motion of Vice Chairman Miller, as seconded by Commissioner Turnbull, the Zoning Commission took **FINAL ACTION** to **APPROVE** the application at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter G. May, Michael G. Turnbull, and Peter A. Shapiro to approve).

In accordance with the provisions of 11-Z DCMR § 604.8, this Order shall become final and effective upon publication in the *DC Register*; that is on May 5, 2017.

**BY THE ORDER OF THE D.C. ZONING COMMISSION**

A majority of the Commission members approved the issuance of this Order.

  
\_\_\_\_\_  
**ANTHONY J. HOOD**  
**CHAIRMAN**  
**ZONING COMMISSION**

  
\_\_\_\_\_  
**SARA A. BARDIN**  
**DIRECTOR**  
**OFFICE OF ZONING**