

**BEFORE THE
ZONING COMMISSION
FOR THE DISTRICT OF COLUMBIA**

Z.C. CASE NO. 20-06

**APPLICATION FOR A
FIRST STAGE PLANNED UNIT DEVELOPMENT
CONSOLIDATED PLANNED UNIT DEVELOPMENT FOR PHASE I
RELATED MAP AMENDMENT**

Supplemental Prehearing Statement

August 21, 2020

Submitted by:

HOLLAND & KNIGHT LLP
800 17th Street, NW Suite 1100
Washington, D.C. 20006
(202) 955-3000
Norman M. Glasgow, Jr., Esq.
Leila M. Jackson Batties, Esq.
Christopher S. Cohen, Esq.

I. INTRODUCTION

This Supplemental Prehearing Statement and accompanying documents are submitted on behalf of 1333 M Street, LLC (the “Applicant”) in support of its application to the District of Columbia Zoning Commission for a: (1) first-stage planned unit development (“PUD”) for phase one of the project described herein; (2) consolidated PUD; and (3) related Zoning Map amendment from the PDR-4 zone to the MU-9 zone (the “Application”) for the parcel located at 1333 M Street, S.E., which is more particularly described as Square 1025-E, Lot 802; Square 1048-S, Lots 1, 801, and 802; and RES 129 and RES 299 (collectively the “Project Site”). The irregular triangular-shaped parcel consists of approximately 127,400 square feet of land area (2.92 ± acres) and is bounded by M Street to the north, Virginia Avenue to the southwest, and Water Street to the southeast. It is within the boundaries of Advisory Neighborhood Commission (“ANC”) 6B-06. The public hearing on the Application is scheduled for September 10, 2020.

The proposed PUD is a mixed use project consisting of approximately 786,160 square feet of gross floor area (“GFA”), including approximately 900 dwelling units and up to 44,092 square feet of GFA for retail/non-residential uses (the “Project”). The Application was filed on March 13, 2020, in accordance with Subtitle X, Chapter 3 and Subtitle Z of the 2016 District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”).

This prehearing statement supplements the Applicant’s prior filings for this case, namely the initial application statement in Support filed on March 13, 2020, (Ex. 3); its supplemental statement filed on March 27, 2020 (Ex. 10); its Supplemental Submission filed on April 29, 2020 (Ex. 12); and its prehearing statement filed on June 8, 2020 (Ex. 16).

On August 10, 2020, the Applicant submitted a copy of its Comprehensive Transportation Review (“CTR”) to the Zoning Commission in accordance with Subtitle Z § 401.8 of the Zoning Regulations (Ex. 28A).

II. SUPPLEMENTAL INFORMATION ON THE APPLICATION

Expanded Benefits & Amenities Package

With this supplemental prehearing statement, the Applicant expands its benefits and amenities package as follows:

Affordable Housing. The Applicant agrees to increase its affordable housing proffer from 11% to 12% of the residential gross floor area, which will generate 89,068 square feet of gross floor area that will be set aside across the Project for households earning up to 60% of the median family income (“MFI”). In the East Tower, 53,214 square feet of gross floor area will be set aside for affordable units; an updated floor plan reflecting this change will be submitted under separate cover. With this revised proffer, the PUD will provide 29,703 square feet more affordable housing than the 8% set aside required under the Inclusionary Zoning (“IZ”) Regulations.

Environmental. The Applicant commits that the PUD will be designed to the equivalent of the LEED Gold standard. Additionally, the Applicant agrees to install solar panels on top of the Building 1 West Tower, and to install green roof elements, a community garden and/or other similar sustainable design features (including solar panels) on top of the Building 1 West Tower and Building 2. The layout and design of these rooftop elements will be included in the second-stage PUD application for the West Tower and Building 2.

Contribution to Support Senior Programming. Prior to the issuance of a building permit, the Applicant agrees to make a monetary contribution in the amount of \$25,000, to a non-profit or the District to fund (i) items or services for an event or programming for seniors in Ward 6, or (ii) the cost of professional services related to securing a site for an adult daycare center in Ward 6.

As noted in the prehearing statement, the following improvements in the public space are also among the PUD benefits:

M Street. The Applicant will fully reconstruct the 22-foot right-of-way portion of M Street and install a small traffic circle to facilitate better circulation near and around the PUD site, as shown on Sheet C.3 of the First-Stage PUD Plans. In addition, the Applicant proposes to relocate the Anacostia Bike Trail to the north side of M Street in order to provide a better connection to the existing trail to west. The Applicant will also reconstruct the bike trail to DDOT's current standard width of 10 feet.

Virginia Avenue. The Applicant will re-establish Virginia Avenue and construct the roadway to current DDOT standards and will include bioretention facilities.

Arrival Plaza. The Arrival Plaza will be improved with an expansive green lawn and function as a pedestrian promenade and plaza. The Applicant proposes to maintain the improvements in the Arrival Plaza for the life of the project.

Waterfront Plaza. The Waterfront Plaza at the terminus of Virginia Avenue will include a monumental staircase and accessible walkways, and is designed to accommodate outdoor dining, small gatherings, art fairs, a farmers' market and other similar community activities. The Applicant proposes to maintain the improvements in Waterfront Plaza for the life of the project.

14th Street Corridor Plaza. The 14th Street Corridor Plaza is designed to provide a connectivity area between the proposed Southeast Boulevard Pedestrian Bridge and the lower Retail Promenade and Water Street. The Applicant proposes to maintain the connectivity area for the life of the project.

Lower Retail Promenade. The Lower Retail Promenade will be improved with a great lawn and provide access to Water Street and the Anacostia Bike Trail. The Applicant proposes to maintain the Lower Retail Promenade for the life of the project.

Withdrawal of Flexibility for Vehicle and Bicycle Parking

The Applicant hereby amends the application to withdraw its request for flexibility of the vehicular parking requirements and the requirements for the long-term bicycle parking spaces. The PUD will meet the minimum requirements for each. As such, the areas of flexibility for the PUD are limited to the following:

- Conversion of Retail Space. The Applicant seeks flexibility to convert up to 25,000 square feet of retail space in the Building 1 East Tower to residential use or any other use permitted in the MU-9 Zone District. The conversion to residential use shall be subject to the Applicant filing an application for a Modification of Consequence for approval of the revised building design, and the Zoning Commission's approval of the same. Further, the

additional residential square footage shall be subject to the IZ requirement approved for the PUD.

- Courts / Yards -- West Tower. According to the Court and Yards Diagram on Sheet A-7 of the First-Stage PUD Plans, for the West Tower, the PUD requires flexibility in order for Court C1 to have a width of 36'-7" where a width of 39'-7" is required.
- Courts / Yards -- Building 2. According to the Court and Yards Diagram on Sheet A-7 of the First-Stage PUD Plans, for Building 2, the PUD requires flexibility to permit a rear yard of 12'-7" where a rear yard of 23'-5" is required. Also, flexibility is required in order for Court C-7 to have a width of 17'-1" where 32'-8" is required.

Updated Plans, Supplemental Drawings and Graphics

Enclosed are revised and additional sheets for the architectural plans as follows:

- i. First-Stage PUD Plans: Sheets A-6, A-10 and A-11 were revised to reflect the updated vehicular and bicycle parking count for the PUD. Also, the shower/locker areas are now depicted on the plans.
- ii. Consolidated PUD Plans:
 - Sheets A-5, A-10 and A-11 were revised to reflect the updated vehicular and bicycle parking count for the PUD. Also, the shower/locker areas are now depicted on the plans.
 - Sheets A-29 through A-35 of the Consolidated PUD Plans contain enhanced/updated perspective renderings; and Sheets A-35a and 35b are new renderings of the Lower Retail Plaza and the Upper Retail Plaza, respectively.
 - Sheets A-45 and A-46 of the Consolidated PUD Plans contain the proposed signage plan.

III. APPLICATION NOT INCONSISTENT WITH THE COMPREHENSIVE PLAN

In response to the OP's setdown report dated May 1, 2020, the Applicant submits the following additional information regarding the project's consistency with the Future Land Use Map ("FLUM"). The information below also includes an evaluation of the proposal's potential inconsistencies with the Comprehensive Plan. As discussed below, the Applicant submits that the proposed Planned Unit Development ("PUD") is not inconsistent with FLUM, and that the very few Comprehensive Plan policies that could be viewed as weighing against approval of the project are far outweighed by the significant number of other policies that will be advanced through the project's significant benefits and amenities.

Consistency with the Future Land Use Map

In its initial statement in support (Ex. 3), the Applicant provided a detailed discussion on how the proposed PUD, including the related map amendment to MU-9, is not inconsistent with the Comprehensive Plan when read as a whole, including the FLUM. As is expressly stated in the Framework Element, the FLUM is not a zoning map. Whereas zoning maps are parcel-specific and establish detailed requirements for setback, height, use, parking, and other attributes, the FLUM does not follow parcel boundaries and its categories do not specify allowable uses or dimensional standards. By definition, the FLUM is to be interpreted broadly. 10A DCMR § 226.1(a). According to the Implementation Element, decisions on requests for rezoning shall be guided by the FLUM read in conjunction with the text of the Comprehensive Plan (Citywide and Area Elements) as well as Small Area Plans pertaining to the area proposed for rezoning. 10A DCMR § 2504.5.

The FLUM designates the Property as Mixed Use (Medium Density Commercial / Institutional). The "Mixed Use" designation is assigned to areas where two or more uses are encouraged. 10A DCMR § 225.18. The general density and intensity of development within a

Mixed Use area is determined by the specific mix of uses shown. The Comprehensive Plan Area Elements may also provide detail on the specific mix of uses envisioned. 10A DCMR § 225.19. In this case, the FLUM does not express a dominant use; however, further guidance provided in the Lower Anacostia Waterfront / Near Southwest Area Element strongly encourages new residential uses in this part of the city. Unlike the descriptions for the individual residential and commercial land use categories, such as Medium Density Commercial, the Framework Element does not identify specific zones that are considered generally compatible with the Mixed Use designation. This is because the Mixed Use designation is intended to be a flexible designation that is compatible with a wide range of zones. The Framework Element specifically acknowledges this by stating that “a variety of zoning designations are used in Mixed Use areas, depending on the combination of uses, densities, and intensities.” 10A DCMR § 225.21. The Framework also acknowledges that there are a number of zones that have been specifically developed for mixed use areas including, among others, the CR (ZR16: MU-10) zone.

As described in the Framework Element, the Medium Density Commercial land use category is “used to define shopping and service areas that are somewhat more intense in scale and character than the moderate-density commercial areas. Retail, office, and service businesses are the predominant uses. Areas with this designation generally draw from a citywide market area. Buildings are generally larger and/or taller than those in moderate density commercial areas but generally do not exceed eight stories in height.” 10A DCMR § 225.10. The Framework Element identifies the C-2-B (MU-5), C-2-C (MU-6), C-3-A (MU-7), and C-3-B (MU-8) as generally corresponding to the Medium Density Commercial land use category, although other districts may

apply.¹ As a matter of right, these zones permit densities that range from 4.2 FAR to 7.2 FAR, and building heights ranging between 65 - 90 feet. Under a PUD, these zones permit density up to 8.64 FAR and building height up to 110 feet. See 11-X DCMR §§ 303.3, 303.7, and 402.1. Given its stated purpose for being used in Mixed Use areas, and precedent for being found to be not inconsistent with the Medium Density Commercial land use category, it is worth noting that the CR (ZR16: MU-10) zone permits density and height up to 7.2 FAR and 90 feet as a matter of right, respectively, and 8.64 FAR and 110 feet in height under a PUD.²

The Applicant is requesting a map amendment to rezone the Property to MU-9. While the MU-9 zone is referenced in the Framework Element as being generally compatible with the High Density Commercial FLUM category³, the PUD, including the related map amendment, are not inconsistent with the FLUM. With respect to the strict language of the Framework Element, it is well established that the Commission is not bound to only the zones expressly listed under a particular FLUM designation when reviewing a proposed map amendment. This is particularly true within the context of a PUD where the Commission is able to review a map amendment relative to a specific project and its potential impacts. *See Z.C. Order No. 921 at 15 “The Commission may grant PUD related map amendments in circumstances where it might reject permanent rezoning, See also Z.C. Order Nos. 05-42 and 06-15.* As discussed below, the D.C. Court of Appeals (the “Court”) has upheld the Commission’s authority to go beyond the zones that are expressly identified in a particular FLUM designation.

¹ Under the recently adopted Framework Element (D.C. Act 23-217), which will go into effect on about September 15, 2020, the MU-6 zone is identified as being generally compatible with the High Density Commercial FLUM category.

² The CR (ZR16: MU-10) is expressly stated in the recently adopted Framework Element as being generally compatible with the Medium Density Commercial FLUM category.

³ The MU-9 is the equivalent of the C-3-C zone under the 1958 Zoning Regulations. The current Framework Element and the recently adopted Framework Element identify the C-3-C zone and MU-9, respectively, as being generally compatible with the High Density Commercial FLUM designation.

To a degree, under a PUD it is irrelevant whether the specific zone proposed in a PUD-related map amendment is expressly referred to in the Framework Element as being compatible with the FLUM designation of a PUD site. As is well established, the FLUM is intended to be interpreted broadly, and the PUD process provides the Commission flexibility to go beyond the typical height and density guidance provided under the FLUM. As the Court stated in its initial review of the McMillan PUD:

We agree with the Commission, however, that permitting some high-density development on the site does not necessarily make the PUD inconsistent with the FLUM. The FLUM explicitly contemplates two ways in which more intensive development than is otherwise reflected in the FLUM may be permissible: (1) a larger development that as a whole is consistent with the FLUM designation may contain individual buildings with greater height or density; and (2) the PUD process may permit greater height or density. (emphasis added) *Friends of McMillan Park v. District of Columbia Zoning Comm'n*, 149 A.3d 1027, 1035 (D.C. 2016).

As shown in the attached zoning tabulations (Sheet A-6), the overall density of the proposed PUD is approximately 6.17 FAR. Thus, despite the fact that the proposed MU-9 zone is cited in the Framework Element as being generally compatible with the High Density Commercial FLUM designation, the actual density of the project is well within the density considered to be typical of Medium Density Commercial areas. Based upon the zones expressly referred to in the Framework Element, typical matter-of-right densities in areas designated on the FLUM as Medium Density Commercial could be expected to range between 4.2 FAR – 7.2 FAR. Under a PUD, densities in these same zones generally could range between 5.0 FAR – 8.64 FAR. Accordingly, despite the proposed MU-9 moniker, the project is clearly not a high density commercial project. In fact, the 6.17 FAR density of the overall project is clearly within what is considered typical for matter-of-right development in Medium Density Commercial areas, and well within what is typical under a PUD. Further, one would be hard pressed to describe a project where only 0.35 FAR

(approximately 5.6%) of its total overall density is devoted to non-residential uses as being “high density commercial.”

With respect to height, as shown in the attached zoning tabulations Building 1 has a proposed height of 130 feet (13 stories), and Building 2 has a proposed height of 92 feet (9 stories). While these proposed heights exceed the general guidance provided in the Framework Element, they are nevertheless not inconsistent with the FLUM considering: (i) the interpretive guidance provided in the Framework Element, and the Comprehensive Plan as a whole, and (ii) the flexibility afforded under the PUD process.

The Framework Element states that buildings in areas designated as Medium Density Commercial on the FLUM “generally do not exceed eight stories.” However, the plain language of the Framework Element makes clear that this guidance is intended to be read relative to typical matter-of-right developments in Medium Density Commercial areas, and that these heights may be exceeded under a PUD. Specifically, the Framework Element states that “the land use category definitions describe the general character of development in each area, citing typical building heights (in stories) as appropriate. It should be noted that the granting of density bonuses (for example, through Planned Unit Developments) may result in heights that exceed the typical ranges cited here.” (emphasis added) 10A DCMR § 226.1(c). As stated above, the zones that are considered generally compatible with the Medium Density Commercial FLUM category, both expressly in the Framework Element and prior actions of the Commission, permit up to 90 feet in height as a matter of right (ex. C-2-C and CR). This height is consistent with the general [matter-of-right] guidance provided in the Framework Element. Specifically, considering typical clear ceiling heights and necessary interstitial mechanical space an eight-story apartment building with a height of 90 feet is very common.

Based on the foregoing, the height of the proposed PUD is not inconsistent with the FLUM. The 92-foot height of Building 2 is only slightly above what is considered typical in areas designated Medium Density Commercial. Further, while the 130-foot height of Building 1 exceeds even the 110-foot height that can be achieved under a PUD in the CR (ZR16: MU-10) zone, this is not necessarily an inconsistency with the FLUM. The Framework Element does not provide guidance on building height within the context of a PUD for any given FLUM category. Rather, through the flexibility afforded under the PUD process the determination as to whether a particular building height is consistent with the FLUM is left to the Commission, which it makes in accordance with the guidance provided in the Framework Element and the standard of review under the PUD regulations. As discussed in the Applicant's initial statement, the height proposed for Building 1 is not inconsistent with the FLUM when interpreted in conjunction with the text of the Comprehensive Plan.

The proposed height is essential to being able to deliver the commendable quality and number of public benefits being proffered by the Applicant, and to advancing many Comprehensive Plan policies relating to land use, housing, open space, and environmental protection, which the Applicant will expound upon in greater detail at the public hearing. For example, the additional height is consistent with Housing Element policies related to private sector support to provide new housing (H-1.1.1), production incentives (H-1.1.2), balanced growth (H-1.1.3), and density bonuses for affordable housing (H-1.2.7). In addition, by allowing for a greater amount of the Property to be devoted to new open space the proposed height is consistent with several policies in the Parks, Open Space, and Recreation Element related to common open space in new development (PROS-4.3.3), waterfront visibility and accessibility (PROS-3.2.4), and waterfront linkages (PROS-3.2.3).

For the foregoing reasons, the Applicant believes the project is not inconsistent with the FLUM as it relates to both density and height. However, to the extent that one may view the proposed height of the project to be inconsistent with the FLUM, the Applicant believes such inconsistency would be limited to 20 feet since a height of 110 feet has regularly been found to be not inconsistent in Medium Density Commercial areas under a PUD. As clearly demonstrated below, any inconsistency caused by this additional height would be far outweighed by other competing Comprehensive Plan policies and considerations.

Evaluation of Potential Comprehensive Plan Inconsistencies

A simple inspection of the Property's existing condition and industrial zoning make it abundantly clear that the current use is nowhere near what the District envisions for this site from a land use policy perspective, as embodied in the Comprehensive Plan.

In its initial statement, the Applicant provided a thorough Comprehensive Plan analysis that identified numerous policies across the Comprehensive Plan's various elements that the proposed PUD would advance. However, as established by the Court, it is not sufficient to simply identify the policies that would be advanced when evaluating a proposal for consistency with the Comprehensive Plan. Rather, because of the overlap within and between the elements the evaluation must also recognize where there may be potential inconsistencies.⁴ In the event there are inconsistencies, an explanation must be provided as to why said inconsistencies are outweighed

⁴ Since first being adopted by the D.C. Council, the Comprehensive Plan has always recognized that there is intentional overlap between its individual components (elements), and that it is intended to be a policy framework that is to be interpreted broadly and provide guidance to all executive and legislative decision making. Indeed, the first Comprehensive Plan adopted in 1984 stated "[t]he primary dynamic of the District elements of the Plan are the overlapping of its elements' goals. This overlapping is intentional." (Section 102, District of Columbia Comprehensive Plan Act of 1984). The current Implementation Element reflects the same language: "[r]ecognize the overlapping nature of the Comprehensive Plan elements as they are interpreted and applied. An element may be tempered by one or more of the other elements." 10A DCMR § 2504.6

by the advancement of other policies and considerations. A “roadmap” of sorts for evaluating a proposal’s consistency with the Comprehensive Plan can be found in the Court’s initial review of the McMillan PUD:

The Comprehensive Plan is a “broad framework intended to guide the future land use planning decisions for the District.” *Wisconsin-Newark Neighborhood Coal. v. District of Columbia Zoning Comm’n*, 33 A.3d 382, 394 (D.C. 2011) (internal quotation marks omitted). “[E]ven if a proposal conflicts with one or more individual policies associated with the Comprehensive Plan, this does not, in and of itself, preclude the Commission from concluding that the action would be consistent with the Comprehensive Plan as a whole.” *Durant v. District of Columbia Zoning Comm’n*, 65 A.3d 1161, 1168 (D.C. 2013). The Comprehensive Plan reflects numerous “occasionally competing policies and goals,” and, “[e]xcept where specifically provided, the Plan is not binding.” *Id.* at 1167, 1168 (internal quotation marks omitted). Thus “the Commission may balance competing priorities in determining whether a PUD is consistent with the Comprehensive Plan as a whole.” *D.C. Library Renaissance Project/West End Library Advisory Grp. v. District of Columbia Zoning Comm’n*, 73 A.3d 107, 126 (D.C. 2013). “[I]f the Commission approves a PUD that is inconsistent with one or more policies reflected in the Comprehensive Plan, the Commission must recognize these policies and explain [why] they are outweighed by other, competing considerations.” *Friends of McMillan Park v. District of Columbia Zoning Comm’n*, 149 A.3d 1027, 1035 (D.C. 2016) (brackets and internal quotation marks omitted).

As the project’s design and proffered benefits and amenities have been refined in response to input received from the Commission, OP, and Advisory Neighborhood Commission 6B, the Applicant has similarly refined its evaluation of the project relative to the Comprehensive Plan. The PUD, including the related map amendment to MU-9, continues to be not inconsistent with the Comprehensive Plan when read as a whole.

Most recently, in response to OP, the Applicant has specifically analyzed the PUD for potential inconsistencies with the Comprehensive Plan. After a full review of the elements the Applicant

found very few areas of potential inconsistency, and even those were tenuous at best. These policies are specifically addressed below:

- LU-3.1.2: Redevelopment of Obsolete Industrial Use (10A DCMR § 314.8) and ED-2.5.1: Industrial Land Retention (10A DCMR § 711.5)

These policies encourage the retention of an adequate supply of industrially zoned land in the District and the redevelopment of outmoded and non-productive industrial sites, such as vacant warehouses and open storage yards, with higher value production, distribution, and repair uses and other activities which support the core sectors of the District economy (federal government, hospitality, high education, etc.). Despite its existing PDR-4 zoning, the site has sat vacant and underutilized for many years, and there does not appear to be any strong interest in establishing new industrial uses.

Indeed, maintaining the property for industrial use would be at odds with the policy decision made by the District when it changed the site's FLUM designation during a prior Comprehensive Plan amendment cycle from Production, Distribution, and Repair ("PDR") to its current designation. Further, it is worth noting that the proposed Comprehensive Plan currently under review by the Council recommends changing the site's FLUM designation to Mixed Use (High Density Residential / Medium Density Commercial). There are also numerous other Comprehensive Plan policies that weight against continued industrial use of the Property, and in favor of rezoning and redeveloping the site with higher density mixed use development that is sustainable, provides open spaces and greater connectivity to the waterfront, and helps the District achieve its housing and affordable housing goals. See LU-3.1.4: Rezoning of Industrial Areas, UD-1.3.1: DC as a Waterfront City, UD-1.3.2: Waterfront Public Space and Access, UD-1.3.3: Excellence in Waterfront Design, UD-

1.3.7: Neighborhood Connectivity, UD-3.1.8: Neighborhood Public Space, E-3.1.2: Using Landscaping and Green Roofs to Reduce Runoff, E-3.4.1: Support for Green Building, H-1.1.1: Private Sector Support, H-1.1.3: Balanced Growth, PROS-3.2.3: Linkages Between the Waterfront and Nearby Neighborhoods, PROS-4.3.3: Common Open Space in New Development, AW-2.3.2: Near Southeast Shoreline Access, and AW-2.3.3: Near Southeast Housing Opportunities.

- UD-1.3.5: River Views and UD-2.2.4: Transitions in Building Intensity

These policies seek to protect and enhance river views in the design of buildings and other improvements on or near waterfront sites. They encourage the scale, density, and building form along the city's waterfronts to be human-scale, pedestrian-oriented, and protect views from important sites. These policies also recommend establishing gradual transitions between large-scale and small-scale development. It is further recommended that larger buildings be designed in a manner that reduces their apparent size to relate to lower scale neighborhoods.

The Applicant does not necessarily consider the proposed PUD to be inconsistent with these particular policies. As discussed in the Applicant's prehearing statement (Ex. 17), the project does not intrude upon any view corridors toward the waterfront. The PUD aligns with the original L'Enfant Street grid to the north extended to the waterfront, namely 13th and 14th Streets, and maintains the viewshed along Virginia Avenue toward the Anacostia River. Indeed, the project arguably enhances these view corridors compared to the existing condition of the Property. The project also does not result in an overpowering contrast in scale in relation to the Capitol Hill neighborhood to the north. As shown in the proposed plans, the project is approximately 470 feet from the Capitol Hill neighborhood,

separated by the Southeast Freeway and the CSX rail tracks. The Capitol Hill neighborhood is also approximately 25 feet higher in elevation than the Property. Notwithstanding the notable distance between the Property and Capitol Hill, the Applicant has designed the project in a manner that reduces its scale. Specifically, the Applicant is proposing multiple buildings, highly articulated facades, multiple architectural styles, and varying high-quality materials.

Notwithstanding the above, to the extent the project is considered to be inconsistent with these two particular Urban Design Element policies, the Applicant believes the inconsistency is outweighed by the project's consistency with other policies contained in the Urban Design, Housing, Environmental Protection, and Parks, Recreation, and Open Space Elements. This wide range of policies that will be advanced by the project aligns with the overarching vision the District has for the continued revitalization of the Anacostia River, which is clearly articulated in the Near Southeast / Lower Anacostia Area Element:

“Perhaps the greatest opportunity to bolster Washington’s identity as a waterfront city lies in the proposed redevelopment of the Anacostia shoreline. Good urban design is vital to the success of this transformation. New waterfront buildings should be appropriately related to each other, the water’s edge, and adjacent neighborhoods. The creation of view corridors and enhancement of existing views to the water are particularly important. Likewise, the development of new and/or enhanced public gathering spaces along each of the city’s waterfronts, as well as waterfront parks and plazas, boathouses and fishing piers, is essential.” 10A DCMR § 905.4

The height of the project allows for greater site porosity, a substantial amount of new publicly accessible open space and other permeable surfaces, and improved physical and visual connectivity through the property and to the Anacostia River. Indeed, rather than spread the proposed buildings across a larger portion of the Property, the project’s overall lot occupancy is only approximately 63%, which is well below what is permitted as a

matter-of-right in the MU-8 and MU-10 zones. *See* UD-1.3.1: DC as a Waterfront City, UD-1.3.2: Waterfront Public Space and Access, UD-1.3.3: Excellence in Waterfront Design, UD-1.3.7: Neighborhood Connectivity, E-3.1.2: Using Landscaping and Green roofs to Reduce Runoff, H-1.1.3: Balanced Growth, H-1.2.7: Density Bonus for Affordable Housing, PROS-3.2.3: Linkages Between the Waterfront and Nearby Neighborhoods, PROS-3.2.4: Waterfront Visibility and Accessibility, PROS-3.4.1: Trail Network, PROS-3.4.4: Trails in Underutilized Rights-Of-Way, PROS-4.3.3: Common Open Space in New Development.

IV. COMMUNITY OUTREACH

Letters of Support

The following neighborhood stakeholders have submitted letters in support of the application: 11th Street Bridge Park (Ex. 23), Capitol Riverfront BID (Ex. 24), and Corporate Office Properties Trust (Ex. 25).

Advisory Neighborhood Commission 6B

The Applicant has remained committed to working with ANC 6B and other community stakeholders throughout the PUD process. To date, the Applicant has met with the ANC, including subcommittees, on the following six occasions:

- Regularly scheduled ANC meeting on April 20, 2020
- Community meeting hosted by the applicant on May 28, 2020
- ANC 6B Planning & Zoning Subcommittee meeting on June 28, 2020
- ANC 6B Planning & Zoning Subcommittee meeting on July 2, 2020
- ANC 6B Planning & Zoning Subcommittee meeting on July 29, 2020
- ANC 6B Planning & Zoning Subcommittee meeting on August 18, 2020

Over the course of these meetings, the Applicant and the Planning & Zoning Subcommittee have reached agreements related to the PUD zoning standards, construction and operations, which will be memorialized in a memorandum of understanding between the Applicant and the ANC. The

ANC Planning & Zoning Committee is expected to make a recommendation on the application at its meeting on September 1; and a vote on the application from the full ANC is expected on September 8.

V. CONCLUSION

With this supplemental prehearing statement, the Applicant has expanded the PUD benefits and amenities package and limited the areas of flexibility for the project. Further, the Applicant has provided additional analysis as to why the proposed PUD is not inconsistent with the Comprehensive Plan, does not result in unacceptable project impacts, and includes benefits and amenities that are not inconsistent with the Comprehensive Plan or other adopted policies and programs related to the Property.