

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

**APPLICATION FOR
A CONSOLIDATED PLANNED UNIT
DEVELOPMENT**

Square 1499, Lots 802, 803, 806 and 807

May 6, 2019

Table of Contents

I.	INTRODUCTION	5
II.	EXISTING CONDITIONS.....	5
A.	<u>THE PROJECT SITE</u>	5
B.	<u>SURROUNDING AREA</u>	6
C.	<u>EXISTING ZONING AND LAND USE DESIGNATIONS</u>	7
1.	Zone District	7
2.	Zoning History	7
3.	Comprehensive Plan Map Designations	9
III.	PROJECT DESCRIPTION.....	9
A.	<u>BUILDING 1</u>	9
B.	<u>TOWNHOMES</u>	11
C.	<u>LANDSCAPING AND ALLEY IMPROVEMENTS</u>	12
D.	<u>PARKING AND LOADING</u>	13
E.	<u>SUSTAINABLE DESIGN ELEMENTS</u>	14
F.	FLEXIBILITY UNDER PUD GUIDELINES	15
1.	No Zoning Flexibility Requested.....	15
2.	Design Flexibility Requested.....	15
G.	SPECIAL EXCEPTION RELIEF REQUESTED	17
1.	Rear Yard Special Exception Relief for Building 1 (11-G DCMR § 405.2).....	18
2.	Penthouse Special Exception for Townhomes 1 through 4 (11-C DCMR § 1500.4)	21
3.	Tabulation of Development Data.....	22
IV.	THE PROJECT MEETS THE STANDARDS OF THE ZONING REGULATIONS AND THE PUD REQUIREMENTS	22
A.	PUD REQUIREMENTS UNDER 11-X CHAPTER 3 OF THE ZONING REGULATIONS	22
1.	Minimum Land Area Requirements Under 11-X DCMR § 301.1	22
2.	FAR and Height Requirements Under 11-X DCMR §§ 303.3 and 303.7	22
3.	Not Inconsistent with Comprehensive Plan Under 11-X DCMR § 304.4(a)	23
4.	Impacts of Project Under 11-X DCMR § 304.4(b).....	24
B.	PUBLIC BENEFITS AND PROJECT AMENITIES	24
1.	Superior Urban Design, Architecture, and Superior Landscaping and Creation of Open Spaces (11-X DCMR § 305.5(a))	25

2.	Site Planning and Efficient Economical Land Utilization (11-X DCMR § 305.5(c)	25
3.	Historic Preservation of Private or Public Structures, Places, or Parks (11-X DCMR § 305.5(e)	26
4.	Housing, Including Housing that Provides Units with Three or More Bedrooms (11-X DCMR § 305.5 (f)(3))	26
5.	Affordable Housing (11-X DCMR § 305.5(g))	26
6.	Environmental and Sustainable Benefits (11-X DCMR § 305.5 (k)).....	27
7.	Transportation Infrastructure (11-X DCMR § 305.5(o)).....	27
8.	Uses of Special Value to the Neighborhood or the District of Columbia as a Whole (11-X DCMR § 305.5(q)).....	27
9.	Other Public Benefits and Project Amenities (11-X DCMR § 305.5(q))	28
V. COMMUNITY AND OFFICE OF PLANNING OUTREACH.....		28
VI. CONCLUSION.....		29

DEVELOPMENT TEAM

Owner/Applicant: Valor Development, LLC
4619 41st Street NW
Washington, DC 20016

Architect: Torti Gallas Urban
650 F Street, Suite 690 NW
Washington, DC 20004

Landscape Architect: Parker Rodriguez, Inc.
101 N. Union Street, Suite 320
Alexandria, VA 22314

Traffic Consultant: Gorove/Slade Associates, Inc.
1140 Connecticut Avenue, NW # 600
Washington, DC 20036

Civil Engineer: Bowman Consulting
888 17th Street, NW, Suite 510
Washington, DC 20006

Historic Preservation: EHT Traceries, Inc
440 Massachusetts Avenue, NW
Washington, DC 20001

Land Use Counsel: Holland & Knight LLP
800 17th Street, NW #1100
Washington, DC 20006

LIST OF EXHIBITS

<u>Description</u>	<u>Exhibit</u>
Zoning Map	A
Surveyor's Plat	B
Architectural Plans and Elevations	C
Future Land Use Map	D
Generalized Policy Map	E
Summary of Compliance with the Comprehensive Plan	F
Application for a Consolidated PUD – Form 103	G
Authorization Letters	H
Certificate of Notice, Notice of Intent, and List of Owners of property within 200 feet of the Project Site, including two sets of mailing labels	I

I. INTRODUCTION

This statement and attached documents are submitted by Valor Development, LLC (the “Applicant”), on behalf of Apex Real Estate Company, American University, and FW DC-Spring Valley Shopping Center LLC, in support of its application to the Zoning Commission for the District of Columbia (“Zoning Commission”) for a consolidated planned unit development (“PUD”) for property located at Lots 802, 803, 806, and 807 in Square 1499 (the “Project Site”). This application is submitted in accordance with Subtitle Z, Chapter 3 of District of Columbia Municipal Regulations, Title 11 (“11 DCMR” or the “Zoning Regulations”).

As described herein, the Applicant proposes to construct a new mixed-use development on a portion of the Project Site and make aesthetic and circulation improvements along the existing public and private alleys within the square. The new development will include a new mixed-use building containing residential and retail uses (“Building 1”) and five townhomes (the “Townhomes”). The proposed improvements on the Project Site are collectively referred to herein as the “Project.”

II. EXISTING CONDITIONS

A. The Project Site

The Project Site is located in the AU Park/Spring Valley neighborhood of Upper Northwest, Washington, DC, and consists of Assessment and Taxation (“A&T”) Lots 802, 803, 806, and 807 in Square 1499. As shown on the Surveyor’s Plat attached hereto as Exhibit A, the Project Site consists of approximately 160,788 square feet of land area, not including the area of the public alley, and is generally bounded by Yuma Street on the north; Massachusetts Avenue on the south; 48th Street on the east; and the Spring Valley Exxon station on the west.

The Project Site is currently improved with the following existing structures: (i) on Lots 802 and 803, the historic Massachusetts Avenue Parking Shops (“MAPS”), which consists of

approximately 16,922 square feet of gross floor area (“GFA”) of retail and service uses;¹ (ii) on Lot 806, the former American University Law School building (the “AU Building”), which has a building height of approximately 60 feet and contains approximately 179,302 square feet of GFA of commercial uses; and (iii) on Lot 807, a vacant grocery store building, retail uses (restaurant and salon), and surface and below-grade parking (the “Valor Lot”). Together, Lots 806 and 807 make up Record Lot 9.

The MAPS site (Lots 802 and 803) is separated from Record Lot 9 by a 20-foot public alley that runs north-south through Square 1499 connecting Yuma Street to Massachusetts Avenue, NW. The existing alley is in poor condition and is scattered with several trash dumpsters and receptacles, most of which are located within the public alley right-of-way, unscreened HVAC equipment, and other utilities/equipment associated with the MAPS. Lots 806 and 807 are partially separated by a 20-foot private alley that connects to the public alley system within the square.

B. Surrounding Area

The Project Site is a transitional location bordered by two-story single-family residential dwellings to the north and east, and one- to five-story commercial, institutional, and retail buildings located to the south and west along Massachusetts Avenue, including the AU Building and MAPS, which collectively form a neighborhood-serving commercial center. The surrounding context, with the exception of the AU Building, is generally characterized by Colonial Revival style architecture.

¹ The historic name of the shopping center on Lots 802 and 803 is the Massachusetts Avenue Parking Shops. The shopping center is also commonly referred to as the Spring Valley Shopping Center, which is actually the historic name of the shopping center located on the opposite side of Massachusetts Avenue. For purposes of this application, in addition to references to the “Massachusetts Avenue Parking Shops” and “MAPS,” any reference to the “Spring Valley Shopping Center” or “SVSC” shall be considered a reference to the historic shopping center located on Lots 802 and 803 in Square 1499.

C. Existing Zoning and Land Use Designations

1. Zone District

As shown on the Zoning Map attached hereto as Exhibit B, the Project Site is zoned MU-4, a district that permits residential and retail uses as a matter of right. The MU-4 zone is intended to permit moderate-density mixed-use development; provide facilities for shopping and business needs, housing, and mixed uses; and be located in low- and moderate-density residential areas with access to main roadways or rapid transit stops and include office employment centers, shopping centers, and moderate bulk mixed-use centers. 11-G DCMR § 400.3. The Applicant is not proposing to amend the Zoning Map as part of this application.

As a matter-of-right, the MU-4 zone permits a maximum overall density of 2.5 floor area ratio (“FAR”), of which no more than 1.5 FAR can be devoted to non-residential uses. Utilizing the Inclusionary Zoning (“IZ”) bonus (20%), a maximum density of 3.0 FAR is permitted in the MU-4 District. Under a PUD, a maximum overall density of 3.6 FAR is permitted in the MU-4 zone, of which no more than 2.01 FAR may be devoted to non-residential uses. 11-G DCMR § 402.1 and 11-X DCMR §§ 303.3 and 303.4.

The MU-4 zone permits as a matter-of-right a maximum building height of 50 feet with no limit on the number of stories, and 65 feet as a PUD. Above the maximum building height, a penthouse of 12 feet and one story is permitted for penthouse habitable space, with 15 feet permitted for penthouse mechanical space in a second story. As a PUD, the maximum height for penthouse mechanical space is permitted to be 18.5 feet. 11-G DCMR §§ 403.1 and 403.3; 11-X DCMR §§ 303.7 and 303.18.

2. Zoning History

Lots 806 and 807 (Record Lot 9) were originally created in the 1970s to allocate the nonresidential density needed to construct the AU Building on Lot 806. The zoning in effect at the

time allowed a maximum density of 2.0 FAR, all of which could be devoted to nonresidential use. Based upon the land area of Record Lot 9, this amounted to approximately 242,544 square feet of GFA that was available to allocate between Lots 806 and 807. Through a recorded Declaration of Easement and Agreement that remains in effect (the “Allocation Agreement”), 179,302 square feet of GFA was allocated to Lot 806 for the AU Building, and 63,242 square feet of GFA was allocated to Lot 807. The Allocation Agreement also granted an easement to the owner of Lot 806 (currently American University) for non-exclusive access to not less than 236 parking spaces located on Lot 807.

Since then, the Zoning Regulations were amended such that the maximum permitted overall density in the zone increased from 2.0 FAR to 2.5 FAR (242,544 square feet to 303,180 square feet on Record Lot 9), while the maximum permitted nonresidential density decreased from 2.0 FAR to 1.5 FAR (242,544 square feet to 181,908 square feet on Record Lot 9), a decrease of 60,636 square feet.

Under the IZ regulations currently in effect, “inclusionary developments may construct up to 20% more gross floor area than permitted as a matter of right (bonus density).” subject to all other zoning requirements (as may be modified by the zone) and the limitations established by the Height Act. For an inclusionary development in the MU-4 zone, the maximum overall permitted density is increased to 3.0 FAR, an increase of 0.5 FAR (bonus density), with the limitation on non-residential density remaining at 1.5 FAR.

Thus, after accounting for the existing AU Building and the zoning amendments that have occurred over time, the total matter-of-right density remaining on Record Lot 9 is approximately 184,514 GFA, of which approximately 2,606 GFA may be devoted to non-residential uses. As for the Project Site, after accounting for the existing AU Building and MAPS the total matter-of-right

density remaining on the Project Site is approximately 286,140 GFA, of which approximately 44,958 GFA may be devoted to nonresidential uses.

3. Comprehensive Plan Map Designations

As shown on the Comprehensive Plan Future Land Use Map (“FLUM”) attached hereto as Exhibit D, the Project Site is designated Low Density Commercial, which is used to define shopping and service areas that are generally low in scale and character, with retail, office, and service businesses being the predominate uses. As shown on the Comprehensive Plan Generalized Policy Map (“GPM”) attached hereto as Exhibit E, the majority of the Project Site is identified as a Neighborhood Commercial Center, which is an area intended to meet the day-to-day needs of residents and workers in adjacent neighborhoods with a service area of approximately one mile. A portion of Lot 806 on which the AU Building is located is identified as Institutional on the GMP, a designation that includes land and facilities occupied and used by colleges and universities, among other similar institutions. A detailed discussion of the project’s compliance with the Comprehensive Plan can be found in the analysis attached as Exhibit F.

III. PROJECT DESCRIPTION

A. Building 1

As shown on the Architectural Plans and Elevations (the “Plans”) attached hereto as Exhibit C, the Applicant proposes to develop Building 1 as a mixed-use building containing approximately 214 residential units, a full-service grocery store with approximately 16,500 square feet of GFA (not including area devoted to loading), and additional retail/amenity space on the ground floor. The maximum building height will be approximately 43.5 feet, not including the penthouse, as measured from the level of the curb opposite the middle of the front of the building on 48th Street to the top of the parapet. Building 1 will have a penthouse containing one-story of enclosed habitable and mechanical space, with unenclosed screened mechanical equipment above.

The portion of the penthouse containing habitable space will have a maximum height of 12 feet above the roof upon which it is located, and the overall height of the penthouse, including the unenclosed screened mechanical equipment, will have a maximum height of 15 feet. The penthouse will meet all setbacks required by the Zoning Regulations.

The main pedestrian entrance to the grocery store will be located at the northwest corner of the building along Yuma Street, set back approximately 17 feet from the adjacent sidewalk. Due to the grade along Yuma Street the grocery store entrance is approximately two feet lower than the adjacent sidewalk. The main residential lobby will also be located along Yuma Street closer to 48th Street. The entrance to the additional retail/amenity space will be located at the southwest corner of Building 1 in close proximity to Massachusetts Avenue and the adjacent MAPS retail and service uses.

Building 1 has been designed in two distinctive architectural styles and contains substantial step downs in height and reductions in massing along 48th and Yuma Streets. In response to the lower-density residential uses to the north and east, the massing of Building 1 includes lower building height step-downs; substantial upper-level setbacks; large courtyards, terraces, and public plazas; and context-sensitive articulation and architectural styles.

Along the 48th Street property line, the massing of Building 1 is minimized through the use of pavilions that are separated by 40-foot deep, 43-foot wide landscaped courtyards that open onto 48th Street. The height of the pavilions is further reduced through the use of bay projections that are similar in scale to the height of the residential dwellings across 48th Street, which has a right-of-way width of approximately 90 feet. The distance between Building 1 and the lower-height residential dwellings to the east along 48th Street ranges between approximately 96 to 136 feet, with the penthouse further separated by meeting or exceeding the required 1:1 setback.

Along Yuma Street, where there is a drop in grade from east to west, the massing of Building 1 is reduced to relate to the residential dwellings to the north. The eastern portion of the Yuma Street façade has a three-part composition, with two lower-height pavilions separated by the main residential entry courtyard, and shares the same architectural style as the 48th Street elevation. The western portion of the Yuma Street façade has a similar three-part composition but expresses a distinct architectural style established through the use of a different material palette and window pattern. The western portion of the façade is also set back from the property line approximately 17 feet to create an open public plaza outside the entry to the grocery store, and the fourth floor is set back an additional 14 feet.

The west and south facades of Building 1 are designed in the same architectural style as the street-facing facades, and will be treated with the same high-quality materials. Along the west, adjacent to the north-south public alley between Lot 807 and the MAPS site, Building 1 will be set back from the property line approximately 10 feet at the lower level to provide adequate and safe circulation in the alley for vehicles and pedestrians. The setback will increase another 20 feet, for a total of approximately 30 feet from the property line, above the lower level along the majority of the west façade.

B. Townhomes

The Townhomes will be located at the southern end of Lot 807 along 48th Street. Townhomes 1 through 4 are set back approximately 20 feet from the property line to preserve an existing heritage tree that is located within the adjacent public space. Due to the angled southern boundary of Lot 807, Townhome 5 is located at the property line along 48th Street to meet the minimum rear yard requirement.

The Townhomes each have three stories and range in height from 36 feet, 8 inches to 37 feet, not including penthouses. Townhomes 1 through 4 will each have a 10-foot penthouse that

will be solely devoted to providing access to a roof deck and will contain a limited amount of storage space that is ancillary to the roof deck. The penthouses on Townhomes 1 through 4 will meet all applicable penthouse regulations, including the 1:1 setback requirement.

Parking for the Townhomes will be provided in a lower-level “tuck-in” garage that is accessed from the existing alley system that services the Project Site. The architectural style of the Townhomes relates to the prevailing colonial style of the surrounding context, and utilizes similarly compatible materials.

C. Landscaping and Alley Improvements

The Project includes a variety of landscape improvements, including publicly accessible open spaces and plazas and private courtyards and terraces for Project residents. A publicly-accessible open space framed by Building 1 and Townhouse 1 will be located along 48th Street and known as “Windom Park.” Windom Park will contain plantings, seating, and other decorative site features. Another public plaza will be located at the northwest corner of Building 1, providing a forecourt to the grocery store and creating opportunities for outdoor seating and small gatherings (“Northwest Plaza”). The Northwest Plaza will be approximately 1,700 square feet in area and located approximately two feet lower than the adjacent sidewalk due to the grade change along Yuma Street. The Northwest Plaza will provide a variety of social settings for people to interact through the use of both fixed and movable seating. To accommodate the grade difference between the sidewalk and the Northwest Plaza, a series of steps and planted slopes are proposed along the sidewalk.

Private landscaped courtyards and terraces are also proposed as residential amenities for Building 1 and the Townhomes. Building 1 will have a large central courtyard with landscaping, a paved plaza, and a swimming pool, along with several private outdoor terraces reserved for individual residential units. Around the exterior of Building 1, two large landscaped courtyards

with residential terraces will face 48th and Yuma Streets and will separate the pavilions along 48th Street. A residential entry courtyard on Yuma Street will contain landscaping and seating. Building 1 will also have a modest-sized fourth floor outdoor terrace at its northwest corner that will contain flexible seating areas and other amenities. Finally, each Townhome will have a private landscaped front yard area, rear main floor balcony, and a small roof deck.

Along the existing north-south public alley between Lot 807 and the MAPS site, the Applicant proposes to reduce the number of trash containers and place them in enclosures that will be designed in coordination with MAPS ownership. To accommodate the trash enclosures and ensure safe and adequate vehicular and pedestrian circulation along the alley, Building 1 will be set back approximately 10 feet from the west property line of Lot 807. This will result in a full 20 feet of circulation space for vehicles, the same width as the existing public alley that is currently shared by vehicles and pedestrians. There will also be a new, separate three foot pedestrian sidewalk along the west side of Building 1, and a new, separate five foot sidewalk along the south side of Building 1 and Townhouse 5.

The Applicant also proposes to upgrade the intersection of the east-west and north-south public alleys, and the intersection of the north-south public alley and Massachusetts Avenue. These upgrades include visibility mirrors, textured/differentiated pavement, crosswalk striping, and stop signs and/or other signage.

D. Parking and Loading

Building 1 will contain a three-level below-grade parking garage that contains approximately 370 vehicle parking spaces, inclusive of the 236 spaces mandated by the recorded Allocation Agreement. In compliance with the loading requirements of 11-C DCMR, Chapter 9, Building 1 will contain a 55-foot loading berth, a 30-foot loading berth, and a 20-foot delivery space.

Access to the parking and loading facilities will be located on the south side of Building 1, adjacent to the east-west public alley. This location minimizes views and the potential for noise-related impacts on residential uses to the north and east of the Project Site. It also improves circulation by locating these facilities closer to Massachusetts Avenue and away from the trash enclosures and other MAPS-related mechanical equipment located along the north-south alley.

E. Sustainable Design Elements

The Project has been designed to integrate a host of sustainable features and will be designed to achieve LEED Gold v.4 certification. The Project will replace a vacant grocery store building and large surface parking lot, both of which are impervious and lack any form of sustainable stormwater management, with new landscaping, trees, park space, and green roof systems. The Project Site is located in a walkable neighborhood with convenient access to neighborhood-serving retail and service uses, public transportation options and existing infrastructure. In addition, the Project includes a variety of strategies to satisfy GAR and stormwater management requirements, such as intensive and extensive green roof areas and numerous bioretention areas in the various courtyards. The Project also includes sustainable design features such as low-flow plumbing fixtures; energy efficient light fixtures, mechanical systems, and appliances; and low VOC materials and finishes. Convenient opportunities for recycling are provided with a trash/recycling room on each residential floor. Parking areas include space to charge eight electric vehicles (four EV-charging stations with two docks each), locations for car-share vehicles, interior retail bike storage and showers, and interior residential bike storage that exceeds the required number of spaces.

F. Flexibility Under PUD Guidelines

1. No Zoning Flexibility Requested

The PUD process was created to allow greater flexibility in planning and design than may be possible under conventional zoning procedures. In this application, the Applicant is not requesting any zoning flexibility. The height of the buildings proposed on Lot 807 are below the maximum height permitted as a matter-of-right in the MU-4 zone and, as required under Section 303.2 of the PUD regulations, the FAR of all buildings within the Project Site does not exceed the maximum overall and nonresidential density permitted as a matter-of-right in the MU-4 zone. Finally, the Applicant is not requesting any PUD-related flexibility from any other MU-4 development standard or general zoning requirement contained in Subtitle C of Zoning Regulations.

2. Design Flexibility Requested

The Applicant has made every effort to provide a level of detail that conveys the architectural significance and completeness of the Project. Nonetheless, some flexibility is necessary to address potential issues that may arise during construction and minor modifications that cannot be anticipated at this time. Thus, the Applicant requests flexibility in the following areas:

- a. Interior Component: To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, and elevators, provided that the variations do not change the exterior configuration of the buildings as shown on the plans approved by the order;
- b. Exterior Materials – Color: To vary the final color of exterior building materials based on availability at the time of construction, provided such colors are within the color ranges shown on the plans approved by the order. Any such variations shall not reduce the overall quality of materials, nor substantially change the exterior appearance, proportions, or general design intent of the buildings;
- c. Exterior Details – Location and Dimension: To make minor refinements to the locations and dimensions of exterior details that do not substantially alter the exterior

configuration of the building or design shown on the plans approved by the order. Examples of exterior details would include, but are not limited to, doorways, canopies, railings, and skylights;

- d. Landscaping: To vary the final selection of landscaping materials utilized based on availability at the time of construction;
- e. Number of Units: To increase the final number of residential units on Lot 807 by no more than 10% above the total number shown in the plans approved by the order to respond to program demand, or to decrease the final number of residential units within the residential GFA approved by the order to accommodate demand for larger units, provided that the number of parking spaces that are solely devoted to the residential uses on Lot 807 is equal to the greater of the minimum required under the Zoning Regulations or 75 parking spaces;
- f. Affordable Units: To vary the number and location of affordable dwelling units, provided the amount of affordable GFA contained within the Project is, at minimum, equal to the amount shown in the plans approved by the order, and further provided that:
 - i. No affordable dwelling unit shall be located within a cellar; and
 - ii. No more than two affordable dwelling units shall be located directly above and below each other on any immediately successive floor.
- g. Retail Uses: To vary the types of uses designated as “retail” use in plans approved by the order to include the following use categories, provided the amount of floor area devoted to a full-service grocery store is, at minimum, equal to 13,000 square feet for a period of ten years: (i) Retail (11-B DCMR § 200.2(cc)); (ii) Services, General (11-B DCMR § 200.2(dd)); (iii) Services, Financial (11-B DCMR § 200.2(ee)); and (iv) Eating and Drinking Establishments (11-B DCMR § 200.2(j));
- h. Parking Layout: To vary the garage layout and the number, location, and arrangement of vehicle and bicycle parking spaces provided the numbers of vehicle spaces that are solely devoted to residential and retail uses on Lot 807 are not reduced below 75 and 59 spaces, respectively. Any increase in the number of vehicle spaces solely devoted to residential or retail use on Lot 807 that exceeds two times the minimum required under the Zoning Regulations for that particular use shall require the Applicant to comply with the excess parking requirements of 11-C DCMR § 707. Further, the number of bicycle parking spaces solely devoted to residential and retail uses on Lot 807 shall meet or exceed the minimum bicycle parking requirements of 11-C DCMR § 802 at all times;
- i. Streetscape Design: To vary the location, attributes, and general design of the approved streetscape to comply with the requirements of, and the approval by, the DDOT Public Space Division;

- j. Signage: To vary the final design of retail frontages, including the design of entrances, show windows, and the font, message, logo, and color of the approved signage, provided that the maximum overall dimensions and signage materials are consistent with the Signage Plan and Guidelines contained in the plans approved by the order and are compliant with the DC signage regulations; and,
- k. Sustainable Features: To vary the approved sustainable features of the project, provided the total number of LEED points achieved by the project does not decrease below the minimum required for the LEED standard required under the order.

G. Special Exception Relief Requested

Pursuant to 11-X DCMR § 303.13, an applicant for a PUD may request approval for any relief for which special exception approval is required, and the Zoning Commission shall apply the special exception standards applicable to that relief, unless the applicant requests flexibility from those standards. Any such flexibility shall be considered the type of development flexibility against which the Zoning Commission shall weigh the benefits of the PUD. Pursuant to 11-G DCMR § 409.1, exceptions to the development standards for the MU-4 zone are permitted as a special exception.

In this case, the Applicant requests special exception relief from the rear yard and penthouse requirements, but does not request any flexibility from the applicable special exception standards. Thus, pursuant to 11-X DCMR § 303.13, the special exception relief described below shall not be considered development flexibility against which the Zoning Commission should weigh the benefits of the PUD.

Pursuant to 11-G DCMR § 1200.4, relief may be granted as a special exception if it is found that the special exception:

- a. Will be in harmony with the general purpose and intent of the MU zone, the Zoning Regulations, and Zoning Maps;
- b. Will not tend to affect adversely the use of neighboring property, in accordance with the Zoning Regulations and Zoning Maps; and
- c. Is subject in each case to any applicable conditions.

1. Rear Yard Special Exception Relief for Building 1 (11-G DCMR § 405.2)

Pursuant to 11-G DCMR § 405.2, a minimum rear yard of 15 feet is required in the MU-4 zone. As shown on the Plans, the Applicant proposes to provide a minimum rear yard depth of 10 feet along portions of Floors 1 – 3 of Building 1.

The proposed rear yard relief meets the special exception standards of 11-G DCMR § 1200.4 because it will be in harmony with the general purpose and intent of the Zoning Regulations, Zoning Map, and specifically the MU-4 zone. The overall purpose of the Zoning Regulations is to establish minimum standards for the promotion of public health, safety, morals, convenience, order, prosperity, and general welfare, by (i) providing adequate light and air; (ii) preventing undue concentration of population and overcrowding of land; and (iii) distributing population, business, and industry, and the use of land in a manner that creates favorable conditions. *See* 11-A DCMR § 101.1. The purpose of the MU-4 zone is to permit moderate-density mixed use development that includes facilities for shopping and housing needs and is located in a low- and moderate-density residential neighborhood.

As shown on the Plans, the extent of the rear yard relief needed is limited to two portions of the west façade of Building 1. Specifically, for the first 20 feet of building height, which generally aligned with the Lower Level of Building 1, the required 15 foot rear yard will be provided, and in fact will be exceeded since the rear yard may be measured from the centerline of the north-south public alley. Above 20 feet, where the rear yard must be measured from the rear property line, the rear yard relief is only necessary at the northwest (Floors 1 – 3) and southwest (Floors 1 – 4) corners of Building 1, and the extent of relief in these areas is only approximately five feet since Building 1 will be setback from the rear property line by approximately 10 feet.

Given the much lower height of the MAPS, the 20-foot public alley, and the 10-foot rear yard that will be provided, the requested special exception relief will be in harmony with the purposes of the Zoning Regulations stated above. Notwithstanding the requested relief, adequate light and air will be available to the dwelling units located along the rear of Building 1, the MAPS, and into the public alley. Considering the location of the requested rear yard relief toward the interior of the Project Site, the special exception will not adversely affect the use of neighboring properties. The portion of the MAPS that is closest to the area where the rear yard relief is requested contains back-of-house functions and does not contain any windows. In addition, the special exception will not adversely impact the setting of the historic MAPS when viewed from Massachusetts Avenue, nor will the relief adversely affect circulation in the public alley since the required rear yard will be provided at the ground level. Based on the foregoing, the proposed rear yard relief is in harmony with the purpose and intent of the Zoning Regulations, Zoning Map, and the MU-4 zone specifically. The rear yard relief also will not adversely affect neighboring property since it allows for additional setbacks and height-step downs where Building 1 is closest to existing residential uses.

In addition to the general special exception standard, requests for rear yard relief in the MU-4 zone must also meet the following criteria listed in 11-G DCMR § 1201.1 as follows:

- a. *No apartment window shall be located within 40 feet directly in front of another building;*

There are no residential dwelling unit windows along the rear of Building 1 that are located within 40 feet directly in front of another building. The only building directly opposite the rear of Building 1 is the MAPS, which does not have any windows along the façade that faces Building 1. Moreover, the height of the MAPS is below the height of the first level of dwelling units that face the alley in Building 1.

- b. *No office window shall be located within 30 feet directly in front of another office window, nor 18 feet in front of a blank wall;*

Not applicable, no office uses proposed.

- c. *In buildings that are not parallel to the adjacent buildings, the angle of sight lines and the distance of penetration of sight lines into habitable rooms shall be considered in determining distances between windows and appropriate yards;*

The requested rear yard relief will not result in Building 1 being not parallel to the MAPS.

In addition, there are no windows along the eastern façade of the MAPS facing Building 1. As such, the distance of penetration of sightlines into habitable rooms need to be evaluated.

- d. *Provision shall be included for service functions, including parking and loading access and adequate loading areas; and*

The Project will satisfy all minimum parking and loading requirements and the rear yard relief will not impact access to these facilities since, as noted above, the Project will provide the required rear yard at the Lower Level and the parking and loading facilities are not located along the north-south alley where the rear yard relief is requested. As shown on the Plans and as described above, the Applicant proposes to reduce the number of trash containers in the north-south alley, place trash containers in new enclosures, and ensure that safe and adequate vehicular and pedestrian circulation is provided along the alley by setting back Building 1 by approximately 10 feet from the west property line of Lot 807.

In addition, the Project includes a three-level below-grade parking garage that includes parking spaces that meet the number of spaces required by the Zoning Regulations and the Allocation Agreement. Loading is also provided in an amount that meets the requirements of the Zoning Regulations. Access to the parking and loading facilities is provided on the south side of Building 1, adjacent to the east-west alley, which location minimizes views and the potential for noise-related impacts on residential uses to the north and east. Providing parking and loading access in this location also improves circulation by positioning these facilities closer to

Massachusetts Avenue and away from the trash enclosures and other MAPS-related mechanical equipment located along the north-south alley.

- e. *Upon receiving an application to waive rear yard requirements in the subject zone, the Board of Zoning Adjustment shall submit the application to the Office of Planning for coordination, review, report, and impact assessment, along with reviews in writing from all relevant District of Columbia departments and agencies, including the Department of Transportation, the District of Columbia Housing Authority and, if a historic district or historic landmark is involved, the Historic Preservation Office.*

All applicable District agencies will have full authority to review and comment on the proposed rear yard relief identified in this application.

2. Penthouse Special Exception for Townhomes 1 through 4 (11-C DCMR § 1500.4)

Pursuant to 11-C DCMR § 1500.4, a penthouse, other than screening for mechanical equipment or a guard-rail required by the D.C. Construction Code for a roof deck, is not permitted on the roof of detached dwelling, semi-detached dwelling, rowhouse or flat in any zone. However, the Board of Zoning Adjustment (“BZA”) may approve a penthouse as a special exception under Subtitle X, Chapter 9, subject to conditions. In this case, the Applicant proposes to provide a 10-foot penthouse on the roof of Townhomes 1 through 4 that will provide access to a roof deck and contain storage ancillary to the roof deck.

The proposed penthouses will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. Given their modest size and setbacks and the orientation of the roof decks toward the rear of the townhomes, the proposed penthouses will not negatively impact the general welfare of the surrounding community. The penthouses will also not have an undue impact on light and air; result in undue concentration of population and overcrowding of land; or create conditions that are unfavorable to transportation. The properties and buildings that are immediately adjacent to the proposed penthouses include Building 1 and the AU Building, both of which will not be adversely affected by the modest-sized penthouses. As shown on the

Plans, the closest existing residential uses are located over 110 feet away from the proposed penthouses. Given this substantial distance, the proposed penthouses will not adversely affect the use of neighboring properties in accordance with the Zoning Regulations and Zoning Maps.

3. Tabulation of Development Data

The tabulation of development data for the Project is included on Sheet G05 of the Plans.

**IV.
THE PROJECT MEETS THE STANDARDS OF THE
ZONING REGULATIONS AND THE PUD REQUIREMENTS**

A. PUD Requirements Under 11-X Chapter 3 of the Zoning Regulations

1. Minimum Land Area Requirements Under 11-X DCMR § 301.1

Pursuant to 11-X DCMR § 301.1, a PUD in the MU-4 zone requires a minimum land area of 15,000 square feet. The Project Site has approximately 160,788 square feet of land area, which meets the minimum requirements.

2. FAR and Height Requirements Under 11-X DCMR §§ 303.3 and 303.7

A PUD in the MU-4 zone permits development of up to 3.6 FAR, of which no more than 2.01 FAR may be devoted to non-residential uses, and a maximum building height of 65 feet not including penthouses. The Project, including the existing AU Building and MAPS, will have a total density of 2.68 FAR (approximately 430,853 square feet of GFA), of which approximately 1.35 FAR (approximately 216,759 square feet of GFA) will be devoted to non-residential uses. The maximum height of the buildings proposed on Lot 807 will be 43.5 feet, not including penthouses. Accordingly, the Project complies with the FAR and height requirements for a PUD in the MU-4 zone. In fact, the Project does not utilize any PUD-related FAR and height flexibility, but rather is within the maximum matter-of-right FAR and height permitted in the MU-4 zone.

3. Not Inconsistent with Comprehensive Plan Under 11-X DCMR § 304.4(a)

The proposed PUD is not inconsistent with the Comprehensive Plan, including the FLUM and GPM. As noted above, the FLUM designates the Project Site as Low Density Commercial, which designation is used to define shopping and service areas that are generally low in scale and character, with retail, office, and service businesses being the predominate uses. Areas that have the low density commercial designation can range from small business districts that draw primarily from the surrounding neighborhoods to larger business districts that draw from a broader market area. As set forth in the detailed Comprehensive Plan analysis attached as Exhibit F, the Project is not inconsistent with the Low Density Commercial land use designation.

The GPM designates the majority of the Project Site as being within a Neighborhood Commercial Center, which is a type of commercial/mixed use area that meets the day-to-day needs of residents and workers in adjacent neighborhoods with a service area of approximately one mile. Typical uses within a Neighborhood Commercial Center include, among others, convenience stores, supermarkets, branch banks, restaurants, basic services, and office space for small businesses. The portion of Record Lot 9 upon which the AU Building is located is designated as Institutional on the GMP, which designation includes land and facilities occupied and used by colleges and universities, among other similar institutions. As set forth in the detailed Comprehensive Plan analysis attached as Exhibit F, the Project is not inconsistent with the Neighborhood Commercial Center or Institutional designations on the GPM.

A detailed discussion of the Project's consistency with the Comprehensive Plan, including its consistency with the FLUM, GPM, guiding principles, citywide elements, and Rock Creek West area element, can be found in the analysis attached as Exhibit F.

4. Impacts of Project Under 11-X DCMR § 304.4(b)

The Project will not result in any unacceptable impacts on the surrounding area or on the operation of city services and facilities, and will instead have a favorable impact on the surrounding area. Overall, the Project will benefit the neighborhood with the addition of new housing, including affordable housing, and a new neighborhood-serving, full-service grocery store. The Project has been carefully designed to relate to the surrounding context, provide appropriate public outdoor spaces and sustainable landscape design, and establish setbacks to improve circulation along adjacent alleys and relate to the adjacent development. In accordance with 11-Z DCMR § 401.8, the Applicant will submit a Comprehensive transportation review (“CTR”), including proposed transportation demand management (“TDM”) measures, no later than 30 days prior to the date of the public hearing and will serve a copy of the report on the District Department of Transportation (“DDOT”).

B. Public Benefits and Project Amenities

The PUD guidelines require the evaluation of specific public benefits and project amenities for a proposed project. Public benefits are defined as “superior features of a proposed PUD that benefit the surrounding neighborhood or the public in general to a significantly greater extent than would likely result from development of the site under the matter-of-right provisions.” 11-X DCMR § 305.2. A project amenity is further defined as “one (1) type of public benefit, specifically a functional or aesthetic feature of the proposed development that adds to the attractiveness, convenience, or comfort of the project for occupants and immediate neighbors.” 11-X DCMR § 305.10. When deliberating the merits of a PUD application, the Zoning Commission is also required to “judge, balance, and reconcile the relative value of the public benefits and project amenities offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case.” 11-X DCMR § 304.3. Public benefits

and project amenities may be exhibited in a variety of ways and may overlap with a furthering of the policies and goals of the Comprehensive Plan. As referenced above, no development incentives are requested as part of this application. Further, any potential for adverse impacts to result from the Project will be mitigated through the proposed design of the Project and the thorough transportation analysis prepared by the Applicant.

The Project will help achieve a number of the goals of the PUD process by creating a mixed-use, mixed-income development with a thoughtful high-quality design that relates to and is compatible with the surrounding neighborhood. These and the other significant public benefits and amenities, described in more detail below, reflect and implement the goals of the PUD process, enhance the surrounding community, and benefit the District.

1. Superior Urban Design, Architecture, and Superior Landscaping and Creation of Open Spaces (11-X DCMR § 305.5(a))

The proposed height and mass of the Project has been carefully designed to relate to the surrounding context through height reductions, large courtyards, façade articulation, upper-level setbacks, and high-quality, context-sensitive materials. The Project includes development of Windom Park, a new publically accessible passive open space, and the Northwest Plaza, a new landscaped plaza adjacent to the grocery store entrance, as well as a variety of landscaped courtyards and terraces for residential use.

2. Site Planning and Efficient Economical Land Utilization (11-X DCMR § 305.5(c))

The proposed site plan takes into consideration the potential for pedestrians to circulate through the public alley system through pedestrian improvements that do not currently exist, including sidewalks along the north-south and east-west alleys and alley intersection improvements. The Project also exhibits efficient and economical land utilization through (i) the provision of multiple residential building types (multi-family and townhomes) within a designated

Neighborhood Commercial Center in close walking distance to numerous amenities (retail, service, parks, high-quality schools, convenient bus service); and (ii) utilization of unused commercial density from the historic MAPS in order to restore a highly-desired full-service grocery store to the neighborhood, and reduce the amount of density that could potentially be constructed on the historic MAPS site in the future.

3. Historic Preservation of Private or Public Structures, Places, or Parks (11-X DCMR § 305.5(e))

The Project will assist in protecting the historic MAPS by reducing the amount of density that could potentially be constructed on the historic MAPS site in the future. While any development on the MAPS site would be subject to HPRB review, the Project will permanently reduce the amount of density that could be constructed on the MAPS site for any development that might be proposed in the future.

4. Housing, Including Housing that Provides Units with Three or More Bedrooms (11-X DCMR § 305.5 (f)(3))

The Project results in the creation of new housing consistent with the goals of the Zoning Regulations, the Comprehensive Plan, and the Future Land Use Map. Overall, the Project will replace an underutilized site with approximately 219 new residential units, including approximately 29 affordable units. Of the total housing, approximately 16.8% is comprised of three-bedroom units, including approximately 13.8% of the IZ units comprised of three-bedroom units.

5. Affordable Housing (11-X DCMR § 305.5(g))

As stated above, the Project is within the matter-of-right height and density permitted in the MU-4 zone, and thus does not utilize any PUD-related height or density flexibly. Nonetheless, as shown in the Plans the Project will still exceed the amount of affordable housing that would be required through matter-of-right development. As a matter of right, the IZ set aside of the

proposed project would be approximately 27,440 square feet (approximately 10% of residential floor area). As proposed, the Applicant will set aside approximately 29,858 square feet to affordable housing (approximately 11% of residential floor area).

6. Environmental and Sustainable Benefits (11-X DCMR § 305.5 (k))

The Project will achieve LEED Gold certification.

7. Transportation Infrastructure (11-X DCMR § 305.5(o))

The Project will provide the following transportation-related benefits that are not needed to mitigate any potential adverse transportation impacts created by the Project:

- Install a mid-block HAWK signal along Massachusetts Avenue between 48th and 49th Streets;
- Consolidate the trash receptacles in the north-south alley and place them within new enclosures;
- Widen the north-south public alley to maintain 20-foot vehicle travel and provide a new pedestrian sidewalk;
- Install a new sidewalk along east-west alley;
- Improve the alley intersections to increase pedestrian safety and visibility;
- Restrict residents of the Project from obtaining a Residential Parking Permit (“RPP”) with penalty of least termination;
- Contribute \$5,000 toward any recommendations made by DDOT regarding construction of a “pork chop” at the intersection of 49th Street and Massachusetts Avenue; and
- Provide four electric vehicle car charging stations, with two docks each, for a total capacity of eight cars charging.

8. Uses of Special Value to the Neighborhood or the District of Columbia as a Whole (11-X DCMR § 305.5(q))

The Project includes a full-service grocery store that will serve the needs of surrounding community residents.

9. Other Public Benefits and Project Amenities (11-X DCMR § 305.5(q))

Tree Replacement. The Applicant will plant any missing trees within the tree box areas along the east side of 48th Street, between Yuma Street and Massachusetts Avenue, and along the north side of Yuma Street, between 48th and 49th Streets.

Transportation to Metro. For a period of one year following issuance of the first certificate of occupancy for Building 1, the Applicant will offer a shuttle service for each residential unit within the Project between the Project Site and the Tenleytown Metrorail station. The shuttle service will be in the form of either: (i) a typical shuttle van or bus that runs between the Project Site and the Metrorail station approximately three times per hour; or (ii) a credit through a ride-sharing company (Lyft, Uber, Via, etc.) accessed through a smart phone. The type of shuttle service (van or ride-share) will be selected by the Applicant. The shuttle service will run Monday through Friday for two hours during the peak morning and afternoon commute times (four hours per day total). If the rideshare service is selected, the Applicant will utilize geofence technology to automatically charge the Applicant's rideshare account when the resident requests a ride between the Project Site and the Tenleytown Metrorail station during the identified peak hours.

**V.
COMMUNITY AND OFFICE OF PLANNING OUTREACH**

Pursuant to 11-Z DCMR § 300.7, the Applicant mailed a Notice of Intent to file the subject application to the owners of all property located within 200 feet of the perimeter of the Project Site and to Advisory Neighborhood Commissions (“ANCs”) 3D and 3E on March 20, 2019, which was more than 45 days prior to the date of this application. Since then, the Applicant has been working with both ANC's to ensure that the Project has a positive impact and is designed to be consistent with community goals. The Applicant has been engaged with the community, community organizations, and the ANC since September 2015. During that time, the Applicant has presented

at numerous ANC meetings, and has attended or hosted several community meetings. The Applicant presented the PUD application to ANC 3D at its April 10, 2019, public meeting, and to ANC 3E at its April 11, 2019, public meeting, and will continue to work with both ANCs as this application moves forward.


The Applicant also met with the Office of Planning and DDOT prior to filing the application to review the proposed Project design, benefits and amenities, and to transportation mitigation measures and other improvements. The Applicant will continue to work with these and other affected District agencies, as necessary, throughout the PUD process.

VI. CONCLUSION

For the foregoing reasons, the Applicant submits that the PUD meets the standards of 11-X DCMR Chapter 3 of the Zoning Regulations; is consistent with the purposes and intent of the Zoning Regulations and Zoning Map; is consistent with the land use objectives of the District of Columbia; will enhance the health, welfare, safety and convenience of the citizens of the District of Columbia; satisfies the requirements for approval of a consolidated PUD; provides public benefits and project amenities; and advances important goals and policies of the District of Columbia and therefore should be approved by the Zoning Commission. Accordingly, the Applicant requests that the Zoning Commission approve the application for a consolidated PUD.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By: 
Norman M. Glasgow, Jr.
Jessica R. Bloomfield