

# **Z.C. Case No. 14-12E**

## **1329 5<sup>th</sup> Street, NE**



**Application for Review and Approval of a  
Second-Stage Planned Unit Development**

**Square 3591, Lots 808, 809, and 7020-7033**

**June 3, 2019**

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## **DEVELOPMENT TEAM**

**APPLICANT:** Clarion Gables Multifamily Trust, L.P.  
c/o Gables Residential  
8300 Greensboro Drive, Suite 650  
McLean, VA 22102

EAJ 1309 5th Street LLC  
c/o EDENS  
1272 5th Street NE, Suite 200  
Washington, DC 20002

**ARCHITECT:** Hord Coplan Macht  
1925 Ballenger Ave, Suite 525  
Alexandria, VA 22314

**LANDSCAPE ARCHITECT:** Mahan Rykiel Associates  
3300 Clipper Mill Road, Suite 200  
Baltimore, MD 21211

**SUSTAINABILITY CONSULTANT:** Steven Winter Associates  
1825 Connecticut Ave NW, Suite 600  
Washington, DC 20009

**TRANSPORTATION ENGINEER:** Gorove Slade Associates, Inc.  
1140 Connecticut Avenue, NW, Suite 600  
Washington, DC 20036

**CIVIL ENGINEERS:** Bohler DC  
1331 Pennsylvania Avenue, NW  
Suite 1250 North  
Washington, DC 20004

**LAND USE COUNSEL:** Goulston & Storrs  
1999 K Street, NW, Suite 500  
Washington, DC 20006

## EXHIBITS

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| Agent Authorization Letters and Application Forms   | A |
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## I. INTRODUCTION

### A. Background and Purpose of Application

Clarion Gables Multifamily Trust, L.P. (“**Gables**”) and EAJ 1309 5th Street LLC (“**EDENS**,” and together with Gables, the “**Applicant**”) hereby submit this application (“**Application**”) to the District of Columbia Zoning Commission (“**Commission**”) for review and approval of a second-stage planned unit development (“**PUD**”) pursuant to the approved first-stage PUD and Zoning Map amendment (“**Map Amendment**”, where the approved first-stage PUD, associated consolidated PUD, together with the Map Amendment, are the “**Approved PUD**”). The property that is the subject of this Application is commonly known as 1329 5th Street, NE (Square 3591, Lots 808, 809, and 7020-7033, or the “**North Parcel**”) and consists of approximately 42,078 square feet on a portion of a single contiguous lot of record in the Northeast quadrant of the District between 5th and 6th Streets, NE north of Morse Street, NE. The North Parcel is within the boundaries of Advisory Neighborhood Commission (“**ANC**”) 5D01. This second-stage PUD Application is entirely in accordance with the Approved PUD.

As noted above, the Approved PUD included three related elements: (i) a first-stage PUD that established the height and massing, program of uses, and vehicular access considerations for the mixed-use building to be located on the North Parcel (the “**North Building**”), its below-grade parking garage, and related exterior improvements, (ii) a consolidated PUD that approved the height and massing, program of uses, vehicular access considerations, and detailed design elements of the mixed-use building (the “**Future South Building**”) to be located on the southern half of the PUD site (the “**South Parcel**”), and (iii) the Map Amendment, rezoning the entire site that is subject to the Approved PUD (the “**Union Market PUD Site**”) from the C-M-1 Zone District to the C-3-C Zone District. Additional procedural history related to the Approved PUD is summarized on the attached Exhibit G. The North Parcel and South Parcel are currently improved with two structures: on the South Parcel is the unique, artisanal ground floor market and second-story event space known as, respectively, “The Market” at Union Market and “Dock 5” in the existing south building (“**Existing South Building**”), and on the North Parcel, is an existing, predominantly vacant warehouse (“**Existing North Building**”).

This Application seeks to create an exciting and unique project (“**Project**”) on the North Parcel as shown on the plans attached hereto as Exhibit J (“**Plans**”). The sheets on the left side of the Plans depict the Approved PUD, and the corresponding pages on the right depict the updated design of the Project.

The Project consists of constructing: (i) the North Building a new approximately 317,950 gross square foot, eleven-story mixed-use building, which contains street-activating ground floor retail/commercial and “PDR/Maker” uses (defined below), a ground floor residential lobby and residential amenity uses, and upper story multifamily residential uses, (ii) a new urban plaza (“**Plaza**”) that separates the North Building from the Existing South Structure (and eventually from the Future South Building), and (iii) three-and-a-half levels of below-grade parking with approximately 310 parking spaces (plus or minus 10 percent) to serve the Project, the Existing South Building (and the Future South Building), and surrounding properties in the Union Market District.

Significantly, the Project is designed entirely in accordance with the parameters set forth in the Approved PUD and does not propose any modifications to the Approved PUD, excepting only (i) that the Project includes a residential amenity space in the penthouse, which was not allowed at the time the Approved PUD was adopted but which is permitted now even for projects vested under ZR58, and (ii) the Project includes additional public benefits not required under the Approved PUD. The Project also simplifies the Approved PUD. Whereas the Approved PUD allowed flexibility for office or residential uses, that use is now known. The parking is being delivered immediately and the range of parking spaces previously approved (i.e., 300-475) has narrowed considerably.

This Application advances the robust package of public benefits required under the Approved PUD and adds public benefits not previously required (the “**Public Benefits**”). The Public Benefits include high quality design and architecture, efficient planning, sustainability measures, and pedestrian and transportation management as well as a comprehensive and diverse package of housing and affordable housing, employment benefits, and special measures such as community events, educational programs, security, signage, street design guidelines, and community services.

New to this Application, the Public Benefits now include an additional commitment by the Applicant to build-out no less than half and likely all of the non-residential portion of the ground floor of the Project for PDR/Maker use specifications and to reserve a portion of the Project’s ground floor exclusively for such uses for a period of five years. In addition, the Applicant is seeking a greater level of sustainable design than is required under the Approved PUD (i.e., the Applicant will seek LEED Silver v4, whereas only LEED Silver 2009 is required; LEED Silver v4 is essentially the equivalent of LEED Gold 2009), and the Applicant is studying reserving a portion of the roof top for solar panels, which if provided, would be another benefit not required in the Approved PUD.

This Application pertains only to the North Parcel and seeks approval for the final design of the North Building, including all landscaping, site circulation, and materials, as shown in the Plans. The South Parcel and the plans for the Future South Building are subject to the consolidated PUD approved as part of the Approved PUD in Z.C. Order No. 14-12 and are not part of this Application.<sup>1</sup>

Finally, as determined in the Approved PUD, the Project implements the goals and policies of the Florida Avenue Market Study Small Area Plan (“**Small Area Plan**”) and is not inconsistent with the District of Columbia Comprehensive Plan (“**Comprehensive Plan**”) nor any other adopted policy or program applicable to the North Parcel. This Application satisfies the requirements for a PUD under the 2016 District of Columbia Zoning Regulations (“**ZR16**”).<sup>2</sup>

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<sup>1</sup> As part of the Project, the Applicant proposes to construct the entirety of the Plaza even though parts of the Plaza extend onto the theoretical lot that is the subject of the South Building’s consolidated PUD. This is consistent with the Approved PUD, which contemplates the final construction of the Plaza necessarily occurring in conjunction with the construction of the North Building.

<sup>2</sup> The Project is vested under the substantive provisions of the 1958 Zoning Regulations (“**ZR58**”), which continue to apply to the Project. However, this Application is proceeding pursuant to the procedural requirements of ZR16. See 11-A DCMR § 102.3(a).

## **B. The Applicant**

EDENS and Gables comprise the Applicant. EDENS led the development efforts that resulted in the Approved PUD and has been involved in the Union Market District for more than a decade. Gables has significant experience developing and constructing multifamily residential and mixed-use buildings throughout the District and currently owns numerous residential rental buildings around the District. Both parties have extensive experience working with community groups and other stakeholders to develop projects that enhance urban neighborhoods and synthesize with existing communities.

Gables Residential is a privately-owned REIT, specializing in the development, construction, ownership, acquisition, financing, and management of multifamily communities and mixed-use developments. Locally, Gables has a strong presence in the District, owning Gables City Vista in Mount Vernon Triangle, Gables Dupont Circle, Gables Takoma Park, and as of last year, Gables Woodley Park. The company owns, develops, and manages properties throughout the United States including in Atlanta, Austin, Dallas, Houston, South Florida, Southern California, and elsewhere in the Washington metro region. Providing award winning real estate services for over 30 years, Gables is an industry leader that has been recognized with more than 70 national and local awards highlighting the company's outstanding community service record, innovative practices, cutting-edge environmental initiatives, dedicated staff, and best in class properties.

EDENS develops, owns, and operates community-oriented shopping places in primary markets throughout the East Coast. Three examples of the EDENS innovative and well-planned approach can be found in the Union Market District at 1309 5th Street, NE (The Market), 1270 4th Street, NE (Shapiro and La Cosecha), and Gateway Market at 340 Florida Avenue, NE (The Edison and Trader Joe's), and also in the Mosaic District at Lee Highway and Gallows Road in Merrifield, VA. EDENS prides itself in introducing pioneering, innovative concepts, creating the right merchandise mix, delivering seamless construction projects, and maintaining ownership and management, and has done so on numerous projects for nearly 45 years. EDENS has developed a strong reputation through its commitment to enriching the communities it serves and its focus on building key relationships with neighbors, retailers and project partners. Each of EDENS's local projects has achieved great success and garnered accolades for EDENS's vision and unique introduction of new retail and mercantile concepts.

Within the Union Market District, EDENS and its affiliates have joint ventured to (i) entitle, design, and construct The Edison at 340 Florida Avenue, NE (approved by Z.C. Order No. 06-40C), which is the first residential project within Union Market, plus a Trader Joe's grocery store and a dedicated community room for the ANC, (ii) entitle, design and construct with partners the PUD at 1270 4th Street, NE (approved by Z.C. Order Nos. 14-07 and 14-07A) and 1300 4<sup>th</sup> Street (approved by Z.C. Order Nos. 14-07 and 14-07B), (iii) entitle and design the hotel and retail project at 400 Florida Avenue, NE (approved by Z.C. Order No. 16-10); and (iv) entitle and design the residential and retail PUD at 500 Penn Street NE (approved by Z.C. Order No. 17-14). Additionally, EDENS and its affiliates have redeveloped several historic warehouses on 5<sup>th</sup> Street, NE with street-activating retail uses and EDENS has relocated their national headquarters to the second floor above such uses in this adaptive reuse project. EDENS has also spearheaded, along with the District Department of Transportation ("DDOT") and the

Office of Planning (“OP”), the creation of the Union Market Streetscape Design Guidelines and along with the D.C. Historic Preservation Office (“HPO”) has created a draft Historic District design guidelines document.

## **II. THE NORTH PARCEL**

### **A. Location**

The North Parcel is located within Ward 5 and ANC 5D01 in the Northeast quadrant of the District. It is bounded by the Existing South Building to the south, a vacant lot where the original Union Market Terminal sheds are currently located and which is now used for maintenance storage to the north, 6<sup>th</sup> Street, NE to the east, and 5<sup>th</sup> Street, NE to the west. Situated within the eastern portion of the Union Market District, the North Parcel is less than 1/3 mile from the NoMA-Gallaudet University Metrorail station, which is served by the Red Line, and for which the D.C. Council recently approved a capital project to enhance pedestrian access to and from the Union Market District.

The North Parcel consists of approximately 42,078 square feet of land area, all of which is contiguous. The Existing South Building is currently improved with The Market and Dock 5, and the Existing North Structure is a predominantly-vacant warehouse. The area between the two buildings is characterized by a private service plaza that facilitates the loading and offloading of trucks. Both of the Existing Buildings were originally designed for wholesale distribution, but the Existing South Building has seen a rebirth as The Market and Dock 5 and is now the center of gravity for the entire Union Market District.

### **B. Characteristics of the Union Market District and the Surrounding Area**

Union Market District. The North Parcel is within the Union Market District, a warehouse district that both currently and in its history has accommodated many of DC’s food wholesalers. Today, the Union Market District retains a conglomeration of wholesalers and retailers of meats, produce, dry goods, jewelry, tourist souvenir items, hair care products, and general merchandise. However, new and ongoing development activity has recently begun to rejuvenate the Union Market District in accordance with the Small Area Plan. The Union Market District now features PUDs, of varying degrees of density and at varying stages of development, surrounding two blocks of low-rise historic warehouse, light industrial, and mercantile structures at the heart of the neighborhood.

The properties immediately to the north and south of the North Parcel and the Existing South Building are subject to a first-stage PUD approved in Z.C. Case No. 15-24. Immediately east of the Union Market District is the Gallaudet University campus. To the north and west are New York Avenue, NE and the wide rail corridor that leads to Union Station, which is just a few blocks to the south of the Union Market District. Florida Avenue, NE serves as the southern boundary of the neighborhood. To the north, bisected by New York Avenue, NE is the mixed-use Ivy City, and beyond Gallaudet University to the east is the primarily-residential Trinidad neighborhood. Eckington is located to the west across the regional rail corridor.

Transit and Vehicular Access. The Union Market District enjoys convenient access to Downtown DC and the Baltimore/Washington corridor via New York Avenue, NE, a six-lane



arterial that provides immediate access to Route 50 and points east, to the Baltimore-Washington Parkway to Howard County and Baltimore, Annapolis, and to the Capital Beltway. The NoMA-Gallaudet University Metrorail Station is located at the southern edge of Union Market immediately across Florida Avenue, NE from the North Parcel and within easy walking distance, which will become even easier with the recently-funded capital improvements. The NoMA-Gallaudet Station is one stop (2–3 minutes) from Union Station with connections to MARC, VRE, Amtrak, and intercity bus service on the Red Line and just three stops (5-7 minutes) from Metro Center. In the opposite direction, the Red Line runs to Silver Spring, another major employment center in the region. Multiple local Metrobus lines directly serve Florida Avenue, NE and the nearby Brentwood Parkway, NE, which bus lines also provide important intracity vehicular access. The Metropolitan Branch Trail (“**MBT**”) runs along the eastern side of the rail corridor bounding Union Market. The MBT provides an important bicycle connection to other District neighborhoods. The Union Market District itself is increasingly bicycle friendly.

Nearby Recreation and Amenities. The Union Market PUD Site is within walking distance of the National Arboretum, Mt. Olivet Cemetery, Trinidad Park and Recreation Center, Gallaudet University, and as mentioned above, the MBT. The Joseph Cole Community Recreation Center is approximate one-half mile east of the North Parcel.

Commercial uses continue to emerge in and around Union Market. Trader Joe’s is open (in an EDENS-developed building) within the Union Market District, a Harris Teeter grocery store is approximately one-half mile southwest of the North Parcel, and the newly-opened H Street Whole Foods is approximately one-half mile due south. An assortment of commercial uses line Florida Avenue, NE in the vicinity of the Union Market District, and The Market itself is an activity center for retail uses, mercantile activity, shopping needs, and neighborhood gathering spaces and an incubator space for new, locally-based small businesses.

Nearby Development. Multiple PUDs have been approved within or immediately adjacent to the Union Market District in accordance with the development framework set forth in the Small Area Plan. Likewise, southwest of Union Market, the NoMA Business Improvement District has seen development and investment activity guided by the Comprehensive Plan. Nearby neighborhoods of Eckington and Ivy City neighborhoods also each have multiple new or planned developments. Together these new developments provide a significant contribution of new housing, new affordable housing, and new job and economic opportunities as well as opportunities for District residents and workers to remain in the District.

More specifically, major recent and pending developments within a half-mile radius of the North Parcel include: (i) the Constitution Square complex, which includes 2.5 million square feet of mixed-used space including office, hotel, residential, and retail in NoMA; (ii) JBG’s 200-room Hyatt Place at 33 New York Avenue, NE; (iii) the 218-room Courtyard by Marriott at 1325 Second Street, NE; (iv) the roughly 1 million square foot Washington Gateway project, which includes residential, retail, and office space on the triangular lot to the north and east of the intersection of Florida and New York Avenues; (v) The Edison at 340 Florida Avenue, NE by affiliates of LCOR and EDENS, which includes Union Market’s first residential units, a Trader Joe’s and a community room (mentioned above); (vi) mixed use retail and residential PUD projects at 1270 4th Street, NE and 1300 4<sup>th</sup> Street, NE by affiliates of EDENS and several development partners approved by Z.C. Order Nos. 14-07, 14-07A, and 14-07B (mentioned above); (vii) a mixed use,

multiple building PUD at the east of the Union Market District subject to Z.C. Case No. 15-27, (viii) a hotel and retail project at 400 Florida Avenue, NE by EDENS and other development partners (approved by Z.C. Order No. 16-10) (mentioned above); and (ix) JBG and Gallaudet's multi-block PUD within Union Market (approved by Z.C. Order No. 15-24).

Nearby Zoning, Economic, and Demographic Characteristics. The 45-acre Union Market area is generally in the PDR-1 zone (previously the C-M-1 Zone District), but several sites have been rezoned C-3-C (now MU-9 under ZR16) in accordance with the recommendations of the Small Area Plan. *See, for example,* Z.C. Order Nos. 06-40 through 06-40C, 11-25, 14-07, 15-01, 15-24, 16-10, and 17-14. The Union Market District, and the Union Market itself, have been hubs of economic activity for entrepreneurial and start-up businesses. Food-based industries, technology, media, mixed-media, and “maker” uses have all found niches in near Northeast, with the Union Market District a hub for such economic activity.

The North Parcel and the Union Market District are in Census Tract 88.03. Recent Census data demonstrates the neighborhood's need for more and better jobs and also improving trends in recent years. As of 2017 (the most recent year for which data are available), the Union Market District's unemployment rate was 15.6 percent (versus 8.0 percent for the District as a whole), which compares favorably to the unemployment rate of 26.3 percent as of 2014 (versus 10.6 percent for the District as a whole), the year that the first-stage PUD was approved.<sup>3</sup>

### **III. THE PROJECT**

Consistent with the plans for the North Parcel in the Approved PUD, the Project is a single mixed-use building with a mix of ground floor uses, ten stories of upper-story multifamily residential uses, below-grade parking, and the new pedestrian-friendly Plaza and surrounding street scape improvements along 5<sup>th</sup> Street, NE and 6<sup>th</sup> Street, NE. The primary rationale for the Project is that the Applicant believes the Union Market District is poised to accommodate additional retail/commercial and multifamily residential uses to complement the emerging mix of residential uses at various stages of development today and can support the proposed mix of ground floor non-residential uses. The additional retail/commercial and multifamily uses will also help support greater office use in this area and the creation of a true live-work-play neighborhood in Ward 5. In addition, the Project accommodates and celebrates the Union Market District's mercantile heritage by reserving space on the ground floor specifically for the PDR/Maker uses that comprise an important part of the District's economic development ecosystem and by building out half of the ground floor to accommodate such uses. The proposed North Building and public space improvements enhance the existing retail and other uses in the neighborhood and substantially advance the DC's collective vision for the Union Market District as set forth in the Small Area Plan. The proposed Plaza together with the ground floor non-residential uses are an essential element of the Project that continue and expand upon The Market's role as a pedestrian-oriented economic hub.

#### **A. Project Description**

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<sup>3</sup> United States Census Bureau, American FactFinder <https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml> (last visited May 27, 2019)

Program. The Project has a total floor area of up to approximately 317,950 square feet of gross floor area (“GFA”) and a floor area ratio of 3.71 (with respect to the overall record lot that is the site of the Approved PUD), which is the equivalent of 7.56 FAR, when considering only the Project on the North Parcel. The Project, together with the approved footprint for the Future South Building has an overall lot coverage of approximately 84 percent (with a lot coverage of only approximately 77 percent when considering the North Parcel only), less than the 100 percent permitted by C-3-C zoning. The maximum height of the North Building is 120 feet.

The overall height and density of the Project are the same as were set forth in the Approved PUD. The North Building includes approximately 23,053 square feet of non-residential uses and approximately 287,530 square feet of residential uses, excluding the penthouse amenity space. The proposed residential gross floor area in the aggregate constitutes a net *reduction* of approximately 7,050 square feet relative to the Approved PUD. The reduction in gross floor area in this Application is the result of the Applicant providing appropriately-scaled floor plates, articulation, and an over-sized court that together create interesting exterior architecture and improve access to light and air.

The North Building does not include any office use, which had been a possibility (though not a requirement) for the North Building under the Approved PUD. The Project also includes 15,568 square feet of penthouse shared amenity space that was not contemplated in the Approved PUD because ZR58 did not allow such use at the time the Approved PUD was considered. The Project provides a total of up to approximately 310 below-grade vehicle parking spaces (+/- 10%), which is a significant narrowing of, and generally within and at the low end of the range of 300-475 spaces authorized under the Approved PUD. Non-automotive modes of transportation are a priority for the Project.

Of the approximately 23,053 square feet of non-residential uses on the ground floor of the Project, half will be constructed to “PDR/Maker” use specifications.<sup>4</sup> Moreover, the Applicant will reserve five percent (5%) of such approximately 23,053 square feet for PDR/Maker uses<sup>5</sup> for a period of five (5) years. These PDR/Maker commitments and enhanced Public Benefits are consistent with the package proffered by an affiliate of EDENS and accepted

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<sup>4</sup> PDR Maker construction specifications shall mean construction to include “(a) a structural slab load (ground floor) live load of 125 pounds per square inch; (b) clear height of approximately 16 feet from ground-floor slab to bottom of structure above; (c) an electrical supply of 50 watts per square foot; (d) a loading dock that includes a 48-inch raised loading dock and/or levelers; (e) an open floor plan layout; (f) a sound attenuation for mixed-use that satisfies NC-25 minimum noise criteria and includes seven-inch-thick minimum concrete podium slab; (g) HVAC designed for one ton per 300 square feet; and (h) ventilation (Fresh Air / Make-Up Air) louvers at façade.”

<sup>5</sup> PDR Maker uses shall include: “(a) production, sale, and/or distribution of food and beverages (provided that the onsite consumption of food and beverages shall only be permitted when associated with such production, sale, and/or distribution user); (b) food incubators and food hubs; (c) robotics and 3-D manufacturing; (d) small-scale production, distribution or repair of goods and related accessory sales; (e) curation and sale of small-scale production goods; (f) new and locally-owned small businesses as certified with the Department of Small & Local Business Development; (g) “creative economy” uses including incubators, graphic design, product or industrial design, engineering and design, technology design and production, design and product curation, fashion design, horticultural design, green businesses and sustainable design, specialty sports and recreation uses, media/communications production and distribution; and (h) “arts” uses including arts, design and creation uses as defined in Subtitle B § 200.2(e) of the Zoning Regulations and entertainment, assembly and performing arts as defined in Subtitle B § 200.2(n) of the Zoning Regulations.”

by the Commission in the consolidated PUD for 500 Penn Street, NE. *See* Z.C. Order No. 17-14 at Decision ¶¶ B.9-11.

Though the Project is slightly smaller by gross floor area relative to the North Building in the Approved PUD, it is otherwise in accordance with the parameters established in the first-stage PUD, allowing for modest deviations resulting from the furtherance of the design of the Project. A comparison of key metrics from the Approved PUD and the Project is set forth in the chart below:

| <b>North Building/North Parcel</b> | <b>Approved PUD</b>     | <b>Proposed</b>  |
|------------------------------------|-------------------------|--|
| <b>Lot Occupancy</b>               | 77% (84% overall)       | 77% (84% overall)  |
| <b>GFA</b>                         | 325,000 sf              | 317,950 sf   |
| <b>Retail/Non-Residential</b>      | 35,000 sf               | 23,053 sf  |
| <b>Office</b>                      | 290,000 sf (or)         | 0 sf   |
| <b>Residential</b>                 | 290,000 sf              | 287,530 sf (excluding penthouse and projections into public space) |
| <b>Service/BOH/Loading</b>         | Included above          | 7,367 sf   |
| <b>Residential Penthouse</b>       | N/A                     | 15,568 sf (residential amenity)                                    |
| <b>FAR</b>                         | 3.78 (for North Parcel) | 3.71 (for North Parcel)  |
| <b>Height</b>                      | 120 feet                | 120 feet   |
| <b>Parking (below-grade)</b>       | 300-475 spaces          | 310 spaces (+/- 10%)   |
| <b>Zone</b>                        | C-3-C                   | C-3-C  |

The overall lot occupancy grew by a modest amount relative to the approved first-stage PUD parameters for the North Building. At the first-stage, the Project’s architecture had not been designed beyond a conceptual massing stage. Now that the Project’s architecture is more fully-designed, in order to provide an articulated ground floor that accomplishes all of the goals of this Project—including the build out of half of the ground floor to accommodate PDR/Maker uses—a modest increase in the lot occupancy is desirable.

Site Plan. The Project’s site plan addresses its important context in Union Market and activates the surrounding public realm. The overall plan under the Approved PUD calls for two approximately 120-foot buildings separated by the hardscaped public Plaza. The Plaza is intended to be a vibrant pedestrian-friendly space that is both a public amenity for area residents and workers in the Union Market District and ANC 5D as well as a destination for visitors from Ward 5, DC, and the broader metro region. The bulk, intensity, and orientation of the Project are each consistent with the vision for the Union Market District articulated in the Small Area Plan. The North Building and the Existing South Building frame the Plaza and create a large outdoor public space that, when combined with the Plaza’s design and programming, promises to be a community-gathering place for the Union Market District and broader ANC 5D and Ward 5 community generally.

The ground floor articulation and orientation of the North Building and the Existing South Building encourages the Plaza to provide a pedestrian access way between 5<sup>th</sup> Street and 6<sup>th</sup> Street, NE and a central place for gathering. The massing of the North Building is consistent with the height and density for other buildings approved on the blocks between 5<sup>th</sup> and 6<sup>th</sup> Streets, NE and with the massing and orientation approved for the Future South Building and

reinforces the nearly uniform, classical street grid of the Union Market District. The upper stories of the North Building have a “C”-shape configuration above a podium that extends to the bounds of the North Parcel to the north, east and west. The North Building is nearly symmetrical in height and bulk with the Future South Building but differs in terms of articulation, materials, and details from its sibling building to create visual interest. The Future South Building also has larger floorplates, reflecting its ability to accommodate upper story commercial uses. The North Building forms strong edges along each of the surrounding streets, creating a strong sense of place and hierarchy.

The existing grading of the site and its location between Gallaudet University and the vibrant 5<sup>th</sup> Street, NE retail and wholesale corridor naturally directs pedestrian activity to collect at and move through the Plaza. The grade of the North Parcel rises from south to north. As a result, the Plaza level sits a half-story above the south entrance of The Market. This allows the existing ground floor market to be just a few steps below the grade of the Plaza and the second-level Dock 5 to be just a few steps above it. See Sheets A32-A33 of the Plans. The ground floor retail/commercial level of the North Building is at-grade with the Plaza.

Other Development Standards. The Project is consistent with ZR58 and the Approved PUD with respect to all development standards. The Project occupies approximately 39 percent of the overall record lot area, and 84 percent of the overall record lot when accounting for the approved Future South Building (the Project alone occupies 77 percent of the North Parcel), which is the same amount authorized in the Approved PUD and still much less than the 100 percent allowed in the C-3-C zone district. Front yards are not required for the North Building under the Approved PUD or the C-3-C zoning, and no front yard is provided here. The North Building’s rear yard complies with the Approved PUD and the C-3-C requirements, and the Project has no side yards, in accordance with the design contemplated in the Approved PUD and as allowed in the C-3-C zone district. The Project includes one open court and one closed court, both of which comply with ZR58 as shown on Sheet A6 of the Plans. The Project’s habitable and mechanical penthouse structures comply with the relevant requirements.<sup>6</sup> The Project’s overall green area ratio of 0.2 satisfies the 0.2 required in the C-3-C Zone District and the value established for the North Parcel in the Approved PUD.

Building Layout. At the ground floor level, the North Building contains approximately 23,053 square feet of retail/commercial space (including PDR/Maker space), plus a residential lobby, residential amenity areas, and back-of-house functions. The retail/commercial area

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<sup>6</sup> The penthouse on the north side of the Project, a side building wall, is set back from the adjacent wall a distance equal to one-half of its height (i.e., a ratio of 2:1 for the 12-foot penthouse wall, which is set back a distance of 6 feet). The Applicant understands that this 2:1 setback is consistent with the intent of Subtitle C, Section 1502.1. Under Section 1502.1(d), “[A] [p]enthouse[] . . . on a roof shall be setback from the edge of the roof upon which it is located as follows: A distance equal to one-half (0.5) of its height from any side building wall of the roof upon which it is located that is not adjoining another building wall and not meeting the conditions of paragraphs Subtitle C §§ 1502.1(c)(1) through (5)” where Section 1502.1(c)(3) provides: “[A] penthouse shall be set back at a ratio of 1:1 when located] on a building [not used as a rowhouse, flat, semi-detached, or detached dwelling and not in the R-1 through R-F zones] that is located adjacent to a property that has a lower permitted matter-of-right building height.” Here, the adjacent property to the north of the Project is subject to a PUD and Map Amendment with a maximum permitted height of 120 feet. Given that the adjacent PUD requires that such adjacent building be constructed to 120 feet, a height identical to that contemplated for the Project, the Applicant reads Section 1502.1(c)(3) as not applying in the instant situation and thereby allowing the Project to rely on Section 1502.1(d).

includes a large space accessible from 5<sup>th</sup> Street, NE, the Plaza, and 6<sup>th</sup> Street, NE and will be able to be further divided as necessary to accommodate particular tenants. The residential lobby contains a front desk, a mailbox area, and the elevator lobby. A retail elevator shuttle lobby is located on the ground floor to connect the retail/commercial levels of the underground parking garage to the street level. The trash room, loading area, and entrance to the underground parking garage will be located at the rear of the ground floor and accessed from the approved curb cut on 6<sup>th</sup> Street, NE, all in accordance with the Approved PUD. The Project's trash room and loading area are also directly accessible from the ground floor spaces. The ground floor layout can accommodate numerous pedestrian entrances in order to activate the Plaza and the surrounding streets.

Above the ground level is a mezzanine level, which serves as a visual connection to the residential amenity spaces on the second level and creates visual connections with the non-residential spaces adjacent to the residential lobby. The space is envisioned as a semi-public community-activated space with congregating zones to accommodate individual and small groups. The upper levels of the North Building feature efficient double-loaded corridors with two elevator banks. The penthouse of the North Building also contains amenity spaces for residents.

Retail/commercial and other activating uses occupy most of the Project's ground-level in order to prioritize pedestrians over other transit modes and encourage pedestrian interaction with the uses on the North and South Parcels and the Plaza itself. Two fully-enclosed loading spaces serving both the retail/commercial and residential uses are located on the ground level on the north side of the North Building via a shared entry area with the parking garage entrance.

Parking and Loading. The Project contains three-and-a-half levels of below-grade parking to serve the residential and retail/commercial uses. The residential spaces will be access-controlled, but the retail/commercial spaces will be available to the public generally. The Project is anticipated to include up to approximately 310 parking spaces (+/- 10%) (3.5 – 4 levels), which is a significant narrowing of the parking count flexibility established in the Approved PUD and is at the lower end of the previously-approved range (which was 300-475 spaces). As established in the Approved PUD, the Project's garage includes parking spaces for the uses on the South Parcel. This reduction of parking responds to existing underground site conditions, separation from the South Building, and suggestions from DDOT and others in response to nearby PUDs that the Applicant reconsider the amount of parking approved in order to make the Project a more multi-modal development.

In addition, the first below-grade level of the garage includes a secure bicycle storage room with capacity for approximately 135 long-term bicycle spaces. The bicycle storage room also has access via the parking ramp from 6th Street, NE, the retail jump elevator from 5<sup>th</sup> Street, NE or the pair of residential elevators from 5<sup>th</sup> Street, NE. An additional 36 short-term bicycle parking spaces are provided in public areas around the North Parcel. In accordance with the Approved PUD, the Project's garage includes long-term bicycle parking for the future retail/commercial and theater uses in the Future South Building.

The Project contains a total of two 30-foot loading berths with adjacent platforms and one smaller retail/commercial trash compactor space. Accordingly, the Project continues to need flexibility from the loading requirements of ZR58 with respect to number of loading berths and

the loading spaces. Such loading flexibility was originally contemplated in the Approved PUD. (However, the Project would comply with the loading requirements of ZR16.) Separate loading serves the Existing South Building.

The Project still contains three curb cuts, all as previously configured under the Approved PUD. The first curb cut is located at the northern end of the North Parcel from 6<sup>th</sup> Street, NE. All access to the garage and loading areas for the North Building occur via this single curb cut. Existing curb cuts serving the two existing buildings are to be removed and rededicated to pedestrian space or vegetation. The other two curb cuts are at the 5<sup>th</sup> Street, NE and 6<sup>th</sup> Street, NE ends of the Plaza. Loading access to The Market/Future South Building is from the Plaza, and the Applicant anticipates that some vehicular access to the Plaza is necessary to accommodate loading and events located in the Plaza or at Dock 5. The Project's loading does not necessitate any truck backing up into public right of ways.

Residential Unit Mix. The Project's residential program contains a mix of studio, junior 1-bedroom, 1-bedroom, 1-bedroom plus den, and 2-bedroom units. The Project has dedicated amenity space for resident events as well as numerous private outdoor balconies and terraces. Of the Project's approximately 300 residential units, 52 include private outdoor space. The North Building complies with the Inclusionary Zoning ("IZ") requirements of the Approved PUD by dedicating eight (8) percent of the residential GFA to affordable units, which translates to approximately 23,002 gross square feet of affordable units. Of such affordable units, 20% are proposed to be set aside for households earning no more than 50% of the Washington DC Median Family Income ("MFI") while the remainder of such affordable housing units are to be set aside for households earning no more than 80% MFI for the life of the project. Such IZ set aside amount, affordability levels, and control period were approved under the Approved PUD.

Façade, Details, and Materials. The Project's architectural design and detailing are a contemporary interpretation of Union Market's mercantile heritage. The façades of the building recall the geometry, materiality, and texture of the warehouses emblematic of the Union Market District, and interpret such warehouses with a creative application of modern massing, materials and articulation to create a signature new identity for this central square of the burgeoning Union Market District. The primary building materials are (i) a light, warm brick that relates to the typical masonry of the historic building stock and defines the primary residential block and the entire ground floor of the building and (ii) a metal cladding that defines a floating volume and evokes the metal sheds, dock doors and transportation elements that live within and alongside the masonry fabric of the nearby Union Market Historic District. The ends of this volume, which is held by the larger masonry armature, cantilever slightly and are fully glazed, to create a signature feature at the east and west elevations defining the entry to the public plaza. A large glazed and articulated bay element on the south elevation of the metal clad volume hosts residential units, helps modulate the long façade, and acts as a discovered feature that marks the gateway to the deeper portion of the plaza where larger events will take place.

At ground level, the east, west, and south elevations of the North Building feature generous glazing to visually and physically connect the new retail/commercial and residential lobby spaces to the street, the Plaza, and the adjacent retail/commercial spaces. The east elevation of the North Building includes retail/commercial at the south corner and the garage entrance at the north edge, while the west elevation features the residential lobby entry to the

north and retail/commercial at the south corner. The south façade consists entirely of retail/commercial frontage addressing the Plaza. An important architectural feature of the ground level is a green canopy on the western elevation that connects the residential lobby and retail/commercial uses. The canopy visually brings the scale of the building down to that of the pedestrian, and pragmatically, the canopy provides shade and shelter. Additionally, this element is consistent with the Union Market Streetscape Design Guidelines and reinforces the single story datum defined by this unique, signature feature of the core of the Union Market Historic District on the opposite side of 5th Street, NE. On the second level of the building, the face of the enclosed residential and residential amenity program is set back to create a generous unenclosed amenity and residential terrace zone. This move reinforces the reading of the single story retail/commercial base and brings additional energy to the important corner of the Plaza and 5th Street, NE as well as the Plaza and 6th Street, NE. The glazed amenity uses behind the second story add additional energy to 5th Street, NE and the Plaza and connect seamlessly to the residential entry and mezzanined lobby located on 5th Street, NE, further connecting the internal life of the building to that of the street and the District. The second-story private terraces are close enough to the Plaza to further stitch together the exterior Plaza space and the interior components of the North Building.

The Project's retail/commercial and building signage, intended to be contextual in scale and character, though still in keeping with modern design, is shown to a conceptual extent in the Plans. The Project's signage will be further refined in subsequent filings.

Landscaping. The Project features a variety of landscaping improvements at street level, at the second-story terrace level, and on the various rooftop areas of the building, including on the streetfront canopies. The Plaza between the Project and the existing Union Market is the focal point of the proposed improvements.<sup>7</sup> The Plaza offers an active, flexible and authentic experience that compliments and builds upon The Market, Dock 5, and the Project's proposed retail/restaurant uses, allowing the space to function as an extension of these uses in the public realm.

The Plaza features a predominantly hardscape surface, which ties in aesthetically with the overall Union Market District. Movable site furnishings, dining areas, planters and other site elements allow for flexibility to accommodate larger events, service, vehicular access and other programmed uses. The Applicant anticipates that performances, special events, and the daily bustle of commercial activity in the Market and Dock 5, combined with the addition of residents and possibly future office workers, will ensure the Plaza consistently buzzes with pedestrian life and serves as the heart of the Union Market District. The proposed Plaza design is consistent with the first-stage PUD approved by the Approved PUD.

The 5<sup>th</sup> and 6<sup>th</sup> Street, NE frontages adjacent to the Project feature wide sidewalks with outdoor seating/café spaces, planting areas, street trees, and unique, large canopies with green plantings atop. Vegetation is also provided at the rooftop level as a green amenity for building

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<sup>7</sup> The Plaza is complemented by the urban park to be located along the southern side of The Market. For clarification, the urban park is not included within the scope of this Application. However, the urban park concept has been transported to the roof top of the Existing South Building, as recently approved by the Commission in Z.C. Case No. 14-12C.



occupants and for the environmental and stormwater benefits. The Project’s lighting plan ensures pedestrian comfort and safety and also serves as an organizing and distinctive design element.

The Applicant notes that the design of the public spaces adjacent to the North Parcel is in accordance with Union Market Streetscape Guidelines. The Applicant has finalized the Union Market Streetscape Guidelines with the District Department of Transportation (“**DDOT**”). One design feature that emerges from the Streetscape Guidelines is the inclusion of the Project’s large canopies. The Project’s canopies feature green roofs as a sustainability measure. Canopies, rather than street trees, are emphasized as the streetscape level “greening” and shading element. Canopies reflect the historic mercantile character of the Union Market District, which historically has had few, if any, street trees.

Sustainability. The Project is designed to LEED Silver v4 (which is the functional equivalent of LEED Gold 2009, the regime in effect at the time the Approved PUD became effective). The North Building will seek certification from the USGBC. As noted above, the Project’s level of sustainability exceeds that required under the Approved PUD. Specific sustainable design features include: energy modeling for the residential portion of the Project in order to optimize energy use and implement a number of efficiency strategies; careful selection of materials—both interior and exterior—that are environmentally preferred; inclusion of green roof and rooftop bio-retention—including green canopies—to compensate for larger areas of solid surface paving at grade; and ongoing identification and investigation of areas that could accommodate photovoltaic solar panels on the main and penthouse roofs.

Section 2517 of ZR58. As set forth in the initial application materials for the Approved PUD, the North Building and Future South Building are planned for theoretical lots drawn in accordance with Section 2517 of ZR58. As such, the North Building utilizes a measuring point for height from the top of the sidewalk adjacent to the building along 6<sup>th</sup> Street, NE. Such height measurement is in accordance with Section 2517.4 which notes that the height of a building is to “be measured from the finished grade at the middle of the front of the building.” The North Building and Future South Building each comply with, and are less than, the FAR limitation of 8.0 for each theoretical lot. Each building utilizes half of the width of 5<sup>th</sup> Street, NE for its respective rear yard.

## **B. Consistency with the Approved PUD**

The Project is consistent with the parameters for the North Building contained in the Approved PUD. The Applicant does not seek any modifications to the approved first-stage PUD plans. Attached as Exhibit H is a table of the conditions (“**Conditions**”) from the Approved PUD. The Project has been designed to comply with the Conditions that apply to the North Parcel/the second-stage PUD under the Approved PUD and does not seek any modifications to the Conditions.

As noted in Exhibit H, although construction of the Future South Building has not yet begun, EDENS has already commenced to deliver, and in some instances already completed, many of the Public Benefits included in the Approved PUD. EDENS is committed to delivering those benefits in good faith as it works to enhance the Union Market District. In this Application, although the package of Public Benefits is approved and the Applicant does not seek any

modifications to the Approved PUD, the Applicant is supplementing the Public Benefits with the aforementioned build out and reservation of a portion of the ground floor for PDR/Maker uses and the enhanced level of sustainability including LEED Silver v4 and the potential use of solar panels.

Apart from the enhanced Public Benefits, the only changes of note for the Project relative to the Approved PUD are that the Project includes a penthouse residential amenity space, which was not contemplated at the time of the first-stage PUD approval, but which is allowed under the substantive provisions of ZR58 and a de minimis change in lot occupancy at the ground level to accommodate the overall design of the Project. The overall lot occupancy of the PUD site has not changed. The additional lot occupancy helps to provide a ground floor retail/commercial floor plates sufficient to accommodate the PDR/Maker uses and reflects additional design of the Project’s exterior details.

**C. Zoning Development Standards**

The underlying zoning for the North Parcel per the Approved PUD is the C-M-1 Zone District (now known as the PDR-1 under ZR16), which provides for a maximum building height of 40 feet and a maximum FAR of 3.0 absent a PUD. The Approved PUD rezones the North Parcel to the C-3-C Zone District, which rezoning the Commission determined was appropriate given the Public Benefits included as part of the Approved PUD and in light of the objectives, policies, and recommendations of the Comprehensive Plan and Small Area Plan. The Applicant does not propose to modify the rezoning as set forth in the Approved PUD. The Project also complies with the substantive requirements of ZR58 for a PUD in the C-3-C zone district, except with respect to the satisfaction of ZR58’s loading requirements, and flexibility for loading is as approved in the Approved PUD, which contemplated modest loading flexibility. Detailed zoning tabulations for the Project are included in the Plans, and a summary is provided below:

|                                       | <u>Required/Allowed<br/>C-3-C Zone District</u>                  | <u>Approved PUD</u>        | <u>Project</u>             |
|---------------------------------------|--|----------------------------|----------------------------|
| <b>Height</b>                         | 130 feet max. <sup>8</sup>                                       | 120 feet                   | 120 feet                   |
| <b>FAR<sup>9</sup></b>                | 8.0  | 6.3                        | 6.23                       |
| <b>GFA</b>                            | 686,560  | 541,423                    | 534,373                    |
| <b>Residential Units<sup>10</sup></b> | No max.  | N/A                        | approx. 301                |
| <b>Lot Occupancy<sup>9</sup></b>      | 100%   | 84%                        | 84%                        |
| <b>GAR</b>                            | 0.2  | 0.2                        | 0.2                        |
| <b>Rear Yard</b>                      | 2.5 in./ft. (12 ft. min.)  | 50 feet                    | 50 feet                    |
| <b>Side Yard<sup>10</sup></b>         | Not required   | Not provided               | Not provided               |
| <b>Court Width<sup>10</sup></b>       | Res.: 2.5 in./ft. (6 ft. min.)<br>Com. 4.0 in./ft. (10 ft. min.) | See Plans<br>All compliant | See Plans<br>All compliant |

<sup>8</sup> The maximum height for the North Parcel under the Height Act is 120 feet.

<sup>9</sup> For consistency with the parameters in the Approved PUD, the values given here for the Approved PUD and the Project include the Project as well as the approved value for the South Building. The values for the South Building are for informational purposes only as the South Building is not part of this Application.

<sup>10</sup> Values for the North Building only.

|   |  |                      |                             |
|---|--|----------------------|-----------------------------|
| <b>Court Area<sup>10</sup></b>  | Res.: 250 sf/2 x width <sup>2</sup><br>Com.: 350 sf/2 x width <sup>2</sup> |                      |                             |
| <b>Penthouses<sup>10</sup></b>  | As set forth in ZR58   |                      |                             |
| <b>Parking spaces</b>   | 337-406  | 300-475              | 310 (+/- 10%)               |
| <b>Loading<sup>11</sup><br/>(Non-residential<br/>and residential)</b> | 1 55-foot loading berth,<br>1 20-foot delivery spaces                      | Flexibility required | <i>Flexibility required</i> |
| <b>Bicycle Parking<sup>12</sup></b>                                   | Up to 91 long-term   | 122-130 long-term    | 144 long-term               |
|   | N/A short-term   | 17-27 short-term     | 36 short-term               |

#### D. Requested Zoning and Design Flexibility

The PUD process expressly allows greater flexibility in planning and design than is possible under strict application of the Zoning Regulations. Under ZR16’s Subtitle X, Sections 303.1, 303.11, and 303.13, the Commission retains discretion to grant flexibility with respect to development standards (including with respect to standards set forth under ZR58 for PUDs vested thereunder). ZR16 specifically allows the Commission to approve on a flexible basis any area zoning relief that would otherwise require the approval of the Board of Zoning Adjustment. ZR16 also allows the Commission to approve design flexibility in the final approved plans of a PUD. All flexibility under a PUD must be balanced against the PUD’s public benefits.

Here, the Applicant does not seek any new flexibility that was not previously approved, and indeed, the Applicant withdraws previously-approved flexibility to develop the North Building for office uses and significantly narrows the previously approved parking range. Accordingly, the approved package of Public Benefits set forth in the Approved PUD more than suffice to justify the already-approved zoning and design flexibility for the Project.

Zoning Flexibility Requested. As noted above, the Applicant requests one area of zoning flexibility—with respect to loading—as previously contemplated in the Approved PUD. This is not a new item of zoning flexibility: it was contemplated in the Approved PUD order, which expressly gives the Commission to establish the loading program for the North Building as part this Application. Given the program for the Project, ZR58 requires no fewer than one 55-foot loading berth and one 20-foot delivery space for the North Building. Instead, the Project provides two 30-foot loading berths and one 20-foot delivery/compactor space, essentially reducing one 55-foot berth to a 30-foot berth and a compactor space. The Applicant believes that the proposed amount of loading is sufficient for the Project given that it complies with the now-applicable zoning regulations, which have relaxed the more onerous loading requirements of ZR58 and generally favor pedestrians and bicycles over vehicles. In addition, as contemplated in the Approved PUD, retail/commercial loading will occur throughout the overall PUD site with the elements of the shared ownership for the retail/commercial portions at the ground level.

<sup>11</sup> The non-residential loading is shared with the South Building as contemplated in the Approved PUD. Because the North Building and South Building are a single lot of record, the loading may be shared between the buildings per Section 2517 of ZR58. This approach is in accordance with the Approved PUD and no change is proposed here.

<sup>12</sup> Long-term bicycle parking in the North Building satisfies the long-term parking requirements for certain uses in the South Building, as set forth in the Approved PUD. No change from the Approved PUD is proposed here.

The loading flexibility is largely a function of ZR58's more strenuous requirements, which have since been reduced under ZR16. That is, the previously-approved loading flexibility would not be required under ZR16's loading requirements, suggesting that the relief is not inconsistent with the intent of the Zoning Regulations and zone plan now in effect. In addition, as part of the Approved PUD the Applicant prepared and the Commission approved a comprehensive Loading Management Plan for the Project which will continue to govern and will allow the two buildings to operate loading harmoniously. The loading flexibility will not tend to adversely affect any neighboring properties.

Design Flexibility. The Applicant also seeks design flexibility as a part of the PUD process, which flexibility was previously approved as part of the Approved PUD. See Condition A.6 in Exhibit H. The Applicant seeks the same design flexibility as that approved under the Approved PUD.

### **E. Project Goals and Objectives and Benefits of Using the PUD Process**

The Project's proposed uses, public realm-activating site planning, and location reinforce the vision for Union Market, and the PUD process is the appropriate means in order to realize the Project given the vested first-stage PUD applicable to the North Parcel. The PUD process provides the community and the District the tools to ensure that the Project is well-designed and best meets the needs of the many interested parties. It further allows the public to provide its input on whether the proposed uses, density, height and design are complementary to the existing community. The Applicant has already presented initial concepts for the Project to the SMD Commissioner for the Union Market District, attended a public meeting hosted by the SMD for all interested community members, and presented the Project to the full ANC on May 14, 2019. As has been the case with all of the EDENS-related Union Market PUDs, the Applicant plans to work closely with the ANC and other community stakeholders as this Application proceeds.

The North Parcel is an important site for promoting further development within the Union Market District. The Applicant believes that through the PUD process, it creates an exemplary mixed-use development on the site along with the continuation of the community-serving Market. This Project begins to realize the District's, the community's, and the Applicant's vision for the Union Market District while continuing to implement the Small Area Plan. The Project adds multifamily residential uses and PDR/Maker uses while preserving important retail/commercial and community-serving uses. The Project adds what will certainly be keystone public spaces to the Union Market District.

The PUD process provides the framework for realizing the potential of the North Parcel, and capturing benefits and amenities that enhance the surrounding community. The Project, by virtue of proceeding as a PUD, contributes to the provision of the Public Benefits and results in a superior outcome relative to any matter-of-right development on the North Parcel.

### **F. Outreach Efforts**

The Applicant undertook extensive outreach as part of the Approved PUD process and as part of its other ongoing development efforts in Union Market, and that outreach continues as Union Market comes to fruition as a fully-realized neighborhood. The ownership team has

continued to meet with the community, as well as with representatives from the Office of Planning (“OP”) on November 8, 2018 and with the ANC and SMD as noted above. The Applicant will continue to meet with the community and DDOT and other DC agencies.

### **G. Development Timetable**

The Applicant does not anticipate modifying the Approved PUD’s development timetable for the North Building. This Application is filed within the timelines contemplated in the Approved PUD, and the Applicant intends to pursue the construction of the Project within the approved window for construction set forth in the Approved PUD. The North Building and its parking will be delivered earlier than originally anticipated. The Applicant intends to begin construction of the North Building approximately in the second quarter of 2020 and anticipates that that building will take approximately 30 months to build. The Applicant notes that it intends to build the Project in an expedited manner, if approved, so the above timelines could be expedited.

## **IV. THIS APPLICATION SATISFIES THE PUD REQUIREMENTS**

The Project and this Application satisfy and exceed the requirements of ZR16 for review and approval of a second-stage PUD and for a PUD generally and the Commission should set this Application down for a public hearing, and ultimately, approve the Project.

This Application (a) complies with the set down and approval criteria specifically applicable to a second-stage PUD, *see id.* §§ 302.2(b), 308.3, and 309.2, (b) fulfills the requirements for a PUD generally, *see* 11-X DCMR §§ 300.1, 300.2, 300.5, 301.1, 301.5, and 307.1, and (c) satisfies the evaluation and balancing criteria required for Commission review of a PUD generally. *See id.* §§ 303.1, 303.11, 303.12, 304.1, 304.2, 304.3, 304.4, and 305.

As set forth in the following section, there is no reason for the Commission to disturb its previous findings that the Project: is not inconsistent with the Comprehensive Plan, does not result in any unacceptable impacts on the surrounding area or on the operation of District services and facilities, and includes the specific and sufficient Public Benefits.

### **A. This Application Complies with the Set Down and Approval Criterial for a Second-Stage PUD Specifically**

The Commission should set down this Application for a public hearing and approve it because it satisfies the second-stage PUD standards, which are far less discretionary than those for a PUD generally. The procedural regulations in ZR16 applicable to a second-stage PUD provide (i) that a second-stage PUD must undergo a detailed site plan review to determine final transportation management and mitigation, final building and landscape design review, and review for compliance with the first-stage PUD and ZR16, 11-X DCMR § 302.2(b); (ii) that if a second-stage PUD complies with all of the requirements of a first-stage PUD, then the Commission must schedule a public hearing on the second-stage PUD application, *id.* § 308.3; and (iii) significantly, that if an application for a second-stage PUD is in accordance with the Zoning Purposes, the PUD process, and the first-stage PUD approval, then the Commission must grant approval to such second-stage PUD, *id.* § 309.2. The Application fulfills these requirements.

i. This Application Will Provide the Information Required for a Second-Stage PUD

The Plans include detailed site plans along with proposed building and landscape designs for the Commission to review. A final transportation analysis and mitigation plan will follow the Commission's hearing action on this Application.

ii. This Application Complies with All of the Requirements of the Approved PUD and Should Be Set Down for Public Hearing

As set forth above, the Project does not entail any modification to the Approved PUD, complies with and advances the applicable Conditions of that approval, and is therefore consistent with such existing PUD approval. The Applicant requests that the Application be set down for a public hearing as soon as possible.

iii. This Application Is in Accordance with the Zoning Purposes, the PUD Process, and the Approved PUD and Should Be Approved

As described in more detail below, this application is in accordance with the zoning purposes and the first-stage PUD, as previously approved. The Applicant intends to advance this Application through the PUD process.

**B. This Application Fulfills the ZR16 Requirements for a PUD Generally**

ZR16 sets forth certain substantive and procedural requirements for the Commission to process and review PUD and establishes the criteria against which the Commission is to evaluate and make a determination on this Application.

As set forth in ZR16, the purpose of the PUD process is to provide for higher quality development through flexibility in building controls, provided that the project that is the subject of the PUD (i) results in a project superior to what would result from the matter-of-right standards; (ii) offers a commendable number or quality of meaningful public benefits; (iii) protects and advances the public health, safety, welfare, and convenience, does not circumvent the intent and purposes of ZR16, is not inconsistent with the Comprehensive Plan, and does not result in action inconsistent therewith; and (iv) undergoes a comprehensive public review by the Commission in accordance with the procedural requirements for a PUD in order to evaluate the flexibility or incentives requested in proportion to the proposed public benefits. 11-X DCMR §§ 300.1, 300.2, 300.5, and 307.1. The Project satisfies each of the above PUD requirements.

In addition to the foregoing requirements, the minimum area included within a proposed PUD must be no less than 15,000 square feet, and all such area must be contiguous. 11-X DCMR § 301. The North Parcel, at 42,078 square feet, satisfies the area and contiguity requirements and is part of the larger Union Market PUD Site of 85,820 square feet of lot area.

i. The Project Is Superior to the Development of the North Parcel under the Matter-of-Right Standards.

The Project's mix of uses, Public Benefits, and the community engagement process that accompanied the Approved PUD and will accompany this application all exceed what would be

provided under matter-of-right standards. Specific aspects of the Project superior to a matter-of-right development include:

- Housing/Affordable Housing – The Project provides more housing than what could be constructed on the North Parcel without a PUD because the underlying zone entirely prohibits any residential use. In addition, the amount of housing included in the Project and the amount of affordable housing in the Project exceed the amount and level of affordable housing that would be required in a matter-of-right development pursuant to ZR16’s IZ requirements.
- Public Benefits – The Project’s construction as part of the overall Approved PUD supports the significant package of Public Benefits that accompanied that approval, which exceed what would be provided in a matter-of-right development.
- Community Engagement – Finally, the Project is undergoing a comprehensive public review process with multiple opportunities for neighbor, community group, and public agency participation. Those opportunities, and future ones, would not exist for a matter-of-right development of the North Parcel.

ii. The Public Benefits Are Commendable in Number and Quality.

As detailed in this statement, the Project helps advance the Public Benefits and other project amenities. These Public Benefits fulfill goals set forth in the Comprehensive Plan and the Small Area Plan, the priorities of District agencies and stakeholders, and the preferences, needs, and concerns of the ANC and community residents identified during Applicant’s community engagement process regarding the Approved PUD. Accordingly, the Public Benefits package is a meaningful series of commitments that satisfy the intent and purposes of the PUD process.

iii. The Project Protects and Advances Public Health, Safety, Welfare, and Convenience and Does Not Circumvent the Purposes of the Zoning Regulations.

As detailed in this statement, the Project advances and protects the intent and purposes of the Zoning Regulations, which are set forth in Subtitle A, Section 101 of the Zoning Regulations. Through the development of an underutilized parcel proximate to a Metrorail station, the Project affirmatively improves major public interests and priorities such as housing and affordable housing, additional ground level activating uses in a burgeoning neighborhood-serving space and a signature urban gathering space in the Plaza. Moreover, for the reasons discussed below, the Project does not adversely affect public safety and public infrastructure or otherwise impose adverse impacts on the surrounding community. The Project satisfies the goals and objectives for the District as set forth in the Comprehensive Plan and the Small Area Plan.

The development of an underutilized lot with new housing and retail/non-residential ground floor uses advances the public health, safety, welfare, and convenience goals of the District by converting fallow lots to productive use, avoiding the health and safety problems often associated with vacant industrial spaces, and providing uses that promote public welfare and convenience. Accordingly, the Project advances these purposes of the Zoning Regulations.

The approved C-3-C zoning for the Project continues to be consistent with the purposes of the Zoning Regulations for the same reasons as identified in the first-stage PUD. Broadly, the C-3-C zone district is intended to accommodate major business and employment centers and to provide substantial amounts of employment, housing, and mixed uses. 11 DCMR §§ 740.1 and 740.2. Within this framework, the C-3-C zone district is intended to contain medium-high density development. *Id.* § 740.8. Here, the C-3-C zone district is appropriate for this location: a site located near a Metrorail station and in a densifying neighborhood that supports a significant amount of District-focused existing and emerging economic activity. The C-3-C zone district allows for a broad mix of residential, office/employment, retail and other neighborhood-serving uses that are called for at such a location, and the C-3-C zone is accordingly suitable for the Project's mix of residential, retail, and other potential ground floor uses. Moreover, the Project's mix of uses, height and density are consistent with the character of the C-3-C zone district. The Project's development of an underutilized lot further encourages the stability of the C-3-C zone district and strengthen the surrounding neighborhoods anchored to that economic center.

iv. The Project Will Undergo a Comprehensive Public Review that Evaluates the Project's Flexibility and Incentives in Proportion to the Project Public Benefits.

The Commission undertook a comprehensive public review of the Approved PUD, and the Commission concluded, based on such review, that the first-stage PUD merited approval. The Applicant will work with the appropriate District agencies to confirm that the Project is in accordance with the Commission's previous approval. The Applicant requests that the Commission proceed to undertake a comprehensive public review of, and set down, this application for public hearing in accordance with the foregoing standard.

**C. The Project Satisfies the Evaluation and Balancing Criteria Required for Commission review of a PUD**

Pursuant to Subtitle X, Sections 303.12 and 304.3, in deciding on this Application, the Commission must, according to the specific circumstances of the instant application, judge, balance, and reconcile the relative value of: (i) the Public Benefits, (ii) the development incentives, including the Map Amendment and zoning and other flexibility requested as part of the Project, and (iii) any potential adverse effects of the Project.

The Project satisfies the foregoing PUD balancing test, as the Commission has already determined, and nothing about this second-stage PUD disturbs the Commission's earlier conclusions. The Commission has already determined that the Public Benefits justify the Map Amendment, PUD flexibility, and the modest loading flexibility, and standard design flexibility that the Applicant continues to seek. Such items of flexibility are the only development incentives sought in the instant application and have been previously approved by the Commission. The Public Benefits, especially with the additional benefits proffered here, more than adequately justify any potential adverse effects of the Project. The Project's modest potential adverse effects—all further studied below—are more than justified by the Project's provision of such a significant amount of new and new affordable housing, the special uses, and the Plaza. The Applicant believes that the relative value of the Project and its Public Benefits warrant granting the requested PUD approval. The Project does not present any new impacts that were not evaluated during the first-stage PUD process. Accordingly, there is no reason for the



Commission to find differently that the Project, now fully-designed, satisfies the PUD evaluation and balancing criteria of ZR16.

## **V. THE PROJECT SATISFIES THE PUD EVALUATION CRITERIA**

As noted above, the Commission has previously found that the concepts for the North Building, as part of the Approved PUD, satisfy the three elements of the PUD evaluation standard, that is, that a PUD project (a) be not inconsistent with the Comprehensive Plan and other relevant public policies, (b) not result in any unacceptable impacts on the surrounding area or on the operation of District services and facilities, and (c) include specific public benefits. 11-X DCMR § 304.4.

This Application merely presents a refinement of the concepts approved for the North Parcel, and there is no reason for the Commission to disturb its previous findings regarding consistency with the Comprehensive Plan (and other adopted plans and policies applicable to the Union Market PUD Site), impacts, and the Public Benefits. For completeness, the following three subsections evaluate the Project against these three criteria. However, there is nothing about the Project or this Application that should cause the Commission to revisit its earlier, and unchallenged findings.

### **A. The Project Is Not Inconsistent with the Comprehensive Plan**

In order to approve an application for a PUD, the Commission must find that such PUD is “not inconsistent with the Comprehensive Plan and with other adopted public policies . . . related to the subject site.” 11-X DCMR § 304.4(a). The Project is not inconsistent with the Comprehensive Plan or other adopted public policies, *viz.*, the Small Area Plan.

As part of the approval of the Approved PUD, the Commission made extensive findings regarding the consistency of the first-stage PUD with the Comprehensive Plan. *See Exhibit F* at Finding of Fact ¶¶ 40-45 (“The Commission finds that the . . . approved PUD is not inconsistent with the Comprehensive Plan and promotes the policies of its Land Use, Transportation, Housing, and Urban Design Citywide Elements and its Upper Northeast Area Element.”) (citations omitted) and Conclusion ¶ 6 (“Approval of this PUD and related map amendment is appropriate because the proposed development is consistent with the desired future character of the area, and is not inconsistent with the Comprehensive Plan..”). The Commission made particularized findings with respect to the Comprehensive Plan’s Land Use Element, Transportation Element Housing Element, Urban Design Element, and Area Element. *Id.* The Approved PUD also includes findings of facts regarding consistency with the Small Area Plan. *Id.* ¶ 28.

Given the extensive findings in the record in the order for the previous proceeding, the clear conclusions of law in the Approved PUD order, and the consistency between this second-stage application and the approved first-stage PUD, the Project is not inconsistent with the Comprehensive Plan. The Project is also consistent with other public policies applicable to the North Parcel adopted in the Small Area Plan. Given the particularity of the Small Area Plan with respect to the Union Market PUD Site, the Applicant is not aware of any other adopted public policy applicable to the North Parcel that is relevant to this analysis.

Accordingly, the Project satisfies the first prong of the three-part PUD evaluation standard.

**B. The Project Does Not Result in Any Unacceptable Impacts on the Surrounding Area or on the Operation of District Services or Facilities**

The Commission has already concluded that the development of the North Parcel with a building possessing the parameters of the proposed Project does not result in any unacceptable impacts on the surrounding area or on District services or facilities. Indeed, the Commission made specific findings regarding impacts in the Order for the Approved PUD and concluded as a matter of law that the Project would not have unacceptable impacts. *See Exhibit F* at Conclusion ¶ 4 (“The impact of the Project on the surrounding area is acceptable given the quality of the public benefits of the Project, and the application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.”) This conclusion was not challenged, and the Applicant sees no reason why it should be disturbed now insofar as the instant Application is entirely consistent with (and in all events less impactful than) the proposal for the North Parcel contained in the Approved PUD.

Nevertheless, for completeness and out of an abundance of caution, the Applicant again reviews the Project’s potential impacts, which show that the Project does not result in any unacceptable impacts on the surrounding area, the environment, or on District services or facilities.

i. The Project Has No Adverse Impacts on the Surrounding Area

Zoning and Land Use. The Project has no unacceptable zoning or land use impacts on the surrounding area and any impacts are instead either favorable, capable of being mitigated, or acceptable given the quality of Public Benefits in the Project.

This Application proposes no change to the previously-approved Map Amendment placing the entire Union Market PUD Site in the C-3-C zone district, which amendment the Commission concluded would have no unacceptable impacts, and which conclusion has gone unchallenged. As set forth above, the Map Amendment and the Project are entirely consistent with the Comprehensive Plan and Small Area Plan and not inconsistent with any adopted policies or programs applicable to the Union Market area.

From a land use perspective, the Project creates no unacceptable impacts on the surrounding area. Any impacts from the Project’s proposed land use are either favorable, capable of being mitigated, or acceptable given the quality of the significant Public Benefits included as part of the Project. The Project’s mix of retail/commercial and multifamily residential uses is entirely appropriate given the North Parcel’s proximity to transit and highway access, the ongoing development efforts in the neighborhood, and the extensive planning and community support for the Small Area Plan and Approved PUD. The Project’s mix of uses, height, and mass are appropriate given the planning objectives for Union Market and the Approved PUD.

The Project’s introduction of a critical mass of commercial and multifamily uses to the neighborhood is a favorable land use impact. These proposed uses create economic opportunities and contribute to the emergence of job opportunities in the neighborhood and provide new, high-

quality multifamily housing units to Ward 5. Moreover, the Project's creation of a thoughtfully-designed public pedestrian space also has favorable land use impacts. To the extent there are any ancillary unfavorable impacts arising out of the Project's land uses, such impacts are either mitigated by the Project's design or offset by the quality of the Public Benefits.

Housing. The Project's addition of new housing is a favorable impact. The Project continues the trend of creating new, high-quality, transit-accessible housing units. Such units are in high demand across the District. The addition of new housing also has favorable impacts by adding residents to support the proposed and surrounding commercial uses. The Project's inclusion of IZ units has favorable impacts because it helps establish the Union Market District as an inclusive, mixed-income community and not one that overly concentrates affordable housing in one location. The Project does not displace any existing residents and would not create any adverse impacts on the surrounding housing market. Instead, the addition of the Project's new housing units helps buffer increasing housing costs, as increases in supply are widely understood to dampen rent increases.

Construction-Period Impacts on Neighbors. During the development period for the Project, impacts on the surrounding area are capable of being mitigated. The Applicant has significant experience successfully completing construction projects in infill locations without disturbing neighbors. There are no existing residential units on the North Parcel or on any adjacent blocks. In addition, The Market will remain open during construction, minimizing impacts on neighbors who rely on that retail area and on the vendors, employers, and employees who operate out of that building.

Open Space, Urban Design and Massing Impacts. The Project favorably improves upon the existing conditions with respect to the relationship between the proposed buildings, proposed and existing open spaces, and the urban design of the Project. The Project has favorable impacts on the public realm through: (i) the construction of the Plaza, which is a centerpiece for Union Market, (ii) the construction of improved streetscaping adjacent to the North Building, and (iii) provision of ground level uses and new residents to activate the public realm.

In addition, the Project creates a strong presence along both 5<sup>th</sup> Street and 6<sup>th</sup> Street, NE, largely avoiding blank walls and surface parking, providing high quality landscaping and streetscaping, and creating pedestrian-first porosity in the street network. Finally, the Project has favorable impacts on the surrounding area as a keystone linking the emerging projects elsewhere in the neighborhood and establishing the context for the future, higher-density phases and design.

Design and Aesthetic Impacts. The Applicant anticipates the Project's design and architecture having a significantly favorable outcome, no unacceptable impacts, and becoming a point of resident and community pride. The Project incorporates the highest-quality architecture and exemplary design. Upon completion of the Project, the new buildings will appear contemporary and emblematic of new investment without appearing out-of-place among the more rugged industrial buildings surrounding the site. The Project continues the contemporary architectural vocabulary that is emerging in Union Market and that establishes a high baseline of quality of design and finishes expected for projects in the vicinity. The Project's landscaping and public realm detailing are truly exemplary and have a strongly favorable impact on surrounding areas, as it further contributes to the sense of place in the neighborhood. The Project's overall

design and its details strongly reinforce and strengthen the character of the surrounding residential areas and are favorable for the neighborhood.

Transportation and Mobility Impacts. The proposed Project does not have any unacceptable impacts on the public transportation facilities or roadways that it relies on for service. Instead the Project's transportation impacts are either capable of being mitigated or acceptable given the quality of Public Benefits arising from the Project. The Project's vehicular traffic impacts are strongly mitigated by its transit options and the Approved PUD's Traffic Demand Management ("TDM") plan, and the Project achieves the right balance of mobility. The North Parcel is well-served by transit and vehicular infrastructure, and the Project does not introduce adverse impacts on either system. A Metrorail station is approximately a one-third of a mile walk from Union Market. Numerous Metrobus lines also service Union Market, and it is expected that many of the Project's residents will use public transit. The North Parcel has a WalkScore of 95, a TransitScore of 70 (which indicates "Walker's Paradise" with "daily errands [not] requir[ing] a car"), and a BikeScore of 94 (which indicates "daily errands can be accomplished on a bike").<sup>13</sup> The Project's favorable pedestrian, bicycle, and transit access help mitigate any expected traffic concerns.

The Project also contains up to approximately 310 below-grade parking spaces (+/- 10%) to accommodate the parking demand of residents, retail patrons, along with retail and other users in the greater Union Market. Bicycle usage is also thoughtfully integrated into the design of the Project, with long-term spaces in a dedicated storage room and short-term spaces provided in public space. The Project's physical form mitigates traffic impacts by promoting and encouraging active mobility over driving. At the same time, the Project makes reasonable accommodations for those who choose to or must drive, and ensures that parking demand does not adversely interfere with the on-street parking supply. The Project provides sufficient new off-street parking to serve new residents, but not so much parking as to induce unnecessary driving. The proposed parking is a significant narrowing of the range of parking spaces approved under the Approved PUD (300-475 spaces).

The Applicant has again engaged Gorove/Slade as transportation analyst for the Project. Gorove/Slade prepared a detailed transportation impact study as part of the Approved PUD and proposed transportation mitigation measures incorporated into that approval. Gorove/Slade will prepare an updated submission for the Project as part of this process.

Economic Impacts. As with the Applicant's development of Union Market otherwise, the Project has favorable economic impacts on Union Market and the District more generally. As previously described during the Approved PUD's process, the Applicant's investments in Union Market go far beyond physical and capital improvements, and EDENS has undertaken a robust economic development effort focused on small businesses and long-time vendors in Union Market. The Project will continue to attract patrons and outside investment in Union Market, add transit-accessible job opportunities as well as construction period jobs, and have a stabilizing and positive effect on the economy of Ward 5 and the District as a whole. The introduction new residential uses in Union Market contributes patrons for the existing and new businesses. The

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<sup>13</sup> The TransitScore and BikeScore are based on an algorithm using geographic data to rank a neighborhood's non-vehicular mobility. See WALKSCORE, <http://www.walkscore.com> (last visited May 27, 2019).

retention of the existing Market building is a public benefit of the Project that offsets concerns about adverse economic impacts. The Project's intensification of land use on the North Parcel has positive tax revenue effects for the District. To the extent there are any adverse effects from the Project, such effects are more than offset by the Project's Public Benefits.

Cultural and Public Safety Impacts. The Project has favorable impacts on the culture of the surrounding area. The Plaza, Park and retention of The Market and Dock 5 are important "third spaces" in Ward 5 and Union Market particularly. The Project's important contributions to the public realm provide neighborhood gathering and event spaces, farmers' markets, celebrations, performance opportunities, and opportunities for social interactions and engagement. The addition of residents to the neighborhood and the Project's urban design adds street activity, "eyes on the street", quality lighting, and other improvements all of which have positive effects on crime deterrence.

ii. The Project Has No Adverse Impacts on the Environment, Public Facilities or District Services

Water Demand. The proposed project contains approximately 317,950 square feet of new GFA. The average daily water demand for this project can be met by the existing District water system. The proposed connection for the fire and residential water supply is from within the existing distribution system and will be coordinated with DC Water. The Applicant anticipates the two buildings have individual water meters.

Sanitary Sewer Demand. The proposed sanitary sewer connections for the Project are from within the existing distribution system and will be coordinated with DC Water during the permitting process.

Stormwater Management. The Project has been designed to achieve high levels of on-site stormwater retention. The proposed bio-retention basin planters, green roofs, and permeable pavement are designed to meet or exceed District Department of Energy and Environment ("DOEE") stormwater management retention and detention requirements. The requisite inlets and closed pipe system are designed and constructed to be in compliance with the standards set by DOEE, DC Water, and DDOT.

Solid Waste Services. Solid waste and recycling materials generated by the Project will be collected regularly by a private trash collection contractor.

Electrical Services. Electricity for the new Buildings will be provided by the Potomac Electric Power Company ("**Pepco**") in accordance with its usual terms and conditions of service. All electrical systems are designed to comply with the D.C. Energy Code. Transformers will be installed on the North Parcel or covered in the adjacent public space in accordance with Pepco's and DDOT's design guidelines.

Energy Conservation. The Project is designed in compliance with the Energy Conservation requirements of the District of Columbia Building Code. Conformance to code standards minimizes the amounts of energy needed for the heat, ventilation, hot water, electrical distribution, and lighting systems contained in the building.

Erosion Control. During excavation and construction, erosion on the North Parcel will be controlled in accordance with District of Columbia law.

Environmental Impacts. The Project does not have any unacceptable impacts on the environment, and instead has favorable impacts. The Project is designed to achieve high levels of environmental performance as evidenced by its satisfaction of the LEED Silver v4 design standards. The location of the Project is a heavily-urbanized and entirely impervious commercial site. The Project's delivery of high-quality environmental design as well as usable outdoor spaces is a net improvement and superior to what would be achievable via a matter of right development.

Public Schools. The Project is highly unlikely to have an unacceptable impact on schools in the District given the size of the Project, its mix and type of units, and the capacity for the District's nearby schools to take on additional students. The Project is within the boundaries of Wheatley Education Campus at 1299 Neal Street, NE and Dunbar Senior High School at 101 N Street, NW. DCPS data show that all of the nearby neighborhood public schools are below capacity.<sup>14</sup> In addition, several private and charter schools are near the Project, offering educational options to residents who may seek alternatives to the neighborhood public schools. The Applicant expects that the school network will be able to accommodate, without any unfavorable impacts, the school-age children that may reside at the Project.

Parks/Recreation Centers/Library Services/Emergency and Health Services. The Project has no adverse impacts on District services, such as parks, recreation centers, public library, and emergency and health services. To the extent the Project's future residents are new to the District, they will be contributing new tax dollars, both in the form of income taxes and through the indirect payment of property taxes associated with the Project, that facilitate the provision of District-run services. To the extent the Project's future residents are existing District residents, they have no net new impact.

With its construction of the Plaza, the Project adds to the inventory of public open spaces and recreation areas in Ward 5. In addition, the Existing South Building is adding an interim rooftop park use which fills an important need in the Union Market District. More broadly, the National Arboretum is an easy bike ride, stroll or jog from the Project, and is one of the most significant park and recreation resources in all of Northeast. On balance, the Project is unlikely to have any adverse impacts on the District's park services, and is instead likely to be a net positive contributor of park services.

Ward 5 has a balanced mix of state of the art and new recreation facilities and libraries. Trinidad Recreation Center, Joe Cole Recreation Center, and Rosedale Recreation Center are all within walking distance of the Project, and all have been updated, renovated, or added as new centers within the past few years. The Project will include resident amenity areas, so it is unlikely that the Project's residents will have any adverse impacts on District-run recreation centers. Likewise, nearby library branches include Rosedale, Northeast, and Woodridge, all of which have been renovated or constructed in recent years. There are approximately thirty public

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<sup>14</sup> Enrollment Boundary Information System, D.C. PUBLIC SCHOOLS, <http://dcatlas.dcgis.dc.gov/schools>

library branches or other public facilities in the District.<sup>15</sup> That works out to approximately one library branch per 23,500 residents.<sup>16</sup> It is inconceivable that an additional 300 residential units (i.e., potentially up to 600 additional residents, some of whom might already be District residents) would result in any adverse over-use or other adverse impacts on the District’s library resources. The calculus for recreation centers is similar. There are approximately 6) public recreation centers in the District, for a ratio of approximately one center per 11,000 residents.<sup>17</sup> It is similarly inconceivable that the Project’s addition of approximately 300 residential units would result in any adverse over-use or other adverse impacts on the District’s recreation centers, especially when the Project includes private recreation amenities. The District has approximately 30 engine companies spread around the District.<sup>18</sup> As stated above, the Project alone does not require any increase in the number of stations or Fire and Emergency Services (“FEMS”) personnel. The Applicant intends to engage in outreach with FEMS and the Metro Police Department during the PUD process to obtain any relevant feedback from those agencies and to confirm that those agencies do not anticipate any adverse impacts arising from the Project.

### **C. The Project Includes Specific Public Benefits**

The Project helps advance the Approved PUD’s Public Benefits, which satisfy the requirements for a PUD. The PUD Evaluation Standards, at Subtitle X, Section 304.4(c), require the Commission to find that the proposed development “[i]ncludes specific public benefits and project amenities of the proposed development that are not inconsistent with the Comprehensive Plan or with other adopted public policies and active programs related to the subject site.” Section 305.2 requires that “Public benefits [be] 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 of this title,” and Section 305.4 requires that a majority of the public benefits of the proposed PUD relate to the geographic area of the ANC in which the application is proposed.

A description of the Project’s Public Benefits is provided below. The Project’s superior Public Benefits are not inconsistent with the Comprehensive Plan or with other adopted public policies and active programs because such benefits and amenities are integral parts of the Project, which itself is not inconsistent with the Comprehensive Plan or related policies, as described above and as previously concluded by the Commission in the Approved PUD. The Public Benefits also satisfy the requirements of Subtitle X, Sections 305.2 and 305.4 (together

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<sup>15</sup> See DC Public Library, *Hours and Locations*, <https://www.dclibrary.org/hours-locations> (last visited May 27, 2019).

<sup>16</sup> According to a December 2018 report from the Office of the Chief Financial Officer, there were 702,455 District residents as of July 2018. See Office of the Chief Financial Officer, DISTRICT OF COLUMBIA ECONOMIC AND REVENUE TRENDS: DECEMBER 2018 at 1 [https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/Economic%20and%20Revenue%20Trends%20Report\\_December%202018.pdf](https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/Economic%20and%20Revenue%20Trends%20Report_December%202018.pdf)

<sup>17</sup> See Dep’t. of Parks and Recreation, *Recreation Centers* <https://dpr.dc.gov/page/recreation-centers-00> (last visited May 27, 2019).

<sup>18</sup> See Fire and EMS Department, *Fire and EMS Locations* <http://geospatial.dcgis.dc.gov/FEMSLocator/> (last visited May 27, 2019).

with the requirement that public benefits be not inconsistent with the Comprehensive Plan, the “**Public Benefits Criteria**”).

The content of the Project’s Public Benefits is the same as approved in the Approved PUD, with the addition of the proffer regarding PDR/Maker construction specifications and uses and enhanced sustainability measures. Although the Approved PUD included two distinct approvals—a consolidated PUD for the South Parcel and an first-stage PUD for the North Parcel—the Public Benefits were approved as a joint set of requirements for the two parcels. That is, the Approved PUD does not include a set of Public Benefits that are specific for the North Building to implement. The approved Public Benefits justified the Map Amendment (which applies to the two parcels jointly) and the overall basket of design flexibility, zoning flexibility, and development incentives in the Approved PUD. Other than to add new benefits that were not previously required in the Approved PUD, the Applicant does not seek to modify the package of Public Benefits because it does not seek any additional flexibility or development incentives that were not previously approved in connection with the approved set of Public Benefits. Moreover, the implementation of many of the Public Benefits is already underway, as addressed below. Accordingly, there is no need for the Commission to disturb its previous findings regarding the Public Benefits or to require additional public benefits. However, a complete overview of the Public Benefits, especially those advanced by the Project, is recited here for completeness of this Application.

i. Identification of Specific Public Benefits and Project Amenities

This Application achieves the goals of the PUD process by providing high quality development on the Union Market PUD Site with significant Public Benefits to the neighborhood and the District as a whole. The previously-approved Public Benefits relate primarily to the geographic area of the ANC in which the Project is located. The objective of the PUD process is to encourage high quality development that provides public benefits and project amenities by allowing applicants greater flexibility in planning and design than may be possible under matter-of-right zoning. This Application satisfies that objective. The specific Public Benefits are identified below.

The Approved PUD includes eight categories of substantive public benefits as defined according to the public benefits categories set forth in ZR58 Section 2403.9. Though there is overlap in the definitions of public benefits set forth in ZR58 and ZR16, the former includes a more expansive definition of public benefits. The Applicant believes that the public benefits proffered in the Approved PUD are among the “substantive” provisions of the Zoning Regulations in the same way that development standards are substantive. That is, the substantive provisions of the Zoning Regulations address the tangible and concrete aspects of projects completed pursuant to such regulations, and the public benefits set forth in the Approved PUD are as tangible as the bricks and buildings approved as part of the Project otherwise. The Commission determined that the Public Benefits package was appropriate for the same building envelopes, uses, and relief as part of the Approved PUD. Accordingly, the Public Benefits are vested with respect to the instant Application. For ease of review, the Applicant has included references to the relevant provisions of both ZR16 and ZR58 below.



1 Superior urban design, architecture, and landscaping (ZR16-X § 305.5(a) and (b); ZR58 § 2403.9(a)). The Project's urban design, architecture, landscaping, and provision of open space are superior public benefits. Both ZR16 and ZR58 list urban design, architecture and landscaping as categories of public benefits and project amenities for a project proceeding under a PUD.

- Urban Design: The Project incorporates numerous design precepts that guide superior urban design in the District and that represent significant improvements over the existing aesthetic and functional conditions of the Union Market PUD Site. For instance, the Project's urban design prominently frames the Plaza to create an outdoor "room." Similarly, the Project's strong edges along existing streets create an urban condition that is welcoming for pedestrians and encourages pedestrian activity. The open space between the buildings also allows for a variation to the massing along 5<sup>th</sup> Street, NE and creates an interesting, framed vista from Union Market into the Gallaudet campus and from the campus into the Union Market neighborhood.
- Architecture: The Project similarly includes elements of superior architectural design. For example, the Project presents a thoughtful ground floor design that integrates seamlessly with the Plaza with exterior design elements that knit the indoor and outdoor spaces together. The Project also utilizes high quality façade materials and finishes and introduces a signature style to Union Market, all while preserving the Existing South Building and its important community and economic functions. As noted in the Approved PUD application and materials, the Project's design creates a visually striking destination that fuses elements from Union Market's light industrial, authentic, gritty, and mercantile heritage, and simultaneously creates a sense of the new future that awaits Union Market. The Project takes architectural risks within the emerging framework of extruded-contemporary-industrial-building at Union Market. The Project's uses are located one atop the other and create a sense of vertical movement delineating each such use. The exemplary design of the building incorporates architectural innovation appropriate for a mixed-use building in an exciting new neighborhood without overpowering the food market that has long existed adjacent to the North Parcel. The Project design draws inspiration from the existing structure on the South Parcel in order to infuse the light industrial/mercantile aesthetic into the North Building, particularly along the ground floor. Guided by the Small Area Plan's goal to incorporate existing buildings into redevelopments within Union Market, the Approved PUD utilizes and celebrates the Existing South Building to give the ground plane and surrounding public spaces authenticity and character. The Applicant believes that the retention of The Market structure significantly contributes to the place-making desired by the Small Area Plan and assists in Union Market becoming a destination similar in character to the Meatpacking District in New York City or the Pearl District in Portland, Oregon. Each such precedent district revitalized areas that immensely benefited its respective city much as Union Market has the potential to accomplish for DC. Although it is costly and challenging to design and build around the Existing South Structure while it remains open during the construction of the North Building, the Applicant has agreed to absorb that cost in the interest of keeping the heart of Union Market open to patrons and small businesses.
- Streetscaping: As part of the Approved PUD, the Applicant agreed to commission the Union Market Streetscape Guidelines, subject to DDOT approval. The Applicant and

DDOT have completed such work. The Project implements the Small Area Plan's elements and aspirations for improved public streetscapes along 5<sup>th</sup> Street and 6<sup>th</sup> Street, NE and implements the Union Market Streetscape Guidelines adjacent to the proposed North Building. New streetscape improvements along these important streets replace the existing insufficient sidewalks with wider sidewalk spaces. The new sidewalks feature plantings, street trees, site furnishings, lighting and other elements that create an inviting and active pedestrian environment. The Applicant's streetscape beautification plan for the Project is in accordance with the Union Market Streetscape Guidelines (required per the Approved PUD) and makes a significant contribution to the overall appearance of the development and its appeal to residents and visitors traversing both 5<sup>th</sup> Street and 6<sup>th</sup> Street, NE. The Applicant expects that the Project's streetscaping will create an atmosphere that encourages pedestrian circulation and achieves true "place-making". The new streetscape areas and proposed Plaza are animated by a permeable retail/commercial experience that connects the activity of the retailer with pedestrians on the street and the Plaza. Multiple outdoor seating areas for food-based users further stimulate activity in the public realm, including the Plaza. The Project's storefronts present an inviting exterior face to passers-by during the day and a sidewalk illumination source at night. The Plaza (and the park to the south of the Future South Building) in total add nearly a half-acre of open space and together constitute a separate public benefit described below. As part of the Approved PUD, the Applicant agreed to upgrade the southern Neal Place sidewalk between 4<sup>th</sup> and 5<sup>th</sup> Street, NE and the western 5<sup>th</sup> Street, NE sidewalk between Neal Place and Penn Street, NE to DDOT-compliant standards, as necessary, subject to DDOT approval.

- Landscaping: The Project's landscape and site improvements achieve the Union Market Streetscape Guidelines and create a palette of vegetation and design elements that are simultaneously appropriate for the vernacular of the Union Market District and are representative of the Project's place-making objectives. Street trees are placed per the Guidelines and reinforce the overall unique character of the Union Market District.

2 Site planning, and efficient and economical land utilization (ZR16-X § 305.5(c); ZR58 § 2403.9(b)). The approved site plan is another superior benefit of the Project. Site planning and efficient and economical land utilization are public benefits to be evaluated by the Commission under both ZR16 and ZR58. The benefits of the Project's site plan and efficient land utilization are captured in the Project's overall density, introduction of residential uses in a commercial area located near transit, absolute number of new residential units provided, and introduction of other job-supporting uses. The Project's greater heights and density near transit nodes exemplify economical land utilization. The Project also improves land that has been underdeveloped relative to the surrounding transportation and other infrastructure, and its development makes it a significant contribution to establishing a community within Union Market. At an FAR of 3.71 (7.56 with respect to the North Parcel only), the proposed density is appropriate for the North Parcel and the Union Market PUD Site as a whole given the proximity to transit options and scarcity of nearby low-density residential uses. Further, the Applicant proposes an efficient, economical land utilization strategy with respect to parking. That is, given the limited number of parcels within Union Market that are large enough to facilitate efficient parking garage layouts due to the fractured ownership throughout Union Market and existing structures that may be maintained, constructing additional parking on this site illustrates the strategic macro-perspective

called for in the Small Area Plan. The Project introduces a significant amount of community-serving or community-anchoring retail/commercial space in an area that is currently underserved. The Project also facilitates the retention and continued success of the now-essential Market and Dock 5 spaces in the Existing South Building. Importantly, the Project retains and enhances the Plaza as an open space in the central portion of the Union Market PUD Site running from 5<sup>th</sup> Street to 6<sup>th</sup> Street, NE. Such space allows for thriving uses to be located adjacent to civic spaces activated by the customers and community fostered by Union Market. The Project achieves the principles of transit-oriented development, as it strikes a careful balance between increasing density and sensitive placement of massing and use on the North Parcel.

3 Effective and safe vehicular and pedestrian access, transportation management measures, connections to public transit service, and other measures to mitigate adverse traffic impacts (ZR16-X § 305.5(o); ZR58 § 2403.9(c)). The Project’s pedestrian prioritization and transportation measures were found to be public benefits in the Approved PUD and remain so as part of this Application. Section 2403.9(c) of ZR58 provides that “effective and safe vehicular and pedestrian access, transportation management measures, connections to public transit service, and other measures to mitigate adverse traffic impact” can be considered public benefits and amenities of a project. As previously described above, the Project is appropriately located within one-third mile of a Metrorail Station and provides potential new riders for the Metrorail system at this location. Also, its proximity to Metrobus, Downtown, and the Central Employment Area (including NoMA) helps to reduce dependence on private personal vehicles and allows the employees, customers, and residents of the Project, to experience a live/work urban environment. Tenants and their employees in the Project are able to use public transit to and from work, along with shopping and dining near their workplace. Furthermore, as will be articulated in the revised traffic impact study to be submitted prior to a public hearing for the Project, the Project will incorporate a revised version of the previously-approved TDM plan to properly manage the traffic flow in the area. The TDM plan includes such features as car sharing and bicycle storage. The Project provides a below-grade parking garage with up to approximately 310 vehicle parking spaces (+/- 10%). The Project’s vehicular parking entrance and exit as well as the loading for the buildings is accessed from the 6<sup>th</sup> Street, NE at the east side of Union Market. Accordingly, the Project minimizes vehicle-pedestrian conflicts by locating loading off of 6<sup>th</sup> Street, NE and reduces truck sidewalk crossings and maneuvering from 5<sup>th</sup> Street, NE. A reissued Loading Management Plan will be furnished which will further illustrate how pedestrian and vehicular conflicts will be avoided. The majority of pedestrian traffic is anticipated to be on 5<sup>th</sup> Street, NE.

4 Employment and training opportunities (ZR16-X § 305.5(h); ZR58 § 2403.9(e)). The Project includes economic development opportunities that are superior public benefits. “Employment and training opportunities” are public benefits under both ZR58 and ZR16. The Project, as part of the overall Approved PUD creates several types of employment opportunities. During its construction phase, the Project provides jobs primarily in the construction and related fields. Once operational, the Project will provide jobs for retail and related commercial uses, as well as building management and residential leasing and management. Further, The Market already employs a high percentage of District residents. At last measure, a majority of the workforce at The Market are District employees. A telling sign of how The Market has built bridges within the community is the large percentage of employees within The Market that are Gallaudet students, alumni and/or members of the deaf community. In addition, a large

percentage of the tenants within The Market are small businesses that are locally-based and owned by District residents, minorities, and/or women. These employers are exactly the types of entities so heavily encouraged by the Ward 5 Works Study and other District initiatives. Finally, as part of the Approved PUD, the Applicant, through EDENS, entered into a First Source Employment Agreement with the Department of Employment Services (“DOES”) to achieve the goal of utilizing District of Columbia residents for at least 51 percent of the new construction jobs created by the Project.

5 Housing and affordable housing (ZR16-X § 305.5(f), (g); ZR58 § 2403.9(f)). The Project includes a greater number of housing units than could be developed on the site as a matter-of-right. Pursuant to ZR16, Subtitle X, Subsections 305.3(f) and (g), the production of housing that exceeds the amount that would have been required through matter-of-right development under existing zoning and affordable housing above what is required under the IZ provisions is a public benefit. Under ZR58, the provision of housing and affordable housing is a public benefit. The District faces a shortage of virtually every kind of housing product, but the need is particularly severe for housing near transit. The Project produces a significant amount of new residential units on a site that is transit-accessible, part of an exciting mixed-income development, and well-positioned to take advantage of economic opportunities that emerge in the Union Market neighborhood in the future. The housing proposed as part of the Project exceeds the amount possible through a matter-of-right redevelopment pursuant to the applicable limits in the underlying zone (i.e., the C-M-1 Zone District) by approximately 287,530 square feet. Under the underlying zoning residential use is not permitted at all. Accordingly, *all* new residential uses in the Project qualify as housing benefits. The Project also reserves eight (8) percent of its GFA for affordable housing units, all of which represents affordable housing above what could be constructed through a matter-of-right development on the North Parcel. Accordingly, the affordable housing of the Project is a public benefit as well. Finally, 20 percent of such affordable component will be set aside for households earning no more than 50% MFI and the remainder will be set aside for households earning no more than 80% MFI, as previously approved by the Approved PUD.

6 Social services/facilities and Building Space for Special Uses (ZR16-X § 305.5(i)-(j); ZR58 § 2403.9(g)). The Approved PUD includes many social services that are superior public benefits. “Social services/facilities” are public benefits under both ZR58 and ZR16. As mentioned above, the Project’s Plaza and the future park at the Existing South Building are intended to be inclusive civic features that allow community members and Union Market residents, users and visitors to enjoy outdoor gathering areas and program such spaces for a wide variety of social and civic uses. The Applicant committed as part of the Approved PUD to provide discounted or free space for community or non-profit organizations and to host at least ten community events annually.

7 Environmental and sustainable benefits (ZR16-X § 305.5(k); ZR58 § 2403.9(h)). The Project includes innovative sustainable design elements and achieves appropriate levels of environmental certification. The Project has been designed to exceed environmental design standards at the LEED Silver v4 level (i.e., roughly equivalent of LEED Gold 2009). This level of design exceeds the level (i.e., LEED Silver 2009) that was deemed a public benefit under ZR58 by the Commission in the Approved PUD. Specific sustainable benefits in the Project

include energy modeling use of environmentally-preferred materials; inclusion of green roof and rooftop bio-retention; and ongoing identification and investigation of photovoltaic solar panels.

8 Uses of Special Value to the Neighborhood or the District of Columbia as a Whole (ZR16-X § 305.5(q); ZR58 § 2403.9(i)). The Project includes many special public benefits, the majority of which are required to commence only upon completion of the South Building. However, notwithstanding that construction on the South Building has not yet begun, the Applicant has, in good faith, begun to implement nearly all of these benefits. Both ZR16 and ZR58 list uses of special value to the neighborhood as public benefits of a PUD. These special benefits include:

- PDR/Maker Uses: As described above, the Project newly commits to providing PDR/Maker uses and to building out half of the ground floor non-residential space to specifications that accommodate such uses. This is a new proffer not contained in the Approved PUD.
- Retail/Commercial Uses: As a threshold matter, the new retail/commercial opportunities offered through the Project, and the retail/commercial areas provided by The Market, are essential amenities for Union Market and surrounding community. This retail/commercial component assists in creating the critical mass necessary to establish an essential, bustling, one-of-a-kind shopping district and community-oriented “third space” in the District. Union Market’s retail/commercial space drives a significant amount of income and sales taxes for the District, provides jobs, and has facilitated a flourishing entrepreneur class that allows a diverse population of middle-class District residents (e.g., women, minorities, the hearing impaired, young people, and others) to build wealth and prosperity. Union Market’s retail/commercial space allows the District to reverse the retail leakage that has afflicted it for decades and, in fact, creates a retail migration that allows the District to capture retail spending from neighboring jurisdictions. The type of retail prioritized at Union Market—generally small-scale, entrepreneur-driven businesses—is a crucial economic development driver for the District as a whole. In stark contrast to other retail-centric areas, Union Market’s retailers are generally not chains, which provides more opportunities for home-grown and District-centric firms to flourish.
- Continued Operations at The Market: As part of the Approved PUD, the Applicant agreed to preserve and retain the existing structure currently housing The Market and maintain The Market as open and operational throughout construction of the Project.
- School Outreach: The Applicant has formed partnerships with local public schools to provide monthly educational programs and tours for students, along with arranging a high school student internship program and no less than five individual educational sessions on subjects ranging from entrepreneurship and developing a business plan to urban farming, healthy eating, and grocery shopping on a budget.
- Security: As part of the Approved PUD, the Applicant committed up to \$400,000 per year towards security patrols in Union Market. This commitment is underway.

- Signage: As part of the Approved PUD, the Applicant agreed to install way-finding signage to access the Union Market district from New York Avenue, NE. This commitment is underway.
- Community Caretaking: As part of the Approved PUD, the Applicant agreed to participate in the District's Adopt-a-Block program (or become part of a business improvement district which shall assume responsibility for similar duties). In so doing, the Applicant agreed to clean up trash and remove graffiti along 5<sup>th</sup> and 6<sup>th</sup> Streets, NE between Florida Avenue and Penn Street, NE. This commitment is underway.
- Discounted or Free Event Space. As part of the Approved PUD, the Applicant agreed to provide discounted or free event space or related services in the Project to community, non-profits or similar institutions in the DC metropolitan area for a value of \$30,000 per year for five (5) years. This commitment is underway.
- Community Events. As part of the Approved PUD, the Applicant agreed to host no less than ten (10) community events for five (5) years as described in Exhibit 35 of the original proceeding. The Applicant will now have an expanded ability to provide these community events due to the urban park approved atop the Existing South Building under Z.C. Case No. 14-12C. This commitment is underway.

9 Other Public Benefits Which Substantially Advance the Comprehensive Plan (ZR16-X § 305.5(r); ZR58 § 2403.9(j)). The proposed second-stage PUD and modifications to the Approved PUD are consistent with many of the District's policy goals and objectives. Both ZR16 and ZR58 provide that elements of a project that advance the Comprehensive Plan and related policies are public benefits.

ii. The Approved Public Benefits Satisfy the Public Benefits Criteria

Subtitle X, Sections 304.4(c), 305.2 and 305.4 require that the public benefits proposed as part of a PUD application (i) be not inconsistent with the Comprehensive Plan and other adopted public policies, (ii) benefit the surrounding neighborhood or the public in general to a significantly greater extent than would likely result from a matter-of-right development of the North Parcel, (iii) be tangible, quantifiable, measurable, and able to be completed prior to issuance of a certificate of occupancy, and (iv) relate to the geographic area of the ANC(s) in which Union Market is located. In approving the Approved PUD, the Commission previously concluded that the approved Public Benefits satisfy the conditions listed above. Nothing about the Project modifies that conclusion.

The Public Benefits are not inconsistent with the Comprehensive Plan or other adopted public policies because the benefits are integral parts of the development authorized under the Approved PUD, which itself is not inconsistent with the Comprehensive Plan.

With respect to the second criterion above, the Public Benefits listed above would not be required and likely would not be economically feasible under a matter-of-right development of the Union Market PUD Site. Only a project the scale of the one under the Approved PUD could contribute the high quality urban design, architecture, landscaping, planning, amount of housing

and level of affordability, and the environmental, transportation/mass transit, and other special benefits proposed.

Additionally, each of the Public Benefits applicable to the construction of the Project is tangible, quantifiable, measurable, and able to be completed prior to issuance of a certificate of occupancy. Finally, the majority of the benefits relate to the geographic area of the ANC.

Accordingly, the Public Benefits satisfy the Public Benefits Criteria.

## **VI. CONCLUSION**

For the foregoing reasons, the Applicant submits that this Application for review and approval of a second-stage PUD arising out of the Approved PUD meets the standards of the Zoning Regulations; is consistent with the purposes and intent of the Zoning Regulations and Zoning Map; enhances the health, welfare, and safety and convenience of the citizens of the District of Columbia; satisfies the requirements for approval of a PUD and PUD modifications; provides significant public benefits; and advances important goals and policies of the District.

Accordingly, the Applicant respectfully requests the Commission set this application down for a public hearing at the earliest possible date.

Respectfully submitted,

Goulston & Storrs

/s/ Jeffrey C. Utz

Jeffrey C. Utz

/s/ David A. Lewis

David A. Lewis

June 3, 2019