

August 29, 2014

VIA HAND DELIVERY

Anthony J. Hood, Chairman
Zoning Commission for the District of Columbia
441 Fourth Street, NW, Suite 210S
Washington, DC 20001

Re: Zoning Commission Case No. 14-12 – Application of EAJ 1309 5th Street LLC to the D.C. Zoning Commission for a Consolidated and First Stage Planned Unit Development and Related Zoning Map Amendment for 1309-1329 5th Street NE (Lot 800, Square 3591) (the “Property”) – Pre-Hearing Submission of the Applicant

Dear Chairman Hood and Commissioners:

Pursuant to 11 DCMR Section 3013.1, EAJ 1309 5th Street LLC (the “**Applicant**”), the applicant in Zoning Commission Case No. 14-12, hereby files its pre-hearing submission for its application for a consolidated and first stage planned unit development and related map amendment (the “**Project**”). The Applicant hereby requests to be scheduled for a hearing before the Zoning Commission at the earliest opportunity.

I. Background

The Property consists of Lot 800 in Square 3591. The Property is located in the Northeast quadrant of the District of Columbia bounded by a surface lot to the south, a vacant lot used for maintenance storage to the north, 6th Street NE to the east, and 5th Street NE to the west. The Property is located in the 45-acre Union Market district (also known as the Florida Avenue Market).

The Property is currently improved with two structures – (i) the unique, artisanal market and event space known as “The Market” at Union Market and “Dock 5” in the existing south building on the Property, and (ii) the warehouse and distribution facility in the existing north building on the Property.

On July 10, 2014, the Applicant filed an application for a consolidated and first stage planned unit development and related map amendment to permit the redevelopment of the Property. The Project will have a height of 120 feet and contain a floor area ratio (“FAR”) of up to approximately 6.3, for a total of up to approximately 541,400 gross square feet, comprised of theater, retail, office, and possibly residential uses.

II. Setdown Meeting and Responses to the Zoning Commission

The Zoning Commission set the above-referenced application down for a public hearing at its public meeting on July 28, 2014. Specifically, at the setdown meeting, the Commission requested clarification on certain items, which the Applicant has addressed in its August 6, 2014 submission and the responses below.

A. Clarifications Regarding Elements of Building Design and Roof Plans

The Commission requested additional clarifications on elements of the building design including the Applicant’s proposed roof structure.

Per the Zoning Commission’s guidance at its June 30, 2014 and July 28, 2014 public meetings relating to Z.C. Case No. 14-13 proposed by the Office of Planning (“OP”), the Applicant is submitting two alternatives for the roof structures as Exhibit A and Exhibit B. Exhibit A shows a by-right design that is reflective of the current roof structure and penthouse requirements under the existing Zoning Regulations (although the Applicant is requesting relief from some requirements of Section 411 of the Zoning Regulations as described in the Applicant’s application statement dated July 10, 2014). Exhibit B shows an alternative design intended to reflect the proposed amendments to the roof structure and penthouse requirements as suggested under the setdown report for Z.C. Case No. 14-13.

Additionally, as discussed by the Commission, the roof will contain a basketball court that will act as a recreational outlet for the tenants and guests. A plan depicting this basketball court is shown in Exhibits A and B.

At the Project’s setdown meeting, the Commission requested additional information regarding the preservation of The Market’s façade in light of the request to retain flexibility for retail storefronts. The Applicant intends to retain and integrate the existing Market structure into the Project. As noted by the Commission, The Market will still be open over the course of the construction of the Project’s South Building. The Applicant requests the ability to alter the retail store fronts in the future without adversely affecting the existing façade. With such flexibility, the Applicant would be able to

modify such items as storefronts, entrances, tenant signage, and lighting to allow for new or different tenants to occupy The Market building's space.

The Commission requested additional information relating to the bicycle parking to be provided by the South Building. As shown on Exhibit C, bicycle parking will be provided both on the private space, adjacent to the South Building within the internal plaza area and in public space, along 5th Street, NE and/or 6th Street, NE (subject to DDOT approval). Since The Market is an existing, operational structure, the Applicant will provide additional bicycle parking on the exterior of the South Building. The bicycle parking for the North Building will be incorporated within the structure, in addition to locating bicycle parking in public space adjacent to the structure.

The Commission requested additional information relating to the event space within the South Building. The Applicant currently uses this event space for community events, such as its annual ice cream social – DC Scoop – and offers the space to external parties for various events such as corporate meetings, community and non-profit functions and fundraisers, presentations, dinners, and even weddings and concerts. Attached as Exhibit D, the Applicant has enclosed several typical layout plans illustrating the potential configurations and uses of the event space for several event types. As can be seen on Exhibit D, the event space is modified by and customized to the needs of each individual event. Page 5 of Exhibit D shows pictures of the exterior and interior of the event space, including such space during a typical event.

The Applicant will continue to work with Office of Planning (“OP”) staff to review and refine the design prior to the hearing. The Applicant will further supplement the record with additional refined plans no less than 20 days prior to the hearing.

B. Clarifications to Plans

At the July 28, 2014 setdown meeting, the Commission also requested that the Applicant provide clarifications to the Project plans, as detailed below.

The Commission requested updated sheets clarifying that the “Maurice Electric storage lot”, which is the parcel to the North of the Property owned by Gallaudet University, is not included in the proposed Project. Attached as Exhibits E-1, E-2 and E-3, the Applicant has enclosed updated pages to replace pages A2, A3, and A10 in Exhibit A of the Applicant's July 10, 2014 application submission. The proposed Project does not include such Maurice Electric storage lot. The Property is entirely comprised of Lot 800 in Square 3591.

The Commission requested a building section depicting the possible projections of the buildings. Exhibits F-1 and F-2 are being provided to address this request. This exhibit illustrates where the theater in the South Building projects into public space and the possible extent of the balcony projections for the office in both the South and North Buildings.

Similarly, the Commission requested updated plan pages to coordinate the colors between the color legends and certain diagrams on such pages. Attached as Exhibits G-1 and G-2, the Applicant has enclosed updated pages to replace pages A9 and A11 in Exhibit A of the Applicant's July 10, 2014 application submission. The Applicant also updated and corrected such color coordination on Exhibit E-3 (discussed above), which replaced page A10 of Exhibit A of the Applicant's July 10, 2014 application submission.

The Commission requested a further explanation of the demolition proposed by the Project. As shown on Page C-2 of Exhibit A of the July 10, 2014 application packet, the intent of the Project is to retain the South Building as a thriving market while constructing a theater and office building above such existing space. The North Building on the Property will be demolished during the construction phase of the South Building. At a later date, a new building will be constructed on the site of the North Building with ground floor retail and either residential or office use above.

The Commission also requested further information relating to the design and use intent behind the balconies on the South Building's office façade. The Applicant is proposing the balconies to provide a unique design attribute for the South Building. The design intent is to activate the exterior of the building not only at the ground floor level, but also to create active outdoor spaces vertically. The Applicant intends for the balconies to be used by office tenants to allow direct access to outdoor space.

The Applicant is also further studying the LED screens proposed to be installed on the South Building and will provide additional information prior to and at the hearing.

C. Benefits and Amenities Enhancements and Clarifications

When discussing the benefits and amenities of the Project, the Commission requested that the Applicant enhance the sustainable design (LEED) equivalency of the Project and provide further details of regarding the benefits and amenities package.

In response, the Applicant has increased the proposed design's sustainability standards to meet a LEED Silver equivalent rating (although the Applicant may elect not to seek certification for the building).

Additionally, the Applicant will continue to work with Advisory Neighborhood Commission (“ANC”) 5D and OP to further refine additional details of its benefits and amenities package. For example, as part of the updated benefits and amenities package, in an effort to provide opportunities for the neighboring community, and to positively address the higher proportions of unemployment within the Property’s census tract, the Applicant will work with ANC 5D to provide timely advance notification of the Project’s initial retail job openings within the development to Ward 5 residents.

As the Applicant works with the ANC and OP further, it will provide additional information regarding the benefits and amenities to the Commission prior to and at the hearing.

D. Clarifications to Proposed Parking Approach

At the Project’s setdown, the Commission requested additional information regarding the parking provided by the Project.

As described by OP at the setdown meeting, the overall 45-acre Union Market district has substantially limited opportunities for off-street parking. Due to the Union Market district’s fragmented ownership, small lot sizes, and many existing structures that are likely to be maintained (in particular the majority of properties from Florida Avenue to Penn Street on the east side 4th Street and the west side of 5th Street), there are few opportunities to construct below grade off-street parking. It is the Applicant’s intent to create “pools” of parking, where practical, to enable the Union Market district to have sufficient parking. Given that the Applicant is retaining the existing building as part of the Project, no parking will be provided within the South Building. Instead, as described by OP at the setdown meeting, the Applicant will utilize parking in other areas of the Market in order to satisfy its parking needs until the North Building’s parking is constructed. For example, the Applicant has proposed that the project of its affiliate, the property at 1270 4th Street, NE subject to Z.C. Case No. 04-07, provide such additional parking under portions of the development of its project at 1270 4th, NE.

The Applicant has met with DDOT and OP to discuss the Applicant’s parking pools approach as a solution to the future needs of the 45-acre district and to help encourage redevelopment of the area as recommended by the Florida Avenue Small Area Plan. The Applicant, DDOT, and OP will continue to discuss the parking pools approach prior to the hearing and during the implementation of the projects in the Union Market district.

E. Clarification regarding Loading

The Commission requested additional information regarding the loading proposed by the Project for the South Building.

Attached as Exhibit H is an exhibit showing the intended interim loading facilities for the South Building. As can be seen on such exhibit, the intent is to operate the South Building with loading along the northern edge of the structure similar to the loading operated for the Market building today. Two 30 foot loading berths and two 100 square foot loading platforms are to be provided in such loading areas.

The Applicant will continue to work with DDOT and OP to ensure that its loading facilities and plans are appropriate for the Project.

F. Clarification regarding Floor Area Ratio

The Commission requested additional information regarding the proposed FAR of the Project.

The FAR is described in the chart on Page Z1 of Exhibit A in Exhibit A of the Applicant's July 10, 2014 application submission. In such chart, the FAR is summarized as a cumulative figure for the project's two buildings, as a figure for the South Building, and as a figure for the North Building, along with each use component. Each FAR figure shown on such page, except for the existing Market retail component, is shown as a range of possible square footages.

The South and North Buildings have FARs of 2.38–2.52 and 3.32–3.78, respectively, based on the size of the entirety of the record lot as summarized below:

<u>Record Lot Square Footages and FAR</u>		
<u>Building/Component</u>	<u>Gross square feet</u>	<u>FAR (based on entire lot area)</u>
Lot Area – 85,820 SF		
South Building – Subtotal	204,423 – 216,423	2.38 – 2.52
Retail	62,423	0.73
Theater	38,000 – 42,000	0.44 – 0.49
Office	104,000 – 112,000	1.21 – 1.30
North Building - Subtotal	285,000 – 325,000	3.32 – 3.78
Retail	25,000 – 35,000	0.29 – 0.40
Office/Residential	260,000 – 290,000	3.03 – 3.38
<u>Total</u>	<u>489,423 – 541,423</u> <u>GSF</u>	<u>5.70 – 6.30 FAR</u>

The Commission requested no other changes or information regarding the project.

III. Rear Yard

In its setdown report dated July 18, 2014, OP requested that the Applicant describe its compliance with the rear yard requirements of the Zoning Regulations. As referenced on Pages Z2 and Z3 in Exhibit A of the Applicant’s July 10, 2014 application submission, the Applicant is providing a rear yard that is measured as one half of the right-of-way of 5th Street, NE.

While the measuring points for height will be taken from the interior plaza and the building height of the South Building and North Building will be derived from 5th Street, NE, the rear yard may be measured utilizing one half of the width of 5th Street or 6th Street (100 and 90 feet, respectively). Such rear yard configuration has been approved repeatedly in the District of Columbia. One such example is the building at 1800 Eye Street, NW. The project is not required to furnish (or obtain relief for) a rear yard at the north of the north structure or at the south of the south structure. Such conclusion has been determined to be in compliance with the Zoning Regulations by the District of Columbia Office of the Zoning Administrator for the proposed Project.

IV. Public Space Improvements

The Applicant believes that the appropriate design of the public space is essential to create a vibrant destination with active retail to implement the vision of the Florida Avenue Market Study. As described in the Applicant's application statement, the public space design proposed for the Project will create the stimulating streetscape environment that will support the active, energetic and unique district planned for the Florida Avenue Market. It will encourage a greater degree of usage of public space, along with a higher amount of interaction with the retail uses at the Property.

The Applicant has met with DDOT and is scheduling additional meetings with DDOT to further develop the proposed streetscape design. These meetings with DDOT are essential to developing the proposals for public space and will occur both before and after the hearing. These conversations with DDOT are informing the treatment of important details such as transitions from existing conditions to new conditions, curbside design, accessibility, traffic patterns, loading operations, and implementation of improvements to facilitate the coexistence of existing wholesale businesses with the enhanced streetscape design. The Applicant understands the importance of the need to fully integrate the unique "curbside" approach with existing District standards and protocols. The Applicant will detail any design refinements or changes of the public space to the Commission prior to the hearing and continue to work with DDOT throughout the public space permitting process.

V. Working with Community

The Applicant will continue to work with the community regarding the Project. The Applicant will meet with ANC 5D prior to the Zoning Commission hearing. At meetings to date, the commissioner of ANC 5D01 expressed support for the Project (as evidenced by the letter of support submitted with the initial application). The Applicant will continue to engage with community members, local institutions, local vendors, other nearby owners, and interested individuals prior to the public hearing as well.

VI. Applicant's August 6th Submission

The Applicant hereby includes its August 6, 2014 submission by reference. Such filing included the resumes of the proposed expert witnesses to present on behalf of the Applicant at the hearing, along with outlines of witness testimony for the Applicant's team. As stated in such filing, the Applicant anticipates that its presentation will require up to 60 minutes.

VII. Hearing Fee

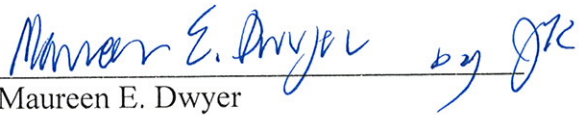
The Applicant encloses its hearing fee of \$44,870 to the Commission. Such amount is calculated as shown on Exhibit 12C of the Record, the Applicant's Hearing Fee Calculator (Form 116).

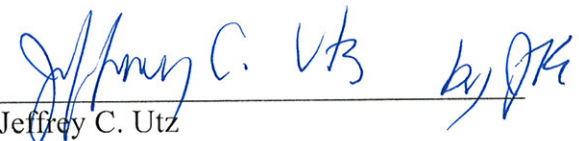
VIII. Conclusion

As set forth above, the Applicant has met the requirements of Section 3013, and accordingly requests that a public hearing be scheduled as soon as possible. The development team looks forward to presenting this application to the Commission.

If you have any questions regarding this application, please feel free to contact Maureen at 202-721-1101 or Jeff at 202-721-1132. Thank you for your attention to this application.

Respectfully submitted,


Maureen E. Dwyer

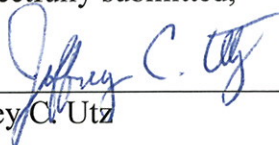

Jeffrey C. Utz

**CERTIFICATION OF COMPLIANCE WITH SECTION 3013 OF THE ZONING
REGULATIONS**

The Applicant hereby certifies that this pre-hearing submission, which has been filed with the Zoning Commission on August 29, 2014, complies with the provisions of Section 3013 of the Zoning Regulations as set forth below, that the application is complete.

<u>Sub-Section</u>	<u>Page</u>
3013.1(a) Information Requested by the Commission; Updated Materials Reflecting Changes Requested by the Commission	Pre-Hearing Submissions Filed Herewith and August 6, 2014
3013.1(b) Witnesses	Pre-Hearing Submissions Filed August 6, 2014
3013.1(c) Summary of Testimony of Applicant's Witnesses and Reports for the Record:	Pre-Hearing Submissions Filed August 6, 2014 (Exhibit B)
3013.1(d) Additional Information, Reports or Other Materials Which the Applicant Wishes to Introduce	Pre-Hearing Submissions Filed Herewith and August 6, 2014
3013.1(e) Reduced Plans	To be filed no later than 20 days prior to hearing
3013.1(f) List of Publicly Available Maps, Plans, and Other Documents	Pre-Hearing Submissions Filed August 6, 2014
3013.1(g) Estimated Time Required for Presentation of Applicant's Case	1 Hour
3013.6(a) List of Names and Addresses of All Property Owners within 200 Feet of the Subject Property	Application (Exhibit G)

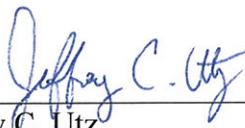
Respectfully submitted,



Jeffrey C. Utz

Certificate of Service

I certify that on August 29, 2014, I delivered a copy of the foregoing document via hand delivery or first class mail to the addresses listed below.



Jeffrey C. Utz

Brandice Elliott (2 copies)
District of Columbia Office of Planning
1100 4th Street, SW, Suite 650E
Washington, DC 20024

Jamie Henson
Jonathan Rodgers
Policy and Planning
District Department of Transportation
55 M Street SE, 5th Floor
Washington, DC 20009

Advisory Neighborhood Commission 5D (7 copies)
1807 L Street, NE
Washington, DC 20002

ANC Commissioner Peta-Gay Lewis (5D01)
1868 Corcoran Street, NE
Washington, DC 20002