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December 13, 2017

VIA IZIS

D.C. Zoning Commission
441 4th Street, N.W., Suite 210
Washington, DC 20001

**Re: Z.C. Case No. 17-09 - Eckington Park (Square 3581, Lot 15)
Response to OP and DOEE Hearing Reports**

Dear Members of the Commission:

On behalf of the Applicant in the above-referenced case, we hereby submit the following information in support of the above-referenced application for Lot 15 in Square 3581 (the “Site”) and in response to the reports of the Office of Planning (“OP”) (Exhibit 30 of the record) and of the Department of Energy and the Environment (“DOEE”) (Exhibit 29 of the record). A response to the report of the District Department of Transportation (“DDOT”) (Exhibit 31 of the record) will be submitted separately.

**I.
Response to Comments in the Office of Planning Report**

The following chart indicates the Applicant’s response to the specific comments from OP in its hearing report.

	Comment from OP	Applicant’s Response
1.	Further clarify the proposal’s consistency with the Comprehensive Plan’s direction that the site is appropriate for a mix of uses including Production, Distribution and Repair (PDR)	Consistent with the Mixed Use: Medium Density Residential / PDR Future Land Use Map (“FLUM”) designation, the project is a mixed-use project containing residential, retail, and <u>artist live-work space</u> . The project also provides parks, recreation, and open space uses. The rezoning and the project are consistent with the FLUM designation based on the following:

	<ol style="list-style-type: none"><li data-bbox="753 281 1424 974">1. Legislative history describing mixed uses areas on the Future Land Use Map (“FLUM”) clearly states that the uses depicted in these areas are not mandatory. These mixed use areas, which include existing commercial centers and development opportunity areas, are areas <u>where a variety of uses is encouraged but is not required</u>” (emphasis added). D.C. Council Committee Report for Bill 5-507, District of Columbia Comprehensive Plan Act of 1984 Land Use Element Amendment Act of 1984, dated December 4, 1984. Similar language is reflected in the description of Mixed Use areas in the existing Comprehensive Plan Framework Element which states “The [FLUM] indicates areas where the mixing of two or more land uses is <u>encouraged</u> (emphasis added) (10-A DCMR § 225.18). Because these uses are encouraged, the project incorporates 4 artist live-work units.<li data-bbox="753 1016 1424 1339">2. Artist live-work space falls within the “Arts, Design, and Creation” use category (11-B DCMR § 200.2(e)). <u>Arts, design, and creation uses are permitted as a matter of right within PDR zones (11-U DCMR § 801.1(c))</u>. Arts, design, and creation uses, including artist live-work, are also permitted as a matter of right in the proposed MU-5-A zone (11-U DCMR § 512.1(a)).<li data-bbox="753 1381 1424 1705">3. The FLUM is not a zoning map and is intended to be interpreted broadly (10-A DCMR § 226). As stated in the OP Report, whereas zoning maps are parcel-specific and establish detailed requirements for setbacks, height, use, parking, and other attributes, the FLUM does not follow parcel boundaries and its categories do not specify allowable uses or dimensional standards. (See OP Report, pg. 9.)<li data-bbox="753 1747 1424 1885">4. The proposed amount of artist live-work space is appropriate when considering it within the guidance for compliance with the Comprehensive Plan and the broader context of
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		<p>the area that has been identified in the FLUM for the mixed-use designation. Specifically, the Commission has approved approximately 77,000 square feet of “maker-space” for the project located immediately west of the Site, which is part of the approximately 105,000 square feet of other PDR-related uses / maker-spaces within the New York Avenue Gateway / Florida Avenue Market area. This node of PDR-related uses / maker spaces is a complement to the more than 15,000 square feet of maker spaces located to the north near the Brookland Metrorail Station, and along the Metropolitan Branch Trail (“MBT”) corridor.</p>
<p>2.</p>	<p>Clarify minor discrepancies among residential FAR and square footages in different charts on Exhibit 28A1 Sheet G07</p>	<p>The PUD includes a total of 313,916 square feet of GFA, which is broken down as follows: Residential: 302,855 sf of GFA Retail: 11,062 sf of GFA</p> <p>The service/loading areas are included in GFA as required and have been split between the residential and retail use. These numbers are consistent with the GFA shown on the Zoning Data Sheet on Sheet G07 of the plans. (See <u>Exhibit 28A</u> of the record.) The affordable housing chart notes 302,855 sf, which comes from the design program that likely rounded up. Therefore, the Applicant maintained the higher number for purposes of the affordable housing contribution.</p> <p>In addition, the PUD will have a maximum building height of 81’, 6” as measured to the top of the roof and 83 feet, as measured to the top of the parapet. The maximum permitted height for the Site is 90’, with an additional 4’ permitted for a parapet.</p>
<p>3.</p>	<p>The affordable housing commitment should be increased from 10% to a total of 12% of the residential GSF; by increasing the IZ component from 8% to 10%, or the non-IZ affordable low-income</p>	<p>The Applicant will reserve 10.3% of the residential square footage of the project as affordable housing (8% for IZ and 2.3% for artist live-work units). This is approximately 28% above the gross floor area required to be reserved pursuant to the IZ regulations.</p>

	<p>artist live-work space from 2% to 4%, or a combination thereof.</p>	<p>Consistent with other PUDs in the vicinity of the Site, and as outlined in the public benefits chart attached as <u>Exhibit A</u>, the Applicant will set aside 8% of the GFA as IZ units reserved for households earning equal to or less than 60% of the MFI, which represents a substantial increase in the amount of affordable residential floor area when compared to the fact that no affordable housing would be generated if the Site was developed as a matter-of-right, which is the specific criteria listed in Subtitle X § 305.5(g) for determining whether the proffered affordable housing is a public benefit. In addition, the three-bedroom units further <i>Policy H-1.3.1: Housing For Families</i> of the Comprehensive Plan, which states encourages providing a larger number of housing units for families with children by encouraging new three- -bedroom apartments. (See 10A DCMR § 505.6.)</p> <p>As requested by ANC 5E and the Eckington Civic Association, all of the IZ units will be larger family sized units. As shown on the IZ unit mix (<u>Exhibit 28C</u> of the record), 14 two-bedroom units and 4 two-story, three-bedroom units on the ground floor, fronting on either the East Park or the internal courtyard, will be reserved as IZ units. Subtitle X § 305.5(f) specifically identifies the provision of three-bedroom units as a public benefit.</p> <p>The Project will incorporate 4 artist live-work units, all fronting on the East Park. These artist-live work spaces will be reserved for local artists earning equal to or less than 60% of the MFI and will remain affordable for the life of the project.</p>
<p>3a.</p>	<p><i>With the Draft Order:</i> Provide procedures to ensure that the rental of the proffered low-income artist live-work space meets income guidelines for the life of the project.</p>	<p>Attached as <u>Exhibit B</u> is a general outline of procedures to ensure that the rental of the artist live-work units meet DHCD’s income guidelines for the life of the project. The Applicant will provide additional information regarding administration of the artist live-works units prior to action on the PUD.</p>

<p>4.</p>	<p>Clarify that the proffered market rate artist live-work spaces will be dedicated for the life of the project.</p>	<p>The PUD includes 4 artist live-work units that will front on the East Park, all of which will be reserved for local artists earning equal to or less than 60% of the MFI. These artist live-work units will remain affordable for the life of the project.</p>
<p>4.a.</p>	<p><i>By the hearing:</i> Commit to consulting with DHCD prior to the issuance of a building permit to ensure that all artist live-work units are consistent with the District’s Artist Live and Work program and other housing policies.</p> <p><i>By the draft Order:</i> Provide procedures for the above.</p>	<p>The Applicant commits to consulting with DHCD prior to the issuance of a building permit regarding the artist live-work units to ensure that they are consistent with the District’s Artist Live and Work program and other housing policies.</p> <p>Attached as <u>Exhibit B</u> is an outline of procedures to ensure that the rental of the artist live-work units meet DHCD’s income guidelines for the life of the project. The Applicant will provide additional information regarding administration of the artist live-works units prior to action on the PUD.</p>
<p>4.b.</p>	<p><i>By the hearing:</i> Commit to executing an agreement with a recognized arts organization for the administration of all proffered market rate and affordable artist live-workspace -- to include artist selection, procedures to ensure the units will be used to produce arts, crafts or other PDR-related work, procedures for the sale and display and sale of works, and enforcement of income guidelines for low-income live-work units.</p> <p><i>By the draft Order:</i> Provide a draft of such an agreement with a letter of intent from an arts organization.</p>	<p>The Applicant commits to executing an agreement with Cultural Development Corporation for administration of the artist live-work units. The executed agreement will include the artist selection process, procedures to ensure the units will be used to produce arts, crafts or other PDR-related work, procedures for the sale and display and sale of works, and enforcement of income guidelines for low-income live-work units, generally in accordance with the outline attached as <u>Exhibit B</u>. These guidelines will apply to the 4 artist live-work units in the project, all of which are affordable. The Applicant will provide additional information regarding administration of the artist live-works units prior to action on the PUD.</p>
<p>5.</p>	<p><i>By the hearing:</i> Commit to including the NPF on the selection panels for: 1) the art works for the ground floor building panels facing the East Park, adjacent to the garage ramp, and, 2) the art on</p>	<p>The Applicant is working with a local artist to design the public artwork adjacent to the East Park and on the south terrace fronting the South Park. The Applicant included precedent images for the proffered artwork and requests feedback from the Zoning Commission and the Office of Planning such that the scope of the artwork can be determined prior</p>

	<p>the 6th floor terrace wall facing the South Park.</p> <p><i>By the draft Order:</i> Provide a draft of such an agreement with a letter of intent from NPF.</p>	<p>to action on the PUD. The Applicant encourages NoMa Parks Foundation (“NPF”) and the community to provide comments regarding the proposal during the hearing process.</p>
<p>6.</p>	<p>Provide greater detail on equipment and features in the East Park and South Park for which the applicant will pay, in a format that ensures the trackability of compliance with the conditions related to the proffer.</p>	<p>The Applicant will fund the realignment of the MBT and the construction of the neighborhood dog park with contributions to NPF of \$80,000 and \$165,000, respectively.</p> <p>In order to track compliance in accordance with Subtitle X § 305.3, prior to the issuance of a final certificate of occupancy for the Project, the Applicant will provide proof to the Zoning Administrator that the \$80,000 contribution for realignment of the MBT and the \$165,000 contribution for construction of the neighborhood dog park have been made and that NPF Foundation has used, or is using, the funds to construct the realignment of the MBT and the neighborhood dog park.</p> <p>In addition, the Applicant will donate \$350,000 to NPF to assist with improvements in the South Park. Based on current estimates, the \$350,000 donation to the NPF is anticipated to fully fund the South Park Amphitheater, which has an approximate construction cost \$300,000. All remaining funds from the contribution will be put towards construction food service kiosks within the South Park. The general location of these improvements is included on the Conceptual Park Site Plan submitted as <u>Exhibit 28B</u> of the record.</p> <p>In order to track compliance in accordance with Subtitle X § 305.3, prior to the issuance of a final certificate of occupancy for the Project, the Applicant will provide proof to the Zoning Administrator that the \$350,000 contribution has been made, the final amount of the funds that were allocated towards the construction of the amphitheater and the food service kiosks, and that NPF has used, or is using, the funds to construct the</p>

		South Park amphitheater and the food service kiosks that were funded by the contribution.
6a.	Provide a draft agreement with the NPF concerning responsibilities for physical improvements and maintenance related to the East and South Parks.	NPF intends to transfer the East Park to the District, and it will initially be under the jurisdiction of the Department of General Services (“DGS”). The South Park is currently owned by the District, under the jurisdiction of DGS. Both parks and the improvements therein will be maintained by the District in the same manner as for other DGS properties.
7.	1) Provide documentation that DDOT has agreed to the NoMA Parks Foundation’s being responsible for the design and construction of the realigned Metropolitan Branch Trail (MBT) within the East Park; and, 2) Clarify the party responsible for maintenance of the relocated segment	NPF and DDOT are working closely on the design and construction of the realigned MBT. In addition, NPF and DDOT will coordinate ongoing maintenance of the MBT.
8.	Provide details about the design of ground floor retail entrances.	The proposed retail entrances are shown on Sheet G10 of the plans. The Applicant requests flexibility to locate retail entrances in accordance with the needs of the retail tenants and vary the façades as necessary within the general design parameters proposed for the project. This request is to ensure that the eventual tenants have flexibility to enhance the retail façades to coincide with their respective branding, which is consistent with past PUD approvals.
9.	Clarify how the applicant will engage in outreach to the adjacent neighborhood for employment opportunities in the ground floor retail spaces.	The Department of Employment Services is no longer accepting voluntary First Source agreements. In lieu of a First Source or Certified Business Enterprise agreement, the Applicant will provide construction skills training for students at McKinley Technology High School.
10.	Proffer a First Source Agreement and/or a Certified Business Enterprise Agreement or provide	

	an explanation of why it is not being proffered.	
11.	The applicant should also address any issues that the District Department of Transportation (DDOT) may raise in its report on this application.	The Applicant is submitting a response to DDOT's report by separate memorandum prepared by Gorove/Slade and Associates.

II.

Response to Comments in the DOEE Report

The following chart indicates the Applicant's response to the specific comments from the DOEE in its hearing report.

	Comment from DOEE	Applicant's Responses
1.	<p>DOEE did not have any comments regarding the PUD's height, bulk, or setback requested. DOEE's only comments can be "fully addressed through any of DOEE's normal regulatory review processes."</p> <p>DOEE had the following recommendations for the project:</p> <ul style="list-style-type: none"> • DOEE's Watershed Protection Division (WPD) recommended that the project capture a 1.7" rain storm event. • DOEE's Air Quality Division (AQD) recommends that the applicant consider using lower-emitting technologies to the extent possible to provide power, heating, and cooling. • DOEE encouraged that the project incorporate solar panels that would generate a minimum of 1% - 3% of the buildings' total energy use. DOEE also recommended that the applicant take advantage of financial 	<p>The Applicant will continue to work with DOEE through their normal regulatory review process to address any of their open recommendations.</p> <p>With respect to stormwater management, the Applicant's conceptual stormwater management plan, included as Sheets CIV600 through CIV650 of the Plans, shows that the project will meet the regulatory requirements for retention and treatment of stormwater, as noted by DOEE. The Applicant will continue to work with DOEE during the permitting process to further refine the stormwater management plan.</p> <p>The Applicant will provide 1,500 square feet of solar panels on the roof of the project, which will generate approximately 1% of the building's total energy use.</p>

	<p>programs and opportunities that would finance an increased commitment to sustainability.</p> <ul style="list-style-type: none">• DOEE asks that this project increase its commitment to sustainability and achieve a minimum of LEED Gold certification under LEED v4.	<p>The Applicant registered the project with LEED during the initial design phase of the PUD. At the time of initial design and registration, the LEED standard was LEED NC-2009. As a result, the Applicant is committed to designing the PUD to the LEED Gold Standard under LEED NC-2009. Designing the PUD to LEED Gold is specifically identified as a public benefit in the Zoning Regulations and certification is not required to be considered a public benefit. (<i>See</i> Subtitle X § 305.5(k)(5) (“The project does not have to achieve actual LEED certification; however, the developer must include the LEED checklist and documentation in the application, approved by a LEED Accredited Professional (LEED-AP) that shows that the project will comply with LEED requirement.”) In addition, the applicable LEED standard at the time ZR16 went into effect was also LEED NC-2009. As a result, the Applicant’s proffered environmental benefits meets the requirements of the Zoning Regulations.)</p>
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III.

Update on Work with the Community

The Applicant has worked closely with the Office of Planning and the community, including Advisory Neighborhood Commission (“ANC”) 5E, the Eckington Civic Association (“ECA”) and various community stakeholders for over a year to create a benefits and amenities package that responds to the various needs in this community. Attached as Exhibit C is an outline of the Applicant’s community outreach efforts.

As a result of more recent consultation with the ECA and ANC 5E, the Applicant has included the following additional amenities as part of its benefits package:

Employment and Training Skills:

During construction of the PUD, the Applicant has committed to provide employment and training opportunities to students at McKinley Technology High School. The Applicant will provide at least four (4) training seminars regarding construction trades which shall be made available to students at McKinley Technology High School.

Contributions to Schools within the ANC 5E:

The Applicant has agreed to donate a total of \$60,000 to local schools, the Eckington Recreation Center, and Bloomington Civic Association to fully fund the following education initiatives:

- McKinley Technology High School: \$25,000 to be allocated among concession stand upgrades, computers, and/or construction trade internships.
- Harmony Elementary: \$8,500 to purchase Chromebooks to support in classroom educational technology and standardized testing methods.
- Langley Elementary: \$15,000 to purchase laptops to replace outdated technology and increase the total number of work stations available for student use.
- Eckington Recreation Center: \$8,500 to purchase tablets/computers for before/after school programs focused on enhancing literacy skills for children ages pre-k to 5th grade.
- Bloomington Civic Association Scholarship Fund: \$3,000 total to fund two (2) scholarships for high school students who live within the District-recognized boundaries of Bloomingdale and/or are a student or alumni of McKinley Technology High School or Dunbar High School.

For each of these initiatives, the items or services identified will be delivered prior to the issuance of a final certificate of occupancy for the project pursuant to Subtitle X § 305.3(d).

Special Use or Value to the Community:

In close consultation with the Eckington Civic Association, the Applicant has committed to contribute \$40,000 to a partnership between Manna, Inc. and the Latino Economic Development Center (“LEDC”) to fund affordable housing training and assistance for Eckington residents who rent or own in the Eckington neighborhood. The partnership will conduct a neighborhood facilities tenant’s rights workshops and detailed training on how to apply/qualify for local affordable housing programs. A door to door survey will be conducted to promote awareness and determine training priorities. A detailed scope of work will be prepared identify the allocated funding for each event, and the services will all be provided prior to the issuance of a final certificate of occupancy for the project. A summary of the affordable housing training and assistance is attached as Exhibit D.

At its November 6, 2017, public meeting, the ECA voted 12-0 to support the PUD and the community benefits. ANC 5E has reviewed the PUD at several meetings, including at its October 17th public meeting in which the Applicant presented its community benefits package. In addition, ANC 5E focused on the community benefits at the November 21st ANC 5E public meeting, the December 2nd ANC 5E Committee of the Whole meeting, and the December 11th ANC 5E special public meeting. At the special public meeting, ANC 5E voted to support the PUD, with conditions relating to further review of the community benefits associated with the PUD. The ANC raised no concerns relating to the design, height, bulk or use of the project.

For clarity, a full list of all of the amenities and benefits proffered as part of the project are set forth in the chart attached as Exhibit A. In deciding a PUD application, the Zoning Commission must judge, balance, and reconcile the relative value of the public benefits and project amenities offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case.” Subtitle X § 304.3. As set forth in the Applicant’s Supplemental Prehearing Submission, the Applicant’s proffered public benefits and project amenities are significant and outweigh the relatively minor development incentives and flexibility requested by the Applicant.

We look forward to the Commission’s consideration of this case at the public hearing on December 14, 2017.

Sincerely,

A handwritten signature in blue ink that reads "Christine M. Shiker". The signature is written in a cursive, flowing style.

Christine M. Shiker
Joseph O. Gaon

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on December 13, 2017, a copy of the response to Response Hearing Reports was served on the following:

Advisory Neighborhood Commission 5E 5E@anc.dc.gov	Via E-Mail
Commissioner Hannah Powell, ANC 5E03 5E03@anc.dc.gov	Via E-Mail
Advisory Neighborhood Commission 5C 5C@anc.dc.gov	Via E-Mail
Katrina Velasquez Acting President, Eckington Civic Association katrinatvelasquez@gmail.com	Via E-Mail
Stephen Cochran Office of Planning stephen.cochran@dc.gov	Via Hand Delivery and E-Mail
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Christine M. Shiker