

## AGENCY COMMENTS AND APPLICANT RESPONSES

### DC WATER

AGENCY COMMENT	APPLICANT RESPONSE
<p>1. A utility master plan for the entire Market area is needed in order to determine what improvements are necessary for the development. The plan should identify: 1) which developer is making which improvements; 2) phasing for the improvements; 3) easements; and 4) sewer collection.</p>	<p>DC Water has been provided the Union Market district Master Utility Plan, which has also been shared with multiple DC agencies and the other pertinent utilities. This Plan shows the extent of planned water and sewer improvements needed throughout the area per direction from DC Water, DC agencies, and other utilities. DC Water has the most up-to-date Plan that has been produced. The Master Utility Plan will be further developed to include phasing as agreements are furthered with the District and then as coordination is completed with related agencies and utilities. The water and sewer improvements that are adjacent to this project are within the public right-of-way and do not require easements.</p>
<p>2. Provide a civil drawing detailing the finalized site utility plan.</p>	<p>See sheet C-05 in the accompanying plans for the project's site utility plan. The finalized site utility plan will meet DC Water standards and include all items in the DC Water Minimum Submission Checklist.</p>
<p>3. Some of the infrastructure in the Market area is in the wrong location (close to the buildings) and needs to be relocated further into the public right-of-way.</p>	<p>The Master Utility Plan, once final, will address the location of existing utilities that will need to be relocated further into the public right-of-way for the Market.</p>

### DEPARTMENT OF ENERGY & ENVIRONMENT

AGENCY COMMENT	APPLICANT RESPONSE
<p>1. LEED Gold 2009 should be upgraded to v4, consistent with other recent projects.</p>	<p>The project has already been registered with the USGBC under the 2009 version, and the design has progressed to meet v2009 LEED Gold standards. Nevertheless, the development team has voluntarily incorporated green and sustainable features that both meet v4 standards and/or are above what is required in both v2009 and v4. For example:</p> <ul style="list-style-type: none"> <li>- The Project will include infrastructure for more electric vehicle charging stations than what is required under v4.</li> <li>- The Project includes v4-required green infrastructure to manage stormwater.</li> <li>- The project will provide enough open space to meet v4 standards, and exceed v2009 standards.</li> <li>- The Project will include water-efficient fixtures which meet v4 standards.</li> <li>- The Project is implementing commissioning services equivalent to v4 standards.</li> <li>- The Project is including solar panels meeting v4 standards that are in addition to the green initiatives that were included in the initial application.</li> </ul>
<p>2. Provide confirmation that solar and green roof meets DOEE requirements. There appear to be some underutilized areas as well as</p>	<p>Spacing of the solar panels shall be in accordance with DOEE requirements, including 1' vertical clearance between the green roof and solar panels for maintenance. Green roof plans shall comply with</p>

some tight spaces that would not allow for maintenance of the green roof or fire access.	all green roof setback requirements for maintenance and fire access per DOEE standards.
3. Small areas of green roof above stair and elevator overruns, and planted canopies may not be warrantable or effective. Please confirm or discount from stormwater calculations.	The planted canopies that will extend into public space are not included in the stormwater calculations. All of the proposed green roof will be warrantable and effective.
4. There are concerns regarding bird safety on the southwest corner of the building and all glass railings. Please explain how this will be mitigated.	Glass railings and the use of a glazed façade are common in the District. The project's façade uses various materials and textures which provide visual cues of not being a fly-through space. Interior finishes will be of varying material, color and texture, including roller shades which will reduce visual paths to sky.
5. The dividers/shading on the south side of the building may not be effective. Please provide a shade study.	The dividers are designed as an architectural element only, and they are not intended for shading purposes in the residential units.
6. The intensive green roof areas do not seem to be capturing any run-off. Please verify.	Each green roof is designed to be coordinated to capture run off at a 1:1 contributing drainage area ("CDA") to area ratio.
7. Verify if the tree pits have bioretention.	Tree pits do not have bioretention.
8. Provide square foot area of the green roof.	The green roof area will be approximately 11,000 SF.

**FIRE AND EMS DEPARTMENT**

AGENCY COMMENT	APPLICANT RESPONSE
1. Identify the location of the fire control room.	The fire control room will be located in the residential lobby, in an exact location to be determined, and will comply with 2013 DC Fire Code, Section 508.
2. Identify the location of the fire department connections. They must be located within 100-feet of a fire hydrant.	Fire department connections will be located on Penn Street and will comply with 2013 DC Fire Code, Section 912.
3. The project must comply with the emergency radio coverage response requirements (IFC Section 510).  Emergency responders in the District of Columbia use portable radios to communicate between one another, the incident commander, and the public safety communications center (DC Office of Unified Communications OUC). Building construction features and materials can absorb or block the radio frequency energy used to carry radio signals inside or outside the building. The Blockage or absorption of the radio frequency signal can prevent critical messages from an	Confirmed that the project will comply. The Applicant will provide acceptable emergency responder radio coverage per the 2013 DC Fire Code, Section 510.4.1 and a signal strength per the 2013 DC Fire Code, Sections 510.4.1.1 and 510.4.1.2.

<p>emergency responder from being received and acknowledged. Depending on the incident, this loss of information can place other emergency responders in great danger or may prevent an injured or disoriented emergency responder from communicating for assistance. The overall safety of first responders is highly important!</p> <p>The repeater systems help facilitate signal strength to support the use of these radios. FEMS wishes to be firm on newly constructed buildings and have their designers to give strong supporting reason on not wanting to install an Emergency Responder Radio Coverage System and use a wired system instead.</p> <p>A wired system in a newly built building for the modern-day fire service can slow or hamper our operations to some degree during incidents because all fire fighters now carry portable radios to communicate on incidents.</p>	
<p>4. Identify the location of any new fire hydrants.</p>	<p>No new hydrants are anticipated with the project. There are existing hydrants at 4th and Penn Streets and 5th and Penn Streets, which cover the site frontage (all within 200' of a hydrant).</p>

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

<b>AGENCY COMMENT</b>	<b>APPLICANT RESPONSE</b>
<p>1. Given the level of height and density that would be gained through the proposed PUD, is it possible to provide affordable housing beyond 12%?</p>	<p>The proffered amount of affordable housing is significant. It is 50% greater than what is required by Inclusionary Zoning, and in almost all cases, it exceeds the amount of affordable housing proffered in similar PUDs that were recently approved by the Zoning Commission. Further, the proportionate share of the building's three bedroom units will be included in the affordable housing mix, which adds significant value to the project's affordable housing benefit.</p> <p>The project will be providing an occupiable penthouse and will satisfy the associated affordable housing requirement.</p>
<p>2. Is it possible to provide deeper levels of affordability?</p>	<p>The affordability level commitment is significant and greater than what Inclusionary Zoning requires. 70% of the project's affordable housing (approximately 25 units) will be dedicated to households at 60% MFI, and 30% of the project's affordable housing (approximately 11 units) will be dedicated to households at 50% MFI.</p>
<p>3. How many of the three bedroom units would be included in Inclusionary Zoning?</p>	<p>The proportionate share of the three bedroom units will be dedicated as affordable units. At minimum, the project will include 1 affordable three bedroom unit.</p>
<p>4. Provide floor plans identifying the locations of IZ units.</p>	<p>The proposed IZ unit location plan is provided as sheets A-40 and A-41 in the accompanying plans. Final IZ unit locations are subject to final</p>

	unit types and layouts, and approval by the Department of Housing and Community Development.
--	--

**DEPARTMENT OF PARKS AND RECREATION**

<b>AGENCY COMMENT</b>	<b>APPLICANT RESPONSE</b>
1. The proposed development includes approximately three hundred new units, including some with three bedrooms. There should be investment in community green space, including playground equipment and play space for children. The applicant should explain what investments are being made into community green space to benefit future residents, including families with small children.	The project includes substantial outdoor and indoor recreation amenities for residents. In addition, prior to receiving certificate of occupancy for the building, the Applicant will make a \$10,000 contribution to the DPR Operations Fund to be used for park improvements at a DPR facility in Ward 5. The Applicant will continue discussions with DPR to identify the specific facility and improvements that would benefit most from the funds, as the need arises.
2. The current standard for open space is 4 acres per 1,000 residents per Neighborhood Cluster. Given that this project has the potential to add 500-1,000 new residents to this area, how is this standard being met?	The project is within one mile of several parks, including Brentwood Hamilton Field, as well as both Joseph Cole and Trinidad Recreation Centers. These facilities will serve as great open space resources for the project as well as the community.
3. Consider partnering with other developers to coordinate meaningful responses to open space and park needs.	The Applicant is aware of the Union Market Coalition’s efforts to study the opportunity to form a Business Improvement District, and it will work with this group to promote meaningful responses to these needs.
4. Consider contributing to the New York Avenue Rail Trail to the Arboretum as a transportation mitigation.	Following multiple discussions with DDOT, the Applicant has significantly increased its TDM program in multiple ways.

**OFFICE OF PLANNING**

<b>AGENCY COMMENT</b>	<b>APPLICANT RESPONSE</b>
1. Clarify how the alley is intended to be used, including the ground floor program for that side of the building. A permanent PDR program along the alley would have great potential, and would not be inconsistent with the Comprehensive Plan.	<p>The alley’s primary intended use is for ingress and egress of vehicular traffic, which is something that DDOT has emphasized in several meetings regarding this PUD. In addition, DDOT has required removal of all curb cuts along this site’s frontage on Penn Street. Per DDOT Policy, this alley is the only access and exit point for both parking and loading for this project. The alley is also the primary means of vehicular egress and loading and secondary means of vehicular ingress for the forthcoming project at 411 New York Avenue, as well as being the primary means of vehicular egress for the Homewood Suites / Hampton Inn hotel buildings.</p> <p>Nevertheless, the development team desires to visually activate the alley as much as possible while maintaining its primary use for vehicles. We have created visual connection in the alley with the</p>

	<p>adjacent retail space by using architectural and design elements to activate the wall.</p>
<p>2. PDR space should be permanent in order to not be inconsistent with the Comprehensive Plan; the proposed five-year term does not meet the intent of the Plan. The applicant needs to provide a Comprehensive Plan-based argument to provide short-term PDR space.</p>	<p>While the FLUM’s mixed-use residential, commercial, and PDR striping encourages a mix of all three uses for the project site, the FLUM does not mandate or require all three designated uses on the site for a project to be not inconsistent with the Comprehensive Plan. With respect to designated mixed uses on the FLUM, the Framework Element of the Comprehensive Plan states: “The [FLUM] indicates areas where the mixing of two or more land uses is <u>encouraged</u>. The particular combination of uses <u>desired</u> in a given area is depicted in striped patterns...” (emphasis added). 10-A DCMR 225.18. Therefore, as long as the proposed uses on the site encourage such PDR uses and are not inconsistent with the site’s FLUM designation, the project will not run afoul of the FLUM. The proposed five-year commitment to provide maker uses in the project satisfies the “encouraged” or “desired” PDR uses on the site, so it is not inconsistent with the Comprehensive Plan.</p> <p>Further, parcel-specific PDR uses are not strictly mandated by the FLUM. Under the Comprehensive Plan guidelines for using the FLUM, “[t]he [FLUM] is not a zoning map[,] []as zoning maps are parcel-specific . . . . By definition, the [FLUM] is to be interpreted broadly.” 10-A DCMR 226.1(a). The mixed-use FLUM designation, that includes PDR striping, for the project site encompasses a much larger area of the Union Market District. Accordingly, a term-limited commitment for PDR use does not render the project inconsistent with the FLUM, especially when the broader area with the same FLUM designation includes many PDR uses. The Court of Appeals made this point clear in the case of the Cathedral Commons PUD on Wisconsin Avenue NW. In that case, part of the project site had a low density commercial designation on the FLUM, but the project for that portion of the site was a five-story apartment building with ground floor retail. The Commission found – and the Court agreed – that development on the site was not required to be solely commercial use in order for the project to be consistent with the FLUM, especially since residential use is permitted in commercial zones. <i>Wisconsin-Newark Neighborhood Coalition v. D.C. Zoning Comm’n</i>, 33 A.3d 382, 395-96 (D.C. 2011). In arriving at this conclusion, the Court noted that “the [Comprehensive] Plan does not require that each block ‘strictly correspond with the general description’ [of the FLUM].” <i>Id.</i> Accordingly, PDR use is not strictly required on this specific parcel for this project to be not inconsistent with the FLUM, especially since PDR use will be provided by the project for a term in any event, and PDR use will be provided in the broader area with the same FLUM designation.</p> <p>Additionally, the ground-floor retail commitment in perpetuity in the project – and the absence of a PDR commitment in perpetuity – is not inconsistent with the PDR designation on the FLUM based on the matter-of-right uses. By definition, PDR zones are consistent with a PDR designation on the FLUM. Retail is a matter-of-right use in PDR</p>

	<p>zones, so, similar to the Cathedral Commons PUD, the provision of retail use in this project renders it not inconsistent with the Comprehensive Plan, especially when the project advances many other policies of the Comprehensive Plan.</p> <p>Finally, the project will be built so that 50% of the ground floor retail space is to a PDR/Maker Specification, as detailed in the Updated List of Applicant’s Proffered Benefits and Amenities included at Exhibit 11A in the record. The PDR/Maker Specification is a set of key design specifications that will ensure flexibility of the ground floor space to accommodate PDR use in this project both now and in the future if there is demand.</p>
<p>3. PDR space should be provided at typical light industrial rates as opposed to retail rates.</p>	<p>The PDR/Maker space will be marketed to users that fit within the PDR/Maker definition and will be offered at prevailing market rates for comparable space in the Union Market District, NOMA, and H-Street neighborhoods.</p>
<p>4. PDR space should be identified on the floor plans.</p>	<p>As is typical for retail leasing, the development team does not have any leases signed this early in the development process, so they are unable to identify any specific tenant spaces on the floor plan at this time. Additionally, due to the rapid rate of change created by e-commerce in general on the retail business, the development team seeks to maintain maximum flexibility with leasing commitments as the design of the building progresses, so that the building can appeal and lease to a variety of tenants as retail and maker space merges and evolves. As with all of EDENS’ projects in the Union Market District, the proffered PDR/Maker space will form an integral part of the tenant mix in this project.</p>
<p>5. Consider coordinating with the “Made in DC” program, Washington DC Economic Partnership, or other organizations to find tenants for PDR space.</p>	<p>EDENS has an ongoing relationship and history of collaboration with DSLBD and the Made in DC program (for example, hosted Made in DC maker talks in Dock 5, included Made in DC vendors at our annual UM District StreetFest, and hosted Made in DC vendors in the Market itself), and EDENS may partner with Made in DC again to find tenants for the proffered PDR/Maker space at 500 Penn.</p>
<p>6. The intersection of Penn Street and 4<sup>th</sup> Street is a Gateway, and should serve to highlight an entrance to the neighborhood, such as with public art or an iconic tree. The Gateway node should be punctuated with a special place or creative use, including maker space, green space, or other public-oriented amenity. Provide information regarding the treatment of this Gateway.</p>	<p>The Applicant will work with DDOT and the Public Space Committee to ensure the intersection of Penn Street and 4<sup>th</sup> Street will be designed to satisfy the Streetscape Guidelines while also responding to the complexity of the off-set 4-way intersection. The corner will be highlighted as an entrance to the neighborhood when the tenant mix and leasing for the Project is clearer.</p>
<p>7. Penn Street is not called out in the Florida Market Streetscape Guidelines as having special canopy requirements, so canopy and awning projections are limited to standard city requirement of five feet from the</p>	<p>Canopies are an integral part of the historic feel of the Union Market District and the deeper, approximately 10-foot canopies have both a practical and atmospheric function. These canopies provide additional shade and shelter to pedestrians, create a strong link to the history of the Union Market District, and reduce the scale of the buildings to the proportion of the pedestrian.</p>

<p>building face. They project a “reasonable” distance on either side of an entry.</p>	<p>These deeper canopies are conceptually consistent with the Union Market Streetscape Design Guidelines, as the Guidelines call for projections that are limited to the tenant zone widths, which in the case of Penn Street, are 9 feet. Ultimately, the proposed deeper canopies must be approved by the Public Space Committee in consultation with DDOT. We request that the Office of Planning and Zoning Commission to also support the approximately 10 foot deep canopies to maintain consistency across the public realm within the Union Market District.</p>
<p>8. Provide details regarding the treatment of the planters in the public space, including curbing.</p>	<p>Public space planters will include plants that will be consistent with the site’s character, the Union Market Streetscape Design Guidelines, and the environmental needs for an urban streetscape. They also will include native species as much as possible. Metal edging will be provided in all streetscape planting, raised to an appropriate height to protect pedestrians and to prevent items from falling into and spilling out of the planters. Sheets L-04 &amp; L-06 in the accompanying plans identify all public space items.</p>
<p>9. The job training and readiness program indicates that \$10,000 will be provided to Jubilee Jobs for: 1) job readiness and placement; 2) the establishment of scholarships for construction trades for ANC 5D residents; and 3) the provision of \$50 SmarTrip cards for ANC 5D residents. Please clarify if the total amount provided is \$10,000 or \$30,000. OP suggests a proffer of \$30,000, with \$10,000 allocated to each program area.</p>	<p>The total proffer amount is \$30,000 distributed as follows:</p> <ul style="list-style-type: none"> <li>- \$10,000 will be provided to Jubilee Jobs for program administration.</li> <li>- \$10,000 will be provided to Jubilee Jobs to establish/distribute scholarships for construction trades for ANC 5D residents.</li> <li>- \$10,000 will be provided to Jubilee Jobs for SmarTrip cards for ANC 5D residents who are placed and maintain employment through Jubilee Jobs.</li> </ul>
<p>10. The applicant should commit to working with Jubilee Jobs and the District Department of Returning Citizen Affairs to ensure that half of all the funds are spent on 5D residents that are returning citizens.</p>	<p>Jubilee Jobs regularly places returning citizens through a wide network of programs, parole officers, and other individuals looking to help these individuals. These partners include The Mayor’s Office of Returning Citizens, Project Empowerment, Fairview, Hope Village and Court Services and Offender Supervision Agency. As presented to ANC 5D, the Applicant’s proffered job readiness and placement program will be administered solely by Jubilee Jobs, which does not give preference to either non- or ex-offenders.</p>
<p>11. During periods of vacancy in the 5-year term, the applicant should provide the Maker space for the use of community group events. The building management should not charge the groups any fees for security or maintenance, and provide monthly availability information on the building’s website, and to the Office of ANCs, the Mayor’s Office of Community Affairs, and the Office of Planning.</p>	<p>The development team does not anticipate any periods of vacancy, as they expect to always be in some stage of preparations to make way for a new PDR/Maker tenant, including marketing, preparing, or building out the space.</p>

12. Provide the square foot area of the green roof.	The area of the green roof will be approximately 11,000 SF.
13. Narrow the sign band on sheets S-06 and S-07 of the sign plan to include areas above the storefronts rather than the entire storefront.	Adjustments have been made as shown on the revised sheets S-06 and S-07 in the accompanying plans.
14. Provide details regarding HVAC ventilation. Will louvered screens be visible on the building elevations? How will they be designed to blend with the proposed design and materials?	<p>Louvered screens on the retail façade are necessary for the separation of the intake and exhaust systems of the building, and similar systems are typical in mixed-use buildings in DC. Given the deep canopies above the retail storefront, the louvered screens will generally remain hidden from the pedestrian’s view.</p> <p>Louvered ventilation on the residential façade, where necessary, will be integral to the inoperable portion of the window/panel system.</p>
15. The applicant should consider incorporating green vegetation in a more permanent way into the building façade, as it would soften the edges and compliment the natural wood material.	Green vegetation is incorporated into the building façade along the ground level of the new the Penn Street elevation in effort to soften the design, activate the streetscape, and differentiate the new façade from the existing Maurice Electric façade.
16. Entrances should be provided along the west building elevation for the retail use to encourage activation of the alley.	<p>Consistent with DDOT policy, the primary use of the alley should be for ingress and egress of vehicles for the 500 Penn Street project, the 411 New York Avenue hotel project, and the Hampton Inn and Homewood Suites hotels. For safety reasons, pedestrian use should be limited. Therefore, the project does not include any retail entrances along the alley elevation.</p> <p>However, the Applicant supports the concept of activating alleys in the Union Market District when appropriate. There are other alleys, specifically those located within the historic spine between 4<sup>th</sup> and 5<sup>th</sup> Streets and Morse St. and Florida Avenue, which are more suitable for pedestrian use and activation, since those areas will not be intensely developed and are not anticipated to be heavily used by vehicles.</p>
17. Provide additional details regarding materials, including manufacturer and color.	<p>Details about materials are indicated on sheets A-46 and A-47 in the accompanying plans.</p> <p>A materials board will be provided to the Zoning Commission at the public hearing on June 14, 2018.</p>
18. Provide material samples.	A materials board will be provided to the Zoning Commission at the public hearing on June 14, 2018.
19. Consider differentiating the new façade from the existing Maurice Electric façade by using brick of a different color (like charcoal).	The development team considered multiple options for the portions of retail where there will be new façade, including a dark brick. While the development team will continue to study the specific brick selection, they selected a color and style that is consistent with the color and style of the existing brick (the existing brick is jumbo brick) but different enough to clearly distinguish between the existing retained faced and new construction. Based upon the development team’s experience at Union Market, this strategy is most effective

	when working with neighborhoods with significant existing historic character, particularly on the ground floor.
20. Provide additional details regarding the lighting fixtures used along the storefronts and alley.	<p>Exact specifications for lighting fixtures, including the storefronts and alley, will be selected during final design development, subject to availability at the time of construction.</p> <p>Specifically regarding the light fixtures in the alley, the development team will also need to consider input from DDOT since these light fixtures will be located on a façade that will be located on the property line and will abut an active alley with 2-way vehicular ingress and egress for three projects.</p> <p>The development team will use fixtures that will complement the history and aesthetic of the Union Market District, and will be consistent with the Union Market Streetscape Design Guidelines.</p>
21. Lighting fixtures in the alley should provide a sense of scale (for example, lighting affixed to an arm attached to the building at a lower height).	<p>Exact specifications for lighting fixtures, including the storefronts and alley, will be selected during final design development, subject to availability at the time of construction.</p> <p>Specifically regarding the light fixtures in the alley, we will also need to consider input from DDOT as these light fixtures are located on a façade that is located on the property line and will abut an alley with active 2-way vehicular ingress and egress for 3 projects.</p> <p>The development team will use fixtures that will complement the history and aesthetic of the Union Market District, and will be consistent with the Union Market Streetscape Design Guidelines.</p>
22. Clarify the affordable housing requirement pertaining to the penthouse habitable space.	The Project will either provide the required affordable housing, which equates to approximately <u>664</u> net square feet for 50% MFI units, or it will contribute approximately \$144, 446 into the District’s Affordable Housing Trust Fund. The Applicant requests flexibility to choose one or the other.

**DISTRICT DEPARTMENT OF TRANSPORTATION**

AGENCY COMMENT	APPLICANT RESPONSE
1. Ensure there is not a raised crosswalk through the alley.	The raised crosswalk has been removed from the landscape drawings. See sheet L-03 in the accompanying plans for clarification.
2. Do not replace the existing mid-block crosswalk along Penn Street between 4 <sup>th</sup> and 5 <sup>th</sup> Streets.	The Applicant will not re-stripe the existing mid-block crosswalk as part of the Project’s design/construction. See sheet L-02 in the accompanying plans for proposed locations of crosswalks.