

December 21, 2021

VIA IZIS

Anthony J. Hood, Chairman
Zoning Commission for the District of Columbia
441 Fourth Street, NW, Suite 200S
Washington, DC 20001

Re: Z.C. Case No. 19-29: Application of UM 1348 4th Street NE, LLC and 1250 4th ST NE LLC (the “**Applicant**”) for a new Consolidated PUD and related Zoning Map Amendment (the “**Application**”) for 1346-1348 4th Street, NE (Square 3587, Lots 3 and 7) (collectively, the “**Property**”) – **Supplemental Statement**

Dear Chairman Hood and Commissioners:

On behalf of the Applicant, we submit this supplemental statement for the development of a mixed-use building with ground floor retail, PDR/maker, and other neighborhood-serving uses plus upper story residential uses (the “**Project**”).

This statement supplements the Applicant’s previous filings with updates and refinements to the Project’s design plus additional information that demonstrates the Project’s successful satisfaction of the balancing test for a consolidated PUD and Zoning Map amendment. The following page summarizes the design updates and provides a roadmap for the PUD-required analysis that the Commission must complete to evaluate the Project.

The following exhibits are included in this statement:

- Exhibit A One-Page Summary of the Project
- Exhibit B Proposed Design Flexibility Language
- Exhibit C Analysis of Comprehensive Plan, Small Area Plan, and Ward 5 Works, with a Racial Equity Focus
- Exhibit D Economic Impact Report
- Exhibit E Resumes for Expert Witnesses and Outlines of Witness Testimony
- Exhibit F Revised Plans and Drawings (“**Revised Plans**”)
- Exhibit G Addendum to Union Market Streetscape Design Guidelines for 4th Street, NE Shared Street

The Applicant requests one hour to present its application at the Commission’s January 10, 2022 public hearing for the Application.

Summary of Design Updates		More info.
1346 4 th Street, NE Design	The Applicant now proposes to ultimately close the existing curb cuts in front of the existing 1346 4 th Street retail building (meaning all six existing curb cuts on the Property will ultimately be closed). The Revised Plans now depict more refined final conditions for the existing building at 1346 4th Street, NE.	Below and Ex. F, p. 10-14
4 th Street, NE Shared Street	The Applicant proposes to redesign 4 th Street, NE as a shared, enhanced street with traffic calming and bicycle- and pedestrian-focused improvements.	Ex. G
New York Ave Landscaping	OP has previously asked for more information showing the landscaping on New York Avenue, NE. A section is now provided showing those improvements.	Ex. F, p. 71
Balconies and GAR	25% of the Project's units include balconies, which are larger and much more heavily landscaped than typical in DC. The plans show GAR and stormwater compliance.	Ex. F, p. 84-85
Rooftop Uses	Revised drawings provide more information about the proposed rooftop uses. The Applicant intends to include commercial uses in the penthouse and commits to provide 50% MFI units within the Project for the extent of the habitable penthouse.	Ex. F, p. 50-53 Ex. 19C
Solar Panels	The Project includes solar panels occupying no less than 1,800 sf on the penthouse level, a six-fold increase from the Applicant's previous submission, after recent studies.	Ex. F, p. 51
Affordable Unit Plans	Floorplans showing the distribution of the Project's affordable units are now included. 13% of the residential GFA is affordable: 11% at 60% MFI and 2% at 50% MFI	Ex. F, p. 54
Signage Plans	Proposed signage requirements for the Project, consistent with other Union Market PUDs, are now included in the architectural plans.	Ex. F, p. 92-93
Summary of Additional Information		
ANC Support	ANC 5D has filed a letter in support of this Application.	Ex. 13
Satisfaction of PUD Standards	The Application satisfies the PUD balancing test: the Project provides commendable public benefits that more than justify the amount of flexibility requested. In addition, the Application satisfies all three prongs of the PUD evaluation standard: the Project is not inconsistent with the Comprehensive Plan, there are no adverse effects that cannot be mitigated or are unacceptable in light of the benefits, and the Project provides.	See p. 4-5 below
Summary of Benefits	Included is a table summarizing the Project's ten (10) categories of public benefits: affordable housing (13% of res. GFA or ~50 total units), family-sized housing (~16 three-bedroom units, PDR/Maker use and design commitments, superior design and architecture, shared street improvements, streetscaping, LEED v.4 Gold + includes 1,800 sf of solar panels, a bicycle lane study and \$25,000 for ANC-directed improvements.	See p. 5 below
Summary of Requested Flexibility	This statement includes a complete listing of requested flexibility. One new item of flexibility is related to the Applicant's addition of balconies to the western façade of the Project. The Project newly requests modest technical zoning relief to allow balconies to extend across a record lot line and extend the MU-9 zone designation to those balconies.	See p. 5 below Ex. B
Comp Plan Analysis with Racial Equity Lens	This filing includes a complete analysis of the Project's consistency with the Comprehensive Plan's maps, District Elements, and Area Element, plus the Small Area Plan and the Ward 5 Works study. This analysis includes a particular focus of the Project's consistency with those documents through a racial equity lens.	Ex. C
Economic Impact Report	As part of the Project's overall impact analysis, the Applicant commissioned a report of the Project's economic impacts. In short, the Project has no adverse effects on land prices and contributes to housing- and jobs-related positive economic impacts.	Ex. D

Additional Detail of Design Updates																
1346 4th Street, NE Design	Both the Office of Planning (“OP”) and DDOT have asked the Applicant to close the two curb cuts in front of 1346 4th Street as part of the Project and provide further information about that future condition of that lot. The Applicant now proposes to ultimately close the existing curb cuts in front of the existing 1346 4 th Street retail building (meaning all six existing curb cuts on the Property will ultimately be closed) within three (3) years of the issuance of the certificate of occupancy for core and shell in the 1348 4 th Street building to be constructed. The Revised Plans now depict more refined final conditions for the existing building at 1346 4 th Street, NE															
<p>As shown on page 10 of the Revised Plans, the Property currently includes two lots¹: (i) the existing PNC Bank lot at 1348 4th Street, NE will become the new building that is the subject of this Application, and (ii) the adjacent 1346 4th Street, NE includes an existing single-story building and is also the subject of this Application.</p> <p>The Applicant commits to closing the two existing curb cuts in front of 1346 4th Street, NE, as part of that lot’s final condition. However, during the construction of the Project on the lot at 1348 4th Street, NE, the curb cuts in front of 1346 4th Street, NE will remain open to allow for temporary operations for the PNC Bank branch that is currently at 1348 4th Street, NE. Also, as part of the interim condition of the 1346 4th Street lot, the Applicant will complete modest improvements to the existing 1346 building to make it appropriate for a temporary bank branch. Once the Project is constructed, PNC will move into its permanent location within the future Project (in the 1348 4th Street, NE portion of the new building).</p> <p>Following the relocation of the PNC branch into its permanent space at 1348 4th Street, the Applicant proposes:</p> <ol style="list-style-type: none"> 1. to further renovate 1346 4th Street for another retail or PDR/Maker tenant and at that time close the curb cuts and complete exterior and streetscape improvements per the Union Market Streetscape Design Guidelines in front of that property; and 2. to extend further south to the streetscape improvements constructed by the 1300 4th St PUD so that the entire west side of 4th St would be built to the Union Market Streetscape Design Guidelines within three (3) years of the issuance of the certificate of occupancy for core and shell in the 1348 4th Street building to be constructed. <p>Plans showing these interim and future conditions (both the renovated 1346 4th Street condition and demolished 1346 4th Street condition) are shown on pages 11-14 of the Revised Plans.</p> <p>Here is a summary of the existing, interim, and final conditions for the two lots that make up the Property:</p> <table border="1"> <thead> <tr> <th>Lot</th> <th>Existing</th> <th>Interim</th> <th>Final</th> <th>Curb Cuts</th> </tr> </thead> <tbody> <tr> <td>1348 4th Street</td> <td>PNC Bank</td> <td>Under construction</td> <td>The Project (PNC Bank is a ground floor occupant)</td> <td>4 curb cuts to be closed permanently upon commencement of construction</td> </tr> <tr> <td>1346 4th Street</td> <td>1-story retail</td> <td>PNC Bank</td> <td>1-story retail (renovated as shown in the Revised Plans)</td> <td>2 curb cuts to be closed permanently as part of final built condition</td> </tr> </tbody> </table>		Lot	Existing	Interim	Final	Curb Cuts	1348 4 th Street	PNC Bank	Under construction	The Project (PNC Bank is a ground floor occupant)	4 curb cuts to be closed permanently upon commencement of construction	1346 4 th Street	1-story retail	PNC Bank	1-story retail (renovated as shown in the Revised Plans)	2 curb cuts to be closed permanently as part of final built condition
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4th Street, NE Shared Street	The Applicant proposes to redesign 4 th Street, NE as a shared street with traffic calming and pedestrian-focused improvements.															
<p>The Applicant envisions 4th Street, NE being reconstituted as a “shared street” with improvements for pedestrians and cyclists and a de-emphasis on vehicles. The proposed 4th Street, NE improvements would ultimately run the length of 4th Street, NE in the Union Market District from Florida Avenue, NE to Penn Street, NE. This Project would implement the changes for (i) the portion of the 4th Street NE block from Penn Street to 1320 4th Street, NE, and (ii) the “gateway” parklets located on the west side of 4th Street NE at each of Penn Street and Morse Street as shown on page 65 of the Revised Plans and in conceptual forms in Exhibit G.</p>																

¹ The Applicant will ultimately subdivide the Property’s two existing lots into a single record lot.

The shared street concept includes three primary sets of changes:

1. **Lane Separation:** Removing the yellow-line down the center of the street
2. **Lane Narrowing:** Narrowing the travel lane to slow vehicular traffic
3. **Parklets:** Converting portions of the street parking lane into flexible “parklets” that could accommodate an ever-evolving mix of uses, such as passive pedestrian seating areas, outdoor dining areas, public art, vending space, performance space, and the like. The Applicant proposes to install four, permanent, although flexible, “gateway” parklets at the entrances to 4th Street, NE (i.e., at 4th and Penn in front of the Project and to the south at 4th and Morse). Smaller parklets would emerge and disappear and allow the street to evolve in between.

The oversight and permitting of the various parklet and street designs would not be subject to this PUD. Those improvements would all occur within public space and be subject to the review and approval of the District agencies with jurisdiction in public space (e.g., DDOT, OP, and DCRA, among others). However, as part of the PUD, the Applicant is proffering (a) to update the Union Market Streetscape Design Guidelines to incorporate the shared street concept (subject to OP and DDOT approval) and (b) to construct the initial shared street conditions from Penn Street to 1320 4th Street, NE as proffers as part of this PUD pursuant to the conditions to be attached to the Commission’s order for this Application. The Applicant has met with District agencies regarding this concept and has attended a Preliminary Design Review Meeting relating to the proposal, which was favorably received. Further, we note that, while this concept is not specified in the Union Market Streetscape Design Guidelines, it is consistent with them as they currently exist.

Rooftop Uses	Revised drawings provide more information about the proposed rooftop uses. The Applicant intends to include commercial uses in the penthouse and commits to provide 50% MFI units within the Project for the extent of the habitable penthouse.
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The Applicant has incorporated additional revised drawings to provide more information regarding the proposed rooftop uses as pages 50-52 of the Revised Plans. The Project seeks special exception relief to use up to 13,200 square feet of the penthouse for eating and drinking establishment uses. In addition, the Applicant anticipates providing conventional residential building amenities (e.g., lounge area, fitness center pool deck, etc.) in the penthouse and would like to open those areas to the general public via a commercial use (e.g., a fitness operator or club) so that others can enjoy the views and experience from the Project’s rooftop. Building residents would also have access to the amenity spaces via their lease agreements and there would be no additional costs to the tenants of the affordable housing units for the use of any amenity space that is also accessible to the tenants of the market rate units.

The Applicant has committed to providing the 50% MFI units generated by the penthouse commercial space for the maximum extent of the potential commercial component of the penthouse even if the entirety of such penthouse area is not ultimately entirely used for commercial purposes. Ordinarily residential amenity space in the penthouse does not require 50% MFI units, whereas commercial space does.

The Applicant will provide, in excess of its PUD-related affordable housing proffer, 50% MFI units equivalent to 8% of the penthouse habitable space notwithstanding a residential or commercial habitable use, which results in more affordable housing than is required under the Zoning Regulations.

Additional Information	
Satisfaction of PUD Standard	The Application satisfies the PUD balancing test: the Project provides commendable public benefits that more than justify the amount of flexibility requested. In addition, the Application satisfies all three prongs of the PUD evaluation standard: the Project is not inconsistent with the Comprehensive Plan, there are no adverse effects that cannot be mitigated or are unacceptable in light of the benefits, and the Project provides.

On November 30, 2021, OP hosted an interagency meeting with several District agencies and the Applicant. During that meeting, OP asked the Applicant to explain how the Project satisfies the PUD “balancing test”.

The PUD “balancing test” requires the Commission make findings with respect to potential impacts and public benefits and then, considering the specific circumstances of the Project, “judge, balance, and reconcile”: (i) the

relative value of the Project's public benefits, (ii) the development incentives, including the PDR-1 to MU-9 amendment to the Zoning Map and zoning and other flexibility requested, and (iii) any potential adverse effects of the Project. See 11-X DCMR §§ 303.12, 304.3, 304.4(b)-(c). The balancing test is generally understood to be a qualitative analysis and not reducible to a rigid or quantitative formula or accounting. In addition, a PUD must be not inconsistent with the Comprehensive Plan. *Id.* § 304.4(a).

The Project satisfies the PUD balancing test.

1. **Public Benefits:** The Project's ten categories of public benefits are summarized below. The primary two categories of public benefits are use-related: (a) family-sized housing/affordable housing, and (b) a PDR/Maker use and design package. The Project adds approximately 379 units of housing where none is allowed today. Of those 379 units, 13% of the residential gross floor area (approximately 50 units) will be reserved as affordable at a mix of 50% and 60% MFI. (The Project provides additional 50% MFI units as part of the Project's habitable units.) In addition, the Project includes 16 three-bedroom units, nearly 20% of which are affordable. The Project also includes a commitment to reserve space for PDR/Maker uses where none exist today (only a retail bank branch is located at 1348 4th Street, NE) and build out 50% of the Project's ground floor to PDR/Maker specifications that will accommodate users in the future.
2. **Development Incentives:** The Project is possible only with development incentives available through the PUD process. Those incentives are summarized in detail below and include the PDR-1 to MU-9 amendment to the Zoning Map, four areas of zoning relief (for balconies, courts, additional 4% of GFA, and a rooftop use special exception), plus design flexibility typical for PUDs generally.
3. **Potential Adverse Effects:** A restated summary of the Project's potential impacts is also included below. The Project's potential impacts are all generally favorable (e.g., with respect to housing prices and job creation), capable of being mitigated (e.g., with respect to transportation), or acceptable (e.g., construction-period impacts).

On balance, the Project's public benefits ten categories of benefits justify the incentives requested and outweigh any potential adverse impacts, especially when accounting for mitigation also provided as part of the Project. More particularly, the Project's addition of housing, affordable housing, and family-sized housing justifies the request for the Map Amendment. Without the amendment no meaningful amount of housing of any sort—affordable, family-sized, or market rate—is permitted on the PDR-zone property. Likewise, the Project's housing justifies the requested zoning relief with respect to balconies and courts. Those minor and technical items of relief are necessary to enhance the quality of life for the future residents of the Project's housing and affordable housing. The housing also justifies the construction-period impacts to the extent not fully mitigated. Without construction of new housing where none currently exists, the District will never address its current housing imbalance and affordability crisis.

The Project's PDR commitments justify the additional density request. As with the housing, **the Project will add PDR uses where none currently exist, namely ten percent (10%) of the ground floor gross floor area for a period of five (5) years.** In addition, **the Project meaningfully adds to the supply of ground level spaces built to the specifications of PDR/Maker users, at the cost of approximately \$1.5-\$2 million dollars of incremental construction costs above the specifications typical for such space, not to mention the more difficult to quantify costs relating to the complexities of the residential layout that arise from constructing the PDR/Maker specifications.** The PDR/Maker use specification is a benefit that is built into the Project and lasts for the life of the Project. As shown on page 29 of the Revised Plans, there are many different components of the PDR/Maker specification that, when taken in their totality, will create a unique build-out that can foster an array of PDR/Maker tenants and support a larger PDR/Maker community in Union Market.

The Project's streetscape and transportation-related benefits and its superior architecture justify the requested flexibility regarding parking count, design, and final condition for the 1346 4th Street, NE lot.

To the extent not specifically addressed above, any potential adverse impact of the Project is capable of being mitigated (e.g., the TDM plan mitigates transportation impacts) or is acceptable in light of the Project's benefits.

Finally, as described below and in Exhibit C, the Application is not inconsistent with the Comprehensive Plan and other adopted public policies, including the Small Area Plan and *Ward 5 Works* study.

<p>Summary of Benefits</p>	<p>As part of the Applicant’s analysis of the Project’s satisfaction of the PUD balancing test, this section includes the full listing of the Project’s public benefits.</p>
<p>Here is a full listing of the Project’s public benefits:</p> <ol style="list-style-type: none"> 1. Affordable Housing: 13% of units (approximately 50 total), 11% at 60% MFI + 2% at 50% MFI + 50% MFI units for penthouse habitable space 2. Family-Sized Housing: 3-bedroom units (up to 16 total, 3 affordable); approx. 1/3 of units have 2 or more bedrooms 3. Section 305.5(f)(1) Housing: the Project provides housing (~379 units) where none is allowed (let alone required) today and the Project alone provides housing equal to 1% of Mayor’s Housing goal 4. PDR/Maker use: the Project builds out 50% of ground floor to a detailed, unique PDR/Maker uses specification and reserves 10% of ground floor reserved for that use for five (5) years, on a lot where no PDR uses exist today 5. Urban design and architecture: the Project has an iconic and innovative design befitting its gateway location and includes >25% of units with vegetated/irrigated balconies 6. Shared street: the Project proposes transportation improvements along 4th Street, NE in coordination with DDOT and OP and a related update to the Union Market Streetscape Design Guidelines 7. Streetscaping: the Project provides enhanced streetscaping along 4th Street and New York Avenue, NE 8. Sustainability: the Project reaches LEED v.4 Gold and includes 1,800 sf of solar panels 9. Transportation: the Applicant has committed to fund a study to add bicycle lanes along Mt. Olivet Road, NE 10. Special Value: \$25,000 for improvements to Lewis Crowe Park and other ANC-requested public items 	
<p>Summary of Requested Flexibility</p>	<p>As part of the Applicant’s analysis of the Project’s satisfaction of the PUD balancing test, this section lists the Project’s development incentives, including the requested PDR-1 to MU-9 amendment to the Zoning Map, zoning flexibility, and design flexibility.</p>
<p>Here is a full listing of the Project’s requested development incentives:</p> <ol style="list-style-type: none"> 1. Map Amendment: this Applicant seeks a Zoning Map amendment from the existing PDR-1 to the MU-9 2. Zoning Flexibility – Balconies Relief: OP requested that the Applicant add balconies to the western façade of the Project. A new area of zoning flexibility arises as a result of such request. As originally designed, the Project is built directly against the western lot line of the Property. As a result, any new balconies on that façade that do not reduce the Project’s housing necessarily project over the property line and over the adjacent “Lot 819” (i.e., the DHCD-owned alley lot). Under the Zoning Regulations, a building may not cross a record lot line, which these balconies would do. Therefore, the Applicant seeks flexibility from 11-C DCMR § 302.3 to allow a single building to cross a record lot and treat the Property’s record lot as including the proposed balconies. Furthermore, given that the resulting record lot would extend into the portion of the PDR-1 zoned Lot 819 that is not subject to the MU-9 Zoning Map amendment, the Applicant seeks flexibility under 11-A DCMR § 207.1 to extend the MU-9 zone designation into such adjacent lot to the extent of such balconies. 3. Zoning Flexibility – Courts: two of the Project’s courts do not satisfy the minimum standards set forth in the Zoning Regulations, however, the lack of compliance is solely because of the Project’s unique sculpted design in light of technical court measurement requirements and methods. No adverse impacts result from such flexibility, either on the Property or on any neighboring property. 4. Zoning Flexibility – Additional GFA: the Applicant seeks an additional 4.0% of GFA above the otherwise allowable GFA for a PUD in the MU-9 zone (rather than the 5% initially requested). The reason for this request stems from the need to address grade changes across the Property – grade change both front to back (a change of approximately 21 feet) and from New York Avenue to the south of the property (a change of approximately 26.75 feet), as shown on Pages 10-12 of the Revised Plans. More specifically, the Property’s front to back grade changes result in a tremendous amount of below-grade (commercially non-viable) space counting as GFA, relating to the use of the “perimeter wall method” for calculating GFA (which would require density flexibility provided under Subtitle X, Section 303.10), and the along-street grade changes result in a need to strategically set back the building in a manner that creates a more extensive public/private streetscape experience which further creates the need to include commercial 	

- mezzanine space (increasing GFA) to provide a critical mass of adjacent, supportive space (that also allow for a higher amount of PDR/Maker space). GFA flexibility would be required even if the 1346 building
5. **Zoning Flexibility – Rooftop Special Exception/Uses:** as noted in a previous filing (at Exhibit 19C in the record), the Applicant seeks special exception relief to provide eating and drinking establishment uses in the Project’s penthouse. The Applicant also seeks flexibility to deliver and from time to time thereafter use portions of the penthouse as either commercial space or amenity space depending on market demand. See the discussion above. The Applicant will provide IZ space, set aside for households earning no more than 50% of the Washington DC MFI, for the maximum extent of such commercial roof structure square footage – 13,200 square feet.
 6. **Design Flexibility – Parking Flexibility:** as noted on page 7 of the Revised Plans, the Applicant seeks the ability to reduce the Project’s below-grade garage by a full level depending upon conditions at the time of construction (including for instance the completion of the proposed new pedestrian connection to the NoMA-Gallaudet Metrorail station and the status of the parking and transportation demand in light of the ongoing pandemic). The reduction of the garage by a story would result in the reduction in vehicle and bicycle parking but the Project would at all times remain zoning compliant with respect to both.
 7. **Design Flexibility – 1346 4th Street Final Condition:** as described above and as depicted in the Revised Plans, the Applicant seeks flexibility to fit out 1346 4th Street, NE on an interim basis for PNC during construction of the Project and then deliver the final condition of 1346 4th Street, NE thereafter (and no later than three (3) years after the issuance of the first certificate of occupancy for the 1348 4th Street, NE component of the Project) as shown on the Revised Plans in order to obtain a final certificate of occupancy for that space.
 8. **Design Flexibility – General:** as previously noted, the Applicant also requests standard PUD design flexibility as listed on Exhibit B to this statement.

Summary of Potential Impacts	<p>The initial updated Application materials for the Project (see Exhibit 12A) included a full summary of potential impacts, and that analysis was supplemented with the CTR (Exhibit 28A) and a detailed economic and land value impact analysis (<u>Exhibit D</u> attached here).</p> <p>The Project has no potential adverse impacts that either are not capable of being mitigated or are unacceptable in light of the Project’s public benefits.</p>
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Here is a full listing of the Project’s requested development incentives:

1. **Zoning and Land Use Impacts:** The change in zoning alone is unlikely to have any adverse impacts on the surrounding area. The area surrounding the Property already allows very intense PDR uses or is subject to PUDs allowing heights and densities as great or nearly as great as those allowed under the MU-9. Furthermore, New York Avenue, NE is anticipated to be an area that is appropriate for changes in intensity and uses as noted by OP in the pending Comprehensive Plan amendments. The Project’s mix of retail/commercial/PDR Maker and multifamily residential uses is entirely appropriate given the Property’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. The Project’s mix of uses, height, and mass are appropriate given the planning objectives for Union Market.
2. **Housing Market Impacts:** As noted on Exhibit D, the Project does not result in the direct displacement of any existing residents, and the development of the Project’s new housing and income- and rent-restricted housing mitigates rising rents as a result of an existing imbalance of supply and demand in the District’s rental housing market, with beneficial impacts to low- and moderate-income households.
3. **Other Economic Impacts:** Also as noted on Exhibit D, the intensification of land use on the Property has positive tax revenue effects for the District and the Project is anticipated to provide hundreds of job opportunities both during construction and on a temporary basis thereafter.
4. **Historic District Impacts:** The Project has no unacceptable impacts on the nearby Historic District. The Project is designed to harmonize with the contributing structures on 4th Street and 5th Street, NE and includes interpretative elements (e.g., canopies) and materials that recall characteristic elements of the contributing structures.
5. **Construction Period Impacts:** During the development period for the Project, impacts on the surrounding area are capable of being mitigated.

6. **Open Space, Urban Design, and Massing Impacts:** The Project favorably improves upon the existing conditions with respect to the relationship between the proposed building, proposed and existing open spaces, and the Project’s urban design. The Project has favorable impacts on the public realm through the construction of improved streetscaping in accordance with the Streetscape Guidelines and the provision of ground level uses and new residents to activate the public realm.
7. **Design and Aesthetic Impacts:** The Project incorporates world-class architecture and exemplary design. Upon completion of the Project, the new building will appear contemporary and emblematic of new investment without appearing out-of-place among the more rugged industrial buildings and newly-approved PUD projects surrounding the site. The Project continues the contemporary architectural vocabulary emerging in the Union Market District and 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 laudable and favorably impact surrounding areas, as they further contribute 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.
8. **Transportation and Mobility Impacts:** The CTR includes a robust analysis of the Project’s potential impacts and concludes that any potential impacts are capable of being mitigated through the proposed TDM package.
9. **Cultural Impacts:** The Project has favorable impacts on the culture of the surrounding area. The Project will provide uses that will contribute to the emergence of the Union Market District as an important Ward 5 “third space,” i.e., a space beyond a place merely to live or work.
10. **Public Safety Impacts:** The addition of residents to the neighborhood and the Project’s balconies and other design elements add street activity, “eyes on the street”, quality lighting, and other improvements that have positive effect on crime deterrence.
11. **Water Demand:** According to MEP engineering assessments, the Project has an estimated domestic average daily water demand of 52,570 gpd, capable of being addressed by existing infrastructure.
12. **Sanitary Sewer Demand:** The Project has an estimated domestic average daily sewer demand of 48,120 gpd, per MEP engineering assessments, also capable of being handled by existing infrastructure.
13. **Stormwater Management:** The Project has been designed to achieve high levels of on-site stormwater retention which mitigate any reasonably anticipated potential adverse effects.
14. **Solid Waste:** Solid waste and recycling materials generated by the Project will be collected regularly by a private trash collection contractor and will not have any adverse effect on the District’s municipal waste collection services
15. **Electrical Services:** All electrical systems are designed to comply with the D.C. Energy Code
16. **Erosion Control:** During excavation and construction, erosion on the Property will be controlled in accordance with District law.
17. **Environmental Impacts:** The Project does not have any unacceptable adverse 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 v.4 Gold design standards and on-site clean energy generation capabilities. The location of the Project is a heavily-urbanized and entirely impervious commercial site that does not have positive environmental effects today.
18. **Public Schools:** The December 2020 filing at Exhibit 12A, page 30 included a detailed analysis of the Project’s potential impacts on area public schools and found nearby schools are under-enrolled relative to capacity so the Project will help add to the population of school-aged children.
19. **Other Public Services:** A previous filing included a detailed analysis of the Project’s potential impacts on other public services and concluded that the Project is unlikely to have any adverse effect.

Comp. Plan Analysis	<p><u>Exhibit C</u> to this statement provides a complete analysis of the Project’s consistency with the Comprehensive Plan’s maps, District Elements, and Area Element, plus the Small Area Plan and the Ward 5 Works study. This analysis includes a particular focus of the Project’s consistency with those documents through a racial equity lens.</p> <p>In sum, the Project is not inconsistent with the Comprehensive Plan, including the Plan’s Maps’ designation that the Property have “primarily retail functions” and a mix of uses, including residential and PDR uses.</p>
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In summary, and examining the Comprehensive Plan by each of its constituent parts, with a racial equity lens:

- **Future Land Use Map:** The Project, including the requested Zoning Map amendment is not inconsistent with the Future Land Use Map's mixed-use High-Density Residential/High-Density Commercial/PDR designation for the Property. The mixed-use Project with an FAR in excess of 9.0 is not inconsistent with this designation, and the Project accommodates and incorporates PDR/Maker uses consistent with the PDR designation for the Property. See also the discussion below re. PDR uses.
- **Generalized Policy Map:** The Project is not inconsistent with the Generalized Policy Map's Multi-Neighborhood Center designation for the Property given the proposed amount of residential and retail/restaurant/service and related uses within the Project. This designation calls for "general merchandise stores, drug stores, restaurants, specialty shops, apparel stores, and a variety of service-oriented businesses. These centers also may include residential and office space for small businesses, although **their primary function remains retail trade.**" Notably, the definition of the Multi-Neighborhood Center does not contemplate any sort of PDR use.
- **Resolving the Tension in the Maps:** The Generalized Policy Map and FLUM designations for the Property are clearly in tension: the Policy Map encourages primarily retail functions and is silent with respect to PDR uses. The FLUM encourages a mix of three categories of use. The residential objectives of the FLUM are relatively easily resolved: those uses are placed above grade. The at-grade "primarily retail" objectives uses of the Policy Map are more readily resolved with the FLUM's preference for commercial uses. However, the Policy Map is silent as to the FLUM's PDR uses. Accordingly, given the clear direction in the Policy Map that the Property should have a "primarily retail" function, the Project resolves this tension by allocating 10% of the Project's ground floor to PDR uses for a period of time and providing the capability to expand PDR uses if the Project evolves from the Property's current service use. The Project's grade level uses are thus "primarily retail" consistent with the Policy Map, while not foreclosing PDR uses, consistent with the companion FLUM. (Of course, the Comprehensive Plan consistency analysis is not reducible to mere consistency with the FLUM. The Comprehensive Plan gives the two maps equal weight (i.e., the Future Land Use Map does not supersede the Generalized Policy Map), so contradictions in the direction of the two maps must be resolved per the terms of each.)
- **Racial Equity Lens Summary:** From a racial equity perspective the Project increases housing opportunities and affordable housing opportunities in an amenity-rich neighborhood without causing any direct displacement of residents. Additionally, the Project provides numerous opportunities for new jobs for a variety of skill sets, ranging from construction jobs to full time hourly and salaried employment.

The Project's treatment of PDR uses and the Property's PDR designation is also beneficial from a racial equity perspective. First, the Property does not include PDR uses today.

Second, the Project's mix of uses also largely forecloses the types of harmful PDR uses that have disproportionately negatively affected primarily Black residents in Northeast DC. Although there are many laudable aspects of PDR uses, the deeply unfortunate history of such uses in the District is that many have had direct and adverse health, wealth, and quality of life impacts on Black residents primarily. PDR uses were historically deliberately located in primarily Black areas, which had the self-reinforcing adverse effects of increasing negative health outcomes for Black citizens, reducing property values for Black homeowners (making it more difficult for Black residents to accumulate wealth), and limiting the development of amenities that desired to be away from PDR uses' harmful effects. It is difficult to look at the history of PDR uses through a racial equity lens and not find that history disproportionately negative for Black residents of the District, notwithstanding the many job-related benefits of PDR uses.

The Project begins to redress some of the harmful effects of past PDR uses without forestalling the benefits of future PDR uses. The Project includes primarily non-PDR uses on mixed-PDR-striped land that does not currently contain PDR uses. The Project holds on to the job-producing potential of PDR land while essentially foreclosing the most harmful PDR uses that have historically been located in Ward 5. Rather than continue the history of concentrating PDR uses in Ward 5, the Project slightly dilutes the concentration of PDR uses, provides a bulwark against large-footprint PDR uses, and adds in amenities and other local benefits that improve the quality of life for Black Ward 5 residents.

- **Land Use Element:** Exhibit C expands on the Project’s relationship with literally dozens of policies in the District Elements. Viewing the Project against the Comprehensive Plan as a whole, the Project clearly tips in favor of being not inconsistent with the Comprehensive Plan. However, the Plan’s new PDR policies in the Land Use Element warrant further careful consideration as follows. In sum, the Project is not inconsistent with the new PDR objectives in light of the Property’s relationship with the Small Area Plan.

Section	Excerpt from Land Use Element PDR-Related Objectives	Analysis
316.2	“The supply of areas designated for PDR on the Future Land Use Map (FLUM) should not fall below its current level, <u>unless the land is designated for mixed uses including PDR through a Small Area Plan</u> (including those changes made to the FLUM as a result of a Small Area Plan).” (emphasis added)	Not inconsistent: the Property is designated for mixed uses under the Small Area Plan. In any event, the area designated for PDR on the FLUM is not changing.
316.2	“Efforts to convert areas <u>except as just stated</u> to other designations must be resisted.” (emphasis added)	Not inconsistent: the Small Area Plan controls based on the language in this sentence referring back to the Small Area Plan.
316.2	“Any further designation of PDR land must consider the racial impact, and ideally should be designated throughout the District.”	Not inconsistent: No further designation of PDR land as part of this Application.
316.2	“Zoning regulations and land use decisions shall continue to preserve active and viable PDR land uses while considering compatible uses and development under standards established within PDR zoning.” (emphasis added)	Not inconsistent: There are no active and viable PDR uses at 1348 4th Street. This Application does consider other compatible uses.
316.2	“Economic development programs should work to include the retention of PDR uses” (emphasis added)	Not inconsistent: the existing bank branch will be retained
316.3	“ <u>Unless land is designated for mixed uses</u> , including PDR, on the FLUM, uses such as retail, office, or residential must be accessory to these high impact PDR uses and must not overwhelm the PDR use or pose potential conflicts in use. Users of these areas must minimize any adverse impacts on adjacent areas that have more restrictive land uses.” (emphasis added)	Not inconsistent: this objective does not apply by virtue of the underlined clause because the Property is designated for mixed uses on the FLUM
316.4	“To promote long term retention of PDR uses, development on areas striped to include PDR on the Future Land Use Map must include industrial space intended for use during the life of the project, and on sites containing existing industrial space the amount of industrial space on-site should be substantially preserved. The mix of uses and site design of these areas must support the long-term retention of PDR uses, and minimize potential conflicts with PDR uses. PDR uses that are less intense and/or have less impacts may be more appropriate for areas striped to include PDR. <u>The Florida Avenue Market Study area shall be subject to the industrial use concepts set forth in that Small Area Plan but is not subject to this policy.</u> ”	Not inconsistent: this policy does not apply here because the Small Area Plan controls
316.5	“Encourage the reuse of nonproductive industrial sites, such as vacant warehouses and open storage yards, with higher value PDR uses, including public works facilities, and other activities that support the core sectors of the District economy”	Not inconsistent: to the extent this site is remotely industrial, it is obsolete with a single-story building and surface parking
316.7	“Allow the rezoning of industrial land for non-industrial purposes only when the land can no longer viably support industrial or PDR activities is located such that industry cannot co-exist adequately with adjacent existing uses.”	Not inconsistent: the Property is not viable for industrial land uses

- **Housing Element and Other District Elements:** The District’s Housing Equity Report shows that as of October 2019, shortly before this Application was filed, the Upper Northeast planning area was short 190 units of affordable housing, meaning that *the Project alone provides more than 25% of the Upper Northeast planning area’s affordable housing deficiency.*
- **Area Element/Small Area Plan:** The Small Area Plan includes four overarching goals, an eight-point summary of the vision statement for the future of the Union Market District, and specific recommendations for 4th Street NE. In addition, the Small Area Plan includes intensity and use maps. In general, the Project is consistent with each of the eight recommendations and with the urban design and open space commentary in the Small Area Plan except arguably with respect to one “Urban Design” objective, as noted below. The Project’s high-density nature is consistent with the “Zoning and Intensity Plan” designation for the Property as appropriate for “high density” development. The Small Area Plan’s “Illustrative” (i.e., land use) map identifies the Property as appropriate for mixed-use development including potentially wholesale/retail market space, which is consistent with the Project’s mix of uses. **In particular, the Small Area Plan strongly encourages a food-based economy in the Union Market District** (“There is a unique opportunity to cluster food retail and related uses in the [Union Market District] to highlight its unique character and history. . . . Other enterprises such as catering companies, cooking supply stores, culinary schools and retail stores can also realize this opportunity.” – p56-57).
- **Ward 5 Works:** The Project advances the Ward 5 Works overarching “Vision” and many of the eight specific “Goals”. The Vision seeks “a cutting-edge and sustainable production, distribution, and repair industry that diversifies the District’s economy, serves as a hub for low-barrier employment, complements and enhances the integrity of neighborhoods, and provides opportunities for arts, recreation and other community amenities.” The Project provides the physical infrastructure for future production uses. (It is unlikely that the Project’s ground floor would be appropriate for distribution or repair uses, which are much more heavily automotive in nature.) The Project continues the Union Market District’s diversification of the District’s economy, and provides space for inclusive employment and other amenities. The Project helps “Create great places, improve physical appearance and enhance connectivity” among other Goals of the Ward 5 Works study summarized in Exhibit C.
- **As a Whole:** The Project is not inconsistent with the Comprehensive Plan as a whole especially when viewed through a racial equity lens. The Project advances the racial equity improving qualities of PDR uses without bringing the negative effects. The Project is not inconsistent with the two Maps’ competing objectives of “primarily retail functions” and a mix of uses including residential and PDR uses. The Project does not run afoul of the new PDR-related Land Use objectives by virtue of its location within the Small Area Plan. And the Project is consistent with the key components of that Small Area Plan as to use, density, transportation and other recommendations. Finally, the Project helps realize the job creation and placemaking Vision of the Ward 5 Works study while advancing key Goals articulated in that study.

Affordable unit locations	Page 54 of the Revised Plans sets forth the desired affordable unit locations for the Project.
Signage plans	Page 92-93 of the Revised Plans sets forth the desired signage plan for the Project, in response to the Office of Planning’s setdown report.

Respectfully submitted,

/s/ Jeffrey C. Utz

/s/ David A. Lewis

Enclosures

Certificate of Service

I certify that on or before December 22, 2021 (except as noted below), I delivered a copy of the foregoing document and attachments via e-mail or first-class mail to the addresses listed below.

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