

June 4, 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 4th Street and 1348 4th Street, NE (Square 3587, Lots 3 and 7) (collectively, the “Property”) – Summary of Enhanced and New Public Benefits

Dear Chairman Hood and Commissioners:

On behalf of the Applicant, we write with an important update to the proffered public benefits for the Application to allow the development of a multifamily residential building with ground floor retail, PDR/maker, below-grade parking, and other neighborhood-serving uses on the Property (the “**Project**”). The Applicant appreciates the Office of Planning’s (“**OP**”) report filed in the record on June 1, 2021 as Exhibit 14 (the “**Report**”) and OP’s support of the redevelopment of the Property and the Project’s design direction. The Applicant looks forward to continuing to work with OP.

This letter responds to two points in the Report and restates the Project’s proffers:

1. Increased Affordable Housing Commitment: As the result of discussions with OP, the Applicant now proposes to reserve **12% of the Project’s residential gross floor area (“GFA”)**, up from 10%, as affordable housing, with 10% of the affordable units reserved at 50% MFI and the balance at 60% MFI. As a result, the Project would add approximately **45 new affordable units** as part of a total of approximately 379 new rental units, where none currently exist, which will significantly assist in achieving the Mayor’s Order on Housing of May 10, 2019. In addition, the Applicant still proffers that **10-15 of the new units will be three-bedroom units**.
2. Amount of PDR/Maker Use Space: The Applicant proposes to reserve **5% of the non-residential floor area of the Project’s ground floor—approximately 1,500-2,000 square feet—for PDR/Maker uses for 5 years**. The Report suggested that number is

2.5% of the non-residential floor area of the Project, or approximately 1,373 square feet. In addition, **half of the ground floor will be constructed to support PDR/Maker uses.** A range of floor area is stated above because the final amount of PDR/Maker use will depend on whether portions of the ground floor contain a mezzanine. The Project's final commitment of PDR/Maker use space will include any mezzanine in the non-residential ground floor area that triggers the 5% requirement.

3. New Streetscape Improvements Benefit: Finally, as part of discussions between the Applicant and the District Department of Transportation (“DDOT”), the Applicant will commit to **significant improvements to the pedestrian and cycling experience along 4th Street, NE.** This is a new benefit not previously described to the Commission.

I. Affordable Housing Public Benefit

The 12% proffered affordable housing commitment for the Project is appropriate and commensurate with the development incentives sought for a number of reasons:

1. 12% is the highest percentage of affordable housing for a PUD with a PDR-1 to MU-9 map amendment (or the ZR58 equivalent) in Union Market. Of the thirteen PUDs approved in and around the Union Market District since 2015, the average affordable housing commitment has been 9.23%. The Project now proposes to exceed that average by approximately 30%.
2. In addition, the number of three-bedroom units proffered in the Project exceeds the number in any other approved PUD in the Union Market District. As the Commission is aware, *all* three-bedroom units, whether affordable or market-rate, constitute a public benefit under the Zoning Regulations. *See* 11-X DCMR § 305.5(f)(3).
3. While we share OP's goal to deliver more affordable housing, OP's request that the affordable housing proffer for this Project be increased to 15% is not required by the Comprehensive Plan or other requirements. Increasing the set aside from 10% to 15% is not simply a 5% increase in the set aside. It is a 50% increase and each percentage point increase has a dramatic effect on the viability of the project. Nothing about the Comprehensive Plan has changed the balancing that the Commission is obligated to do to evaluate a PUD so significantly that the Project's housing benefits, identical to those previously supported by OP and approved by the Commission, would now need to be increased by 50% relative to PUDs that the Commission has previously approved.
4. The Comprehensive Plan now states that providing affordable housing and avoiding displacement are “high-priority public benefits in the evaluation of residential PUDs.” This PUD provides a significant amount of new affordable housing where none presently exists and specifically avoids displacement of current residents in a manner and spirit entirely consistent with the Comprehensive Plan.

II. PDR/Maker Use Public Benefit

The proposed PDR/Maker use benefit of 5% of ground level non-residential (and non-residential mezzanines, if any) gross floor area reserved for PDR/Maker use and 50% constructed to PDR/Maker specifications is also appropriate:

1. These percentages and the definition of the Applicant's PDR/Maker use commitment are identical to those contained in PUDs that OP has recently supported and that the Commission has recently approved. *See* Z.C. Order Nos. 17-14 and 14-12E.
2. The Report understates the arguably more valuable long-term PDR-related benefit: 50% of the ground floor non-residential area will be constructed to specifications to accommodate PDR/Maker users as demand dictates. These specifications require a considerable construction cost premium at the outset of development and provide space that PDR users will not be able to find elsewhere in new buildings in the District. As the Commission has previously approved, the PDR/Maker specifications include wider column spacing and open floor plans, greater floor-to-floor heights, enhanced floor structural load capabilities, heightened electrical and mechanical supply, raised loading docks/levelers, and other critical enhanced technical specifications that PDR/Maker users require for specialized equipment and activity. However, currently there is significant available unoccupied maker space in the area and significantly more than other parts of the city.
3. The Report's suggestion that the PDR/Maker use category could "potentially include any type of retail" is not correct. (For instance, a national chain fashion retailer, drug store, or chain grocery store would not satisfy the requirement, and those are the types of retailers with demand for new space today.) The Applicant proffers the same package of PDR/Maker use requirements that the Commission has approved in prior PUDs in the Union Market District. The Applicant's proffer is more restrictive than the current or proposed zoning, which does permit any type of retail use, and imposes more stringent PDR-related requirements than the Property's current primary use as a bank with a drive through and surface parking. The Project is a significant net gain of new gross floor area limited to and designed for PDR/Maker uses.
4. Over the past fourteen years, the Applicant and its EDENS-related affiliates have delivered approximately 102,000 square feet of PDR/Maker use without any zoning requirement to do so. Additionally, the Applicant and its EDENS-related affiliates have committed to deliver, as part of prior approved PUDs, PDR/Maker uses which equate to 5% of the ground floor area for those PUDs. The subject PUD would add 1,500-2,000 square feet, bringing the total PDR/Maker space for EDENS-related projects to approximately 106,000 square feet. Finally, in addition to EDENS' 106,000 square feet of PDR/Maker space, recently approved and under construction PUDs in the Union Market area include approximately 59,000 square feet of maker space. In totality, the Union Market District will contain up to approximately 165,000 square feet of PDR/Maker use space, roughly the equivalent of the retail area of a regional shopping center and by way of example the size of the entire Cathedral Commons shopping center.

5. EDENS and its affiliates have helped incubate and help launch in excess of 100 small businesses and has a demonstrated track record of delivering and curating sustainable retail and a self-supporting small business ecosystem that creates and preserves jobs. Notably, 42% of the current businesses in the Union Market District are minority-owned and 33% are women-owned. For EDENS, it is of utmost importance that the Union Market District is developed as an inclusive place and as a platform for the continued launch and growth of local, minority, and women-owned DC businesses.
6. The Applicant and its affiliates are concerned about preserving a diversity of ground floor uses to ensure the successful execution of the Florida Avenue Market Small Area Plan and the economic growth of Ward 5 and Northeast DC. The Applicant's so-far successful creation of a small business ecosystem in the Union Market District is a fundamental driver of economic activity in Ward 5 and Northeast DC.
7. Given EDENS's expertise and deep understanding of retail and its commitment to the Union Market District for more than a decade, the Applicant is concerned that mandating and expanding the PDR/Maker use commitment will create an unhealthy ecosystem for retail and ultimately negatively impact the economic development and growth in Ward 5 and Northeast DC. Retail has been under siege by e-commerce, creating a highly uncertain retail market, a trend that has quickly accelerated with the pandemic and exacerbated the pressures on all types of retail. The mix of traditional non-PDR/Maker uses, mom-and-pop retail, small and local businesses, and PDR/Maker retail in the Union Market District is part of what makes the PDR/Maker uses successful and protects the vitality of the Union Market District as a unique place in DC. An unstable mix of ground level uses and mandating PDR/Maker set asides will lead to long-term vacancy/dead spaces, thereby creating concerns for the overall health of the commercial ecosystem and the economic growth trajectory for Ward 5 and Northeast DC in general. Likewise, a requirement that keeps space vacant is counterproductive to creating a sustainable and walkable neighborhood with a wide variety of amenities.
8. The Project's proposed PDR/Maker use and design package is consistent with the recent PUDs approved in Union Market that were determined to be consistent with the Comprehensive Plan and Small Area Plan. Therefore, the Commission has the necessary justification for finding this Project not inconsistent with the Comprehensive Plan.

III. New Streetscape Improvements Public Benefit

The Applicant also proffers a new public benefit. The Applicant has been working with DDOT regarding improvements to the bicycle network and facilities within Union Market.

To that end, and at DDOT's request, the Applicant has committed to the **conversion of 4th Street between Morse Street and Penn Street into a European-style shared street** for the equal use of bicyclists, pedestrians, and automobiles. Such improvements will be above and beyond the streetscaping along 4th Street and New York Avenue, NE mentioned in the December

2020 application package. The Applicant is now working with DDOT and OP on the details for the shared street and will file updated plans for this concept prior to the public hearing.

IV. Summary of Public Benefits

In addition to the housing, affordable housing, PDR/Maker use, and streetscape benefits, the balance of the robust package of public benefits previously proffered has not changed. These benefits include:

- LEED v.4 Gold-level of sustainable building design;
- Applicant-funded study to add bicycle infrastructure along Mt. Olivet Road, NE from 9th Street, NE into the Carver-Langston neighborhood;
- \$25,000 contribution in kind for specific community projects requested by the ANC, including:
 - \$10,000 for lighting, landscaping, cleanup, and related improvements at Lewis Crowe Park (located nearby to the Property);
 - \$10,000 for establishing a seasonal farmers' market at Lewis Crowe Park;
 - \$2,500 for murals and public art in Lewis Crowe Park; and
 - \$2,500 for an ANC 5D neighborhood art project to design and install flags for the Single Member Districts within ANC 5D.
- Superior architecture and urban design – the Applicant will continue to study the façades, to incorporate additional balconies, and ways to utilize and detail the signage/art idea to help break up the north façade; and
- Extensive streetscaping along of 4th Street and New York Avenue, NE.

V. PUDs in Union Market

This Application continues the pipeline of PUDs with robust public benefits in the Union Market District, where significant amounts of new housing and affordable housing have been added and many more units are approved and under or soon to be under construction. Very significantly, the PUDs in Union Market have not resulted in the displacement of a single District resident.

As the Commission is aware, EDENS and its affiliates and development partners have transformed the Union Market District for the better and provided a huge amount of new housing and affordable housing, economic opportunities for small and women-owned, minority-owned, and locally-owned businesses, improved public spaces, and provided other services and spaces for community groups, among other benefits.

To the Applicant's knowledge, there are no new PUDs currently in the pipeline or about to be filed for the Union Market District besides this PUD. This PUD is needed to keep the neighborhood growing and contributing to the District's much-needed housing and affordable housing supply.

VI. Conclusion

This letter is not intended to be a full response to OP's thorough Report. OP raises a number of valid considerations that the Applicant will need to study further and respond to in its pre-hearing filing. In order to continue the conversation in that direction, the Applicant respectfully requests that the Commission set down this Application for a public hearing.

Thank you for your attention to this Application.

Respectfully submitted,

/s/ Jeffrey C. Utz

/s/ David A. Lewis

Enclosures

Certificate of Service

I certify that on or before June 4, 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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