

Holland & Knight

800 17th Street, NW, Suite 1100 | Washington, DC 20006 | T 202.955.3000 | F 202.955.5564
Holland & Knight LLP | www.hklaw.com

Leila M. Jackson Batties
202.419.2583
leila.batties@hklaw.com

Madeline Shay Williams
202.469.5741
madeline.williams@hklaw.com

November 3, 2025

VIA IZIS

Zoning Commission
for the District of Columbia
441 4th Street, NW, Suite 210S
Washington, D.C. 20001

**Re: Z.C. Case No. 24-11
Consolidated PUD and Related Zoning Map Amendment – New York and
Montana Avenues, NE
Applicant’s Supplemental Post-Hearing Statement**

Dear Members of the Commission:

This Post-Hearing Statement is submitted on behalf of Jemal’s Schaeffer LLC and Jemal’s Bumper George LLC (together, the “Applicant”) in support of the above-referenced application for a Consolidated Planned Unit Development (“PUD”) and related Zoning Map amendment (the “Application”). The Zoning Commission (the “Commission”) held a public hearing on the Application on October 20, 2025.

At the public hearing, the Commission requested the following additional information related to the Application:

- views showing the scale of the proposed building;
- examples of comparable industrial sites in the District and the number of loading berths at each to provide context for the number of berths proposed for the PUD;
- the legislative history for the PDR land use designation added to the subject property during the 2021 Comprehensive Plan amendments;
- the Applicant’s response to the proposed creation of a new zone that allows for a mix of residential, retail and PDR uses on the subject property;
- details about the PDR uses that would be permitted within the PUD as a matter of right;

- a restatement of the conditions that the Applicant has proffered in connection with the approval of the Application; and
- the legal principle supporting the Applicant's reliance on the current Comprehensive Plan and Zoning Regulation for the Application before the Commission.

In summary, the Applicant has revised the building design to break up the massing along New York Avenue and has reduced the number of loading docks for the building from 19 to 12. Also, the Applicant has agreed to prohibit a data center use within the PUD. Finally, in reviewing the record on the 2021 Comprehensive Plan amendments, it is clear that the Council intended a PDR use for the New York Avenue, NE corridor, including the subject property.

A more detailed discussion of the information requested by the Commission is provided below.

Views Showing Scale of Proposed Building / Revised Plans

In response to the comments about the size of the building at the public hearing and feedback from the Office of Planning ("OP") since, the Applicant revised the building design to break up the massing along New York Avenue. Specifically, the front of the building includes two 52 x 20 green open courts, and each section of the building has different building materials, color palette, and architectural elements. **This approach creates a more desirable aesthetic along New York Avenue, giving the appearance of three buildings instead of one, while allowing the sufficient flexibility to accommodate one or more light industrial or commercial operators.**

The updated set of architectural plans reflecting the revised building design is attached as **Exhibit A.**

Examples of Comparable Industrial Buildings / Loading Docks

Attached as **Exhibit B** is a memorandum from Gorove Slade providing examples of comparable industrial facilities in the District and the number of loading berths at each facility to provide context for the number of berths proposed for the PUD. **The Applicant has reduced the number of loading docks for the building from 19 to 12.**

Legislative History of PDR Land Use Designation

The Commission inquired as to the City Council's intent on **adding** the PDR land use designation for that portion of the PUD site that fronts on New York Avenue during the 2021 Comprehensive Plan amendments, making it identical to the FLUM designation on the rest of the New York Avenue corridor. The record demonstrates that the Council intended to permit the industrial use of the PUD site and, actually, desires to maintain the industrial character of the New York Avenue corridor.

At the public hearing on the Comprehensive Plan amendments¹, OP Director Andrew Trueblood acknowledged that the Comprehensive Plan intended to retain PDR along the New York Avenue corridor, and the purpose of the mixed use designation (HD Commercial/HD Residential/PDR) was to support future long-term planning studies on how PDR could be combined with other uses. Chairman Mendelson was critical of the mixed use designation because he believed it created an opportunity for developers and landowners to redevelop parcels along the New York Avenue corridor with residential and commercial uses, resulting in a loss of meaningful industrial land over time. He argued that it was in the District's financial interest to support additional PDR land, noting that there is a shortage of warehouse space in the District, such that wholesalers are unable to comply with D.C. laws.

Chairman Mendelson's position on the importance of PDR land was the subject of the Washington Business Journal article attached as **Exhibit C**. The article confirms that the City Council rejected the text from Mayor Bowser's administration that promoted the mix of residential, office and retail uses in PDR areas and substituted it with language that requires the "long-term retention" of industrial uses as part of any project.

Proposal for Creation of a New Zone

In a letter to the Commission dated April 4, 2025 (Ex. 20) and during its testimony at the public hearing, ANC 5C suggested that instead of supporting the Zoning Map amendment to PDR-1, OP create a new zone district that allows for a mix of residential, commercial and limited PDR-1 uses to correspond with the Mixed Use FLUM designation along New York Avenue. This proposal assumes that a mixed use zone would result in the site being redeveloped with a mix of residential, commercial/retail and PDR uses, but that assumption is incorrect. The Applicant proposes to rezone a portion of the PUD site to PDR-1 and redevelop it with a flex warehouse building because that is the only viable project for the site given its location, surrounding uses and the market conditions.

Changing the use and development standards for the PUD site through the creation of a new zone district will not result in a development program that includes residential, and retail uses. The Montana Triangle is currently zoned MU-5B, which permits a mix of residential and/or retail uses. Prior to the MU-5B zoning, pursuant to ZC Order No. 14-16, Montana Triangle was rezoned to C-2-B-1, which was intended to encourage a mix of residential and retail uses. Since taking control of Montana Triangle in 2014, the Applicant has considered many mixed use programs, but the lack of capital and current market conditions have prevented these plans from coming to fruition.

The approval of the Application does not prohibit the future redevelopment of Montana Triangle with a mix of uses, consistent with the use and development standards for the MU-5B

¹ The video clip from the relevant portion of the public hearing is over 7 hours long. The discussion that is relevant to the question from the Zoning Commission about the legislative history begins at 7:05:40 with Chairman Mendelson asking about the PDR designation, generally, and continues until 7:22 with Chairman Mendelson concluding that he would add language in the Comprehensive Plan that protects PDR land as much as possible. Here is the link to the video: https://dc.granicus.com/MediaPlayer.php?view_id=4&clip_id=5887

zone. The remainder of Montana Triangle is approximately 7 acres, which is enough land area for the construction of approximately 895 dwelling units.

Amended and Restated - Restrictions on PDR/Industrial Uses

In response to the comments at the public hearing and after feedback from the Office of Planning since, the Applicant agrees to prohibit a data center use on the PUD.

Below is a restatement of the uses that would be prohibited from the PUD based on the Zoning Regulations and the restrictions voluntarily proffered by the Applicant.

Uses Prohibited Under the Zoning Regulations

Subtitle U § 801.1(v) expressly prohibits within the PDR zones many manufacturing activities that generate excessive fumes, odors, toxins, or noise, including the following:

- Acetylene gas manufacturer;
- Bone products manufacture;
- Calcium carbide manufacture;
- Curing, tanning, or storage of hides;
- Excavation or quarrying of rock for commercial purpose;
- Fertilizer manufacture;
- Manufacture or storage of ammunition, explosives, firearms, or military equipment (this condition does not apply to the storage of ammunition or firearms incidental to a use in the firearm sales category);
- Manufacturing, processing, mixing, storing, or distributing concrete or asphalt, or the materials that are used to make concrete or asphalt;
- Refining or manufacture of bituminous products other than asphalt;
- Rubber products manufacture or treatment;
- Slaughter or rendering of animals; or
- Steel furnace, blast furnace, bloom furnace, coke oven, or rolling mill.

Uses Prohibited Voluntarily by Applicant

In addition, the Applicant agrees to prohibit the following PDR- or industrial-based uses from operating within the approved PUD for the life of the Project. Those prohibited uses are listed below:

1. Concrete plant;
2. Asphalt plant;
3. Material salvage;
4. Hauling or terminal yard;
5. Outdoor material storage;
6. Acetylene gas manufacturing;
7. Fertilizer manufacturing;

8. Rock quarrying;
9. Metro stations;
10. Access ways, airports;
11. Gasoline service station;
12. Electrical sub-station;
13. Sewer plant;
14. Water treatment plant;
15. Utility pumping station;
16. Incinerator;
17. Waste-related service uses, except for composting facility and non-intensive recycling facility; and
18. Data centers.

Details on Permitted PDR Uses

At the public hearing, the Applicant provided a list of 12 industrial uses that would be permitted within the PUD, as a matter of right. The Commission requested the Applicant provide details about each of the permitted uses, which are set forth in the table below.

DESCRIPTION OF PDR USES PROPOSED FOR PUD			
	PDR Exclusive Uses	Definition	Notes / Conditions
1.	Animal Sales and Care	<p><u>Animal Sales, Care, and Boarding</u> The on-site sale, medical care, or short-term boarding of animals for a fee. Subtitle B § 200.2(c)(1)</p> <p><u>Examples</u></p> <ul style="list-style-type: none"> • Licensed veterinary practices such as medicine, surgery, or dentistry for animals • Animal services such as grooming, training, or care-taking • Pet shop • Veterinary clinic or hospital • Pet grooming establishment • Dog day care center • Animal sales establishment • Animal shelter <p>Subtitle B § 200.2(c)(2)-(3)</p>	<p>Specific Animal Sales, Care, and Boarding uses subject to conditions:</p> <ul style="list-style-type: none"> • Veterinary hospital² • Animal shelter³ <p>Subtitle U § 801.1(b)</p>

² Veterinary hospital use, which may include the incidental boarding of animals, conditioned upon not providing boarding of animals as an independent line of business. *See* Subtitle U § 801.1(b)(1).

³ Subject to six conditions pertaining to (1) the use of sound absorbing materials, (2) proximity to certain zones, (3) outdoor runs and external yards for animals, (4) animal waste, (5) odor control, and (6) standards of external effects. *See* Subtitle U § 801.1(b)(1).

2.	Youth Rehabilitation Home and Adult Rehabilitation Home	<p><u>Youth Rehabilitation Home</u> A facility providing residential care for one (1) or more individuals less than twenty-one (21) years of age who have been detained or committed by a court under the law of the District or under federal law. Subtitle B § 100.2</p> <p><u>Adult Rehabilitation Home</u> A facility providing residential care for one (1) or more individuals sixteen (16) years of age or older who are charged by the United States Attorney with a felony offense, or any individual twenty-one (21) years of age or older, under pre-trial detention or sentenced court orders. Subtitle B § 100.2</p>	
3.	Education Uses, Public	<p><u>Education Uses, Public</u> Public or public charter schools at the elementary, middle, junior high, or high school level. Subtitle B § 200.2(l)(1)</p>	<p>Education Uses, Private is a use permitted in both PDR and MU-5B zones.</p> <p>Education Uses, Public are not permitted in the MU-5B zone and is thus a PDR-exclusive use.</p>
4.	Government Uses, Large Scale	<p><u>Government Uses, Large Scale</u> A use involving services owned, managed, or provided by a governmental entity and associated with providing regional or wider services. Subtitle B § 200.2(r)(1)</p> <p><u>Examples</u></p> <ul style="list-style-type: none"> • Airports • Jails • Truck dispatch facilities • Police/fire training facilities 	<p>Government Uses, Local is a use permitted in both PDR and MU-5B zones.</p> <p>Government Uses, Large Scale are not permitted in the MU-5B zone and is thus a PDR-exclusive use.</p>

		Subtitle B § 200.2(r)(2)	
5.	Motor Vehicle-Related Repair	<p><u>Motor Vehicle-Related</u> A use engaging primarily in the on-site sale, rental, <i>service</i>, maintenance, or refueling of motor vehicles or their components. Subtitle B § 200.2(v)(1)</p> <p><u>Examples</u></p> <ul style="list-style-type: none"> • Auto repair facility <p>Subtitle B § 200.2(v)(3)</p>	<p>Not permitted within 200 feet of an R, RA, or RF zone or residential development. Subtitle U § 801.1(r)</p> <p>Note: Motor vehicle-related sales is a use permitted in both PDR and MU-5B zones.</p> <p>Motor vehicle-related repair is not permitted in the MU-5B zone and is thus a PDR-exclusive use.</p>
6.	Parking, other than a parking garage	<p><u>Parking</u> A use involving the on-site short or long-term storage of motor vehicles, including surface lots or within structures, when such motor vehicle storage is not provided as accessory parking for another use.</p> <p>Subtitle B § 200.2(x)(1)</p> <p><u>Examples</u></p> <ul style="list-style-type: none"> • Public parking lot <p>Subtitle B § 200.2(x)</p>	<p>Parking garage is a use permitted in both PDR and MU-5B zones.</p> <p>Parking generally is not permitted in the MU-5B zone and is thus a PDR-exclusive use.</p>
7.	Production, Distribution, and Repair	<p><u>Production, Distribution, and Repair</u> A use involving the on-site production, distribution, repair, assembly, processing, or sale of materials, products, technology, or goods intended for a wholesale, manufacturing, or industrial application. Subtitle B § 200.2(z)(1)</p>	<p>Subject to conditions:⁴</p> <p>Must comply with Standards of External Effects in Subtitle U § 804.</p> <p>Subtitle U § 801.1(v)</p>

⁴ This section also outlines 12 prohibited uses or activities.

		<p><u>Examples</u></p> <ul style="list-style-type: none"> • Manufacturing facility • Chemical storage or distribution • Warehouse • Storage • Self-storage establishment • Ground shipping facility • Wholesale sales <p>Subtitle B § 200.2(z)(3)</p>	
8.	Self-Storage Establishment	<p><u>Self-Storage Establishment</u> A building devoted to the storing of personal property (property other than real property) that:</p> <p>Consists of a building partitioned into one (1) or more enclosed and lockable storage units at least one of which does not exceed four hundred square feet (400 sq. ft.) in area, for lease on an individual basis; and</p> <p>(a) Consists of a building partitioned into one (1) or more enclosed and lockable storage units at least one of which does not exceed four hundred square feet (400 sq. ft.) in area, for lease on an individual basis; and</p> <p>(b) Is leased on an individual basis to persons or businesses to store personal property on a self-service basis in which the lessee has control over the access and use of the self-storage space. Subtitle B § 100.2</p>	<p>Subject to conditions pertaining to GFA, street frontage, and ground floor design.</p> <p>Subtitle U § 801.1(y)</p>
9.	Transportation Infrastructure	<p><u>Transportation Infrastructure</u> A use involving structures or conveyances designed for individual mode or multimodal public transportation purposes. Subtitle B § 200.2(ff)(1)</p>	

		<p><u>Examples</u></p> <ul style="list-style-type: none"> • Streetcar or bus passenger depots • Transportation rights of way • Mass transit stations • Bus stops • Bicycle paths • Bus transfer stations • Bicycle facilities • Multi-use paths • Pedestrian connections • Streets <p>Subtitle B § 200.2(ff)(3)</p>	
10.	Utilities (basic)	<p><u>Utilities (basic)</u> The commercial or governmental generation, transmission, distribution, or storage of energy, water, stormwater, cable, or telecommunication-related information. Subtitle B § 200.2(gg)(1)</p> <p><u>Examples</u></p> <ul style="list-style-type: none"> • Telephone exchange, • Optical transmission node • Electronic equipment facility • Methods and facilities for renewable energy generation other than a community solar facility • Utility pumping station <p>Subtitle B § 200.2(gg)(3)</p>	<p>Subject to conditions if the use is an electronic equipment facility that exceeds 25% of the GFA of a building located on site.⁵</p> <p>Subtitle U § 801.1(bb)</p>
11.	Waste-Related Service Uses	<p><u>Waste-Related Service Uses</u> A use involving the collection, transportation, recycling, or disposal of refuse either on-site or at a transfer station. Subtitle B § 200.2(hh)(1)</p>	<p>Subject to condition that the use is not permitted on any lot within 100 feet of a residential zone.</p> <p>Subtitle U § 801.1(cc)</p>

⁵ Conditioned upon (1) not being within 800 feet of an established or planned Metrorail station and (2) not being within 1,250 feet of the edge of a river. *See* Subtitle U § 801.1(r)(1)-(2).

		<u>Examples</u> <ul style="list-style-type: none"> • Composting facility • Non-intensive recycling facility 	
12.	Wholesale or Storage Establishment	No definition.	Subject to the condition that the use is not a junk yard. Subtitle U § 801.1(dd)

Restatement of Conditions Proffered by Applicant

The Applicant agrees to the following conditions in connection with the approval of the PUD and related Zoning Map amendment:

1. The following matter of right PDR or industrial-based uses shall not operate within the PUD, for the life of the project:

1. Concrete plant;
2. Asphalt plant;
3. Material salvage;
4. Hauling or terminal yard;
5. Outdoor material storage;
6. Acetylene gas manufacturing;
7. Fertilizer manufacturing;
8. Rock quarrying;
9. Metro stations;
10. Access ways, airports;
11. Gasoline service station;
12. Electrical sub-station;
13. Sewer plant;
14. Water treatment plant;
15. Utility pumping station;
16. Incinerator;
17. Waste-related service uses, except for composting facility and non-intensive recycling facility; and
18. Data centers.

2. As shown on the revised architectural plans, the Applicant shall establish a 45-foot-wide landscaped green space on the south side of the PUD site, which is intended as a buffer between the PUD and any future development in the remainder of the Montana Triangle.

3. Prior to the issuance of a certificate of occupancy for the PUD, the Applicant shall make improvements to the 5th District Police Station at 1805 Bladensburg Road, NE. Specifically, the Applicant shall upgrade the HVAC system, the lighting and interior finishes to the community

meeting room and install new landscaping on the exterior of the police station. The estimated value of these renovations and improvements is \$125,000.

4. Prior to the issuance of a certificate of occupancy for the PUD, the Applicant shall install new benches and ADA compliant fixtures at the Arboretum Recreation Center at 2412 Rand Place, NE. The estimated value of these improvements is \$5,000.

5. Prior to the issuance of a certificate of occupancy for the PUD, the Applicant shall install or cause the installation of shot detection cameras near the intersection of Bladensburg Road and Montana Avenue, NE. The estimated value of the cameras is \$15,000.

6. The Applicant agrees to the following conditions listed in the DDOT report at Exhibit 56 of the case record:

a. Implement the Transportation Demand Management (TDM) Plan as proposed in the CTR (Ex. 49A), for the life of the project, unless otherwise noted.

b. Implement the following infrastructure improvements in public space, subject to DDOT approval:

- Install sidewalk and trail along the site's New York Avenue frontage and along Montana Avenue, NE from New York Avenue to Bladensburg Road.
- Provide an easement for all sidewalk and trail facilities within the property so DDOT can provide maintenance.
- Install intersection signalization as needed at the driveway on Montana Avenue, NE, 17th Street, NE and on Bladensburg Road, NE.
- Upgrade sidewalk along the site's Bladensburg Road frontage to DDOT's width and buffer standards, where it does not already meet this standard.

Principle of Zoning Estoppel

Under the principle of zoning estoppel, a local government exercising its zoning powers will be estopped when a property owner: (1) relying in good faith, (2) upon some act or omission of the government, (3) has made such a substantial change in position or incurred such extensive obligations and expenses that it would be highly inequitable and unjust to destroy the rights which he ostensibly acquired.

The principle of zoning estoppel could be appropriately applied to this case if the Applicant is not permitted to proceed with industrial use on the PUD site. As discussed above, in 2021 the City Council amended the Comprehensive Plan Future Land Use Map to include the PDR land use designation on that portion of the PUD site that fronts on New York Avenue and amended the text of the Comprehensive Plan to require industrial use on land that has a PDR designation on the FLUM. The record shows that the City Council not only intended for industrial use of the PUD site but actually prefers industrial uses along this segment of New York Avenue. Relying in good

ZC Case No. 24-11
Post Hearing Submission

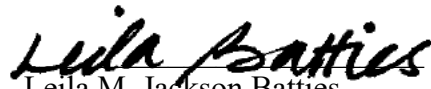
faith on the City Council's amendments to the Comprehensive Plan, and after coordination with the OP, the Applicant spent a significant amount of money engaging numerous professionals (architects, civil engineers, traffic consultants, and attorneys) to design and obtain approvals for industrial use on that portion of the PUD site designated PDR on the FLUM.

Conclusion

We trust that the information provided herein is adequately responsive to the Commission's requests. We appreciate the Commission's favorable review of this Application and look forward to the Commission taking Proposed Action at its public meeting on November 20, 2025.

Respectfully submitted,

HOLLAND & KNIGHT LLP

A handwritten signature in black ink, appearing to read "Leila Batties".

Leila M. Jackson Batties
Madeline Shay Williams

cc: Certificate of Service

Enclosure

CERTIFICATE OF SERVICE

We hereby certify that on November 3, 2025, a copy of the foregoing correspondence and enclosure was served via electronic mail upon the following at the addresses listed below:

D.C. Office of Planning

Jennifer Steingasser: jennifer.steingasser@dc.gov

Joel Lawson: joel.lawson@dc.gov

Crystal Myers: crystal.myers@dc.gov

District Department of Transportation

Erkin Ozberk: erkin.ozberk1@dc.gov

Advisory Neighborhood Commission (“ANC”) 5C

5C@anc.dc.gov

Commissioner Tequia Hicks Delgado

ANC 5C Chair

5C03@anc.dc.gov

Commissioner Shawn Nelson

Single-Member District 5C04, Representative

5C04@anc.dc.gov

ANC 5D

5D@anc.dc.gov

Commissioner Salvador Saucedo-Guzmán

ANC 5D Chair

5D05@anc.dc.gov



Leila M. Jackson Batties

Madeline Shay Williams

Holland & Knight LLP