

Applicant's Proposed Findings of Fact and Conclusions of Law

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission**

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 24-11**

Z.C. Case No. 24-11

**Jemal's Schaefer LLC & Jemal's Bumper George LLC
(Consolidated Planned Unit Development and Related Zoning Map Amendment
@ Square 4268, Lots 6, 12, 14, 801, 804 & 819; and Parcels 153/113, 153/152 & 153/153
[New York and Montana Avenues, N.E.]**

[insert date of final action]

Pursuant to notice, at its _____, 2025, public meeting, the Zoning Commission for the District of Columbia (the "Commission") considered the application (the "Application") Jemal's Schaefer LLC and Jemal's Bumper George LLC (together, the "Applicant") requesting review and approval of the following:

- A consolidated Planned Unit Development ("PUD") and related Zoning Map Amendment from the MU-5B to the PDR-1 zone for the property consisting of Lots 6, 12, 14, 801, 804 and 819, and Parcels 153/113, 153/152 and 153/153 in Square 4268 (collectively, the "Property") to construct a new warehouse building that will support light industrial and accessory office uses; and
- Such other design flexibility as is set forth in the Conditions hereof.

The Commission considered the Application pursuant to Subtitles X and Z of the District of Columbia Zoning Regulations of 2016 ("Zoning Regulations" or "ZR16") (Title 11 of the District of Columbia Municipal Regulations ["DCMR"], to which all references are made unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

I. BACKGROUND

Parties

1. Jemal's Schaefer LLC and Jemal's Bumper George LLC are limited liability company affiliates of Douglas Development Corporation. The Applicant is the current owner of the Property and authorized land use counsel to file the Application on its behalf (Exhibit ["Ex."] 3.)
2. Advisory Neighborhood Commission ("ANC") 5C, in which the Property is located, is the "affected ANC" pursuant to Subtitle Z §101.8.
3. The Applicant and ANC 5C are automatically parties in this proceeding pursuant to Subtitle Z § 403.5.

4. On September 22, 2025, ANC 5D requested party status in opposition to the Application. (Ex. 50.) The party request was granted by the Commission as a preliminary matter during the public hearing on the Application held on October 20, 2025 (the “Public Hearing”). (Transcript of September 22, 2025, Public Hearing (“Hearing Tr.”) at pp. 16.)

Notice

5. On July 24, 2024, the Applicant issued a revised Notice of Intent¹ to file the Application to ANC 5C and the owners of all of the property within 200 feet of the Property, pursuant to Subtitle Z § 300.7. (Ex. 5.)

6. The Office of Zoning (“OZ”) sent notice of the October 16, 2025 public hearing in accordance with Subtitle Z § 402.1 to:

- Authorized counsel for the Applicant;
- ANC 5C
- ANC5C04 Single Member District (“SMD”) Commissioner, whose district includes the Property
- Office of the ANCs
- Office of Planning (“OP”)
- District Department of Transportation (“DDOT”)
- Department of Buildings (“DOB”)
- Office of Zoning Legal Division (“OZLD”)
- District Department of Energy & Environment (“DOEE”)
- Councilmember Zachary Parker, the Ward 5 Councilmember in whose district the Property is located;
- The Chairman and At-Large Members of the D.C. Council; and
- The owners of property located within 200 feet of the Property.

(Ex. 30, 31.)

7. OZ published notice of the public hearing in the August 8, 2025 *D.C. Register* (72 DCR 008630), as well as on the calendar on OZ’s website. (Ex. 29.)

8. The Applicant submitted evidence that it had posted notice of the public hearing on the Property on August 26, 2025, as required by Subtitle Z §§ 402.3-402.4, and maintained said notice in accordance with Subtitle Z § 402.10. (Ex. 41, 74.)

The Property

9. The Property is an irregularly shaped parcel located on the south side of New York Avenue, NE, between Montana Avenue, NE and Bladensburg Road, NE and consists of approximately 391,745 square feet (± 9 acres). It is part of the larger redevelopment area known as Montana Triangle. A 20-foot wide public alley extends into the east side of the Property from New York Avenue. The Property is mostly vacant except for a few industrial buildings on the east side of the Property near the public alley.

¹ The original Notice of Intent issued May 1, 2024, was not mailed to all of the property owners within 200 feet of the Property.

Surrounding Area

10. The parcels surrounding the Property to the north, east and west are zoned PDR and the primary uses are industrial and commercial. The remaining 7 acres of the Montana Triangle, located immediately south of the Property, is zoned MU-5B. (Ex. 3.)

11. The Arboretum neighborhood is located south of the Montana Triangle, and the National Arboretum is located east of the Property. (Ex. 3.)

Current Zoning

12. The Property is currently zoned MU-5B. Subtitle G § 100.3 establishes that the purposes of the MU Zones are to, among other things:

- Provide for a varied mix of residential, employment, retail, service, and other related uses at appropriate densities and scale throughout the city;
- Reflect a variety of building types, including but not limited to, shop-front buildings which may include a vertical mixture of residential and non-residential uses, buildings made up entirely of residential uses, and buildings made up entirely of non-residential uses;
- Ensure that infill development is compatible with the prevailing development pattern within the zone and surrounding areas; and
- Preserve and enhance existing commercial nodes and surroundings by providing an appropriate scale of development and range of shopping and service opportunities.

13. The MU-5 zones, specifically, are intended to permit medium-density compact mixed-use development with an emphasis on residential use and to provide for facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core. 11-G DCMR § 101.10.

14. The MU-5 zone permits the following:

- A maximum density of 3.5 floor area ratio (“FAR”), with up to 4.2 FAR for projects subject to the Inclusionary Zoning (“IZ”) bonus density, and with a maximum non-residential FAR of 1.5 (Subtitle G § 201.1.);
- A maximum building height of 75 feet (Subtitle G § 203.2.); and
- A maximum lot occupancy of 80%

15. The MU-5 zone is subject to the use permissions of MU-Use Group E, where residential and certain non-residential uses are permitted as a matter of right. (Subtitle U §512.)

Comprehensive Plan (Title 10-A DCMR, the “CP”)

16. The CP’s Future Land Use Map (“FLUM”) designates that portion of the Property that fronts on New York Avenue, NE, which is the Zoning Map amendment area, as Mixed Use – High Density Residential / High Density Commercial / Production, Distribution, and Repair (“PDR”). (Ex. 3F.)

- High Density Commercial: This designation is used to define the central employment district, other major office centers, and other commercial areas with the greatest scale and intensity of use in the District. Office and mixed office/retail buildings with densities greater than a FAR of 6.0 are the predominant use, although high-rise residential and many lower scale buildings (including historic buildings) are interspersed. The MU-9, D-3, and D-6 Zone Districts are consistent with the High Density Commercial category, and other zones may also apply. *See* 10-A DCMR § 227.13.
- High Density Residential: This designation is used to define neighborhoods and corridors generally, but not exclusively suited for high-rise apartment buildings. Pockets of less dense housing may exist within these areas. Density is typically greater than a FAR of 4.0, and greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The RA-4 and RA-5 Zone Districts are consistent with the High Density Residential category, and other zones may also apply. *See* 10-A DCMR § 227.8.
- Production, Distribution, and Repair (PDR): The Production, Distribution, and Repair (PDR) category is used to define areas characterized by manufacturing, warehousing, wholesale and distribution centers, transportation services, food services, printers and publishers, tourism support services, and commercial, municipal, and utility activities which may require substantial buffering from housing and other noise-, air pollution- and light-sensitive uses. This category is also used to denote railroad rights-of-way, switching and maintenance yards, bus garages, and uses related to the movement of freight, such as truck terminals. It is important to ensure that adequate, appropriate land is provided for these PDR uses that are critical to supporting the retail, transportation and service needs of the city. A variety of zone districts apply within PDR areas, recognizing the different intensities of use and impacts generated by various PDR activities. The corresponding zone category is PDR, and the present density and height limits set in these districts are expected to remain for the foreseeable future. Other districts may also apply where the PDR map designation is striped with other land uses. In an area striped to include PDR, development must include PDR space, and on sites containing existing PDR space the amount of PDR space on-site should be substantially preserved. *See* 10-A DCMR § 227.14.

17. The CP's FLUM designation for that portion of the Property that will remain MU-5B is Mixed Use – Moderate Density Commercial / Medium Density Residential. (Ex. 3F.)

- Medium Density Residential: This designation is used to define neighborhoods or areas generally, but not exclusively, suited for mid-rise apartment buildings. The Medium Density Residential designation also may apply to taller residential buildings surrounded by large areas of permanent open space. Pockets of low and moderate density housing may exist within these areas. Density typically ranges from 1.8 to 4.0 FAR, although greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development.

The RA-3 Zone District is consistent with the Medium Density Residential category, and other zones may also apply. *See* 10-A DCMR § 227.7.

- Moderate Density Commercial: This designation is used to define shopping and service areas that are somewhat greater in scale and intensity than the Low-Density Commercial areas. Retail, office, and service businesses are the predominant uses. Areas with this designation range from small business districts that draw primarily from the surrounding neighborhoods to larger business districts uses that draw from a broader market area. Buildings are larger and/or taller than those in Low Density Commercial areas. Density typically ranges between a FAR of 2.5 and 4.0, with greater density possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The MU-5 and MU-7 Zone Districts are representative of zone districts consistent with the Moderate Density Commercial category, and other zones may also apply. *See* 10-A DCMR § 227.11.

18. The Property is designated as a Future Planning Analysis Area and as Land Use Change Area on the CP's GPM. (Ex. 3, 3E, 3G, 18, 19, 55, 123A2.)

- The CP's Framework Element states that the Generalized Policy Map shows areas of large tracts and corridors where future analysis is anticipated to plan for inclusive, equitable growth and climate resilience. Boundaries shown are for illustrative purposes. Final boundaries will be determined as part of the future analysis process for each area. In certain locations, planning efforts will be undertaken to analyze land use and policy impacts and ways to capitalize on, mitigate, and incorporate the anticipated growth. Current infrastructure and utility capacity should be evaluated against full build-out and projected population growth. The planning process will target issues most relevant to the community that can be effectively addressed through neighborhood planning. Planning analysis generally establish guiding documents, such as Small Area Plans, Development Frameworks, Retail Strategies, or Design Guidelines. Areas anticipated for future planning analysis include the following: New York Avenue NE corridor. . .10-A DCMR § 304.8
- The CP's Framework Element states Land Use Change Areas are areas where change to a different land use from what exists today is anticipated. In some cases, the Future Land use Map depicts the specific mix of uses expected for these areas. 10-A DCMR § 225.9.
- The guiding philosophy in the Land Use Change Areas is to encourage and facilitate new development and promote the adaptive reuse of existing structures. Many of these areas have the capacity to become mixed-use communities containing housing, retail shops, services, workplaces, parks, and civic facilities. The Comprehensive Plan's Area Elements provide additional policies to guide development and redevelopment within the Land Use Change Areas, including the desired mix of uses in each area. 10-A DCMR § 225.11.
- As Land Use Change Areas are redeveloped, the District aspires to create high quality neighborhoods that demonstrate exemplary site and architectural design and innovative environmental features, compatible with nearby neighborhoods, protect cultural and historic assets, and provide significant affordable-housing and employment opportunities. Measures to ensure that public benefits are commensurate with increased density and to avoid and mitigate undesirable impacts of development of the Land Use Change Areas

upon adjacent neighborhoods should be required as necessary. Such measures should prioritize equity by accounting for the needs of underserved communities. 10-A DCMR § 225.12.

Upper Northeast Area Element

19. The Property is located within the Upper Northeast Area Element of the Comp Plan. (Ex. 3- 3G, 18, 55.) *See* 10-A DCMR § 2400.1. The Upper Northeast Planning Area is comprised of approximately 8.7 square miles and includes about two-thirds of the District’s northeastern quadrant. *Id.* The mix of uses in Upper Northeast is particularly diverse compared to other parts of the District, as it contains the largest concentration of industrial land uses, and three major institutions of higher education. *See* 10-A DCMR § 2400.3. Also, this planning area shares some of the same challenges facing other parts of the District. The area’s poverty and unemployment rates are all above the District average. Many parts of the area lack access to open space, parks, and retail services. The area has a large population of older adults, many with special transportation, housing, and health care needs. *See* 10-A DCMR § 2400.9.

Other Planning Documents

20. The Property is within the boundaries of the New York Avenue NE Vision Framework Plan dated November 2023 (the “Vision Framework Plan”). (Ex. 3, 8, 55.) The entirety of Square 4268, which is Montana Triangle, is identified for redevelopment as a mixed use community that will include housing and retail. The plan establishes four action items:

- Action Item 1: Produce and preserve housing to prevent displacement, maximize dedicated affordable housing and to keep rents low for all residents.
- Action Items 2: Increase resilience to sudden events, such as severe storms, and help residents overcome persistent stressors, including high air temperatures.
- Action Item 3: Strengthen connections both within the study area and to jobs and services throughout the District.
- Action Item 4: Uplift the corridor’s industrial legacy with shared spaces, human-centric urban design, and public art.

II. THE APPLICATION

The Project

21. The Application, as amended, proposes to redevelop the property with a new flex warehouse building with the following development standards:

- Maximum building height of 49’-3”;
- Density of .463 FAR;
- Approximately 181,090 square feet of GFA;
- Lot occupancy of 46.3%;
- Rear yard of 290 feet;
- 12 loading berths;
- Approximately 198 parking spaces; and

- 10 long term bicycle parking spaces.

(the “Project”). (Ex. 139A1.)

22. At the ground floor, the building will have a showroom with approximately 20,436 square feet of floor area. The main level of the building will have approximately 160,654 square feet of floor area, of which approximately 139,854 square feet will be used for warehouse storage and 20,800 square feet will be used for open office. (Ex. 115A1 – 115A4.)

23. The Project is designed to present as three separate buildings along the New York Avenue frontage. The building’s massing is broken up by two 52’x20’ open courts, and each section of the building has different building materials, color pallets, and architectural elements. (Ex. 139A1 – 139A7.)

24. The Project will have three (3) primary vehicular access points. One will be located off a public alley connecting from New York Avenue, NE; one will be located off Bladensburg Road, NE; and the last one will be located off Montana Avenue, NE. The surface parking lots will be accessible to vehicles traveling on Montana Avenue, NE. (Ex. 139A4.)

25. The Project also includes the sidewalk, bike trail and streetscape improvements as shown on Sheets 301 –304 of the Streetscape Plans. (Ex. 115A4.)

26. The Project will include 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. (Ex. 139A4.)

27. Pursuant to Subtitle U § 801.1(v) the following manufacturing activities that generate excessive fumes, odors, toxins, or noise are prohibited on the Property:

- 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.

(Ex. 49, 123A2, 139.)

28. 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:

- Concrete plant;
- Asphalt plant;
- Material salvage;
- Hauling or terminal yard;
- Outdoor material storage;
- Acetylene gas manufacturing;
- Fertilizer manufacturing;
- Rock quarrying;
- Metro stations;
- Access ways, airports;
- Gasoline service station;
- Electrical sub-station;
- Sewer plant;
- Water treatment plant;
- Utility pumping station;
- Incinerator;
- Waste-related service uses, except for composting facility and non-intensive recycling facility; and
- Data centers.

(Ex. 53, 123A2, 139.)

29. The Applicant agrees to limit the PDR uses in the Property for the life of the PUD to those listed below, subject to the conditions in Subtitle U § 801 of the Zoning Regulations or other applicable laws:

- Animal Sales and Care;
- Youth Rehabilitation Home and Adult Rehabilitation Home;
- Education Uses, Public;
- Government Uses, Large Scale;
- Motor Vehicle-Related Repair;
- Parking, other than a parking garage;
- Production, Distribution, and Repair;
- Self-Storage Establishment;
- Transportation Infrastructure
- Utilities (basic);
- Composting facility and non-intensive recycling facility; and
- Wholesale or Storage Establishment.

Application Requests

30. The Application requests the approval of a Consolidated PUD with a related Zoning Map amendment on a portion of the Property from MU-5B to PDR-1. (Ex. 3.)

31. The Zoning Map amendment is limited to that portion of the PUD Site that extends approximately 200 feet south from New York Avenue and has a FLUM designation of Mixed-Use

(High Density Commercial / High Density Residential / PDR). The land area for the portion to be rezoned is 208,478 s.f. (Ex. 139A2.)

32. The remainder of the PUD Site, which is designated Mixed-Use (Moderate Density Commercial / Medium Density Residential), will remain in the MU-5B zone. The land area for the portion to remain MU-5B is 183,267 s.f. (Ex. 139A2.)

33. The Application requests design flexibility as are set forth in the Conditions hereof to vary certain elements in the Application's final plans as approved by the Commission and still comply with the requirement of Subtitle X § 311.2 and Subtitle Z § 702.8 to construct the Project in complete compliance with the final plans. (Ex. 3.)

34. The Applicant also requests the following flexibility for PDR uses in the Project:

- PDR Use Types. To vary the types of uses designated as "PDR" uses on the approved plans to include the following uses: production, sale, distribution of food and beverages; small-scale production and repair of goods and related sales; media/communications production and distribution; arts and entertainment; traditional crafts and trades; engineering and design; and technology design and production.

(Ex. 3.)

Applicant's Submissions

35. On July 19, 2024, the Applicant filed its initial application to Commission, which included:

- A Statement in Support of the Application that provided an overview of the Project and justifications relating to the PUD evaluation criteria of Subtitle X §304;
- A list of the public benefits and amenities proffered in connection with the Consolidated PUD;
- An initial set of architectural drawings and elevations; and
- A discussion of the Project's compliance with the CP, including the Citywide Elements and the Upper Northeast Area Element.

(Ex. 3 – 3I.)

36. On November 25, 2024, the Applicant filed an Amendment to the Application that limited the Zoning Map amendment from the MU-5B zone to the PDR-1 zone to that portion of the PUD Site that extends approximately 200 feet south from New York Avenue and has a FLUM designation of Mixed-Use (High Density Commercial / High Density Residential / PDR). The remainder of the PUD Site, which is designated Mixed-Use (Moderate Density Commercial / Medium Density Residential). will remain in the MU-5B zone. (Ex. 13.)

37. On January 9, 2025, at the request of OP, the Applicant submitted a Supplemental Statement providing an analysis of how the Project is not inconsistent with the Property's designation as a Land Use Change Area on the CP's GPM. (Ex. 16.)

38. On January 27, 2025, the Applicant filed a revised site plan showing the footprint of the warehouse building entirely within that portion of the Property to be rezoned from to PDR-1. (Ex. 17.)

39. The Commission voted to set down the Application for public hearing at its public meeting on February 27, 2025. At the meeting, the Commission's requested that the plans be revised to confirm the boundary of the PUD Site and to specifically identify the portion of the site that would be rezoned from MU-5B to PDR-1. (Transcript of February 27, 2025, Public Meeting ("Meeting Tr.") at pp. 38-43.)

40. On June 11, 2025, the Applicant filed its Prehearing Statement, submitting the updated plans as requested by the Commission at set down. This submission included an updated set of architectural plans for the Project, which reflected a shift in the building design from a traditional brick façade to a modern façade.² (Ex. 24 – 24G.)

41. On September 16, 2025, the Applicant filed its Supplemental Prehearing Statement, which included the following:

- A summary of the issues raised by ANC 5C and other community stakeholders;
- Details on the on the PDR / industrial uses that would be restricted and permitted in the Project;
- An updated discussion on the proposed PDR-1 zoning as it relates to the CP and the surrounding PDR zoning;
- A restatement of the PUD benefits that are of special value to the neighborhood;
- A discussion of the PUD flexibility standard and evaluation criteria as it applies to the Project; and
- The Comprehensive Transportation Review ("CTR").

(Ex. 49 – 49B.)

42. On September 23, 2025, the Applicant submitted the LEED scorecard for the Project. The submission included a waiver under Subtitle Z § 101.9 to submit the plans within 30 days of the public hearing, which was granted by the Commission. (Ex. 51.)

43. On September 29, 2025, the Applicant submitted a letter opposing ANC 5D's party status request claiming that ANC 5D is not uniquely affected and that its proximity to the subject property was overstated. (Ex. 52 – 52A.)

44. On October 1, 2025, the Applicant submitted a letter that amended the PDR restrictions on the Property such that the waste-related services uses for the Project are limited to composting and non-intensive recycling.

45. On October 17, 2025, the Applicant submitted a consolidated set of the updated plans for the Project. The submission included a waiver under Subtitle Z § 101.9 to submit the plans within 30 days of the public hearing, which was granted by the Commission. (Ex. 115-115A4.)

² The shift in the building design was in response to feedback from ANC 5C and other community stakeholders during the Applicant's outreach process.

46. On October 20, 2025, the Applicant submitted a PowerPoint presentation to accompany the Applicant's oral testimony at the public hearing (the "PowerPoint"). (Ex. 123 A1 – A2.)

Applicant's Testimony

47. At the Public Hearing, the Applicant's representatives testified to the following:

- The proposed development program;
- The Applicant's outreach to the community and the Applicant's efforts to address the issues and concerns that had been raised, particularly with regards to the building design and the type of industrial uses that would be permitted in the Project;
- The architectural design of the Project;
- Transportation considerations;
- Justifications as to why the Application is not inconsistent with the CP when evaluated through a racial equity lens; and
- Justifications as to why the Application satisfies the PUD balancing test and the PUD evaluation criteria of Subtitle X §§ 304.3 and 304.4.

(Ex. 123A1, 123A2, Hearing Tr. at pp. 22 – 52.)

48. At the Public Hearing, the Applicant's representatives testified as to the following on rebuttal:

- In response to the suggestion that the Property be rezoned to MU-10 or a new mixed use zone instead of PDR-1 as a tool to facilitate mixed use development, the Applicant stated that an MU zone would not result in a mixed use development on the Property because there is no market for residential development.
- In response to the claim that approval of the Application would hinder residential development opportunities on the remainder of Montana Triangle, the Applicant described how the retail uses in Ivy City front on New York Avenue and the residential building (Hecht's Warehouse) is situated behind the retail more than 200 feet from New York Avenue. The Applicant argued that the remainder of Montana Triangle is 7 acres, which is ample size for a significant development project in the city.
- In order to mitigate potential impacts from the Project on the future development of Montana Triangle, the Applicant agreed to maintain a 45-foot wide green buffer on the south side of the Property.
- The Applicant countered the argument that there was no accountability related to the development and use of the Property by discussing how the PUD process provides for more accountability than if the Property were developed as a matter of right.
- The Applicant stated that entitlements were needed before the Property could be marketed to prospective tenants.
- The Applicant explained that the building is intentionally designed with the flexibility to accommodate one or more tenants as well as uses other than industrial uses.
- The Applicant reiterated that only specific light industrial uses would be permitted within the PUD under the Application. Heavy industrial uses are prohibited under the Zoning Regulations and the Applicant has voluntarily agreed to prohibit several industrial uses from the Project.

- The Applicant agreed to restrict access to the parking lot when the building is not in use by the tenant(s).
- The Applicant acknowledged that they are open to OP's suggestion of a farmer's market or some other type of use that can serve the community once the site is redeveloped.

(Hearing Tr. at pp. 170 – 175.)

Post Hearing Submission

49. On November 3, 2025, the Applicant filed its Post Hearing Submission responding to the following requests and comments raised by the Zoning Commission at the Public Hearing:

- Revised building design and updated perspectives of the building;
- A comparison of industrial facilities and the number of loading berths at each facility to provide context for the number of berths proposed for the Project;
- The legislative history of the PDR land use designation on the Property;
- Proposal for the creation of a new zone district;
- Amended and restated list of industrial uses that would be excluded from the PUD;
- The definition of the PDR uses that would be permitted in the Project;
- A restatement of the conditions proffered by the Applicant; and
- A brief overview of the principle of zoning estoppel.

(Ex. 139 – 139C.)

III. APPLICANT'S JUSTIFICATIONS FOR APPROVAL OF THE APPLICATION

Consistency with the CP and Public Policies (Subtitle X § 304.4(a))

50. The Applicant asserted the Application complies with Subtitle X § 304.4(a) because the Project is not inconsistent with the CP as a whole, including its maps and policies, and other adopted public policies and active programs related to the Property. (Ex. 3, 3G, 123A2.)

Framework Element – FLUM

51. The Project is not inconsistent with the FLUM designation for the Property which is Mixed Use – High Density Residential / High Density Commercial / Production, Distribution, and Repair (“PDR”) and Mixed Use Moderate Density Commercial / Moderate Density Residential because:

- The area to be rezoned to PDR-1 and the warehouse building are entirely within the portion of the PUD Site that is designated Mixed Use – High Density Residential / High Density Commercial / Production, Distribution, and Repair (“PDR”).
- The Land Use element states that the corresponding zone category for the PDR land use designation is PDR. In an area striped to include PDR, development **must** include PDR space. 10-A DCMR § 227.14. (**Emphasis added.**)

(Ex. 3, 3G, 123A2, 139 – 139A7.)

Framework Element -- GPM

52. The Project is not inconsistent with the Property's designation as a Future Planning Analysis Area on the GPM because the Property is within the New York Avenue Corridor Future Planning Analysis Area. Rezoning within a future planning analysis area requires that a planning analysis be done prior to a rezoning request is considered. In this case, the Vision Framework Plan and the PUD process satisfy the analysis requirement. (Ex. 3, 3G, 123A2.)

53. The Project is not inconsistent with the Property's designation as a Land Use Change Area on the GPM because the Project has the potential to revitalize this section of New York Avenue, NE with businesses that will generate new jobs, provide new commercial opportunities, enhance existing businesses, and create new business ownership opportunities, and promote the vitality and economic well being of the area. *See* 10-A DCMR § 2408.9. (Ex. 3, 3G, 123A2.)

Upper Northeast Area Element

54. The Project advances a number of major planning objectives of the Upper Northeast Area Element as discussed below. (Ex. 3, 3G, 123A2.)

- It aligns with the goals for the Upper Northeast area by capitalizing on the untapped economic development potential identified in Policy UNE-1.1.8. The Project's location along the New York Avenue corridor, which is recognized for its commercial and industrial zoning, will generate jobs, provide new shopping opportunities, and support existing businesses, thereby enhancing the economic vitality of the community.
- By incorporating higher design standards, landscaping, and improved screening and buffering, the Project meets the expectations set forth in Policy UNE-1.1.9, ensuring a positive interface with surrounding residential areas and promoting a mixture of uses, including retail and office space, which has the potential to create additional employment opportunities.
- Policy UNE-1.1.12 is addressed because truck access to the Property will be from the adjacent truck routes on New York Avenue, NE, West Virginia Avenue, NE and Bladensburg Road, NE. (Ex. 3G, 49A, 123A1, Hearing Tr. at pp. 23.) The truck traffic will not go through nearby residential neighborhoods.
- Streetscape improvements along major roads, in line with Policy UNE-1.2.1, will enhance the visual quality and attractiveness of the area, further solidifying its role as a key community gateway.
- The emphasis on environmental quality in Policy UNE-1.2.9 is supported because the PDR uses permitted in the Project are limited to specific light industrial uses that would not emit excessive or harmful fumes, odors, toxins, or noise.
- The Project not only retains but also strengthens the PDR land uses essential to the New York Avenue corridor, as outlined in Policy UNE-2.3.2, ensuring the area continues to meet the needs of the District's businesses and residents.

55. Upon evaluation of the Upper Northeast Area Element policies and actions, the Applicant concludes that the Application will not be inconsistent with the Land Use Element overall, and specifically with the policies listed below.

UNE-1.1 Guiding Growth and Neighborhood Conservation

- UNE-1.1.8: Untapped Economic Development Potential
- UNE-1.1.9: Production, Distribution, and Repair Uses
- UNE-1.1.11: Buffering
- UNE-1.1.12: Truck Traffic

UNE-1.2 Conserving and Enhancing Community Resources

- UNE-1.2.1: Streetscape Improvements
- UNE-1.2.5: Increasing Economic Opportunity
- UNE-1.2.9: Environmental Quality

UNE-2 Policy Focus Areas

- UNE-2.3.1: New York Avenue Corridor
- UNE-2.3.2: Production, Distribution, and Repair Land Uses
- UNE-2.3.3: Infill Development

(Ex. 3, 3G, 123A2.)

Land Use Element

56. The Project advances several policies in the Land Use Element as discussed below. (Ex. 3, 3G, 123A2.)

- By emphasizing the economic importance of industrial uses and accessory commercial, retail, or office spaces, the Project supports Policy LU-3.2.1, which advocates for retaining adequate industrial land to meet the District's economic needs.
- The PUD's inclusion of a landscape buffer adjacent to residential areas is consistent with Policy LU-3.2.7, which aims to mitigate adverse impacts from industrial uses through buffering, site planning, and design measures.
- The project contributes to neighborhood revitalization and economic opportunity, in line with Policy LU-2.1.2. By focusing on areas most in need of commercial investment and providing new business opportunities, the development addresses community indicators of need such as unemployment rates.
- The planned streetscape and facade improvements, consisting of high-quality materials, coupled with the creation of pedestrian spaces, reflect the objectives of Policy LU-2.2.4, enhancing the visual quality of the neighborhood and fostering an attractive environment for both businesses and residents.

57. Upon evaluation of the Land Use Element policies and actions, the Applicant concludes that the Application will not be inconsistent with the Land Use Element overall, and specifically with the policies listed below.

LU-1.1: Supporting Growth

- LU-1.1.1: Future Planning Analysis and Resilience Focus Areas

LU-1.4: Transit-Oriented and Corridor Development

- LU-1.4.6: Development Along Corridors

LU-1.5: Neighborhood Infill Development

- LU-1.5.1: Infill Development
- LU-1.5.2: Long-Term Vacant Sites

LU-2.1: A District of Neighborhoods

- LU-2.1.1: Variety of Neighborhood Types
- LU-2.1.2: Neighborhood Revitalization
- LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods
- LU-2.1.5: Support Low-Density Neighborhoods
- LU-2.1.13: Planned Unit Developments in Neighborhood Commercial Corridors

LU-2.2 Maintaining Community Standards

- LU-2.2.4: Neighborhood Beautification

LU 3.2 Taking a Hard Look at the District's Industrial Lands

- LU-3.2.1: Retain Areas for Industrial Uses
- LU-3.2.3: Retain and Support PDR Uses in Areas Designated for Mixed PDR Uses
- LU-3.2.7: Mitigating Industrial Land Use Impacts
- LU-3.2.10: Cottage Industries and Makers

(Ex. 3, 3G, 123A2.)

Transportation Element

58. The Project advances a number of goals in the Transportation Element as discussed below.
(Ex. 3, 3G, 123A2.)

- The construction of a new sidewalk, separated bike lane, trees, and landscaping supports Policy T-1.2.1 by beautifying and stabilizing major thoroughfares, and facilitating coordinated multimodal transportation improvements.
- This not only improves the visual quality of the area but also provides safer and more convenient pathways for pedestrians and cyclists, contributing to a more inclusive and accessible transportation network as outlined in Policy T-1.1.7.
- the Project promotes multimodal connections and safety, consistent with Policy T-2.2.1 and Policy T-2.3.3.
- By integrating a comprehensive bicycle network with protected bike lanes, ensuring sufficient on-site parking, and providing accessibility via Metrobus, the development enhances connectivity between various transit modes, enabling smoother transitions and supporting a seamless multimodal transportation system.
- The emphasis on pedestrian facilities, as highlighted in Policy T-2.4.1, ensures that the sidewalk improvements contribute to a safe and accessible pedestrian network, linking residents across the neighborhood and promoting a more walkable community.
- PUD's focus on creating multimodal corridors, in line with Policy T-2.5.1, demonstrates a commitment to balancing various transportation modes, thereby reducing reliance on car trips and enhancing the overall efficiency of the transportation system as advocated in Policy T-3.1.1.

59. Upon evaluation of the Transportation Element policies and actions, the Applicant concludes that the Application is not inconsistent with the Transportation Element and advances the specific policies listed below.

T-1.1 Land Use: Transportation Coordination

- T-1.1.7: Equitable Transportation Access

T-1.2 Transforming Corridors

- T-1.2.1: Major Thoroughfare Improvements

T-2.2 Making Multimodal Connections

- T-2.2.1: Multimodal Connections
- T-2.2.2: Connecting District Neighborhoods

T-2.3 Bicycle Access, Facilities, and Safety

- T-2.3.1: Better Integration of Bicycle and Pedestrian Planning
- T-2.3.2: Bicycle Network
- T-2.3.3: Bicycle Safety

T-2.4 Pedestrian Access, Facilities, and Safety

- T-2.4.1: Pedestrian Network
- T-2.4.2: Pedestrian Safety

T-2.5 Roadway System and Auto Movement

- T-2.5.1: Creating Multimodal Corridors

T-3.1 Transportation Demand Management

- T-3.1.1: TDM Programs

(Ex. 3, 3G, 123A2.)

Environmental Protection Element

60. The Project advances a number of goals in the Environmental Protection Element as discussed below. (Ex. 3, 3G, 123A2.)

- The inclusion of extensive landscaping and tree planting along the streetscape directly supports Policy E-1.1.2 by mitigating the urban heat island effect. These green spaces, along with the bioretention basins scattered throughout the site, also contribute to resilient infrastructure as described in Policy E-1.1.5, enhancing the neighborhood's ability to manage stormwater and reduce flood risks.
- The Project's commitment to incorporating newer energy standards in its construction aligns with Policy E-3.2.7, promoting energy-efficient building practices that complies with the Green Building Code requirements.
- This approach also supports Policy E-5.1.7 by contributing to improved air quality through reduced energy consumption.
- Additionally, the implementation of water conservation measures within the building aligns with Policy E-3.1.1, ensuring that the growing demands of the District do not lead to increased water consumption.
- The Project emphasizes sustainable landscaping practices as encouraged by Policy E-2.1.3 and Policy E-4.1.2. The use of bioretention basins, tree planting, and green spaces will significantly reduce stormwater runoff and enhance the aesthetic and environmental quality of the area.
- These measures also align with Policy E-6.1.3 by controlling runoff and preventing water pollution, further ensuring that the development is in harmony with the District's broader environmental protection objectives. Through these comprehensive measures, the Project not only contributes to the economic vitality of the neighborhood but also underscores a strong commitment to environmental sustainability and resilience.

61. Upon evaluation of the Environmental Protection Element policies and actions, the Applicant concludes that the Application is not inconsistent with the Environmental Protection Element and advances the specific policies listed below.

E-1.1 Preparing for and Responding to Natural Hazards

- E-1.1.2: Urban Heat Island Mitigation
- E-1.1.5: Resilient Infrastructure

E-2.1 Conserving and Expanding Washington, DC's Urban Forests

- E-2.1.2: Tree Requirements in New Development
- E-2.1.3: Sustainable Landscaping Practices

E-3.1 Conserving Water

- E-3.1.1: Promoting Water Conservation

E-3.2 Conserving Energy and Reducing GHG Emissions

- E-3.2.7: Energy-Efficient Building and Site Planning

E-4.1 Green Infrastructure GI

- E-4.1.2: Using Landscaping and Green Roofs to Reduce Runoff

E-5.1 Reducing Air Pollution

- E-5.1.7: Energy Efficiency and Air Quality

E-6.1 Reducing Water Pollution

- E-6.1.3: Control of Runoff

(Ex. 3, 3G, 123A2.)

Economic Development Element

62. The Project advances a number of major planning objectives of the Economic Development Element as discussed below. (Ex. 3, 3G, 123A2.)

- The Project supports Policy ED-2.1.1 by enhancing economic opportunities within the neighborhood and providing essential services to the surrounding community. The Project's emphasis on industrial uses is particularly significant as these jobs often have lower barriers to entry and offer higher wages, benefiting individuals without a college degree. This is crucial in an area with higher unemployment rates compared to the rest of the District, as it provides valuable employment opportunities and helps to stimulate the local economy.
- The Project's design includes streetscape improvements and extensive landscaping, which aligns with Policy ED-3.1.1 by beautifying the site and enhancing the neighborhood's appeal. These improvements, coupled with the bioretention basins, contribute to a more pleasant and environmentally friendly urban environment.
- Additionally, the new construction will adhere to enhanced energy standards and incorporate water conservation measures, supporting Policy ED-3.1.3 by promoting sustainable development practices that reduce operational costs and improve resource efficiency.

63. Upon evaluation of the Economic Development Element policies and actions, the Applicant concludes that the Application is not inconsistent with the Economic Development Element and advances the specific policies listed below.

ED-1.1 Diversifying the Economic Base

- ED-1.1.3: Diversification
- ED-2.2 The Retail Economy
 - ED-2.2.3: Neighborhood Shopping
- ED-2.5 The Production, Distribution, and Repair Economy
 - ED-2.5.1: Support for PDR Areas
 - ED-2.5.2: Improve Environmental Stewardship
 - ED-2.5.3: Workforce Development
- ED-3.1 Strengthening Retail Districts
 - ED-3.1.1: Neighborhood Commercial Vitality

(Ex. 3, 3G, 123A2.)

Urban Design Element

64. The Project advances a number of goals in the Urban Design Element as discussed below.
(Ex. 3, 3G, 123A2.)

- The Project aligns with the urban design goals for the neighborhood by potentially incorporating a variety of uses, such as industrial, retail, and office spaces, which will serve the surrounding community. This diverse mix supports Policy UD-1.4.1 by reinforcing the form and identity of the District through thoughtful streetscape and landscaping design, which will improve the aesthetic and visual character of the area. The inclusion of bioretention basins and extensive landscaping with trees contributes to a greener and more visually appealing environment, enhancing the streetscape for pedestrians and cyclists alike.
- The Project's design, featuring brick construction and bronze trim, nods to the historic industrial past of New York Avenue, NE, creating a distinctive and elevated industrial design. This aligns with Policy UD-1.4.2, which emphasizes the importance of creating memorable gateways that provide a sense of transition and arrival. The curved symmetrical windows with grids further enhance the building's character, making a strong and positive visual impact.
- The improved streetscape, with new sidewalks and a bike lane, provides a complete and welcoming environment for both pedestrians and bicyclists, aligning with Policy UD-2.1.1 by prioritizing the human experience and ensuring the area is comfortable, safe, and interesting to pedestrians and bicyclists.
- Furthermore, the Project focuses on enhancing the gateway corridor of New York Avenue, consistent with Policy UD-1.4.4. By supporting the character and design improvements of this historically important corridor, the Project helps to preserve its symbolic significance while also contributing to a cohesive and integrated urban form.
- The inclusion of multiple transportation amenities such as bus shelters and bikeshare stations within the streetscape design supports Policy UD-2.1.3, ensuring that the streetscape accommodates a range of transportation modes and integrates them seamlessly into the urban environment. This holistic approach to urban design ensures that the project not only meets the immediate needs of the community, but also enhances the overall aesthetic and functional quality of the neighborhood.

65. Upon evaluation of the Urban Design Element policies and actions, the Applicant concludes that the Application is not inconsistent with the Urban Design Element and advances the specific policies listed below.

UD-1.4 Enhancing Thoroughfares and Gateways

- UD-1.4.1: Thoroughfares and Urban Form
- UD-1.4.2: District Gateways
- UD-1.4.4: Priority Avenues and Gateway Corridors

UD-2.1 Streets for People

- UD-2.1.1: Streetscapes That Prioritize the Human Experience
- UD-2.1.3: Complete Streetscape Design

(Ex. 3, 3G, 123A2.)

Potential Inconsistencies with Comprehensive Plan

66. The Applicant acknowledges that the Application is potentially inconsistent with these policies of the CP:

- T-1.2.3: Discouraging Auto-Oriented Uses as such developments often prioritize vehicular access, potentially including large surface parking lots and multiple curb cuts. These features disrupt the continuity of the sidewalk, reducing pedestrian safety and detracting from the pedestrian-friendly nature of retail and residential areas. The emphasis on accommodating vehicles can lead to an environment that feels less inviting and accessible for pedestrians, contrary to the policy's goal of minimizing curb cuts and promoting pedestrian-oriented design.
- T-1.4.1: Street Design for Placemaking aims to create an active space with design elements that support public life. The present design of the streetscape does not fully incorporate elements such as seating, extensive plantings, or thoughtfully designed spaces for social or cultural activities. As a result, pedestrian and bicycle activity can be discouraged, although they are essential for supporting public life and creating engaging public spaces.
- Policy H-1.1.4 seeks to ensure that mixed-use development includes affordable housing on commercially zoned land, particularly in neighborhood commercial centers along high-capacity corridors. Given that the Project will not include housing, it will not contribute to the residential fabric of the area or address the pressing need for diverse housing options that can accommodate residents of varying income levels.
- H-1.2.2: Production Targets, which aims to ensure that each Planning Area prioritizes affordable housing production in support of the targets provided in the Housing Equity Report, which sets a goal of approximately 20,000 new affordable housing units to be constructed between 2018 and 2030. Given that The Project will not include housing, it will not contribute to this goal.

(Ex. 3G.)

67. The Applicant concludes that although the Project is inconsistent with these CP policies, on balance, it is not inconsistent with multiple others. The Project will advance many policies in the Land Use, Transportation, Environmental Protection, Economic Development, and Urban Design Elements that will benefit the neighborhood and the New York Avenue NE corridor in general. (Ex. 3G.)

New York Avenue, NE Vision Framework

68. The Project advances the aims of the New York Avenue, NE Vision Framework as follows:
- Action Item 1: *Produce and preserve housing to prevent displacement, maximize dedicated affordable housing and to keep rents low for all residents.* While the Project does not include housing, the redevelopment of the Property creates the potential to reactivate the remainder of Montana Triangle with residential uses. The site plan for the PUD includes a 45-foot wide 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. Finally, the Project includes streetscape and transportation improvements that could help enhance the experience of the residents in the area.
 - Action Item 2: *Increase Resilience to sudden events, such as sever storms, and help residents overcome persistent stressors including high air temperatures.* The Project will result in outcomes that will improve the environment through the implementation of elements such as stormwater improvements, bioretention basins, and green building technologies. Landscaping, such as street trees required in public space will also reduce the impacts of urban heat island.
 - Action Item 3: *Strengthen connections both with the study area and to jobs and services throughout the District.* The Project includes the installation of new sidewalks and a bike lane.
 - Action Item 4: *Uplift the Corridor's industrial legacy with shared spaces, human centric urban design, and public art.* The Project has been designed to transform this segment of the New York Avenue corridor. The Project is designed to present as three separate buildings along the New York Avenue frontage. The building massing is broken up by two 52'x20' wide open courts, and each section of the building has different building materials, color pallets, and architectural elements.

(Ex. 3, 3G, 123A2.)

Racial Equity

69. The Applicant asserted that the Project and related Zoning Map Amendment to the PDR-1 zone would not be inconsistent with the CP when evaluated through a racial equity lens. In support of its assertion, the Applicant evaluated the Project's consistency with the CP by applying the Commission's Racial Equity Analysis Tool. (Ex. 3, 3G, 123A2.)
70. The Applicant stated that the proposed zoning action would have the following outcomes:
- The approval of the Application does not result in any direct displacement of residents or businesses.
 - The approval of the Application does not result in any indirect displacement of residents or businesses.
 - The economic impact from the approval of the Application is that the proposal could bring more employment opportunities, including higher paying jobs that do not require a college degree.
 - The health impact from the approval of the Application is that the proposal is for a warehouse use, which is considered a light industrial use, so it is not expected to

significantly impact public health. Noise and potential pollution would be limited within District regulations.

- The approval of the Application includes public space and infrastructure improvements, specifically new sidewalks, a protected bicycle lane, bioretention basin and new tree plantings.
- As it relates to transportation improvements, the Property is served by Metrobus; and the new sidewalks and bike lane would make the site more accessible to pedestrians and cyclists.
- The approval of the Application would improve access to opportunity because it would likely bring new light industrial jobs to the area, which usually offer higher wages and do not require a college degree; and the project may attract more commercial development to the area.
- As it relates to the community, the Applicant had multiple meetings with the ANC and the Arboretum Civic Association. In response to their feedback, the Applicant refined the Project's design and included PUD benefits that were indicated as important to the community.

(Ex. 3, 3G, 123A2.)

No Unacceptable Impacts on Surrounding Area (Sub. X § 304.4(b))

71. The Applicant provided evidence that the Application complies with Subtitle X § 304.4(b), which requires that a PUD does not create any potential adverse impacts that could not be mitigated or balanced out by public benefits, as discussed below.

- Land Use. The Project will result in a more efficient and economical use of underutilized land. The proposed site plan for the property along New York Avenue, NE, enhances the efficiency and economic use of vacant land by maximizing the building area to 181,090 square feet and strategically arranging 198 parking spaces. The Plans include landscaped areas that integrate the development with its surroundings, enhancing aesthetic appeal. Thus, potential impacts to land use are favorable.
- Transportation. The proposed development will not have a detrimental impact on the surrounding transportation network. Any potential adverse impacts can be mitigated through implementation of a transportation demand management ("TDM") plan. Thus, potential impacts to transportation are favorable or capable of being mitigated.
- Economic Development. The Project will result in the redevelopment of an underutilized site in a transit-accessible location that could result in the creation of jobs. Thus, potential impacts to the economy are favorable.
- Parks, Recreation, and Open Space. The PUD Site currently has no parks, recreation, or open space elements, as it is mostly vacant. The Project incorporates improvements to adjacent public space. Thus, potential impacts to open space are favorable.
- Urban Design. The Project reflects a high-quality, context-sensitive design that is respectful of the historic industrial character of the New York Avenue, NE corridor. Thus, potential impacts to urban design are favorable or acceptable given the quality of public benefits.
- Historic Preservation. The Project does not have any impacts on historic preservation as the PUD Site is not located within a historic district.

- Community Services and Facilities. The Applicant does not anticipate any adverse impacts to Community Services and Facilities. Any potential impacts are favorable or acceptable given the quality of public benefits.
- Educational Facilities. The Applicant does not anticipate any adverse impacts to Educational Facilities. Any potential impacts are favorable or acceptable given the quality of public benefits.
- Infrastructure. The Project results in infrastructure improvements. Thus, any potential impacts are favorable.

(Ex. 3, 123A2.)

Requested Zoning Flexibility (To Be Balanced Against Public Benefits (Subtitle X §§ 304.3 and 304.4(c))

72. The Applicant stated that the Application complies with Subtitle X §§ 304.3 and 304.4(c), which, when read in conjunction, require the Commission to judge, balance, and reconcile the relative value of the public benefits and project amenities offered with the degree of development incentives requested. (Ex. 3, 3G, 123A2.)

Zoning Map Amendment

73. The Applicant stated that the rezoning of that portion of the Property fronting on New York Avenue, NE from MU-5B to PDR-1 brings the Property into compliance with the CP; is necessary for the Property to be redeveloped in accordance with the CP; and is compatible with the surrounding context. (Ex. 3, 123A1 - A2.)

Development / Technical Flexibility

74. The Project does not achieve additional height, density or other development or technical flexibility through the PUD process. The proposed building height, density and lot occupancy are within the matter of right development standards for the current MU-5B zone and the proposed PDR-1 zone. (Ex. 3, 123A2.)

Public Benefits and Amenities

75. The Applications proffers the public benefits and amenities discussed below, as defined in Subtitle X § 305.5. (Ex. 3, 123A2.)

- Superior urban design and architecture (11-X DCMR § 305.5(a))

The Project results in superior urban design and architecture consistent with the goals of the Zoning Regulations, the CP, the FLUM and GPM. The Project is designed to present as three separate buildings along the New York Avenue frontage. The building's massing is broken up by two 52' x 20' open courts, and each section of the building has different building materials and color palettes, and architectural elements. The extensive use of glass on the ground floor enhances transparency and visibility, inviting pedestrian interaction and ensuring the space feels open and welcoming. The prominent, well-lit entrance serves as a focal point, drawing attention and encouraging foot traffic, while the clean,

contemporary design elements provide a refreshing counterpoint to the building's classic exterior.

- Streetscape Plans (11-X DCMR § 305.5(l)); Superior Landscaping, or Creation or Preservation of Open Spaces (11-X DCMR § 305.5(b))

A major benefit of the Project is the development of a comprehensive streetscape plan for New York Avenue, NE, demonstrating an integrated approach to enhancing transportation infrastructure and the overall streetscape.

The proposed transportation infrastructure includes a 10-foot-wide bike trail that ensures a safe and convenient path for cyclists, promoting alternative modes of transportation and reducing vehicular traffic. The bike trail is separated from New York Avenue, NE, by a tree box and low plantings, ensuring safety and reducing the risk of accidents.

A 10-foot-wide sidewalk provides ample space for pedestrians, encouraging walking and enhancing the pedestrian experience. The separation between the sidewalk and the bike trail with buffer planting further ensures safety and comfort for both pedestrians and cyclists. Additionally, the buffer planting and tree pit contribute to a pleasant streetscape, offering greenery and shade. This not only improves the aesthetic appeal, but also provides environmental benefits, such as improved air quality and reduced urban heat island effect. The bioretention areas indicated in the plan manage stormwater runoff, contributing to sustainable urban drainage systems. This environmentally friendly approach helps reduce flooding and improves water quality. The presence of street trees and low plantings reduces the impact of the urban heat island effect while enhancing the visual appeal and providing a natural barrier between pedestrians, cyclists, and vehicular traffic. This promotes a more pleasant and inviting atmosphere for all street users.

- Transportation Infrastructure (11-X DCMR § 305.5(o))

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

(Ex. 56.)

- Uses of Special Value to the Neighborhood or the District of Columbia as a whole (11-X DCMR § 305.5(q))

Improvements to the 5th District Police Station. The Applicant proposes to upgrade the community meeting room of the 5th District Police Station, including improvements to the HVAC, lighting, and interior finishes as well as enhance the landscape on the exterior of the station, valued at approximately \$125,000.00. These upgrades will enhance the functionality and appeal of these community spaces and will enhance the

professional atmosphere, making the space more inviting and conducive to productive meetings and community engagement. Additionally, the upgraded hardscape outside the police station provides a more attractive and functional outdoor space for public use. These outdoor landscape improvements increase the usability of the outdoor area and contribute to the overall aesthetic appeal of the neighborhood.

Improvements to the 5th District Police Station. The Applicant proposes to make improvements to the Arboretum Recreation Center at a value of up to \$5,000.00. Improvements to the Arboretum Recreation Center, including the addition of benches and ADA-compliant features (e.g. pathways, ramps and seating), represent a significant enhancement to community amenities, making the space more inclusive and accessible to all residents. Additionally, the inclusion of benches and other seating options contribute to the recreational and social value of the space. Benches provide resting spots for people of all ages, encouraging longer visits and more interaction among residents. This not only enhances the usability of the recreation center but also promotes social cohesion and community engagement.

Installation of Shot Cameras. The Applicant proffers the installation of shot cameras at Bladensburg Road, NE and Montana Avenue, NE at a value of approximately \$15,000.00. The installation of shot cameras significantly enhances public safety and security. These advanced acoustic sensors are designed to detect and accurately locate gunfire incidents in real-time, allowing law enforcement to respond swiftly and effectively. By reducing response times, shot cameras help to deter criminal activity, improve the chances of apprehending offenders, and enhance the safety and well-being of the community.

I. RESPONSES TO THE APPLICATION

Office of Planning

76. OP submitted a Setdown Report dated February 14, 2025, and a Hearing Report dated October 6, 2025 (together, the “OP Reports”). (Ex. 18, 55.)

77. OP recommended approval of the Application because, on balance, it would not be inconsistent with the CP, and it would further the District’s efforts towards meeting its economic development and land use goals by developing a long vacant property with a warehouse and bringing landscaping, streetscape, pedestrian and bikeway improvements to the site. (Ex. 18, 55.)

78. In its CP analysis, the OP Reports include the following arguments:

- The PDR designation stipulates that PDR space should be included in this area. Therefore, the proposed PUD and related map amendment would, in this respect, be, on balance, more consistent with the FLUM than the current MU-5B zone for that portion of the Property that front on New York Avenue. MU-5B does not permit PDR or industrial

land uses so a change in zoning is necessary to be fully consistent with the FLUM's PDR recommendation in this area.

- The MU-5B zone is not inconsistent with the Mixed Use Medium Density Residential and Medium Density Commercial Land Use Designation on the remainder of the Property. Because the PDR building would not be located in the area with this designation, which would instead, include the parking lot, the PUD proposal would, on balance, not be inconsistent with the FLUM.
- The Application is not inconsistent with the GPM guidance for Future Planning Analysis areas. The site is within the New York Avenue Northeast Corridor future planning analysis area, and the 2023 New York Avenue NE Framework Vision plan and the PUD process satisfy the analysis requirement.
- The proposal is not inconsistent with the GPM Land Use Change designation because the proposed use of the building is expected to generate new employment in the area and attract more redevelopment to the area.

(Ex. 18, 55.)

79. The OP Reports state that when evaluated through the Commission's four-part Racial Equity Tool, the PUD would not be inconsistent with the Land Use Element of the CP. Specifically, the PUD would promote the following policies in the Land Use Element:

- LU-1.1.1: Future Planning Analysis and Resilience Focus Areas
- LU-1.4.6: Development Along Corridors
- LU-1.5.1: Infill Development
- LU-1.5.2: Long-Term Vacant Sites
- LU-2.1.1: Variety of Neighborhood Types
- LU-2.1.2: Neighborhood Revitalization
- LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods
- LU-2.1.5: Support Low-Density Neighborhoods
- LU-2.2.4: Neighborhood Beautification
- LU-3.2.1: Retain Areas for Industrial Uses
- LU-3.2.3: Retain and Support PDR Uses in Areas Designated for Mixed PDR Uses
- LU-3.2.7: Mitigating Industrial Land Use Impacts
- LU-3.2.10: Cottage Industries and Makers

(Ex. 18, 55.)

80. The OP Reports state that when evaluated through the Commission's four-part Racial Equity Tool, the PUD would not be inconsistent with the Transportation Element of the CP. Specifically, the PUD would promote the following policies in the Transportation Element:

- T-1.1.7: Equitable Transportation Access
- T-1.2.1: Major Thoroughfare Improvements
- T-2.2.1: Multimodal Connections
- T-2.2.2: Connecting District Neighborhoods
- T-2.3.1: Better Integration of Bicycle and Pedestrian Planning
- T-2.3.2: Bicycle Network

- T-2.3.3: Bicycle Safety
- T-2.4.1: Pedestrian Network
- T-2.4.2: Pedestrian Safety
- T-2.5.1: Creating Multimodal Corridors
- T-3.1.1: TDM Programs

(Ex. 18, 55.)

81. The OP Reports state that when evaluated through the Commission’s four-part Racial Equity Tool, the PUD would not be inconsistent with the Economic Development Element of the CP. Specifically, the PUD would promote the following policies in the Economic Development Element:

- ED-1.1.3: Diversification
- ED-2.5.1: Support for PDR Areas
- ED-2.5.2: Improve Environmental Stewardship
- ED-2.5.3: Workforce Development
- ED-3.1.1: Neighborhood Commercial Vitality

(Ex. 18, 55.)

82. The OP Reports state that when evaluated through the Commission’s four-part Racial Equity Tool, the PUD would not be inconsistent with the Urban Design Element of the CP. Specifically, the PUD would promote the following policies in the Urban Design Element:

- UD-1.4.1: Thoroughfares and Urban Form
- UD-1.4.2: District Gateways
- UD-1.4.4: Priority Avenues and Gateway Corridors
- UD-2.1.1: Streetscapes That Prioritize the Human Experience
- UD-2.1.3: Complete Streetscape Design

(Ex. 18, 55.)

83. The OP Reports state that when evaluated through the Commission’s four-part Racial Equity Tool, the PUD not be inconsistent with the Upper Northeast Area Element of the CP. Specifically, the PUD would promote the following policies in the Upper Northeast Area Element:

- UNE-1.1.8: Untapped Economic Development Potential
- UNE-1.1.9: Production, Distribution, and Repair Uses
- UNE-1.1.11: Buffering
- UNE-1.1.12: Truck Traffic
- UNE-1.2.1: Streetscape Improvements
- UNE-1.2.5: Increasing Economic Opportunity
- UNE-1.2.9: Environmental Quality
- UNE-2.3.1: New York Avenue Corridor
- UNE-2.3.2: Production, Distribution, and Repair Land Uses
- UNE-2.3.3: Infill Development

(Ex. 18, 55.)

84. OP highlighted the Racial Equity benefits of the proposal as public space improvements, pedestrian and bicycle infrastructure, and new development that could create employment opportunities across a range of skill and education levels. The jobs generated by the Project, particularly in the industrial sector, could be especially beneficial to the population in the Upper Northeast planning area. (Ex. 18, 55.)

85. When analyzing the Zoning Commission evaluation factors through a Racial Equity lens, OP concluded the following:

- The approval of the Application does not result in any direct displacement of residents or businesses.
- The approval of the Application does not result in any indirect displacement of residents or businesses.
- The economic impact from the approval of the Application is that the proposal could bring more employment opportunities, including higher paying jobs that do not require a college degree.
- The health impact from the approval of the Application is that the proposal is for a warehouse use, which is considered a light industrial use, so it is not expected to significantly impact public health. Noise and potential pollution would be limited within District regulations.
- The approval of the Application includes public space and infrastructure improvements, specifically new sidewalks, a protected bicycle lane, bioretention basin and new tree plantings.
- As it relates to transportation improvements, the Property is served by Metrobus; and the new sidewalks and bike lane would make the site more accessible to pedestrians and cyclists.
- The approval of the Application would improve access to opportunity because it would likely bring new light industrial jobs to the area, which usually offer higher wages and do not require a college degree; and the project may attract more commercial development to the area.
- As it relates to the community, the Applicant had multiple meetings with the ANC and the Arboretum Civic Association. In response to their feedback, the Applicant refined the Project's design and included benefits that were indicated as important to the community.

(Ex. 18, 55.)

86. The OP Report state that although the PUD does not fully realize the Vision Framework Plan, it complies with many of the Framework's general recommendations as follows:

- Action Item 1: *Produce and preserve housing to prevent displacement, maximize dedicated affordable housing and to keep rents low for all residents.* The proposal does not include housing but would add development to a large vacant site, and make streetscape and transportation improvements to the area that could help to enhance the experience of residents in the area and help to attract more residential development.

- Action Item 2: *Increase resilience to sudden events, such as severe storms, and help residents overcome persistent stressors including high air temperatures.* The Vision Framework recommends improving resilience by improving streetscape, landscaping, renewable energy, and vehicle charging infrastructure. The proposal includes making some of these improvements. The project includes stormwater improvements and green building technology. Adding street trees would also be done in compliance with public space requirements.
- Action Item 3: *Strengthen connections both with the study area and to jobs and services throughout the District.* The proposal would help to realize some of the recommendations for this Action Item by installing a bike lane and new sidewalk along New York Avenue, NE. The PUD would also result in an employment opportunity on this major corridor that is accessible to area residents.
- Action Item 4: Uplift the Corridor's industrial legacy with shared spaces, human-centric urban design, and public art. The Project's urban design is in line with this guidance. The warehouse building would have features that would reflect the area's industrial past.

(Ex. 18, 55.)

87. OP's analysis of the proposed PUD benefits and amenities concludes that they would be commensurate with the amount of flexibility sought through the PUD and process, and the proffers would be acceptable in the following categories, as required by X § 305.12:

- Superior urban design and architecture;
- Superior landscaping or creation or preservation of open spaces and streetscape plans;
- Transportation infrastructure; and
- Uses of special value to the neighborhood or the District of Columbia as a whole.

(Ex. 18, 55.)

88. On November 7, 2025, OP filed a report that states that in drafting the CP, the City Council was concerned about ensuring that the District had enough PDR land and, as such, added the PDR stripe to the Property. (Ex. 140.)

District Department of Transportation

89. DDOT filed a report dated October 6, 2025, which stated that the agency has no objection to the approval of the PUD application with the following conditions in the Zoning Order:

- Implement the TDM Plan as proposed in the CTR (Exhibit 49A), for the life of the project, unless otherwise noted.
- 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 NE to Bladensburg Road NE
 - Provide an easement for all sidewalk and trail facilities within the property line so that DDOT can provide maintenance;
 - Install intersection signalization as needed at the driveway on Montana Avenue NE at 17th Street NE and on Bladensburg Road NE at T Street NE; and
 - Upgrade the sidewalk along the site's Bladensburg Road frontage to DDOT's width and buffer standards where it does not already meet this standard.

(Ex. 56.)

Department of Energy and the Environment

90. DOEE's comments were included Section XII of the OP Report. The agency encouraged the Applicant to consider installing solar photovoltaic systems or plan for the future installation in the Project design. The report also included recommendations related to renewable energy, electrification, and resilience. (Ex. 55.)

ANC 5C

91. On December 18, 2024, ANC 5C filed a report, indicating that at its regularly scheduled meeting on October 16, 2024, the ANC voted 4-1-1 to support the PD and related Zoning Map amendment. (Ex. 15.)

92. On April 4, 2025, ANC 5C filed a report, requesting that the prior report, dated December 18, 2024, be removed from the record or superseded by the current report, which indicated no ANC 5C or opposition to ZC 24-11. (Ex. 20.)

93. In its report dated April 4, 2025, ANC 5C stated that it would like to see:

- Specific detailing of PDR-1 uses the applicant seeks to make the proposed facility available for, and how those are incompatible with existing Mixed-Use zones (such as MU-10, once granted by PUD in ZC 06-15') that allow for many of those uses matter-of-right or by Special Exception.
- Consideration for a map amendment to a new zone introduced by a paired text amendment, deliberately expanding on MU-10 with minimal allowances currently made by PDR-1, to better restrict future matter-of-right uses to the aforementioned intentions. Such a map amendment may be as simple as providing all the rights of MU-10 with an additional capacity to allow any PDR-1 use by Special Exception.
- Regardless of the above revisions, broader community benefits should be included, especially with regard to transportation infrastructure improvements surrounding and near the site, that might facilitate future housing and retail, such as:
 - Clarifying that the existing proposed sidewalk improvements and adjacent bike trail fronting the property will span all of Montana Triangle, including New York Ave., Montana Ave., and Bladensburg Road frontages, and not just directly in front of the subject development.
 - Preliminary study of the "Ivy City Pedestrian Bridge," the abandoned rail bridge that crosses over New York Avenue near the site, to determine suitability for acquisition and/or repurposing as detailed in the Office of Planning's New York Avenue Vision Framework.
 - Contributing to funding and/or preliminary study of existing DDOT plans to rehabilitate and comprehensively redesign the confluence of New York Ave. NE, Montana Ave. NE, and West Virginia Ave. NE (informally, "Montana Circle") and/or the confluence just north at Montana Ave. NE, 18th St. NE, and W St NE ("mini-Montana Circle")

- Study or contributing advocacy to building a new Metrorail segment along the existing CSX track Right-of-Way, as considered by several alternatives in WMATA's Blue/Orange/Silver Capacity and Reliability Study.
- Study or contributing advocacy to adding an additional entrance to The National Arboretum off of Bladensburg Road, NE, as considered by DDOT and The National Arboretum.

(Ex. 20.)

94. On September 15, 2025, ANC 5C filed a supplemental report that concludes the following:

- Community sentiment is strongly opposed to the Applicant's proposal.
- The new uses enabled by the proposal would impose significant, lasting costs and harms on surrounding neighborhoods.
- The PUD proffers are not commensurate with those harms, failing to sufficiently address transportation, housing, and environmental needs or impacts.
- The proposal is inconsistent with the CP and the FLUM, which calls for a mix of high-density residential, commercial, and compatible production uses not provided by MU-5B, PDR-1 or any currently existing zone.
- Allowing the Application's interpretation of the FLUM to move forward would cause further harm not just to the subject site and its existing plans and vision, but to the entire New York Avenue corridor.

The Supplemental Report included a resolution calling for the creation of a new Mixed Industrial Zone. (Ex. 48.)

95. On October 14, 2025, ANC 5C filed a response to the OP and DDOT reports arguing that the reports do not account for how the Application impacts the housing envisioned for the Property and Montana Triangle in prior development approvals. (Ex. 70.)

96. Shawn Nelson, the commissioner for ANC 5C04, testified at the Public on behalf of ANC 5C. Commissioner Nelson expressed concern that it was unclear what the Property would be used for. Further, he claimed that people attending the nearby clubs would try to use the vehicle parking on the Property, which presents safety and security risks. He claimed that the remaining acres on the lot would not provide enough space for mixed use spaces, including housing opportunities. Commissioner Nelson urged for the creation of a new zone and incorporation of new policies in the 2050 Comprehensive Plan. (Hearing Tr. at pp. 126-129.)

Persons / Organizations in Support

97. Kathy Henderson, a former commissioner for ANC 5D, testified at the Public Hearing in support of the Application. She described the Applicant as an excellent development partner for the city, with an exceptional record of community engagement, and consistently delivering quality projects that are beneficial to the community. Further, she stated that approval of the Application would help create employment opportunities and bring businesses of value to the community. (Ex. 137, Hearing Tr. at pp. 136-139.)

98. Jacqueline Manning, the former commissioner for ANC 5C04, testified at the Public Hearing in support of the Application. She described the area surrounding the Property as lying dormant and in need of revitalization. (Hearing Tr. at pp. 139-140.)

Party in Opposition – ANC 5D

99. ANC 5D was granted party status by the Commission as a preliminary matter during the Public Hearing. (Hearing Tr. at pp. 16.)

100. The request for party status asserts that Commission Area 5D represents neighboring communities that are disproportionately burdened by industrial facilities presenting grave environmental injustice; and allowing a map amendment to facilitate another geographic set of industrial spaces would further burden the communities. (Ex. 50.)

101. The resolution adopted by ANC 5D urged the Commission to deny the Application; and urged OP to (1) oppose the Application given its conflicts with the New York Avenue NE Vision Framework and (2) apply to the Commission for a Text Amendment that allows minimal industrial concurrence with mixed use development. (Ex. 50.)

102. Sebreana Rhodes, the commissioner for ANC 5D02, testified at the Public Hearing in opposition to the Application. She expressed concern about the continued pollution in the neighborhood due to industrial uses and as such, opposed industrial use at the Property. Commissioner Rhodes called for more housing, job opportunities, and a buffer between PDR and residential uses. (Ex. 134, Hearing Tr. at pp. 145-152.)

Persons/Organization in Opposition

103. Prior to the Public Hearing, there were 91 letters or emails filed in opposition to the Application. (Ex. 20-22, 26-28, 3, 34-40, 42-48, 50, 54, 57-69, 71-73, 76-94, 96-99, 101-114, 116-122, 124-127, 129-132.)

104. In summary, the letters and emails in opposition raised the following comments and concerns about the Application:

- The proposed development is not consistent with the housing and mixed-use development proposed in the New York Avenue NE Vision Framework.
- A desire for a new mixed-use PDR zone that allows for residential to be built on top of space designed for low-impact PDR uses.
- Approval of the application results in less housing for Montana Triangle than desired in the Vision Framework Plan and would hinder future residential use.
- The proposed rezoning is inconsistent with surrounding zoning.
- The area is overburdened with industrial uses.
- Adverse health impacts from industrial uses.
- Truck traffic through residential neighborhood.
- There is significant objection to the application.

(Ex. 20-22, 26-28, 3, 34-40, 42-48, 50, 54, 57-69, 71-73, 76-94, 96-99, 101-114, 116-122, 124-127, 129-132.)

105. Char McCray, the commissioner for ANC 5D06, testified at the Public Hearing in opposition to the Application. She opposed the Application due to concerns about traffic and lack of community benefits. Commissioner McCray urged for mixed-use spaces on the Property, which would allow for the creation of blue-collar jobs. (Ex. 135, Hearing Tr. at pp. 152-154)

106. Konyka Dunson, the commissioner for ANC 5C01, testified at the Public Hearing in opposition to the Application. Commissioner Dunson expressed concern about the size of the building and a tenant not being identified. Commissioner Dunson advocated for retail, a grocery store, and housing at the Property instead of a warehouse, data center, or other industrial use. (Hearing Tr. at pp. 155-158.)

107. Tequia Hicks Delgado, the commissioner for ANC 5C03, testified at the Public Hearing in opposition to the Application. Commissioner Delgado claimed that approval of the Application would result in the erasure of 1,400 to 2,300 potential homes in the Montana Triangle. She stated that the area feels isolated from the rest of the city and more PDR uses would deepen the isolation. Commissioner Delgado argued that the Application is inconsistent with the CP's housing goals (Hearing Tr. at pp. 162-166.)

108. VJ Kapur, the commissioner for ANC 5C07, testified at the Public Hearing in opposition to the Application. Commissioner Kapur argued that the Applicant is seeking an infinite number of PDR uses and that the remaining area on the Property to stay as an MU zone is not sufficient space. He advocated for the creation of a new mixed use/PDR zone. (Ex. 136, Hearing Tr. at 158-162.)

109. Bianca Forde, a resident of Ward 5 who lives approximately 0.06 miles from the Property, testified in opposition to the Application. Ms. Forde opposed the Application primarily due to concerns about traffic impacts such as congestion and the proposed 19 truck ports, the aesthetics and beautification of the community. (Hearing Tr. 154-155.)

CONCLUSIONS OF LAW

AUTHORITY

1. Pursuant to the authority granted by the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2018 Repl.)), the Commission may approve a Consolidated PUD consistent with the requirements of Subtitle X, Chapter 3 and Subtitle Z § 300, and a PUD-related map amendment pursuant to Subtitle X § 303.12.

PUD AND PUD-RELATED MAP AMENDMENT APPROVAL

2. Pursuant to Subtitle X § 300.1, the purpose of the PUD process is to provide for higher quality development through flexibility in building controls, including building height and density, provided that a PUD:

- (a) *Results in a project superior to what would result from the matter-of-right standards;*
- (b) *Offers a commendable number or quality of meaningful public benefits; and*

- (c) *Protects and advances the public health, safety, welfare, and convenience, and is not inconsistent with the Comprehensive Plan.*
3. The Comprehensive Plan Act of 1984 (D.C. Law 5-75; D.C. Official Code § 1-306.01(b)) established that the CP’s purposes are:
- *to define the requirements and aspirations of District residents, and accordingly influence social, economic and physical development;*
 - *to guide executive and legislative decisions on matters affecting the District and its citizens;*
 - *to promote economic growth and jobs for District residents;*
 - *to guide private and public development in order to achieve District and community goals;*
 - *to maintain and enhance the natural and architectural assets of the District; and*
 - *to assist in conservation, stabilization, and improvement of each neighborhood and community in the District.*
4. Small Area Plans and other planning documents supplement the CP “by providing detailed direction for areas ranging in size from a few city blocks to the entire neighborhoods or corridors.” (CP § 104.8.) Small Area Plans are prepared with community input to provide more detailed planning guidance and typically are approved by resolution of the Council. Unless a Small Area Plan has been made binding on the Commission through its enactment as part of a Comprehensive Plan amendment, a Small Area Plan provides only supplemental guidance to the Commission and it does so only to the extent it does not conflict with the Comprehensive Plan. (CP § 224.5.)
5. In determining whether a PUD is not inconsistent with the CP, the Commission shall balance the various elements of the CP. The D.C. Court of Appeals discussed this balancing test in its review of the PUD and related Zoning Map amendment for the redevelopment of the McMillan Reservoir Slow Sand Filtration Site (Z.C. Order No. 13-14(6)) (the “McMillan PUD”). In its decision affirming the Commission’s approval of the McMillan PUD, the Court stated the following:

“The Comprehensive Plan is a ‘broad framework intended to guide the future land use planning decisions for the District.’ *Wisconsin-Newark Neighborhood Coal. V. District of Columbia Zoning Comm’n*, 33 A.3d 382, 394 (D.C. 2011) (internal quotation marks omitted). ... ‘[E]ven if a proposal conflicts with one or more individual policies associated with the Comprehensive Plan, this does not, in and of itself, preclude the Commission from concluding that the action would be consistent with the Comprehensive Plan as a whole.’ *Durant v. District of Columbia Zoning Comm’n (Durant I)*, 65 A.3d 1161, 1168 (D.C. 2013). The Comprehensive Plan reflects numerous ‘occasionally competing policies and goals,’ and, ‘[e]xcept where specifically provided, the Plan is not binding.’ *Id.* At 1167, 1168 (internal quotation marks omitted). Thus ‘the Commission may balance competing priorities’ in determining whether a PUD is consistent with the Comprehensive Plan as a whole.’ *D.C. Library Renaissance Building/West End Library Advisory Grp. V. District of Columbia Zoning*

Comm’n, 73 A.3d 107, 126 (D.C. 2013). ... ‘[I]f the Commission approves a PUD that is inconsistent with one or more policies reflected in the Comprehensive Plan, the Commission ‘must recognize these policies and explain [why] they are outweighed by other, competing considerations...’ *Durant I*, 65 A.3d at 1170.” (*Friends of McMillan Park v. District of Columbia Zoning Comm’n*, 149 A.3d 1027, 1033–35 (D.C. 2016).)

6. Pursuant to Subtitle X §§ 304.3 and 304.4, in reviewing a PUD application, the Commission must “judge, balance, and reconcile the relative value of the public benefits and project amenities offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case” and must find that the proposed development:
 - *Is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site;*
 - *Does not result in unacceptable project impacts on the surrounding area or on the operation of city services and facilities but instead shall be found to be either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the project; and*
 - *Includes specific public benefits and project amenities of the proposed development that are not inconsistent with the Comprehensive Plan or with other adopted public policies and active programs related to the subject site.*
7. Pursuant to Subtitle X §§ 305.2, 305.3, 305.4, and 305.12, the PUD’s benefits and amenities must “benefit the surrounding neighborhood or the public in general to a significantly greater extent than would likely result from development of the site under the matter-of-right provisions”, in majority part “relate to the geographic area of the Advisory Neighborhood Commission in which the application is proposed” and “meet the following criteria: (a) Benefits shall be tangible and quantifiable items; (b) Benefits shall be measurable and able to be completed or arranged prior to issuance of a certificate of occupancy; (c) Benefits may primarily benefit a particular neighborhood or area of the city or service a critical city-wide need; and (d) Monetary contributions shall only be permitted if made to a District of Columbia government program or if the applicant agrees that no certificate of occupancy for the PUD may be issued unless the applicant provides proof to the Zoning Administrator that the items or services funded have been or are being provided.” Moreover, a PUD “may qualify for approval by being particularly strong in only one (1) or a few categories [of public benefits], but must be acceptable in all proffered categories and superior in many.”
8. Pursuant to Subtitle X §§ 303.11 and 303.12: “The amount of flexibility from all other development standards not addressed by this section shall be at the discretion of the Zoning Commission” and “A PUD-related zoning map amendment shall be considered flexibility against which the Zoning Commission shall weigh the benefits of the PUD.”

Satisfaction of PUD Eligibility Standards (Subtitle X § 301.1.)

9. The Commission concludes that the Application meets the minimum land area requirement of Subtitle X § 301.1 because the Property consists of approximately 391,745 square feet (± 9 acres). (FF No. 9.)

Consistency with the CP and Public Policies (Subtitle X § 304.4(a).)

10. Based on the case record and the Findings of Fact above, the Commission concludes that the Project, including the PUD and PUD-related Zoning Map amendment, is not inconsistent with the CP and with other public policies and active programs related to the Property.
11. The Commission concludes that the Project is not inconsistent with the Property's designation as a Future Planning Analysis Area on the CP's GPM because the Property is within the New York Avenue Corridor Future Planning Analysis Area. Rezoning within a future planning analysis area requires that a planning analysis be done prior to a rezoning request is considered. In this case, Vision Framework Plan and the PUD process satisfy the analysis requirement. (FF Nos. 55, 78.).
12. The Commission concludes that the Project is not inconsistent with the Property's designation as Land Use Change Area on the CP's GPM because the Project has the potential to revitalize this section of New York Avenue, NE with businesses that will generate new jobs, provide new commercial opportunities, enhance existing businesses, and create new business ownership opportunities, and promote the vitality and economic well being of the area. (FF No. 53.)
13. The Commission concludes that the Project is, on balance, not inconsistent with the Property's designation on the CP's FLUM, which is Mixed Use High Density Commercial / High Density Residential / PDR for that portion that fronts on New York Avenue, NE, because the rezoning and warehouse building are limited to this area of the Property. (FF No. 51.) The Land Use element states that the corresponding zone category for the PDR land use designation is PDR, and in an area striped to include PDR, the development **must** include PDR space. (CP § 227.14.) (**Emphasis added.**)
14. The Commission concludes that the Project would not be inconsistent with the CP's Land Use Element. The Commission agrees with the findings in the OP Reports that the Project advances various Land Use Element policies (LU-1.1.1: Future Planning Analysis and Resilience Focus Areas; LU-1.4.6: Development Along Corridors; LU-1.5.1: Infill Development; LU-1.5.2: Long-Term Vacant Site; LU-2.1.1: Variety of Neighborhood Types; LU-2.1.2: Neighborhood Revitalization; LU-2.1.3: Conserving, Enhancing and Revitalizing Neighborhoods; LU-2.2.4: Neighborhood Beautification; LU-3.2.1: Retain Areas for Industrial Uses; LU-3.2.3: Retain and Support PDR Uses in Areas Designated for Mixed PDR; LU-3.2.7: Mitigating Industrial Land Use Impacts; LU-3.2.10: Cottage Industries and Makers). (FF No. 79.)

15. The Commission concludes that the Project would not be inconsistent with the CP's Transportation Element. The Commission agrees with the finding in the OP Reports that the Project advances various Transportation Element policies (T-1.1.7: Equitable Transportation Access; T-1.2.1: Major Thoroughfare Improvements; T-2.2.2: Multimodal Connections; T-2.2.2: Connecting District Neighborhoods; T-2.3.1: Better Integration of Bicycle and Pedestrian Planning; T-2.3.2: Bicycle Network; T-2.3.3: Bicycle Safety; T-2.4.1: Pedestrian Network; T-2.4.2: Pedestrian Safety; T-2.5.1: Creating Multimodal Corridors; T-3.1.1: TDM Programs. (FF No. 80.)
16. The Commission concludes that the Project would not be inconsistent with the CP's Economic Development Element. The Commission agrees with the findings in the OP Reports that state the Project advances various Economic Development policies (ED-1.1.3: Diversification; ED-2.5.1: Support for PDR Areas; ED-2.5.2: Improve Environmental Stewardship; ED-2.5.3: Workforce Development; ED-3.1.1: Neighborhood Commercial Vitality). (FF No. 81.)
17. The Commission concludes that the Project would not be inconsistent with the CP's Urban Design Element. The Commission agrees with the findings in the OP Reports that state the Project advances various Urban Design Element policies (UD-1.4.1: Thoroughfares and Urban Form; UD-1.4.2: District Gateways; UD-1.4.4: Priority Avenues and Gateway Corridors; UD-2.1.1: Streetscapes That Prioritize the Human Experience; UD-2.1.3: Complete Streetscape Design). (FF No. 82.)
18. The Commission concludes that the Project would not be inconsistent with the CP's Upper Northeast Area Element. The Commission agrees with the findings in the OP Reports that state the Project advances various Upper Northeast Area Element policies (UNE-1.1.8: Untapped Economic Development Potential; UNE-1.1.9: Production, Distribution, and Repair Uses; UNE-1.1.11: Buffering; UNE-1.1.12: Truck Traffic; UNE-1.2.1: Streetscape Improvements; UNE-1.2.5: Increasing Economic Opportunity; UNE-1.2.9: Environmental Quality; UNE 2.3.1: New York Avenue Corridor; UNE-2.3.2: Production, Distribution, and Repair Land Uses; UNE-2.3.3: Infill Development). (FF No. 83.)

Potential Inconsistencies with CP

19. The Commission acknowledges that the Project may be inconsistent with Transportation Element policies T-1.2.3 and T-1.4.1: and Housing Element policies H-1.1.4 and H.1.22, but concludes that, on balance, it is not inconsistent with the CP. (FF No. 66.) The Project will advance many policies in the Land Use, Transportation, Environmental Protection, Economic Development and Urban Design and Upper Northeast Area elements that will benefit the neighborhood and the New York Avenue corridor in general. (FF Nos. 67, 79, 80, 81, 82, 83.)

New York Avenue Vision Framework

20. The Vision Framework has not been made binding on the Commission through its enactment as part of a Comprehensive Plan amendment. It functions only as supplemental guidance to the Commission and it does so only to the extent it does not conflict with the

Comprehensive Plan. (CP § 224.5.) Notwithstanding, the Commission finds that the Application supports the general recommendations of the Vision Framework as discussed in FF Nos. 52, 68, 86.

Racial Equity Analysis

21. Pursuant to CP §§ 2501.4-2501.6, 2501.8, the Commission is tasked with evaluating the Application's consistency with the CP through a racial equity lens. Consideration of equity is intended to be based on the policies of the CP and is a part of the Commission's consideration of whether the Application is "not inconsistent" with the CP, rather than a separate determination about the Project's equitable impact. The CP Framework Element states that equity is achieved by targeted actions and investments to meet residents where they are, to create equitable opportunities, but is not the same as equality. (CP § 213.6.) Further, "[e]quitable development is a participatory approach for meeting the needs of underserved communities through policies, programs and/or practices [and] holistically considers land use, transportation, housing, environmental, and cultural conditions, and creates access to education, services, health care, technology, workforce development, and employment opportunities." (CP § 213.7.) The District applies a racial equity lens by targeting support to communities of color through policies and programs focusing on their needs and eliminating barriers to participate and make informed decisions. (CP § 213.9.) The CP Implementation Element provides guidance to help the Commission in applying a racial equity lens to its decision making. Specifically, the Implementation Element states that "[a]long with consideration of the defining language on equity and racial equity in the Framework Element, guidance in the Citywide Elements on District-wide equity objectives, and the Area Elements should be used as a tool to help guide equity interests and needs of different areas in the District." (CP § 2501.6.)
22. The Commission concludes that the Project is not inconsistent with the CP when evaluated through a racial equity lens. The Commission reached its conclusion based on the racial equity analyses provided by the Applicant and in the OP Reports, which demonstrated that the project does not result in any direct or indirect displacement of residents or businesses; the action could bring more employment opportunities, including higher paying jobs that do not require a college degree; the proposed light industrial use is not expected to significantly impact public health; the approval of the application includes public space and infrastructure improvements and transportation improvements; and could improve access to economic opportunity by bringing new light industrial jobs to the area. (FF Nos. 70, 85.) Also, the Applicant had multiple meetings with ANC 5C and the Arboretum Civic Association and in response to the community stakeholders feedback, refined the Project's design, included benefits that were indicated as important to the community and limited the matter of right PDR uses that would be permitted in the Project. (FF Nos. 70, 85.)
23. Based on the evidence provided in the case record, the Commission concludes that the Project is not inconsistent with the CP as a whole or other adopted and applicable public policies.

Potential Adverse Impacts – How Mitigated or Outweighed (Subtitle X § 304.4(b))

24. Based on the case record and the Findings of Fact above, the Commission concludes that the Project will not result in any unacceptable impacts that are not capable of being mitigated or are not outweighed by the Project's proffered public benefits and amenities.
25. The Commission concludes that the Project will have a favorable impact on Land Use because it will result in a more efficient and economical use of underutilized land and includes landscaped areas that integrate the development with its surroundings, enhancing aesthetic appeal. Thus, potential impacts to land use are favorable. (FF No. 71.)
26. The Commission concludes that the Project will have impacts on Transportation that are favorable or capable of being mitigated through implementation of a transportation demand management ("TDM") plan. (FF No. 71.)
27. The Commission concludes that the Project will have a favorable impact on Economic Development because it will result in the redevelopment of an underutilized site in a transit-accessible location that could result in the creation of jobs. (FF No. 71.)
28. The Commission concludes that the Project will have a favorable impact on Parks, Recreation, and Open Space because it adds public space improvements where none currently exist. (FF No. 71.)
29. The Commission concludes that the Project's impact on urban design will be favorable or acceptable given the public benefits. The Project reflects a high-quality, context-sensitive design that is respectful of the historic industrial character of the New York Avenue, NE corridor. (FF No. 71.)
30. The Commission concludes that the Project does not have any impacts on historic preservation as the PUD Site is not located within a historic district. (FF No. 71.)
31. The Commission concludes that the Project's impact on Community Services and Facilities will be favorable or acceptable given the public benefits. (FF No. 71.)
32. The Commission concludes that the Project will have no adverse impacts on Educational Facilities. Any potential impacts are favorable or acceptable given the quality of public benefits. (FF No. 71.)
33. The Commission concludes the Project will have a favorable impact on infrastructure. (FF No. 71.)

PUD Flexibility Balanced Against Public Benefits (Subtitle X §§ 304.3 and 304.4(c).)

34. Based on the case record and the Findings of Fact above, the Commission concludes that the Application satisfies the balancing test under Subtitle X § 304.3 because the Project includes specific public benefits and project amenities that are not inconsistent with the CP or other public policies and active programs related to the Property.

35. The Commission concludes that the Applicant’s proffered public benefits and amenities resulting from the Project, including superior urban design and architecture, streetscape plans, superior landscaping or the creation or preservation of open spaces, transportation infrastructure, and uses of special value to the neighborhood or the District of Columbia as a whole, are commendable. (FF Nos. 75, 87.)
36. The Commission concludes that the Applicant’s proposed PUD-related amendment of the Zoning Map to rezone that portion of the Property that fronts on New York Avenue, NE from the current MU-5B zone to the PDR-1 zone is appropriate because:
- The Property’s current MU-5B zoning is inconsistent with the Mixed Use High Density Commercial / High Density Residential /Production, Distribution, and Repair designation on the FLUM; and the proposed PDR-1 zone is more consistent with this FLUM designation (FF No. 78);
 - The Map Amendment is not inconsistent with the CP when taken as a whole, as discussed above (FF No. 50); and
 - The parcels surrounding the Property to the north, east and west are zoned PDR, and the primary uses are industrial and commercial (FF No. 10.)

GREAT WEIGHT TO RECOMMENDATIONS OF OP

37. The Commission is required to give “great weight” to the recommendation of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.) and Subtitle Z § 405.8. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)
38. The Commission finds OP’s analysis of the Application, its conclusion that the Application satisfies the PUD evaluation requirements and is not inconsistent with the CP maps and Citywide Elements, the Upper Northeast Area Element, or the New York Avenue, NE Vision Framework, and its recommendation to approve the Application persuasive and concurs with OP’s recommendation. (FF Nos. 77 – 83, 86.)

GREAT WEIGHT TO WRITTEN REPORT OF THE ANC

39. The Commission must give “great weight” to the issues and concerns raised in the written report of the affected ANC pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted).)

40. The Commission carefully considered the issues and concerns raised in ANC 5C Report dated December 18, 2024, in support the PUD and related Zoning Map amendment. (FF No. 91.)
41. The Commission carefully considered the issues and concerns raised in the ANC 5C Report dated April 4, 2025, the ANC 5C Supplemental Report dated September 15, 2025 and the ANC 5C Report dated October 14, 2025 (collectively, the “ANC 5C Reports”) (FF Nos. 92, 94, 95.)
42. The Commission’s responses to the ANC 5C Reports are as follows:
- The Commission declines to remove the prior ANC 5C report as there is no precedent for doing so. The Commission desires to consider all of the comments on the Application.(Tr. for Public Hearing at pp. 17-19.)
 - The portion of the Property to be rezoned is designated Mixed Use – High Density Residential / High Density Commercial / Production, Distribution, and Repair (“PDR”). The Land Use Element states that the corresponding zone category for the PDR land use designation is PDR. In an area striped to include PDR, development must include PDR space. 10-A DCMR § 227.14.
 - The City Council added the PDR land use designation on the Property as part of the 2021 CP amendments. The public hearing record for the CP amendments demonstrates the City Council’s intention to retain this segment of New York Avenue as an industrial corridor and to discourage a mix of residential and commercial uses. (FF No. 88, 140.)
 - In response to concerns from ANC 5C and other community stakeholders, the Applicant has agreed to limit the PDR uses on the Property to certain light industrial uses that will not generate excessive or harmful fumes, odors, toxins or noise. (FF No. 29.)
 - The benefits and amenities package for the PUD is commensurate with the development incentives achieved through the PUD process. The Project does not achieve additional height or density or other development flexibility through the PUD process. The proposed building height, density and lot occupancy are within the development standards for the current MU-5B zone and the proposed PDR-1 zone. (FF No. 74.)
 - The Vision Framework has not been made binding on the Commission through its enactment as part of a Comprehensive Plan amendment. It provides only supplemental guidance to the Commission and it does so only to the extent it does not conflict with the Comprehensive Plan. (CP § 224.5.) Notwithstanding, the Commission finds that the Application supports the general recommendations of the Vision Framework. (FF Nos. 52, 68, 86.)
 - The Commission concurs with the Applicant that approval of the Application does not preclude the future redevelopment of the remainder of Montana Triangle with a mix of residential and retail uses. The Project will include 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. (FF No. 26, 48.)

DECISION

In consideration of the record and the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission concludes that the Applicant has satisfied its burden of proof and therefore, **APPROVES** the Application, subject to the following guidelines, conditions and standards, for:

- A Consolidated PUD; and
- An amendment of the Zoning Map to rezone a portion of the Property to the PDR-1 zone.

A. PROJECT DEVELOPMENT

1. The Project shall be developed and constructed substantially in accordance with the plans titled “New City, DC”, prepared by Powers Brown Architecture submitted by the Applicant on October 17, 2025, and included in the case record as Ex.115A1, except as the building design was modified by the plans filed on November 3, 2025, and included in the case record as Ex. 139A5 – 139A7 in (collectively, the “Approved Plans”), as modified by the guidelines, conditions, and standards herein.
2. In accordance with the Approved Plans, the Approved PUD shall have:
 - A maximum building height of approximately 49’-3”;
 - A density of .463 FAR;
 - Approximately 181,090 square feet of total GFA, consisting of:
 - Approximately 20,436 square feet devoted to a showroom on the ground floor of the building;
 - Approximately 139,854 square feet of warehouse and storage on the main level of the building; and
 - Approximately 20,800 square feet of open office space on the main level.
 - A lot occupancy of 46.3%
 - 12 loading berths
 - Approximately 198 vehicle parking spaces; and
 - Approximately 10 long term bicycle parking spaces.
3. The Applicant shall have PUD design flexibility in the following areas:
 - a. Interior Components. To vary the location and design of all interior components, including amenities, partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, escalators, and toilet rooms, provided that the variations do not change the exterior configuration of the building.
 - b. Garage Configuration. To make refinements to the garage configuration, including layout, number of parking spaces, and/or other elements, so long as the number of parking spaces does not;
 - c. Exterior Materials. To vary the final selection of the colors of the exterior materials based on availability at the time of construction, provided such colors are within the color ranges proposed by the Plans.

d. Exterior Details. To make minor refinements to the locations and dimensions of exterior details that do not substantially alter the exterior design shown on the Plans. Examples of exterior details would include, but are not limited to, doorways, canopies, railing, and skylights.

e. Signage. To vary the font, message, logo, and color of the proposed signage, provided that the maximum overall dimensions and signage materials do not change from those shown on the Plans.

f. Streetscape Design. To vary the location, attributes, and general design of the approved streetscape to comply with the requirements of, and the approval by, the DDOT Public Space Division.

g. PDR Use Types. To vary the types of uses designated as “PDR” uses on the approved plans to include the following uses: production, sale, distribution of food and beverages; small-scale production and repair of goods and related sales; media/communications production and distribution; arts and entertainment; traditional crafts and trades; engineering and design; and technology design and production.

B. CERTIFICATE OF OCCUPANCY REQUIREMENTS

1. **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.
2. **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.
3. **Prior to the issuance of a certificate of occupancy for the PUD**, the Applicant shall install or cause the install of shot detection cameras near the intersection of Bladensburg Road, NE. The estimated value of the cameras is \$15,000.

C. REQUIREMENTS FOR THE LIFE OF THE PROJECT

1. **For the life of the Project**, in addition to the uses prohibited pursuant to Subtitle U § 801.1(v), the following matter of right PDR or industrial-based uses shall not operate within the PUD:

- Concrete plant;
- Asphalt plant;

- Material salvage;
- Hauling or terminal yard;
- Outdoor material storage;
- Acetylene gas manufacturing;
- Fertilizer manufacturing;
- Rock quarrying;
- Metro stations;
- Access ways, airports;
- Gasoline service station;
- Electrical sub-station;
- Sewer plant;
- Water treatment plant;
- Utility pumping station;
- Incinerator;
- Waste-related service uses, except for composting facility and non-intensive recycling facility; and
- Data centers.

2. **For the life of the Project**, the Applicant agrees to limit the PDR uses in the Property for the life of the PUD to those listed below, subject to the conditions in Subtitle U § 801 of the Zoning Regulations or other applicable laws:

- Animal Sales and Care;
- Youth Rehabilitation Home and Adult Rehabilitation Home;
- Education Uses, Public;
- Government Uses, Large Scale;
- Motor Vehicle-Related Repair;
- Parking, other than a parking garage;
- Production, Distribution, and Repair;
- Self-Storage Establishment;
- Transportation Infrastructure
- Utilities (basic);
- Composting facility and non-intensive recycling facility; and
- Wholesale or Storage Establishment.

3. **For the life of the Project**, the Applicant shall maintain a 45-foot-wide landscaped green space on the south side of the PUD site, as shown on the Approved Plans. The area is intended as a buffer between the PUD and any future development in the remainder of the Montana Triangle.

4. **For the life of the Project**, the parking areas on the Property shall be restricted from public use after the regular business hours for the building tenant(s).

D. TRANSPORTATION

1. 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.

E. MISCELLANEOUS

1. No building permit shall be issued for the Project until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia that is satisfactory to the Office of Zoning Legal Division and the Zoning Division, Department of Buildings (the "PUD Covenant"). The PUD Covenant shall bind the Applicant and all successors in title to construct and use the Property in accordance with this Order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
2. The PUD shall be valid for a period of two years from the effective date of this Order. Within such time an application shall be filed for a building permit, with construction to commence within three years of the effective date of this Order.
3. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act") the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination

in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

4. The Applicant shall file with the Zoning Administrator a letter identifying how it is in compliance with the conditions of this Order at such time as the Zoning Administrator requests and shall simultaneously file that letter with the Office of Zoning

Proposed Action

Vote (November 20, 2025): #-#-# ((insert roll call vote))

Final Action

Vote (DATE): #-#-# ((insert roll call vote))

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 24-11 shall become final and effective upon publication in the *D.C. Register*; that is, on [insert date].

BY THE ORDER OF THE D.C. ZONING COMMISSION

A majority of the Commission members approved the issuance of this Order.

ANTHONY HOOD
CHAIRMAN
ZONING COMMISSION

SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING.