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VIA IZIS

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

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

Dear Members of the Commission:

This Second Post-Hearing Statement is submitted on behalf of Jemal’s Schaeffer LLC and Jemal’s Bumper George LLC (together, the “Applicant”) in support of the above-referenced application for a Consolidated Planned Unit Development (“PUD”) and related Zoning Map amendment (the “Application”). This statement is filed in response to the Zoning Commission’s comments at its public meeting on November 20, 2025 (the “Public Meeting”).

Additional Restrictions on PDR Uses

As requested by ANC 5C in its letter to the Zoning Commission dated November 17, 2025 (Ex. 143) (the “ANC Letter”), the Applicant agrees to include the following on the list of prohibited uses for the PUD:

- Self-Storage Establishment;
- Motor Vehicle-Related Repair; and
- Chemical Storage and Distribution, except for small-scale or accessory operations consistent with the permitted light industrial uses.

Also, as discussed during the Public Meeting, Metro stations can serve as a catalyst for redevelopment. As such, the Applicant has removed Metro stations from the list of prohibited uses for the PUD.

Amended and Restated – Restrictions on PDR/Industrial Uses

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

Uses Prohibited Under the Zoning Regulations

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

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

Uses Prohibited Voluntarily by Applicant

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

1. Concrete plant;
2. Asphalt plant;
3. Material salvage;
4. Hauling or terminal yard;
5. Outdoor material storage;
6. Acetylene gas manufacturing;
7. Fertilizer manufacturing;
8. Rock quarrying;
9. Access ways, airports;
10. Gasoline service station;
11. Electrical sub-station;
12. Sewer plant;
13. Water treatment plant;
14. Utility pumping station;
15. Incinerator;

16. Waste-related service uses, except for composting facility and non-intensive recycling facility;
17. Data centers;
18. Self-storage establishment;
19. Motor vehicle-related repair; and
20. Chemical storage and distribution, except for small-scale or accessory operations consistent with the permitted light industrial uses.

Review of PUD Benefits and Amenities

The Applicant reconsidered its proffered PUD benefits and amenities and maintains that they are commensurate with the development incentives for the Project because:

- The Project does not require any relief from the development standards;
- The PUD-related Zoning Map amendment (from the MU-5B to the PDR-1 zone) does not result in any additional height or density for the Project; and
- The proposed PDR-1 zone is consistent with the subject property's designation on the Comprehensive Plan FLUM where the existing MU-5B is not.

The ANC Letter requests that the Applicant expand the PUD benefits and amenities to include monetary contributions totaling \$130,000 per year to support various local organizations and programs. In addition to the request being grossly disproportionate to the development flexibility achieved for the Project through the PUD process, it is contrary to the following provisions of the Zoning Regulations:

- Subtitle X § 305.3(b) – Benefits shall be measurable and able to be completed or arranged prior to issuance of a certificate of occupancy; and
- Subtitle X § 305.3(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.

Therefore, the requested monetary contributions are inappropriate.

Single Uses Approved on Property with Mixed Use FLUM Designation

Where a property has a Mixed-Use designation on the Comprehensive Plan FLUM, a development is not required to include each use reflected on the FLUM. The Zoning Commission has approved several applications with a single use where the subject property is designated Mixed-Use on the FLUM, including:

- **ZC Case No. 24-24:** PUD and related Map amendment to permit a homeless shelter that consists of a single use where the property is designated Mixed-Use High Density Residential / Commercial / Production Distribution and Repair / Moderate Density Residential / Federal.

- **ZC Case No. 24-13:** Zoning Map amendment to permit the construction of a new fast-food restaurant as the sole use of a property designated Mixed-Use Medium Density Commercial / Medium Density Residential.
- **ZC Case No. 18-21:** PUD and related Map amendment to permit a 100% residential development consisting of two buildings on a property designated Mixed-Use Low-Density Commercial / Moderate Density Residential.
- **ZC Case No. 15-14:** PUD and related Map amendment to permit a new office building, as a single use, where the property is designated Mixed-Use Medium Density Commercial / Medium Density Residential.
- **ZC Case No. 15-10:** PUD and related Zoning Map amendment to permit a 4-story residential building with 150 dwelling units with no additional use where the property is designated Mixed-Use Low Density Commercial / Moderate Density Residential.

PDR-1 Zone Permits Mixed Use Development of Property

As the Applicant has noted in the record previously, there are several matter-of-right PDR-1 and MU-5B uses that overlap.¹ Additionally, the warehouse building is designed to support both industrial and non-industrial uses and there is flexibility in the design to accommodate more than one tenant. As such, the Application does support the potential for a mix of uses along New York Avenue.

New York Avenue Vision Framework is not Binding

The New York Avenue Vision Framework (the “Vision Framework”) is not a small area plan that has been adopted by the City Council; nor has it been made binding on the Zoning Commission through its enactment as part of any Comprehensive Plan amendments.

Unless a small area plan has been made binding on the Zoning Commission through its enactment as part of a Comprehensive Plan amendment, a small area plan provides only supplemental guidance to the Zoning Commission, and it does so only to the extent that it does not conflict with the Comprehensive Plan. (10A DCMR § 224.5.) As such, even if the Vision Framework was a small area plan, it is inconsistent with the Comprehensive Plan because the FLUM requires PDR uses on the Property, which is achieved through the PDR-1 zone, and the PDR-1 zone does not permit residential uses.

While the Application does not include residential development along New York Avenue as proposed by the Vision Framework, the Application supports the potential mix of industrial and commercial uses on the PUD site, and it does not preclude residential development on the remaining 7± acres of Montana Triangle. In fact, as noted in the Applicant’s post-hearing

¹ The uses that overlap are: agricultural uses; animal boarding; arts, design, and creation; chancery; college / university uses; community solar facility; daytime care; eating and drinking establishments; private education; emergency shelter; firearm sales; government uses – local; institutional uses; lodging; medical care; marine; motor-vehicle related sales; office; and parking garage. *See* Applicant’s Supplemental Statement at Ex. 49.

submission (Ex. 139), approximately 895 dwelling units can be achieved on the remaining Montana Triangle acreage. Ivy City and Union Market are examples of neighborhoods that have been transformed with similar mixes of industrial, commercial and residential uses.

Please note that if the redevelopment of the Property with residential was viable, the Applicant would do so, as a matter-of-right, under the Property's current MU-5B zoning. There are two primary challenges to residential development:

- The capital markets are making it difficult to finance residential projects in the District. This is evidenced by the fact that since January, the Zoning Commission has granted time extensions for 14 residential projects;² two time extension applications are pending;³ and a time extension request for Capitol Crossing was recently filed.⁴
- A residential use is incompatible with the PDR zoning and industrial uses immediately to the north, east and west of the Property. As reflected in Chairman Mendelson's comments during the hearing on the Comprehensive Plan amendments, the Council's intent is for this segment of the New York Avenue corridor to remain PDR in order to support the city's industrial needs.

Zoning Map Amendment to PDR-1 is Not Inconsistent with Comprehensive Plan

It has been established that the PDR-1 zone is not inconsistent with the Comprehensive Plan and is, in fact, more consistent than the current MU-5B zoning on the Property. As acknowledged during the Public Meeting, if this case were an application for a map amendment only, the Commission would not have "much of a leg to stand on" in terms of its review and approval. Filing an application for a Zoning Map amendment, based on consistency with the Comprehensive Plan, is an option for the Applicant.

OP requested a PUD in order to give the District agencies and community stakeholders the opportunity to influence important aspects of the Project. For instance, through the PUD process, certain PDR uses would be prohibited at the site. Also, because of the PUD process the building design has evolved from being a traditional industrial brick building to one that reads as three separate buildings along New York Avenue. The latest design breaks up the massing of the building and creates a more interesting aesthetic along this section of the New York Avenue corridor. If the Property is rezoned without a PUD, the Applicant would be able to redevelop the site with any uses and design that comply with the use and development standards in the Zoning Regulations as a matter-of-right.

PUD Evaluation Standards

In deciding a PUD, the Zoning Commission shall judge, balance and reconcile the relative value of the public benefits and project amenities offered, the degree of development incentives request, and any potential adverse effects according to the specific circumstances of the case. (Sub.

² Time extensions were granted for the following PUD cases: 17-21C, 06-101, 15-18D, 18-03B, 05-28AI, 13-05F, 22-11A, 14-18D, 15-20E, and 22-06B; and for the following Design Review cases: 16-02E, 22-08A, 22-39A, 04-14I.

³ ZC Case Nos. 22-12B and 22-09A.

⁴ ZC Case No. 08-34N.

X § 304.3.) As such, the Zoning Commission should be reviewing and considering the following as it relates to the Application:

- The approval of the Application would permit the redevelopment of a site that has been underutilized and partially vacant for nearly 30 years with a warehouse building to support light industrial / warehouse use, advancing several policies of the Comprehensive Plan. The building design can support a mix of industrial and commercial uses allowed in the PDR-1 zone as a matter-of-right, and the scale of the Project is such that it will transform a significant segment of New York Avenue, with the potential to serve as a catalyst for the surrounding parcels on the corridor.
- The public benefits and project amenities include superior urban design and architecture, streetscape improvements, new infrastructure improvements in public space and improvements that are of special value to the neighborhood.
- The benefits and amenities are appropriate when considering there are no development incentives as part of the Application. The proposed PDR-1 zone is more consistent with the Comprehensive Plan than the existing MU-5B zone; the project does not achieve any additional height or density through the PUD or related Zoning Map amendment; and the Project does not require any technical relief from the development standards.
- The Applicant has made several revisions to the project and has agreed to certain conditions to mitigate potential adverse impacts from the project, namely:
 1. The building was redesigned to read as three distinct buildings along New York Avenue instead of one large building;
 2. The number of loading bays for the building was reduced from 19 to 12;
 3. The type of industrial uses permitted at the PUD has been restricted based on the feedback from community stakeholders;
 4. A 45-foot-wide landscaped green space will be installed and maintained on the south side of the PUD site to serve as a buffer between the PUD and any future development on the remainder of Montana Triangle; and
 5. To address concerns about safety, the parking areas on the subject property shall be restricted from public use after the regular business hours for the building tenants.

Conclusion

We trust that the information provided herein is adequately responsive to the Commission's requests. In light of the foregoing, the Applicant respectfully requests that the Zoning Commission take proposed action in favor of the Application at its December 18th public meeting.

Respectfully submitted,

HOLLAND & KNIGHT LLP



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Madeline Shay Williams

cc: Certificate of Service

CERTIFICATE OF SERVICE

We hereby certify that on December 1, 2025, a copy of the foregoing correspondence and enclosure was served via electronic mail upon the following at the addresses listed below:

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