

# Holland & Knight

800 17th Street, NW, Suite 1100 | Washington, DC 20006 | T 202.955.3000 | F 202.955.5564  
Holland & Knight LLP | [www.hklaw.com](http://www.hklaw.com)

Leila M. Jackson Batties  
202.419.2583  
[leila.batties@hklaw.com](mailto:leila.batties@hklaw.com)

Christopher S. Cohen  
202.469.5127  
[christopher.cohen@hklaw.com](mailto:christopher.cohen@hklaw.com)

Madeline S. Williams  
202.469.5741  
[madeline.williams@hklaw.com](mailto:madeline.williams@hklaw.com)

September 16, 2025

## VIA IZIS

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

**Re: Z.C. Case No. 24-11 – Applicant’s Supplemental Prehearing Submission  
Jemal’s Schaeffer LLC & Jemal’s Bumper George LLC  
Consolidated PUD and Related Zoning Map Amendment @ New York and  
Montana Avenues, N.E.**

Dear Members of the Commission:

This Supplemental Prehearing 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 (the “**Application**”). The Applicant submitted the original materials comprising the Application on July 19, 2024. On February 27, 2025, the Zoning Commission voted to set down the Application for a public hearing. In accordance with Subtitle Z § 401, the Applicant filed its Prehearing Submission on June 11, 2025, along with a revised set of plans specifically identifying the portion of the site proposed for rezoning from the MU-5B zone to the PDR-1 zone (Ex. 24–24G).

**The public hearing on the Application is scheduled for October 16, 2025.** This statement, submitted pursuant to Subtitle Z § 401.5, offers additional information for the Commission’s review and consideration, including the Applicant’s responses to community comments and to the reports filed by Advisory Neighborhood Commission (“ANC”) 5C.

### **A. Background on PUD Site and Project**

The Application seeks approval of a consolidated planned unit development (“**PUD**”) and a related Zoning Map amendment from MU-5B to PDR-1 for a portion of the irregularly shaped parcel located between New York Avenue, N.E., Montana Avenue, N.E., and Bladensburg Road, N.E. (the “**PUD Site**”). The PUD Site consists of approximately 391,745 square feet of land area (9± acres) and includes Lots 6, 12, 14, 801, 804, and 819, as well as Parcel Nos. 01530113

ZONING COMMISSION  
District of Columbia  
CASE NO. 24-11  
EXHIBIT NO. 49

01530152, and 01530153 in Square 4268. Approval of the Application will allow redevelopment of the PUD Site with a new warehouse-style building containing approximately 185,692 square feet of gross floor area (the “**Project**”). The Project will extend approximately 832 feet along the south side of the PUD Site's New York Avenue frontage and will include curb cuts on New York Avenue, Montana Avenue, and Bladensburg Road, providing access to three parking areas with a total of 198 spaces. Loading facilities will also be accessible from Montana Avenue and Bladensburg Road.

**B. ANC Report Dated October 30, 2024**

ANC 5C voted in support of the Application at its public meeting on October 16, 2024. See [Ex. 15](#) of the case record.

It should be noted that the ANC initially opposed the Project, including the proposed rezoning of a portion of the PUD Site to PDR-1. At the ANC's request, the Office of Planning (“OP”) made a presentation to the ANC, explaining the PUD Site's designation on the Comprehensive Plan Future Land Use Map (“FLUM”) and the standard of review for the proposed Zoning Map amendment. Also, leading up to the October 2024 vote, the Applicant met multiple times with the ANC and the Arboretum Civic Association, which resulted in the Applicant refining the Project design and proffering benefits that were of specific value to the neighborhood. Only after meaningful stakeholder engagement did the ANC vote to support the Application.

**C. ANC Report Dated April 4, 2025**

In January 2025, following the results of the 2024 ANC election, the membership of ANC 5C changed. The new members voted to submit a report to the Zoning Commission superseding the one dated October 16, 2024. See [Ex. 20](#). The second report, dated April 4, 2025, recommended that the Application be amended to (i) provide additional detail regarding the PDR-1 uses that could operate within the Project; (ii) revise the Application to seek a different zone district, such as MU-10, together with a text amendment allowing PDR uses by special exception in that zone; and (iii) expand the benefits and amenities package to include transportation infrastructure improvements that could support future housing and retail development.

**D. June 2025 Meeting with Community Stakeholders**

On June 25, 2025, the Applicant met with Commissioner Shawn Nelson, the Single Member District representative for ANC 5C04, whose district includes the PUD Site, along with Commissioner Vijay Kapur, Vice Chair of ANC 5C, and neighborhood stakeholders invited by the ANC to discuss their comments on the Application. The primary concern expressed during the meeting was that the PDR-1 zone could allow matter-of-right uses incompatible with the type of mixed-use development permitted in the MU-5B zone. Since that discussion, the Applicant has continued to engage with the ANC by email, providing the requested information regarding the uses allowed in both the proposed PDR-1 and existing MU-5B zones. The Applicant offered to make a formal presentation to the ANC to discuss the use provisions applicable to the Project, but was not invited to do so.

**E. ANC 5C Report Dated September 11, 2025**

The ANC filed a supplemental report dated September 11, 2025. The report states that the ANC concludes the following:

- Community sentiment is strongly opposed to the application.
- The new uses enabled by the application would harm surrounding neighborhoods.
- The PUD proffers are not commensurate with the perceived harm.
- The application is inconsistent with the Comprehensive plan and FLUM.
- The proposed application of the FLUM would cause harm to the PUD Site and to the entire New York Avenue corridor.

Further, the ANC disputes the following positions advanced by the Applicant:

- Comprehensive Plan Consistency. The rezoning of that portion of the PUD Site that extends 200 feet south from New York Avenue is not inconsistent with the Comprehensive Plan given the area's designation on the FLUM, which is **Mixed Use- High Density Residential / High Density Commercial / Production, Distribution, and Repair (PDR)**. Notwithstanding, OP directed the Applicant to file an application for a PUD and related Zoning Map amendment because the site is within the New York Avenue Northeast Corridor Future Planning Analysis Area. As such, as noted on pages 7 and 8 of the OP Setdown Report, a planning analysis must be done before a rezoning of the site is considered. According to the OP Setdown Report, the PUD review process, along with the 2023 New York Avenue, NE Framework plan, satisfies the analysis requirement. Additionally, unlike a rezoning application, which allows a matter of right project to be designed and approved solely through the Department of Building's permitting process, the PUD process allows OP, the Zoning Commission and community stakeholders an opportunity to review and have input of the project design and operation. Additional analysis is provided in Section G. below.
- Merits of Benefits and Amenities. The PUD benefits and amenities package proffered by the Applicant is commensurate with the level of development flexibility achieved through the PUD process. This position is further discussed in Sections H. and I. below.
- Permitted and Prohibited Uses. The Applicant has responded to the ANC's request for information about (1) the uses that are prohibited from the Property under the Zoning Regulations, (2) uses that the Applicant agrees to prohibit from the PUD for the life of the Project, (3) the uses that are permitted in both the MU-5B and the PDR-1 zone, and (4) permitted in the PDR-1 zone but not the MU-5B zone. These lists are summarized in Section F. below.
- Market Conditions. The PUD Site has remained vacant because the financial markets do not support the redevelopment of the PUD Site with a mix of residential and retail uses desired by the ANC. Notably, this is a city-wide challenge that stems from broader macroeconomic trends and local market conditions, as represented by

the fact that the District saw only 932 units begin construction in 2024 – a 79% year-over-year decline and the lowest level in roughly 15 years.<sup>1</sup> Rising costs have compounded the problem, with even high-profile projects experiencing significant budget pressures.<sup>2</sup> Market sources report construction costs are increasing at a steady 3% to 5% annually, with little relief expected as labor competition and material prices persist, and further note that these conditions are expected to constrain development in the District, especially in the office and residential sectors, in the coming years.<sup>3</sup>

#### **F. Restrictions on PDR/Industrial Uses**

**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 manufacture;
- 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.

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

1. concrete plant;
2. asphalt plant;
3. material salvage;
4. hauling or terminal yard;
5. outdoor material storage;
6. acetylene gas manufacturing;
7. fertilizer manufacturing;
8. rock quarrying;
9. Metro stations;

---

<sup>1</sup> See [D.C. Housing Starts Drop 79% As Investors 'Move Their Money Elsewhere'](#).

<sup>2</sup> See [The White House is attacking the Fed over its renovations : NPR](#).

<sup>3</sup> See [Rising Construction Costs Fueling Record Tenant Build-Out Allowances In DC Cresa](#).

10. access ways, airports;
11. gasoline service station;
12. electrical sub-station;
13. sewer plant;
14. water treatment plant;
15. utility pumping station; and
16. incinerator.

It is worth noting that, of the 30 matter-of-right use categories in PDR zones set forth in Subtitle U § 801.1, a substantial majority are also generally permitted by right in the MU-5B zone under Subtitle U § 512.1. This overlap indicates that the proposed rezoning would not materially alter the overall character of the PUD Site. Some matter-of-right uses, however, are industrial in nature and remain exclusive to PDR zones.<sup>4</sup> A summary is provided in the table below.

Overlapping Uses (PDR and MU-5B) <sup>5</sup>	PDR-Exclusive Uses
<ol style="list-style-type: none"> <li>1. agricultural uses</li> <li>2. animal boarding</li> <li>3. arts, design, and creation uses</li> <li>4. chancery</li> <li>5. college or university uses</li> <li>6. community solar facility</li> <li>7. daytime care</li> <li>8. eating and drinking establishments, provided no part of the establishment contains a live performance, night club, or dance venue</li> <li>9. education uses, private</li> <li>10. emergency shelter for not more than four (4) persons, not including resident supervisors or staff and their families</li> <li>11. firearm sales</li> <li>12. government uses, local</li> <li>13. institutional uses, general and religious</li> <li>14. lodging</li> <li>15. medical care</li> <li>16. marine</li> <li>17. motor-vehicle-related sales</li> <li>18. office</li> <li>19. parking garage</li> </ol>	<ol style="list-style-type: none"> <li>1. animal sales and care</li> <li>2. youth rehabilitation home and adult rehabilitation home</li> <li>3. education uses, public</li> <li>4. government uses, large scale</li> <li>5. motor vehicle-related repair</li> <li>6. parking, other than a parking garage</li> <li>7. production, distribution and repair uses</li> <li>8. self-storage</li> <li>9. transportation infrastructure</li> <li>10. basic utilities</li> <li>11. waste-related service uses</li> <li>12. wholesale or storage establishment</li> </ol>

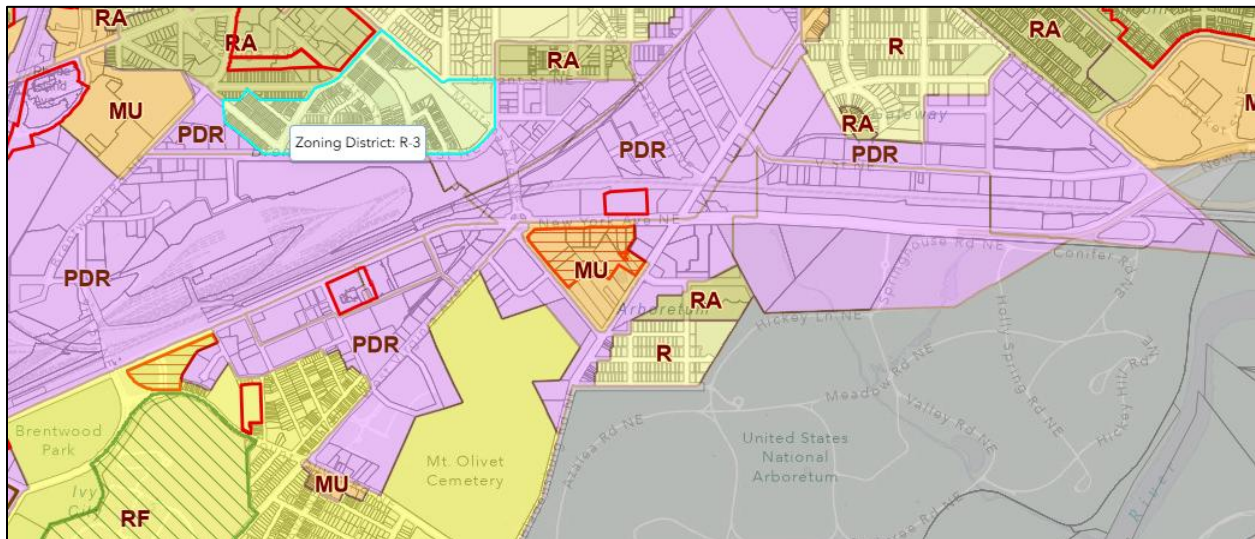
<sup>4</sup> Certain use categories, such as *Animal Sales, Care, and Boarding*, include sub-uses with differing permissions across the zones. For example, “boarding” is generally permitted in the MU-5B zone, whereas “sales” and “care” are permitted only in PDR zones. For clarity, the latter have been included in the PDR-Exclusive list to present an accurate contrast.

<sup>5</sup> While the list generally identifies uses that are permitted as a matter of right in both the PDR and MU-5 zones, the Applicant notes that some of these uses are subject to conditions tailored to a specific zone.

20. parks and recreation 21. residential uses 22. retail uses, except large format retail 23. services 24. basic utilities limited to only telephone exchange, electric substation using non-rotating equipment, and natural gas regulator station	
--	--

### **G. Proposed Zoning Map Amendment to PDR-1**

Pursuant to Subtitle X § 300.4, the Application requests a PUD-related Zoning Map amendment for that portion of the PUD Site that extends 200 feet south from New York Avenue, NE, from the MU-5B Zone to the PDR-1 Zone. The proposed rezoning is not inconsistent with the Comprehensive Plan Future Land Use Map, which designated this portion of the PUD site as **Mixed Use – High Density Residential / High Density Commercial / Production, Distribution, and Repair (PDR) uses**. This designation was adopted for the Property as part of the 2021 amendments to the Future Land Use Map and, as such, was expressly contemplated by the Comprehensive Plan. Also, the same land use designation and PDR zoning extends along New York Avenue from Florida Avenue, past the PUD Site, to the eastern edge of the National Arboretum, as shown in the excerpt of the Zoning Map below. As such, the PDR zoning is identical to that applied along this section of New York Avenue. In addition, the proposed warehouse development is compatible with the surrounding development.



### **H. PUD Benefits and Amenities**

Prior to filing the PUD application, the Applicant met with community stakeholders on the following dates:

- May 14, 2024 – Arboretum Civic Association
- May 15, 2024 – ANC 5C Meeting
- June 11, 2024 – Arboretum Civic Association

As a result of those meetings, the Applicant proffers the following as public benefits of special value to the neighborhood, consistent with Subtitle X § 305.5(q):

- Improvements to the 5th District Police Station. The Applicant proposes upgrades to the community meeting room at the 5th District Police Station, including improvements to HVAC, lighting, and interior finishes, as well as enhanced landscaping at the exterior of the station, valued at approximately \$125,000. These upgrades will improve the functionality and appearance of the meeting room, creating a more professional and welcoming environment for productive meetings and community engagement. The enhanced hardscape and landscaping outside the station will also create a more attractive and usable outdoor area for public use, contributing to the overall aesthetic quality of the neighborhood.
- Improvements to the Arboretum Recreation Center. The Applicant also proposes improvements to the Arboretum Recreation Center, valued at up to \$5,000. Planned upgrades include new benches and ADA-compliant features, enhancing the center's accessibility and inclusivity for all residents. These improvements will ensure that individuals with disabilities can comfortably and safely use the facility, supporting equity and social inclusion. The addition of benches and seating areas will also increase the center's recreational and social value, encouraging longer visits, interaction among residents, and a stronger sense of community.
- Installation of Shot Cameras. Finally, the Applicant proposes the installation of shot detection cameras at Bladensburg Road and Montana Avenue, valued at approximately \$15,000. These devices will enhance public safety by detecting and locating gunfire incidents in real time, enabling law enforcement to respond more quickly and effectively. By reducing response times, the cameras will help deter criminal activity, improve apprehension rates, and contribute to the safety and well-being of the surrounding community.

## **I. PUD Flexibility Standard and Evaluation Criteria**

Under the Zoning Regulations, a "PUD-related Zoning Map amendment shall be considered flexibility against which the Zoning Commission shall weigh the benefits of the PUD." 11-X DCMR § 303.12. Additionally, when deliberating on the merits of a PUD application, the Zoning Commission is required to "judge, balance, and reconcile the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case." 11-X DCMR § 304.3.

In this case, the PUD benefits and amenities package proffered by the Applicant is commensurate with the development flexibility requested through this PUD application. As reflected in Table 1 below, the PDR-1 Zone does not permit greater density or height than the MU-5B Zone. Further, the PUD flexibility standards in Subtitle X allow a PUD in the PDR-1 Zone to be approved with an increase in density of up to 34% above the matter-of-right density (Subtitle X § 303.3(b)) and a maximum building height of up to 60 feet (Subtitle X § 303.7). The proposed PUD will have a density of approximately 0.467 FAR and a height of 48 feet, both below the

matter-of-right standards for the MU-5B and PDR-1 zones, and well below what could be achieved under the flexibility standards set forth in Subtitle X § 303 of the Zoning Regulations.

**Table 1: Zone Change from MU-5B to PDR-1**

	<b>MU-5B</b>	<b>PDR-1</b>	<b>Proposed PUD</b>
<b>Density (FAR)</b>	MOR: 3.5 IZ: 4.2 1.5 Max Non-Res.  PUD: 4.2 / 5.04 (IZ)	MOR: 3.5 (preferred uses); 2.0 (MOR and SE uses)  PUD: 4.2	0.467
<b>Height</b>	MOR: 75 ft. IZ: 75 ft. PUD: 90 ft.	MOR: 50 ft. PUD: 60 ft.	48 ft.

### **G. Transportation Statement**

Pursuant to Subtitle Z § 401.8, attached as **Exhibit A** is the Applicant's Comprehensive Transportation Review ("CTR"), prepared for the Application by the Applicant's transportation consultant, Gorove/Slade Associates, Inc. The résumé of Daniel Solomon, the Gorove/Slade expert who prepared the CTR, is attached as **Exhibit B**. Pursuant to Subtitle Z § 401.7, and as reflected in the Certificate of Service attached hereto, the Applicant is concurrently providing a copy of the CTR to DDOT. The Applicant notes that a copy of the report was also provided to DDOT on August 29, 2025, consistent with DDOT's practice of receiving transportation statements at least 45 days before the public hearing.

The CTR concludes that the proposed development will have manageable impacts on the surrounding transportation network, provided that all planned site-design elements and recommended mitigation measures are implemented. The proposed development incorporates several features that help minimize potential transportation impacts, including the PUD Site's proximity to transit and bicycle infrastructure, its location within a well-connected pedestrian network, and the removal of 16 curb cuts serving the existing site, which will improve the pedestrian environment. In addition, the CTR notes that creating a dual shared-use path and sidewalks along most of the Site's New York Avenue, NE and Montana Avenue frontage will foster a multimodal environment and further reduce traffic impacts. (See CTR at p. 2.)

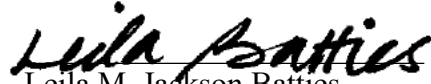
Mr. Solomon will be prepared to testify regarding the contents of the CTR, the Project's potential transportation impacts, and the proposed mitigation measures at the public hearing on the Application.

**H. Conclusion**

In light of the foregoing and the overall record of the case, the Applicant respectfully requests the Zoning Commission's approval of the Application.

Respectfully submitted,

HOLLAND & KNIGHT LLP

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

Leila M. Jackson Batties

Christopher S. Cohen

Madeline S. Williams

cc: Certificate of Service

Exhibits

## **CERTIFICATE OF SERVICE**

We hereby certify that on September 16, 2025, a copy of the Applicant's Prehearing Submission filed in support of Zoning Commission Case No. 24-11 was served via electronic mail upon the following at the addresses listed below:

### **D.C. Office of Planning**

Jennifer Steingasser: [jennifer.steingasser@dc.gov](mailto:jennifer.steingasser@dc.gov)

Joel Lawson: [joel.lawson@dc.gov](mailto:joel.lawson@dc.gov)

Crystal Myers: [crystal.myers@dc.gov](mailto:crystal.myers@dc.gov)

### **District Department of Transportation**

Erkin Ozberk: [erkin.ozberk1@dc.gov](mailto:erkin.ozberk1@dc.gov)

### **Advisory Neighborhood Commission ("ANC") 5C**

[5C@anc.dc.gov](mailto:5C@anc.dc.gov)

### **Commissioner Tequia Hicks Delgado**

ANC 5C Chair

[5C03@anc.dc.gov](mailto:5C03@anc.dc.gov)


### **Commissioner Shawn Nelson**

Single-Member District 5C04, Representative

[5C04@anc.dc.gov](mailto:5C04@anc.dc.gov)



Leila M. Jackson Batties  
Holland & Knight LLP



Christopher S. Cohen  
Holland & Knight LLP