

Z.C. Case No. 19-29

1348 4th Street, NE, 401 New York Ave., NE, and Airspace above an Intervening Portion of 4th Street, NE



**Application for Review and Approval of a
Consolidated Planned Unit Development,
Zoning Map Amendment, and Airspace Development**

**Square 3587, Lot 3
Square 3594, Lot 1
Airspace above the Portion of 4th Street, NE between such Lots**

November 26, 2019

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DEVELOPMENT TEAM

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EXHIBITS

Agent Authorization Letters and Application Forms	A
Certificate of Notice, Notice of Intent to File a Zoning Application	B
Certificate Compliance with Subtitles X and Z of Zoning Regulations	C
List of Property Owners within 200 Feet of the Subject Property	D
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I. INTRODUCTION

A. Summary of Application

UM 1348 4th Street NE LLC and EAJ 401 New York Ave LLC (collectively, the “**Applicant**”) hereby submit this application (this “**Application**”) to the District of Columbia Zoning Commission (“**Commission**”) for review and approval of (i) a consolidated planned unit development (“**PUD**”), (ii) an amendment to the Zoning Map (“**Map Amendment**”), and (iii) an airspace development (“**Airspace Development**” and together with the PUD and Map Amendment, the “**Application**”). The property that is the subject of this Application is commonly known as 1348 4th Street, NE (Square 3587, Lot 3, hereinafter known as “**1348 4th Street**”), and 401 New York Avenue, NE (Square 3594, Lot 1, hereinafter known as “**401 NY Ave.**”), and includes the airspace above a portion of 4th Street, NE between such lots (“**4th Street Airspace**” and together with 1348 4th Street and 401 NY Ave., the “**Property**”). The Property consists of approximately 59,120 square feet in the aggregate. The Property is located in the Northeast quadrant of the District between New York Avenue and 4th Street, NE north of Penn Street, NE and is within the boundaries of Advisory Neighborhood Commission (“**ANC**”) 5D.

As noted above, this Application seeks Commission review and approval of three related elements: (i) the consolidated PUD, which establishes the height and massing, program of uses, vehicular and pedestrian access considerations, materials, and package of public benefits for the mixed-use building to be located on the Property; (ii) the Map Amendment, which seeks to rezone the entirety of the Property from the PDR-1 zone to the MU-30 zone, and assign such MU-30 zone designation to the 4th Street Airspace; and (iii) the Airspace Development, pursuant to which the Commission determines the use and dimensional limitations applicable to the 4th Street Airspace (the “**Project**”, plans for which are attached as Exhibit G, the “**Plans**”).

The Property is currently improved with two structures: on 1348 4th Street is a single-story bank building with surface parking and drive-through lane and on 401 NY Ave. is a three-story commercial building with surface parking. Both existing buildings will be demolished in order to construct the Project.

The Project consists of (i) approximately 550,600 square feet of multi-family residential, office, and retail and commercial ground floor uses; (ii) a distinctive, publicly-accessible rooftop (the “**Rooftop**”) that will provide a mix of publicly accessible outdoor space, entertainment and dining venues, views of the Capitol and gathering spaces at the gateway to the District of Columbia’s downtown core and threshold to the Union Market District; (iii) up to three levels of below-grade parking with 175-250 parking spaces to serve the Project; and (iv) a robust package of additional public benefits. The Project’s public benefits (“**Public Benefits**”) include: high quality design and iconic architecture, efficient planning, housing and affordable housing, sustainability measures including solar panels, the PDR/Maker use package provided by affiliates of the Applicant in other recent PUD approvals in the Union Market District, and the public Rooftop which is accessed via a prominent, well-designed, ground level entry leading into a light-filled, vertical garden. In addition, the Project will retain the PNC Bank use on the Property. The bank is a community-serving institution, serving local businesses and residents alike, and will move next door during construction and return to the Property upon completion of the Project.

The Project implements the goals and policies of the Florida Avenue Market Study Small Area Plan (“**Small Area Plan**”) and is not inconsistent with the District of Columbia Comprehensive Plan (“**Comprehensive Plan**”) nor any other adopted policy or program applicable to the Property. This Application satisfies the requirements for a PUD, the Map Amendment, and the Airspace Development under the Zoning Regulations (“**ZR16**”).

B. The Applicant

The Applicant is comprised of affiliates of its parent company, EDENS. EDENS and its affiliates and partners lead the development efforts in the Union Market District and have been instrumental in the investment and revitalization in the Union Market District for more than a decade. EDENS has extensive experience working with community groups and other stakeholders to develop projects that enhance urban neighborhoods and synthesize with existing communities. EDENS has worked with the Office of Planning (“**OP**”) and District Department of Transportation (“**DDOT**”) to create streetscape design guidelines for the Union Market District and will continue to work with these agencies on related public space design concepts. EDENS is also working with the Historic Preservation Office to establish historic building guidelines and worked with OP to develop the PDR/Maker use definition.

EDENS develops, owns, and operates community-oriented shopping places in primary markets throughout the East Coast. Three examples of the EDENS innovative and well-planned approach can be found in the Union Market District at 1309 5th Street, NE (“**The Market**” and “**Dock5**”), 1270 4th Street, NE (“**La Cosecha**”), and Gateway Market at 340 Florida Avenue, NE (“**The Edison**” and Trader Joe’s). EDENS has also developed the Mosaic District at Lee Highway and Gallows Road in Merrifield, Virginia and numerous other first-class, placemaking, mixed-use developments in the region and beyond. EDENS prides itself in introducing pioneering, innovative concepts, creating the right merchandise and tenant mix, delivering seamless construction projects, and maintaining ownership and management, all while synthesizing the new with the existing and integrating in place and surrounding communities, and has done so on numerous projects for over 50 years. EDENS has developed a strong reputation through its commitment to enriching the communities it serves and its focus on building key relationships with neighbors, retailers and project partners. Each of EDENS’s projects has achieved great success in the communities in which it is located and has garnered accolades for EDENS’s vision and introduction of community-supporting concepts.

Within the Union Market District, EDENS and its affiliates and partners have joint ventured to (i) entitle, design, and construct The Edison (approved by Z.C. Order No. 06-40C), which is the first residential project within Union Market and includes a Trader Joe’s grocery store and a dedicated community room for the ANC, (ii) entitle, design and construct with partners the residential building and La Cosecha at 1270 4th Street, NE (approved by Z.C. Order Nos. 14-07 and 14-07A) and 1300 4th Street, NE (approved by Z.C. Order Nos. 14-07 and 14-07B), (iii) entitle and design the hotel and retail project at 400 Florida Avenue, NE (approved by Z.C. Order No. 16-10); (iv) entitle and design the residential and retail PUD at 500 Penn Street NE (approved by Z.C. Order No. 17-14, “**Maurice Electric**”); (v) entitle and design the mixed-use “North Building” at the Union Market site in the heart of the Union Market District, which is currently pending before the Commission as a second-stage PUD (Z.C. Case No. 14-12E); and

(vi) entitle the mixed-use “South Building” to be constructed above The Market (approved by Z.C. Order Nos. 14-12 and 14-12C).

II. THE PROPERTY

A. Location

The Property is located within Ward 5 and ANC 5D01 in the Northeast quadrant of the District. The Property is chevron-shaped and bounded to the north by New York Avenue, NE. The 401 NY Ave. portion of the Property is bounded to the east by 411 New York Avenue, NE and to the south by a public alley. The 1348 4th Street portion of the Property is bounded to the east by 4th Street, NE, to the south by 1346 4th Street, NE, which contains a single-story commercial building, and to the west by the District-owned Lot 819 in Square 3587 (“**Lot 819**”).

Situated within the eastern portion of the Union Market District, the Property is less than a half-mile from the NoMA-Gallaudet University Metrorail station, which is served by WMATA’s Red Line. The D.C. Council recently approved a capital project to enhance pedestrian access between the Union Market District and the Metrorail station.

The Property consists of approximately 59,120 square feet total, of which 47,320 square feet is land area on the two record lots and an additional 11,800 square feet of which is in the 4th Street Airspace. All of the Property’s land area and airspace is contiguous.

B. Characteristics of the Union Market District and the Surrounding Area

Union Market District. The Property is at the northern border of the Union Market District, which is also known as the “Florida Avenue Market,” a warehouse district that has historically been a hub for the District’s food services, wholesalers and retailers. EDENS has played a significant role in ensuring that the ongoing rebirth of the Union Market District accommodates many of the long-time existing DC and Union Market District food wholesalers and both respects and reinforces its food-based mercantile heritage and its surrounding neighborhoods. As a result, today, the Union Market District retains a conglomeration of wholesalers and retailers of meats, produce, and dry goods, as well as local and artisanal maker products such as jewelry, tourist souvenir items, hair care products, and general merchandise. The product and service mix in the Union Market District is intended to serve long-time customers, nearby residents, and members of the Gallaudet community, and to draw visitors from across DC and beyond to help realize the full economic potential of the District. This new and ongoing development activity has begun to transform the Union Market District in accordance with the Small Area Plan. The Union Market District now features new development, surrounding two blocks of low-rise historic warehouse, light industrial, and mercantile structures at the heart of the neighborhood.

The Union Market District is surrounded by a mix of neighborhoods. Immediately east of the Union Market District is Gallaudet University. To the north and west are New York Avenue, NE and the wide rail corridor that leads to Union Station, which is just a few blocks to the southwest of the Union Market District. Florida Avenue, NE serves as the southern boundary of the neighborhood, beyond which is the largely-residential Atlas District. The Union Station Train Yard lines crosses into portions of the Union Market District at points behind the Property. One

rail line in the Union Market District is planned to be re-activated by VRE for daytime commuter train storage. To the north, bisected by New York Avenue, NE is the mixed-use Ivy City, and beyond Gallaudet University to the east is the primarily-residential Trinidad neighborhood. Eckington is located to the west across the regional rail corridor.

Transit and Vehicular Access. The Union Market District enjoys convenient vehicular access to the District's traditional downtown core and the Baltimore/Washington corridor via New York Avenue, NE, a six-lane arterial that provides immediate access to Route 50 and points east, to the Baltimore-Washington Parkway to Howard County and Baltimore, and to the Capital Beltway.

As noted above, the NoMA-Gallaudet University Metrorail Station is located at the southern edge of Union Market across Florida Avenue, NE from the Union Market District and within easy walking distance, which will become even easier with the recently-funded capital improvements. The NoMA-Gallaudet Station is one stop (2-3 minutes) from Union Station with connections to MARC, VRE, Amtrak, and intercity bus service on the Red Line and just three stops (5-7 minutes) from Metro Center. In the opposite direction, the Red Line runs to Silver Spring, another major employment center in the region. Multiple local Metrobus lines directly serve Florida Avenue, NE and the nearby Brentwood Parkway, NE, which bus lines also provide important intracity vehicular access. The Metropolitan Branch Trail (“**MBT**”) runs along the eastern side of the rail corridor bounding Union Market. The MBT provides an important bicycle connection to other District neighborhoods. The Union Market District itself is increasingly bicycle friendly, and substantial bicycle-related improvements are planned for Florida Avenue, NE to the south of the Union Market District.

Nearby Recreation and Amenities. The Union Market District is within walking distance of the National Arboretum and the Mt. Olivet Cemetery, and as mentioned above, the MBT, which serves both commuting as well as recreational cycling needs. The Joseph Cole Community Recreation Center is approximate one-half mile east of the Property.

Recently, EDENS has begun installing interim park and recreation improvements on the top level of The Market. These interim improvements, which are intended to serve the Union Market District until permanent improvements are constructed at the ground level as part of the future redevelopment of the Z.C. Case No. 14-12E-related “North Building” adjacent to The Market, contribute an outdoor gathering space for the growing population of full-time residents, workers, and visitors to the Union Market District. The Market's interim rooftop improvements are similar to the permanent publicly-accessible Rooftop benefit proposed here, except that the Rooftop will be in place for the life of the Project.

Commercial uses continue to emerge in and around the Union Market District. Trader Joe's is open (in an EDENS-partner-developed building) south of the Property along 4th Street, NE, new EDENS-owned retail on 5th Street, NE between Morse Street, NE and Neal Place, NE in the Union Market Historic District, EDENS-owns La Cosecha in The Batley building on 4th Street, NE, and several new pop-ups in the EDENS-owned spaces along 4th Street, NE and Neal Place, NE. An assortment of commercial uses line Florida Avenue, NE in the vicinity of the Union Market District, and The Market and Dock 5 are activity centers for retail uses, mercantile activity, shopping needs, and neighborhood gathering spaces and an incubator space for new, locally-based small businesses.

Nearby Development. Multiple PUDs have been approved within or immediately adjacent to the Union Market District in accordance with the development framework set forth in the Small Area Plan. Likewise, southwest of Union Market, the NoMA Business Improvement District has seen development and investment activity guided by the Comprehensive Plan. Nearby neighborhoods of Eckington and Ivy City neighborhoods also each have multiple new or planned developments. Together these new developments provide a significant contribution of new housing, new affordable housing, and new job and economic opportunities as well as opportunities for District residents and workers to remain in the District.

Two lots in the immediate vicinity of the Property are the subject of PUDs that allow construction of buildings to ten or more stories:

- Z.C. Case No. 17-14: To the south of the 401 NY Ave. portion of the Property (opposite the intervening public alley) is 500 Penn Street, NE, which is the subject of an approved consolidated PUD and related Zoning Map amendment approved in Z.C. Case No. 17-14 (the “**Maurice Electric PUD**”). The Maurice Electric PUD allows a 12-story, mixed-use building with ground floor retail and PDR/Maker uses and upper story multi-family residential uses and authorizes a rezoning from the underlying PDR-1 zone to the MU-9. The building approved as part of this PUD has a maximum floor area ratio (“**FAR**”) of 8.4.
- Z.C. Case No. 15-19: The property at 411 New York Avenue, NE, situated immediately to the east of the 401 NY Ave. portion of the Property, is subject to an approved consolidated PUD approved in Z.C. Case No. 15-19 (the “**411 NY Ave PUD**”), which also includes an approval for a related Zoning Map amendment from the C-M-1 (now PDR-1) to the C-3-C Zone District (now MU-9). The 411 NY Ave PUD allows an 11-story 178-key hotel building with a maximum FAR of 7.44 with 43 parking spaces.

Other major recent and pending developments within a half-mile radius of the Property include: (i) the Constitution Square complex, which includes 2.5 million square feet of mixed-used space including office, hotel, residential, and retail in NoMA; (ii) JBGSmith’s 200-room Hyatt Place at 33 New York Avenue, NE; (iii) the 218-room Courtyard by Marriott at 1325 Second Street, NE; (iv) the roughly 1 million square foot Washington Gateway project, which includes residential, retail, and office space on the triangular lot to the north and east of the intersection of Florida and New York Avenues; (v) The Edison by affiliates of LCOR and EDENS, which includes Union Market’s first residential units, a Trader Joe’s and a community room (mentioned above); (vi) mixed use retail and residential PUD projects at 1270 4th Street, NE and 1300 4th Street, NE by affiliates of EDENS and several development partners approved by Z.C. Order Nos. 14-07, 14-07A, and 14-07B (mentioned above); (vii) a mixed use, multiple building PUD at the east of the Union Market District subject to Z.C. Case No. 15-27, (viii) a hotel and retail project at 400 Florida Avenue, NE by EDENS and other development partners (approved by Z.C. Order No. 16-10) (mentioned above); (ix) a mixed-use office, multifamily residential and retail/PDR/Maker use building at The Market and the adjacent North Building (approved by Z.C. Order No. 14-12 and the subject of the pending second-stage PUD in Z.C. Case No. 14-12E) (mentioned above); (x) JBGSmith and Gallaudet’s multi-block PUD within Union Market (Z.C. Order No. 15-24); and (xi) an approximately 220-room hotel at 501 New York Avenue, NE (Z.C. Order No. 11-26).

Nearby Zoning, Economic, and Demographic Characteristics. The 45-acre Union Market area is generally in the PDR-1 zone (previously the C-M-1 Zone District), but several sites have been rezoned C-3-C (now MU-9 under ZR16) and MU-9 in accordance with the recommendations of the Small Area Plan. *See, for example*, Z.C. Order Nos. 06-40 through 06-40C, 11-25, 14-07, 14-12, 15-01, 15-19, 15-24, 16-10, and 17-14. The Union Market District, and the Union Market itself, have been hubs of economic activity for entrepreneurial and local DC-based start-up businesses including food-based industries, technology, media, mixed-media, and “maker” uses, all of which have found niches in near Northeast, with the Union Market District a hub for such economic activity.

The Property and the Union Market District are in Census Tract 88.03. Recent Census data demonstrates the neighborhood’s need for more and better jobs and also improving trends in recent years. As of 2017 (the most recent year for which data are available), the Union Market District’s unemployment rate was 15.6 percent (versus 8.0 percent for the District as a whole), which compares favorably to the unemployment rate of 26.3 percent as of 2014 (versus 10.6 percent for the District as a whole).¹ Jobs are still sorely needed for residents of the neighborhoods around the Property.

Lot 819. Lot 819 is an irregularly-shaped lot to the immediate west of 1348 4th Street and currently serves as a District-owned vehicular/pedestrian access and alley network for a number of lots adjacent to and in the vicinity of that lot. Although the District owns Lot 819, it is not a public right of way or alley. Instead a private covenant agreement of record governs use of and access over Lot 819, and the Applicant intends to use Lot 819 pursuant to such covenant. Lot 819 narrows to a point at its northern end, which is the portion of Lot 819 adjacent to 1348 4th Street. At the northernmost portion of Lot 819, adjacent to 1348 4th Street, a steep grade separates the two lots and allows any access to 1348 4th Street via Lot 819 to occur below the grade of 4th Street, NE.

III. THE PROJECT

The Project contains a single, mixed-use building. The Project contains: (i) a mix of ground floor retail, PDR/Maker, service, and related commercial uses, (ii) ten stories of upper-story office uses in the southern portion of the building, (iii) twelve stories of multi-family residential uses in the northern portions of the building and four stories of multi-family residential uses in the air rights portion of the building, (iv) below-grade parking, (v) the publicly-accessible Rooftop, and (vi) streetscape improvements along the surrounding streets, including a street-level pocket park that connects to the vertical transportation to the Rooftop.

The Rooftop, accessible to the public via a unique “vertical garden,” and the related iconic bridge spanning the 4th Street Airspace are the Project’s signature features.

A. Project Description

Project Goals: The primary design and placemaking objective of the Project is to provide iconic architecture that celebrates DC and provides a memorable marker/demarcation or gateway

¹ United States Census Bureau, American FactFinder <https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml> (last visited May 27, 2019)

into the downtown core. The Project is also threshold moment into the Union Market District. *See* page A-13 of the Plans. New York Ave., NE, the primary vehicular entry into the downtown core from the northeast corridor including New York City, Baltimore, Philadelphia, and Boston, demands a signature urban design gesture and an iconic building that places DC on the global architecture map, cementing the District as one of the world’s greatest cities and a thriving hub of innovation, art, culture, and economy. The Union Market District’s 4th Street, NE entrance—the only connection from New York Avenue, NE directly into Union Market—is the appropriate place for the grand design gesture embodied in the Project’s bridge element. Taking advantage of a topographical high point in the District without interfering with the L’Enfant Plan or other prominent escarpment viewsheds, the bridge will be a visible icon for the neighborhood and also yield uninterrupted views from the rooftop to many of the District’s iconic architecture such as the Capitol and Washington Memorial. *See* page A-05 of the Plans. In addition, the Project foreshadows much grander development possibly to come to New York Avenue, NE. Massing features such as chamfered corners at key locations maximize views from New York Avenue NE into the neighborhood by carving the corners of the building, creating a characteristic corbelling affect to expose, among other areas, the public entry to the rooftop on 4th Street, NE through the “vertical garden”, creating continuous and generous access from the street to the Rooftop. The Applicant believes that the Project, with its signature Rooftop, unique bridge over 4th Street, NE, and impressive architectural design and detailing, achieves the desired objectives.

The Project also achieves other desirable public policy objectives: in furtherance of the Mayor’s housing production goals, the Project adds approximately 366 new residential units, of which approximately ten percent (10%) will be affordable. In addition, the Project reinforces the Union Market District’s mercantile heritage by reserving the ground floor for commercial uses, including PDR/Maker uses. The Rooftop and street space improvements enhance and substantially advance the collective vision for the Union Market District as set forth in the Small Area Plan and Union Market Streetscape Design Guidelines. Lastly, the Project advances numerous policy objectives of the Comprehensive Plan. The Project’s relationship to these objectives are detailed below and in the exhibits attached.

Existing PNC Bank: The Applicant has heard consistent feedback that existing PNC bank location on the 1348 4th Street portion of the Property is an important community-serving institution, serving local businesses and residents alike. As a result, the Applicant has reached an arrangement with PNC to build out the existing EDENS-affiliate-owned building at 1346 4th Street, NE and relocate the PNC branch to that site during the construction of the Project. Once the Project is complete, the PNC will return to the Property on the ground floor of the new building.

Program: The Project has a total floor area of up to approximately 550,600 square feet of gross floor area (“GFA”), resulting in an FAR of approximately 9.1 with an overall lot coverage of approximately 97.6 percent (below the 100 percent permitted by the MU-30 zoning). The maximum height of the Project is 130 feet. The Project includes a mix of four categories of uses: (i) approximately 346,200 square feet of residential GFA; (ii) approximately 155,900 square feet of office GFA; (iii) approximately 48,500 square feet of retail and commercial GFA on the ground level and a mezzanine level; and (iv) approximately 28,800 square feet of publicly-accessible space on the Rooftop. Below grade, the Project includes up to three levels of parking, shared among approximately 185 bicycle spaces and up to 175-250 parking spaces vehicle spaces. Loading is integrated at ground level into both the 1348 4th Street and 401 NY Ave. portions of the building.

Site Plan: The Project intent is to create a dramatic design gesture announcing the entry into the Union Market District from New York Avenue, NE. The Project's site plan highlights its important context, activates the surrounding public realm, responds to an existing change of grade, and relegates all vehicular and loading access to alleys. *See* pages A-06 and A-12 of the Plans.

The design rationale for the Project is to vertically extrude the massing allowable on 1348 4th Street and 401 NY Ave. and connect those two vertical masses with a horizontal plane to create a generous expanse at the street level and up to a height of 90 feet to retain unfettered public vehicular and pedestrian access, an iconic four-story bridge element, and a publicly-accessible, large, flat, usable area on the Rooftop surface. Highly visible, vertical transportation, celebrates the rooftop entry that is accessed from 4th Street, NE connecting the public to the Rooftop in a seamless way from the street. Chamfering sculpts the appearance of the building, creating a corbelled effect at key corners of the project, along with a rich depth especially while viewing the building at oblique angles.

The site plan for the Project includes a single chevron-shaped building with a bridge spanning the 4th Street, NE. The portion of the Project on 1348 4th Street occupies nearly the entirety of that lot except the Project includes a hardscaped, partially-covered "pocket park" at the southern end of that lot along 4th Street, NE in front of the primary entrances to the office portion of the Project and the primary public entrance to the Rooftop. In addition to the pocket park, the Project sits back from the property line at three ground level "chamfers" below the bridge. *See* page A-30 of the Plans. The chamfering improves sight lines into and through the Union Market District from New York Ave., NE including views of the Capitol and gives the Project additional distinctive shapeliness.

The bulk, intensity, and orientation of the Project are each generally consistent with the vision for the Union Market District articulated in the Small Area Plan. The Project is essentially a bar-shaped building with a pivot on the western side of 4th Street, NE. The width of the bar at grade is nearly uniformly 100 feet wide except that at the southern end of the Property the bar expands to 120 feet, taking advantage of the greater dimensions of the 1348 4th Street lot to accommodate the demands of a floorplate for office uses.

The Project's shape and orientation provide sweeping views to the Capitol dome and Washington Monument and across the District's skyline generally. The Rooftop is an innovative, large outdoor public space that, when combined with the proposed superior design and anticipated programming, promises to be a community-gathering place for the Union Market District's growing residential population as well as for residents in the broader ANC 5D, Ward 5, and District communities. The unique, publicly-accessible Rooftop will also be a District-wide benefit, characteristic of the District's stature as a City with nationally and internationally-renowned architecture. The Applicant expects that the uses, design, and views on the Rooftop will draw visitors from across the District and beyond and will contribute to the Union Market District's emerging reputation as an innovative and economic hub and destination for visitors from outside the District and the greater metropolitan region.

The ground floor articulation and orientation of the Project prioritizes pedestrian activity along 4th Street, NE and attempts to continue that prioritization to the portion of New York

Avenue, NE adjacent to the Project. (Lot 819 and an adjacent low-density self-storage building separate much of 1348 4th Street from any direct frontage on New York Avenue, NE). The Project places multiple retail entrances and lobby entrances to the office and residential uses along 4th Street, NE to animate that portion of the street system and fosters around-the-clock activation of the street. On the southern end of the Project, the storefront aligns with the setback of the adjacent property, creating an inviting hardscaped pocket park fronted by continuous storefronts and offering opportunities for place-making. The Project carries around to New York Avenue, NE the rhythm of retail entrances and generous, transparent storefronts. The New York Avenue side of the building intends to also be dynamic and active at the scale of the busier street as the “front-door” to the Union Market neighborhood. The Project also anticipates locating a residential entrance on the south side (i.e., the alley-facing side) of 401 NY Ave., approximately 45 feet from the intersection of the alley, and 4th Street, NE and Penn Street, NE. Locating a residential entrance on the east side of 4th Street, NE creates a flow of pedestrian traffic across that street and links the Project to the building approved under the Maurice Electric PUD.

The existing grade of 4th Street, NE rises from south to north adjacent to the Property. The pocket park and the retail level absorb the grade change and make it an animating feature of the Project along that street. *See* pages A-20 and A-27 of the Plans.

All of the Project’s parking access is concentrated at one location accessible only from the Lot 819 alley. Each of the 1348 4th Street and 401 NY Ave. portions of the Project include separate loading entrances, accessible only from a private alley and a public alley, respectively. The Project does not include any new curb cuts and indeed proposes to close the *four* existing curb cuts serving 1348 4th Street.

Building Layout: Due to the change in grade from south to north along 4th Street, NE, the Project has two levels that are partially “at-grade”. For the southern two-thirds of the Project, the at-grade level is “Level 1” as shown on page A-34 of the Plans. Level 1 contains approximately 21,100 square feet of retail/commercial space, plus lobbies for the upper story office uses and a separate public lobby for members of the public who wish to access the Rooftop. The residential, office, and public Rooftop lobbies are separate, and each is served by its own elevator core(s). The northern end of Level 1 includes non-habitable mechanical space that is fully below-grade.

Level 2, shown on page A-35 of the Plans, contains a retail “mezzanine” level plus two separate entrances and lobbies for the upper-story residential uses. One residential lobby is located in each of the 1348 4th Street and 401 NY Ave. portions of the Project. As noted above, the at-grade level of 401 NY Ave. (i.e., Level 2) also contains a loading entrance from the public alley to the south of that lot. Loading for the 1348 4th Street portion of the Project is located below-grade from Lot 819, as discussed below.

The Applicant anticipates that the two levels of retail in the Project will be integrated and innovatively connected internally to ensure a high degree of functionality and foot traffic from and along both 4th Street and New York Avenue, NE. The retail/commercial areas include large spaces accessible from 4th Street and New York Avenue, NE and will be able to be further divided as necessary to accommodate particular tenants. However, specific demising plans and the mix of tenants are not likely to be available until the Project has commenced construction.

The middle levels of the Project (i.e., levels 3-10) include two towers – one on each side of the 4th Street, NE right of way. *See* page A-36 of the Plans. The tower on 1348 4th Street is split between office and residential uses. The tower on 401 NY Ave. contains only residential uses on these floors. The top four levels of the Project (i.e., levels 11-14) also include office uses on the southern portion of the Property but feature a large residential floorplate that spans the bridge over 4th Street, NE. *See* page A-37 of the Plans.

The penthouse level of the Project includes the Rooftop and a quarter-mile long walking/jogging path, as well as retail spaces and mechanical enclosures. The bridge component of the penthouse level is the approximately 12,000-square foot public-gathering space, which will be programmed for passive uses as well as an evolving mix of activities, entertainment, community gatherings, and recreational opportunities to be more fully detailed in future filings. Additionally, other Rooftop areas provide potential eating and drinking establishments, and other retail options as amenities to the patrons of the Rooftop.

The roofs of the retail and mechanical areas are designed to accommodate solar panels.

Parking and Loading: Non-automotive modes of transportation are a priority for the Project and the Project includes a focus on bicycle parking spaces. The Project contains up to 175-250 parking spaces vehicle spaces on three levels of below-grade parking to serve the residential, office, and retail/commercial uses as well as to allow some visitors to the Rooftop to drive and park. The residential and office spaces will be access-controlled, but the retail/commercial spaces will be available to the public generally. The parking range for the Project is at the lower end of the range of parking spaces in new mixed-use buildings, reflecting the ongoing shift toward transit, cycling, and other forms of mobility.

The first below-grade level of the garage includes a secure bicycle storage room with capacity for approximately 185 long-term bicycle spaces. *See* pages A-29 and A-33 of the Plans. Residential occupants of the Project will have separate bicycle storage from office and retail users, and all bicycle parking is located conveniently at the entrance of the top level of the garage. An additional approximately 37 short-term bicycle parking spaces are provided in public areas around the Property. Showers and lockers are provided for cyclists who are commuting to the Project for work.

The Project contains a total of four loading berths and delivery spaces, along with additional ancillary loading areas. Three such berths and spaces and two areas designated for trash compactors are accessible at Lot 819, behind the 1348 4th Street portion of the Project on the P1 level. A fourth berth and ancillary loading area are located at grade in 401 NY Ave., accessible only from the existing alley. Indeed, as noted above, all of the Project's parking and loading access require access only from the existing alleys (public and private), so, as mentioned above, all existing curb cuts on the Property will be closed.

Rooftop and Public Access Thereto: The Project's Rooftop is one of its grandest design elements and perhaps the most notable of the Public Benefits. The Rooftop is an important publicly-accessible urban recreation area, anticipated to be open to the public year-round during daylight hours, and at certain times of the year after dark. This space is an essential area of relief for Union Market District and the surrounding neighborhood which does not have a great deal of

such areas for recreation and, indeed, the only other such areas in the Union Market District are located in other PUDs.

The Rooftop is programmed with a quarter-mile long walking/jogging path around the perimeter. At the heart of the Rooftop, directly over 4th Street, NE is an expansive open space containing approximately 12,000 square feet of open area. The default condition of this space will be for passive uses, but the Applicant also anticipates programming it with a dynamic and evolving mix of events, gatherings, performances, and other special activities from time to time, similar to its approach for the “Urban Park,” “Urban Plaza,” and Interim Park Improvements (atop the existing Union Market building) in Z.C. Case Nos. 14-12 and 14-12C. Also, as noted above, the Rooftop is designed and oriented to provide views of the District that will be among the most impressive around. Service and eating and drinking establishment uses at the Rooftop level will serve the public, draw visitors to the Rooftop, and extend the Union Market District’s food-based heritage.

Public access to the Rooftop is nearly as spectacular as the Rooftop itself. A dedicated 4th Street, NE lobby and elevator bank serves the Rooftop. The lobby is framed by an exterior pocket park that leads to a light-filled vertical element rising the full height of the building, surrounded by glass and filled with a vertical green wall. *See* pages A-17 and A-18 of the Plans. The elevators carrying pedestrians to the Rooftop will be transparent, reinforcing the publicly-accessible nature of the Rooftop. The objective of the entrance is to send an unmistakable architectural message that the Rooftop is publicly accessible and inviting the public in and up to the roof. Signage and wayfinding will complement the architectural gestures. Greenery and plantings will be intertwined in the design approach to these spaces from the vertical entry and access spaces to the Rooftop itself.

Residential Unit Mix: The Project’s residential program contains a mix of studio, junior 1-bedroom, 1-bedroom, 1-bedroom plus den, and 2-bedroom units. The Project has dedicated amenity space for resident events but deliberately avoided exclusive private outdoor terraces for the residences on the Rooftop. All of the Project’s residential units will have the same access to the Rooftop as the general public, and the Rooftop is intended to be a communal space with residents of the Project encouraged to activate and share the Rooftop’s amenities with the public. The Applicant intentionally does not want to create two sets of outdoor spaces, one public and one private, as part of the Project, believing that sends mixed or conflicting messages about the intent of the Rooftop being for the public generally and would be in conflict to the goal of inclusivity.

The Project exceeds the Inclusionary Zoning (“IZ”) requirements of ZR16 by dedicating ten percent (10%) percent of the residential GFA to affordable units, which translates to approximately 34,620 gross square feet of affordable units. Of such affordable units, 90% percent are proposed to be set aside for households earning no more than 60% of the Washington DC Median Family Income (“MFI”) while the remainder of such affordable housing units are to be set aside for households earning no more than 50% MFI for the life of the project.

Maker/PDR uses. Half of the non-residential uses on the ground floor of the Project will be constructed to “PDR/Maker” use specifications². Moreover, the Applicant will reserve five percent (5%) of such space for PDR/Maker uses³ for a period of five (5) years. These PDR/Maker commitments and enhanced Public Benefits are consistent with the package proffered by an affiliate of EDENS and accepted by the Commission in the consolidated PUD for 500 Penn Street, NE. *See* Z.C. Order No. 17-14 at Decision ¶¶ B.9-11.

Architecture, Façade Details, and Materials: The Project’s architectural design and detailing are intended to be bold, iconic, and distinctive while taking cues from the patina of the surrounding neighborhood’s existing fabric. The façade expression of metallic vertical grain is intended to vary in density depending on the program, creating subtle variety and depth along the long-span of the building. The Project is intended to complement the fabric of the Union Market District, as detailed more fully below, yet distinguish itself given the Project’s prominent location and ambitious urban design objectives. As such, it integrates glass into the façade design, but is not dominated by it. The Project takes advantage of its edge condition at the margin between New York Avenue, NE to the north and the Union Market District to the south, and offers an iconic resolution to the challenge of its context.

From the New York Avenue, NE side of the Project, the bridge, and its framing effect, are the intended to visually capture the experience from that vantage and draw visitors into the Union Market District. The Project’s overall form, chamfering, primary façade materials, and the materiality under the bridge also work in service of this objective.

From the 4th Street, NE side, the architectural objectives are different. From that side, the dominant objectives are to connect to the neighborhood fabric, inform visitors of the uses in the building (retail, residential, and office), and draw visitors toward and upward into the Rooftop. The wider span of the pocket park and dominance of the stunning vertical garden and access to the Rooftop are intended to captivate passersby at the pedestrian scale and maintain the concept for the entirety of the building’s verticality.

² PDR Maker construction specifications shall mean construction to include “(a) a structural slab load (ground floor) live load of 125 pounds per square inch; (b) clear height of approximately 16 feet from ground-floor slab to bottom of structure above; (c) an electrical supply of 50 watts per square foot; (d) a loading dock that includes a 48-inch raised loading dock and/or levelers; (e) an open floor plan layout; (f) a sound attenuation for mixed-use that satisfies NC-25 minimum noise criteria and includes seven-inch-thick minimum concrete podium slab; (g) HVAC designed for one ton per 300 square feet; and (h) ventilation (Fresh Air / Make-Up Air) louvers at façade.”

³ PDR Maker uses shall include: “(a) production, sale, and/or distribution of food and beverages (provided that the onsite consumption of food and beverages shall only be permitted when associated with such production, sale, and/or distribution user); (b) food incubators and food hubs; (c) robotics and 3-D manufacturing; (d) small-scale production, distribution or repair of goods and related accessory sales; (e) curation and sale of small-scale production goods; (f) new and locally-owned small businesses as certified with the Department of Small & Local Business Development; (g) “creative economy” uses including incubators, graphic design, product or industrial design, engineering and design, technology design and production, design and product curation, fashion design, horticultural design, green businesses and sustainable design, specialty sports and recreation uses, media/communications production and distribution; and (h) “arts” uses including arts, design and creation uses as defined in Subtitle B § 200.2(e) of the Zoning Regulations and entertainment, assembly and performing arts as defined in Subtitle B § 200.2(n) of the Zoning Regulations.”

The architecture of the Project follows the interior functions. For instance, the broader floorplate of the office portion reads as distinct from the slimmer residential portions of the building. Likewise, the vertical access element leading up to the Rooftop is intended to be eye-catching and, when viewed from 4th Street, NE, to create a noticeable contrast and “seam” between the office and residential portions of the Project.

The Project further employs a series of contemporary geometries to create an iconic form in service of the primary architectural and urban design objectives. Dramatic chamfers, strategically located, sculpt the Project, provide texture, and open up important sightlines. Chief among the sightlines prioritized by the Project is a view from New York Avenue, NE beneath the 4th Street Airspace to the Capitol Dome. *See* page A-15 of the Plans.

The chamfering also accomplishes other urban design and architectural objectives. Those moves break down the scale of the building, offer additional open space on the street level, give it a more dynamic appearance, distinguish it from other architecture in the Union Market District and frankly anywhere else in DC, and create world-class visual interest. This chamfering design approach is an expensive façade strategy worthy of a building at this location.

The Project’s detailing and materiality underscore the Project’s bold statements. The lowermost 20 to 30 feet of the building, that is, the area most visible to pedestrians, has a rich texturing of materials intended to create a tactile connection between passersby and the building itself. At the upper levels, the glass curtainwall, metal framing, and extruded fins create texture and dynamism when viewed from the ground level. Those elements also serve to alternatively break up the Project’s large forms but also reinforce the Project’s geometry. For instance, when viewed from the north the detailing and materiality create movement and disrupt the Project’s overall lines. *See* page A-17 of the Plans. When viewed from the south, the Project’s materials and detailing presents as a refreshingly regular grid. From other views, for instance, from across New York Avenue, NE the Project’s detailing and materiality seem to create both rhythm and disorder nearly simultaneously. *See* page A-14 of the Plans.

The Project’s scale, unique location, and gateway location demand that the Project be designed with superior architecture that announces the arrival to the downtown core, draws visitors and pedestrians into the Union Market District, and encourages lingering and exploration. Although the Project ultimately fits within the fabric of the densifying Union Market District—*see* page A-13 of the Plans—its unique location and the timing of its arrival require that it take measures to stand apart.

In other ways, the Project’s details recall and reinforce dominant forms of the Union Market District’s mercantile design heritage. For instance, between the pedestrian-scaled retail level and the more sculptural upper levels is a canopy that offers a modern interpretation of the prevailing form of the Union Market District’s historical mercantile buildings. On the 4th Street, NE side of the Project, this canopy has dual purposes of reinforcing the historic form while also providing shading and a surface for (non-occupiable) greenspace and related sustainability measures. Additionally, the canopy element is intended to be consistent with the Union Market Streetscape Design Guidelines and reinforces the datum defined by this unique, signature feature of the core of the Union Market Historic District on the east side of 4th Street, NE while also incorporating its topography. However, rather than perfunctorily mimic the District’s existing

mercantile forms, the Project's canopy includes a significant degree of planting and has a double height elevation, in parts, contrasting and highlighting both the historic core and the Project at the same time.

The primary building materials are metallic fins that are arranged outboard of a glass curtain wall of varying transparencies and reflectivity depending on the program. Of particular note is the material featured on the underside of the bridge: modular metal units that are complimentary to the façade expression and create a unified soffit that provides a distinctive, dynamic character, announcing the gateway from the street and the rail.

At street level, the Project features generous glazing to visually and physically connect the new retail/commercial and lobby spaces to the street. The glazed amenity uses behind the second story add additional energy to 4th Street, NE. The Project's retail/commercial and building signage, intended to be contextual in scale and character, though still in keeping with modern design, is shown to a conceptual extent in the Plans. The Project's signage will be further refined in subsequent filings.

Landscaping: The Project features a variety of landscaping improvements at street level, at the second-story canopy level, and on the Rooftop. The Rooftop and canopy over the pocket park are the dominant landscaped elements of the Project and are meant to expand upon and complement the urban park concepts approved for The Market and the plaza between The Market and its sibling building to the north at 1325-1329 5th Street NE (as described in Z.C. Case Nos. 14-12 and 14-12E).

The Rooftop features a mix of hardscape surfaces and planted areas. A walking/jogging path around the perimeter of the roof encourages activity, movement, and wellness, and notably affords unimpeded 360-degree views. The Rooftop includes intensively planted areas that frame a central gathering space located above 4th Street, NE. This space offers flexible spaces for fitness and wellness programing, for performances as well passive areas for seating.

At the ground level, in the pocket park, fixed and movable site furnishings, dining areas, planters and other streetscape elements allow for flexibility to accommodate sidewalk events and daily use for residents, visitors, and office workers. The sidewalks surrounding the Property are wide and allow for seating (where permissible by the Union Market Streetscape Guidelines and grade), bicycle parking, circulation, trees, stormwater controls, and other elements. The Applicant anticipates that performances, special events, and the daily bustle of commercial activity will ensure the pocket park consistently buzzes with pedestrian life and serves as a vibrant gateway to the District.

The Applicant notes that the design of 4th Street, NE adjacent to the Project is in accordance with Union Market Streetscape Guidelines, which the Applicant's affiliates have previously finalized with DDOT. One design feature that emerges from the Streetscape Guidelines is the inclusion of the Project's large canopies. As mentioned above, the Project's canopies feature green roofs as a sustainability measure. Canopies, rather than street trees, are emphasized as the streetscape level "greening" and shading element, particularly on the exposed south-facing side of the Project. Canopies reflect the mercantile character of the Union Market District, which historically has had few, if any, street trees.

Sustainability: The Project is designed to be certified at the level of LEED Silver v4, which the Applicant will seek from the USGBC. The Project's level of sustainability is further evidence of its superior design and reflective of the Applicant's commitment to advance the District's sustainable development goals. Specific sustainable design features include: energy modeling for the residential portion of the Project in order to optimize energy use and implement a number of efficiency strategies; careful selection of materials—both interior and exterior—that are environmentally preferred; inclusion of green roof and rooftop bio-retention—including green canopies—to compensate for larger areas of solid surface paving at grade; and inclusion of photovoltaic solar panels on the main and penthouse roofs.

B. Public Benefits

The Project includes a robust package of Public Benefits, including:

- Superior urban design and architecture, as described above;
- The creation of significant public open space, most notably the Rooftop and pocket park;
- Site planning and efficient and economical land utilization;
- Housing that exceeds the amount that would have been required through matter-of-right development under existing zoning (i.e., none of the residential uses on the Property are permitted under the existing PDR-1 zoning, so all 346,200 square feet of residential GFA is a public benefit);
- Affordable housing (10 percent of residential GFA) in excess of the amount that would have been required through matter-of-right development;
- PDR/Maker use package on the lower floors of the Project similar to that included by affiliates of the Applicant in recent approvals; and
- Environmental and sustainable benefits including solar panels

C. Zoning Development Standards

The Applicant seeks the Map Amendment to rezone the Property to the MU-30 zone, which is appropriate given the Public Benefits included as part of this Application and in light of the objectives, policies, and recommendations of the Comprehensive Plan and Small Area Plan. Detailed zoning tabulations for the Project are included in the Plans, and a summary is provided below. The Project complies with each of the applicable MU-30 requirements of ZR16. Of significant note, the Project does not utilize all of the density allowed as a matter-of-right in the MU-30 zone and does not require use of any of the 20 percent density bonus available to a PUD in the MU-30 zone.

The underlying zoning for the Property is the PDR-1 zone, which provides for a maximum building height of 50 feet and a maximum FAR of 3.5 absent a PUD.

Parameter	Required/Allowed in the MU-30 zone under a PUD	Project
Height (11-G DCMR §§ 403.1, 403.2)	130 feet ⁴	130 feet
FAR (§ 402.4; 11-X DCMR § 303.3)	12.00 with IZ bonus ⁵ 14.40 with IZ and PUD bonuses ⁶	9.1
GFA	567,840 sf with IZ bonus 681,408 sf with IZ and PUD bonuses	550,600 sf ⁷
Residential Units	No min. or max.	approx. 336
Lot Occupancy (11-G DCMR §§ 404.1)	No max.	97.6%
GAR (§ 407.3)	0.2	0.2
Rear Yard (§§ 405.3, 405.6) ⁸	2.5 in./ft. (12 ft. min.) ⁹ = 27 ft., 1 in.	35 ft., 4 in.
Side Yard (§ 406.1)	Not required	Not provided
Court Width (§ 202.1)	Res.: 4.0 in./ft. (10 ft. min. for an open court; 15 ft. min. for a closed court) Non-res.: 2.5 in./ft. (6 ft. min. for an open court; 12 ft. min. for a closed court)	See Plans: All courts and penthouse dimensions are compliant
Court Area (§ 202.1)	Res.: 350 sf or 2 x width ² Non-res.: 250 sf or 2 x width ²	
Penthouses (§§ 203.1, 403.3; 11-C DCMR ch. 15)	As set forth in ZR16	
Parking (§ 701.6)	271 spaces	175-250 spaces
Loading (§§ 901.2; 902.2)	2 x 30-foot loading berths 1 x 20-foot delivery spaces	3 x 30-foot 2 x 20-foot
Bicycle Parking (§ 802.1)	185 long-term	185 long-term
	37 short-term	37 short-term

D. Requested Design and Zoning Flexibility

The PUD process expressly allows greater flexibility in planning and design than is possible under strict application of the Zoning Regulations. Under ZR16's Subtitle X, Sections

⁴ The maximum height under the Height Act is 130 feet by virtue of the Property's frontage on New York Ave., NE.

⁵ The maximum density of 12.0 is attainable only for a building constructed to a height in excess of 110 feet.

⁶ The maximum density under a PUD is constrained by the limitation that the maximum density for non-residential uses may not exceed 34 percent of the maximum matter-of-right non-residential density permitted within the zone.

⁷ For the purposes of the Project's ZR16 calculations, the floor area associated with the bridge is treated as GFA, and the 4th Street Airspace is treated as part of the lot for zoning purposes (i.e., the 4th Street Airspace contributes lot area to the denominator of the Property's FAR calculation). The inclusion of the area of the 4th Street Airspace in the denominator is consistent with the calculation of FAR including the airspace over I-395 in Z.C. Case No. 08-34, which is the only recent airspace development matter that the Applicant is aware of. See Z.C. Order No. 08-34 at Finding of Fact ¶ 24.

⁸ We note that 11-G DCMR § 405.4 does not include the MU-30 zone although we believe that such omission was a mistake in ZR16.

⁹ The rear yard is measured from the center line of 4th Street, NE. See 11-B DCMR § 318.8.

303.1, 303.11, and 303.13, the Commission retains discretion to grant flexibility with respect to development standards, to grant the Map Amendment, and to approve any relief requiring a special exception under ZR16. ZR16 specifically allows the Commission to approve on a flexible basis any area zoning relief that would otherwise require the approval of the Board of Zoning Adjustment, including, without limitation, special exceptions. ZR16 also allows the Commission to approve design flexibility in the final approved plans of a PUD. All flexibility under a PUD, together with the Map Amendment, must be balanced against the PUD's public benefits.

The Project seeks only a special exception to allow eating and drinking establishment uses on the Rooftop. The package of Public Benefits set forth herein more than suffices to justify the Project's flexibility, including the requested special exception and Map Amendment.

Design Flexibility. The Applicant also seeks design flexibility as a part of the PUD process, which flexibility is consistent with the design flexibility that the Commission has granted in recent PUDs. The Applicant seeks flexibility in accordance with the flexibility that the Commission has granted in recent cases and with the flexibility in the pending amendment, all as listed on Appendix A attached to this statement. The Applicant may set forth limited additional design flexibility requested in a future filing in this proceeding.

From the outset, the Applicant wishes to note that it intends to build the bridge element and proceed with the PUD to construct the Project as currently designed. However, the Applicant requests the flexibility to remove the bridge element and proceed with the PUD on the basis of constructing the Project as separate buildings on each of 1348 4th Street and 401 NY Ave. The need for this flexibility is two-fold: first, the bridge is subject to a multi-step separate discretionary process through which the District government will need to authorize construction over the 4th Street Airspace; second, construction of the bridge will be technically challenging and greatly expensive. If the Applicant determines the bridge is not feasible to construct for Construction Code compliance, technical or other reasons, the Applicant needs the ability to move forward with the Project. If the bridge proves infeasible to construct, the Applicant will in subsequent filings provide alternative drawings showing the Project without the bridge element.

Zoning Flexibility Requested. As noted above, the Applicant requests one area of zoning flexibility: a special exception to allow eating and drinking establishment uses on the Rooftop.

E. Project Goals and Objectives and Benefits of Using the PUD Process

The Project's proposed uses, public realm-activating site planning, and location reinforce the vision for Union Market, and the PUD process is the appropriate means in order to realize the Project. The PUD process provides the community and the District the tools to ensure that the Project is well-designed and best meets the needs of the many interested parties. It further allows the public to provide its input on whether the proposed uses, density, height and design are complementary to the existing community. The Applicant has already presented initial concepts for the Project to the SMD Commissioner for the Union Market District, attended a public meeting hosted by the SMD for all interested community members, and presented the Project to the full ANC 5D. As has been the case with all of the EDENS-related Union Market PUDs, the Applicant plans to work closely with the ANC and other community stakeholders as this Project proceeds.

The Property is an important site for promoting the sustainability of the Union Market District. The Applicant believes that through the PUD process, it creates an exemplary mixed-use development on the Property. This Project furthers the District's, the community's, and the Applicant's vision for the Union Market District while continuing to implement the Small Area Plan. The Project adds multifamily residential uses and PDR/Maker uses while preserving important retail/commercial and community-serving uses. The Project adds destination public spaces and signature architecture to the Union Market District and DC as a whole.

On May 10, 2019, Mayor Bowser issued an Executive Order which outlined her administration's aggressive and commendable goals for increasing housing production in the District.¹⁰ The Mayor's Housing Order noted that "Increased housing production and preservation is required to address growth and ensure the District lives up to its values of being diverse and inclusive. To do this, *the District must create 36,000 new residential units by 2025.*" The information provided in this statement describes how the Project is entirely consistent with, and significantly advances, the Mayor's goal of creating 36,000 new residential units by 2025. The Project is exactly the type of new development necessary to achieve the laudable housing goals of the Mayor's Housing Order. The Project alone achieves 1 percent of the Mayor's goal and helps address the District's compelling need for new housing and in particular, new permanently affordable housing, in a transit-oriented location.

The PUD process provides the framework for realizing the potential of the Property, and capturing benefits and amenities that enhance the surrounding community. The Project, by virtue of proceeding as a PUD, contributes the Public Benefits and results in a superior outcome relative to any matter-of-right development on the Property.

F. Outreach Efforts

The Applicant has undertaken extensive outreach as part of all of its past and ongoing development efforts in the Union Market District, and that outreach will continue for this Application and future ones as Union Market comes to fruition as a fully-realized neighborhood. The ownership team has continued to meet with the community, as well as with representatives from OP. The Applicant met with the full ANC on November 12, 2019 following a September 2019 meeting with the SMD and members of his district. The Applicant has reached out to ANC 5C, because the Property is opposite a public right-of-way from ANC 5C. The Applicant but has not yet been able to schedule a time with that ANC, but will continue to reach out throughout the process. The Applicant has met with OP and DDOT and will continue to meet with the community and with DMPED, OP, DDOT, and other DC agencies throughout this PUD, Map Amendment and Airspace Development process.

G. Development Timetable

The Applicant's goal is to begin construction of the Property in 2022 and anticipates that that building will take approximately 36 months to build. The Applicant notes that it intends to build the Project in an expedited manner, if approved, so the above timeline could be shortened.

¹⁰ See Office of the Mayor, HOUSING INITIATIVE, Mayor's Order 2019-036 (May 10, 2019) (the "**Housing Order**").

IV. THIS APPLICATION SATISFIES THE REQUIREMENTS FOR A CONSOLIDATED PUD, MAP AMENDMENT, AND AIRSPACE DEVELOPMENT

The Project and this Application satisfy and exceed the requirements of ZR16 for review and approval of the consolidated PUD, Map Amendment, Airspace Development, and, within the context of the PUD, the requested special exception. The Commission should set this Application down for a public hearing, and ultimately, approve the Project.

This Application satisfies: (a) the set down and approval criteria specifically applicable to a consolidated PUD, *see* 11-X DCMR §§ 302.1, 302.2, 302.3, 302.4, 308.2, and the requirements for a PUD generally, *see id.* 300.1, 300.2, 300.5, 301.1, 301.5, and 307.1; (b) the requirements for a Map Amendment, *see id.* §§ 300.4, 500.3 and 501.1; (c) the requirements for an Airspace Development, *see id.* §§ 701.1, 701.2, 701.3, and 701.4; and (d) the components of a special exception for rooftop eating and drinking establishment use, *see id.* §§ 900.1, 901.2, 901.3, 902.1, and 11-C DCMR § 1500.3(c).

A. This Application Complies with the Consolidated PUD Set Down Criteria

The Commission should set down this Application for a public hearing, and ultimately approve it, because this Application satisfies the standards for a consolidated PUD. The procedural regulations applicable to a consolidated PUD provide (i) that a PUD may be filed as a consolidated application and must undergo a “general review of the site’s suitability as a PUD and any related map amendment; the appropriateness, character, scale, height, mixture of uses, and design of the uses proposed; and the compatibility of the proposed development with the Comprehensive Plan, and city-wide, ward, and area plans of the District of Columbia, and the other goals of the project” plus a “detailed site plan review to determine transportation management and mitigation, final building and landscape materials” and review for compliance with the Zoning Regulations generally, 11-X DCMR §§ 302.1 and 302.2; (ii) that a “consolidated [PUD] application shall incorporate all information and material for both a first- and second-stage application” set forth in Subtitle Z, Sections 300.11 and 300.12, *id.* §§ 302.3 and 307.1; and (iii) “[w]hen the [Commission] considers whether to set down a consolidated [PUD] application for a hearing, the [Commission] shall determine whether the application is sufficiently clear and detailed to be considered at one (1) proceeding, *id.* § 302.4. In addition, as set forth in ZR16, the purpose of the PUD process is to provide for higher quality development through flexibility in building controls, provided that the project that is the subject of the PUD (iv) results in a project superior to what would result from the matter-of-right standards; (v) offers a commendable number or quality of meaningful public benefits; (vi) protects and advances the public health, safety, welfare, and convenience, does not circumvent the intent and purposes of ZR16, is not inconsistent with the Comprehensive Plan, and does not result in action inconsistent therewith; and (vii) undergoes a comprehensive public review by the Commission in accordance with the procedural requirements for a PUD in order to evaluate the flexibility or incentives requested in proportion to the proposed public benefits. *Id.* §§ 300.1, 300.2, and 300.5. The Project satisfies each of the above PUD requirements. In addition to the foregoing requirements, the minimum area included within a proposed PUD must be no less than 15,000 square feet, and all such area must be contiguous. *Id.* §§ 301.1 and 301.5. The Property, at 59,120 square feet, satisfies the area and contiguity requirements for a PUD generally.

i. This Application Complies with All of the Requirements for a Consolidated PUD and Should Be Set Down for Public Hearing

The Plans and this statement allow the Commission to conduct a consolidated PUD review of “the site’s suitability as a PUD and ... [M]ap [A]mendment” and the “appropriateness, character, scale, height, mixture of uses, and design” of the mix of uses proposed. The Plans also include “a detailed site plan [and] proposed building and landscape materials” for the Commission to conduct its review. The Applicant will submit a transportation analysis (“CTR”) and mitigation plan (“TDM”) and additional details on final building and landscape materials following the Commission’s hearing action on this Application and prior to any public hearing and will work with DDOT to produce such documentation. As set forth below in Section V, the proposed Project is not inconsistent with the Comprehensive Plan, and District-wide, Ward 5, Small Area Plan, and the other goals of the Application.

ii. This Application Provides the Information Required for a Consolidated PUD

As set forth on the certificate attached as Exhibit C, this Application includes all of the materials required of a first- and second-stage PUD application. 11-Z DCMR §§ 300.11 and 300.12.

iii. This Application Is Sufficiently Clear to Be Considered as a Consolidated PUD

The filed materials are more than sufficiently clear for the Commission to consider the Application as one proceeding. The Application consists of a single building, with a manageable mix of uses, on a contiguous site that has already achieved an advanced stage of design. There is no reason to separate this Application into a two-stage process.

iv. The Project Is Superior to the Development of the Property under the Matter-of-Right Standards.

The Project’s mix of uses, Public Benefits, and the community engagement process that the Applicant has already begun and that will accompany the remainder of this Application all exceed what would be provided under matter-of-right standards. Specific aspects of the Project superior to a matter-of-right development include:

- Housing/Affordable Housing – The Project provides more housing than what could be constructed on the Property without a PUD because the underlying zone entirely prohibits any residential use. In addition, the amount of housing included in the Project and the amount of affordable housing in the Project exceed the amount and level of affordable housing that would be required in a matter-of-right development pursuant to ZR16’s IZ requirements.
- Public Benefits – The Project’s construction supports the significant package of Public Benefits, which exceed what would be provided in any matter-of-right development.

- Rooftop – The Project’s Rooftop is a unique and unmatched concept in the District that would allow for public recreational options in an area currently lacking enough such important resources.
 - Community Engagement – Finally, the Project is undergoing a comprehensive public review process with multiple opportunities for neighbor, community group, and public agency participation. Those opportunities, and future ones, would not exist for a matter-of-right development of the Property.
- v. The Public Benefits Are Commendable in Number and Quality.

As detailed in this statement, the Project helps advance the Public Benefits and other project amenities. These Public Benefits fulfill goals set forth in the Comprehensive Plan and the Small Area Plan, the priorities of District agencies and stakeholders, and the preferences, needs, and concerns of the ANC and community residents identified during Applicant’s community engagement process. Accordingly, the Public Benefits package is a meaningful series of commitments that satisfy the intent and purposes of the PUD process.

- vi. The Project Protects and Advances Public Health, Safety, Welfare, and Convenience and Does Not Circumvent the Purposes of the Zoning Regulations.

As detailed in this statement, the Project advances and protects the intent and purposes of the Zoning Regulations, which are set forth in Subtitle A, Section 101 of the Zoning Regulations. Through the development of an underutilized parcel within walking distance of a Metrorail station, the Project affirmatively improves major public interests and priorities such as housing and affordable housing, additional ground level activating uses in a burgeoning neighborhood-serving space and the signature Rooftop urban gathering space. Moreover, for the reasons discussed below, the Project does not adversely affect public safety and public infrastructure or otherwise impose adverse impacts on the surrounding community. The Project satisfies the goals and objectives for the District as set forth in the Comprehensive Plan and the Small Area Plan.

The development of an underutilized lot with new housing and retail/non-residential ground floor uses and the publicly-accessible Rooftop along the eastern gateway road into the District’s core, advances the public health, safety, welfare, and convenience goals of the District by converting surface parking lots and low-density commercial buildings to more productive use, avoiding the health and safety problems often associated with vacant industrial spaces, and providing uses that promote public welfare and convenience. Accordingly, the Project advances these purposes of the Zoning Regulations.

The requested MU zone provides “for mixed-use developments that permit a broad range of commercial, institutional, and multiple dwelling unit residential development at varying densities.” 11-G DCMR § 100.1. The Project is a mixed-use development with commercial and multiple dwelling unit uses at a high density near the downtown core that comprises the retail and office centers for both the District of Columbia and the metropolitan area, as contemplated in the MU-30 zone. *Id.* § 400.10.

In addition, the MU zones: “(a) Provide for the orderly development and use of land and structures in the MU zones, characterized by a mixture of land uses; (b) Provide for a varied mix of residential, employment, retail, service, and other related uses at appropriate densities and scale throughout the city; (c) 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; (d) Encourage safe and efficient conditions for pedestrian and motor vehicle movement; (e) Ensure that infill development is compatible with the prevailing development pattern within the zone and surrounding areas; (f) Preserve and enhance existing commercial nodes and surroundings by providing an appropriate scale of development and range of shopping and service opportunities; and (g) Ensure that buildings and developments around fixed rail stations, transit hubs, and streetcar lines are oriented to support active use of public transportation and safety of public spaces.” *Id.* § 100.3. The Project is consistent with these purposes insofar as it is an orderly development with a mix of uses at an appropriate scale and density for its location and reflects the type of building type contemplated for the MU zone. The Project encourages safe conditions for pedestrians by locating all vehicular entrances on alleys, closing existing curb cuts, ensuring a transit supportive design, and enhancing the safety of public spaces. The Project is compatible with the densifying Union Market District and New York Avenue, NE corridor. The Project also enhances an existing commercial node.

- vii. The Project Will Undergo a Comprehensive Public Review that Evaluates the Project’s Flexibility and Incentives in Proportion to the Project Public Benefits.

Finally, any PUD must undergo a comprehensive public review by the Commission to evaluate the flexibility or incentives requested in proportion to the proposed public benefits. This Application will undergo such a review. The Applicant will work with the appropriate District agencies to confirm that the Project conforms to the requirements applicable to this Application. Accordingly, the Applicant requests that the Commission proceed to undertake a comprehensive public review of and upon completion set down this Application for public hearing in accordance with the foregoing standard.

B. This Application Satisfies the Requirements for Commission review of a Map Amendment

The Commission should grant the requested Map Amendment to change the zone designation for the Property from PDR-1 to MU-30 because this Applicant satisfies all criteria relevant to the Map Amendment which will be valid only in combination with and contingent upon the development of the Project being built and operated under the conditions of the PUD approval. *Id.* § 300.4. As set forth below in Section V, the proposed Map Amendment is not inconsistent with the Comprehensive Plan, Small Area Plan, or other adopted public policies and active programs related to the Property. *See id.* § 500.3. In addition, as set forth on Exhibit C, this Application meets the filing requirements of Subtitle Z, Section 304. Accordingly, the Commission should grant the requested Map Amendment.

C. This Application Satisfies the Requirements for Commission review of an Airspace Development

The Commission should also approve the requested Airspace Development because the Project satisfies all requirements therefor. *See id.* §§ 701.1-701.4

Under Subtitle X, Section 701.2, the Commission shall “determine the use to be permitted in the proposed airspace consistent with regulations applicable to the abutting privately owned property, including limitations and requirements respecting the height of any structure to be erected in such airspace, off-street parking and development standards applicable to such structure, and easements of light, air, and access.” The use of the Project’s 4th Street Airspace (i.e., residential) is consistent with the multifamily residential uses proposed for the abutting privately owned property, and the 4th Street Airspace has the same height, parking, and other development standards as the proposed adjacent structures. In addition, the Project’s development in the 4th Street Airspace protects the public right of way and provides ample light and air penetration and, with a 90 foot clearance, does not impede in any material way access across the portion of 4th Street, NE to be occupied by the Project.

Under Section 701.3 this Airspace Development application may be processed as part of a PUD in accordance with the procedures applicable thereto.

Finally, under Section 701.4, the Commission may impose conditions on the Project’s occupancy of the 4th Street Airspace necessary to ensure (a) Compatibility with surrounding private property; (b) The accessibility of the public to traverse as appropriate the public space; (c) A high quality design of any building, landscape or public realm; (d) Appropriate treatment and protection of viewsheds; and (e) No undue adverse impacts on the surrounding area. The Project as a whole is compatible with surrounding private property so approval of the Project ensures that the Airspace Development is so compatible. The clearance of the Project’s bridge element—90 feet above grade—permits all reasonable accessibility. The Project, including the Airspace Development has a high-quality design and has been particularly designed to enhance viewsheds to the Capitol dome and to promote views from the Rooftop. As described in detail below the bridge, like the Project overall, has no under adverse impacts on the surrounding area.

Accordingly, the Commission should grant the requested Airspace Development.

D. The Project Satisfies the Evaluation Criteria Required for Commission review of a Special Exception for Rooftop Eating and Drinking Establishments

Finally, the Commission should approve the requested special exception for eating and drinking establishments on the Rooftop. Under Subtitle C, Section 1500.3(c), any nightclub, bar, cocktail lounge, or restaurant use in a penthouse may be permitted only as a special exception. The Commission may grant such special exception as part of a PUD proceeding. 11-X DCMR §§ 303.13, 900.1.

Pursuant to Subtitle X, Section 901.2, the requested exception must (a) “be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and (b) “not tend to affect adversely, the use of neighboring property.” The Project satisfies the foregoing.

The Rooftop eating and drinking establishments are in harmony with the general purpose and intent of ZR16 which permits a mix of uses including commercial uses in the MU-30 zone. The proposed Rooftop uses advance other purposes of the MU zones as listed above and requires no dimensional relief from the development standards of the Zoning Regulations.

In addition, the Rooftop eating and drinking establishments will not tend to affect adversely the use of any neighboring property. The immediately abutting property at 411 New York Avenue, NE is permitted to include hotel uses, but is not permitted to be developed to the same height as the Project. Accordingly, the Project will not tend to affect that property. Other nearby properties, for instance, the two-story EDENS-owned building at 1346 4th Street, NE, the single-story self-storage property at 301 New York Avenue, NE, and the undeveloped Lot 819, are highly unlikely to be adversely affected by the proposed special exception use given the existing or possible uses of those lots. Finally, the Maurice Electric PUD, which is opposite the Property from the alley behind 401 NY Ave does include residential uses at heights approximating those of the Project. The Project's Rooftop is slightly higher than the Maurice Electric PUD site because of natural topographic conditions, and that greater height will reduce the opportunity for impacts on the lower residential building. Further, the common ownership of the two projects (EDENS-affiliates control the Maurice Electric PUD) will allow the two buildings to be managed in a way to ensure no adverse effects from the proposed Rooftop eating and drinking establishments.

V. THE PROJECT SATISFIES THE APPLICABLE PUD EVALUATION CRITERIA

The Project satisfies the criteria by which the Commission must evaluate a PUD and balance the public benefits against the development incentives and potential adverse effects. The Commission's evaluation should include the Map Amendment (as a development incentive) and Airspace Development as part of the PUD. *See* 11-X DCMR §§ 300.4 and 701.3.

First, in reviewing this Application, the Commission must find, based on evidence presented by the Applicant, that the Project satisfies the three elements of the PUD evaluation standard; that is, that the Project (a) is not inconsistent with the Comprehensive Plan and other relevant public policies, (b) does not result in any unacceptable impacts on the surrounding area or on the operation of District services and facilities, and (c) includes specific public benefits that satisfy the relevant requirements. 11-X DCMR §§ 304.2, 304.4, and 305.

Second, if the Commission finds that the Application satisfies those three criteria, then the Commission must, according to the specific circumstances of the Project, judge, balance, and reconcile the relative value of the Public Benefits against the development incentives and flexibility requested as part of the Project, and any potential adverse effects of the Project. *Id.* §§ 304.1 and 304.3.

A. The Project Is Not Inconsistent with the Comprehensive Plan

In order to approve the PUD and the Map Amendment, the Commission must find that such PUD and related Map Amendment are "not inconsistent with the Comprehensive Plan and with other adopted public policies . . . related to the subject site." 11-X DCMR §§ 304.4(a),

500.3. The Project is not inconsistent with the Comprehensive Plan or other adopted public policies, *viz.*, the Small Area Plan and the Housing Order.

The District of Columbia Court of Appeals has consistently directed the Commission to review a PUD application against the Comprehensive Plan “*as a whole*” under this prong of the PUD evaluation standard. That is, the Commission may find that a PUD application is not inconsistent with the Comprehensive Plan even if the application presents actual or potential inconsistencies with individual objectives or elements of the Comprehensive Plan.¹¹ Rather, the Commission must weigh and balance competing policy objectives and explain its analysis.¹² Finally, the Court has determined that small area plans, such as the Small Area Plan, must be read “in conjunction with the Comprehensive Plan, which is itself a non-binding “interpretive guide” unless otherwise provided.”¹³

In sum, the Project is not inconsistent with the Comprehensive Plan when reviewed as a whole and is not inconsistent with any other adopted public policies or active programs related to the subject site, including the Small Area Plan and Housing Order. Attached as Exhibit F is a detailed analysis of the Project in light of the certain portions of the Comprehensive Plan and the Small Area Plan.

Of particular note:

- Future Land Use Map: The Comprehensive Plan’s “Future Land Use Map” designates the Property as “Mixed Use” “High-Density Residential,” “High-Density Commercial,” and “PDR” which allows for mixed office/retail buildings and high density residential uses, all with FARs above 6.0. The mixed-use Project with an FAR in excess of 9.0 is not inconsistent with this designation, especially given its proximity to the Metro and its proceeding as a PUD. Moreover, the Project accommodates PDR/Maker uses consistent with the PDR designation for the Property. *See* 10-A DCMR §§ 227.8, 227.13, and 227.14.¹⁴

¹¹ *Friends of McMillan Park v. District of Columbia Zoning Comm’n.*, No. 18-AA-698 and 18-AA-706 (D.C. Jul. 3, 2019) (“The Commission may approve a PUD that is inconsistent with one or more non-mandatory policies in the Comprehensive Plan as long as it recognizes these conflicting policies and explains why they are outweighed by other, competing considerations.”) (internal quotations marks and citations omitted).

¹² *Id.* (“Even 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. The Comprehensive Plan reflects numerous occasionally competing policies and goals and, except where specifically provided, the Plan is not binding. Thus, the Commission may balance competing priorities in determining whether a PUD is consistent with the Comprehensive Plan as a whole. If 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.”) (internal quotations marks and citations omitted).

¹³ *Union Market Neighbors v. District of Columbia Zoning Comm’n.*, No. 17-AA-780 (D.C. Mar. 28, 2019).

¹⁴ This reference is to the amended Framework Element, which is not effective as of the date of this Application. However, the amended Framework Element has been adopted by the Council and the Applicant anticipates that it will be come effective prior to set down in this proceeding. If the amended Framework Element is not effective as of set down, the Applicant will revise its analysis of the Project’s consistency with the now-effective Framework Element. Significantly, the Applicant does not expect that such analysis will materially affect the ultimate conclusion that the Applicant is not inconsistent with the Comprehensive Plan as a whole.

- Generalized Policy Map: The Comprehensive Plan’s “Generalized Policy Map” designates the Property as a “Multi-Neighborhood Center” which “include a greater depth and variety” of uses relative to Neighborhood Commercial Centers and “might include supermarkets, general merchandise stores, drug stores, restaurants, specialty shops, apparel stores, and a variety of service-oriented businesses. These centers also may include residential and office space for small businesses, although their primary function remains retail trade.”. *Id.* § 225.17. The Project is not inconsistent with the objectives for a Multi-Neighborhood Center given the proposed amount of office and retail uses within the Project. The Property is also within a “Future Planning Analysis Area” along New York Avenue, NE on the Generalized Policy Map proposed by OP as part of the pending Comprehensive Plan amendment. Such an Area is “anticipated for a change in density and intensity of use, or for the introduction of a major use group not previously permitted (such as residential in a [PDR] area)”.¹⁵
- District Wide and Area Elements: The Project advances numerous individual objectives of the District Wide and Area Elements, which will be detailed more completely in a future filing. In sum, the Project is not inconsistent with the Comprehensive Plan as a whole. Numerous objectives of the District Wide and Area Elements encourage the development of additional housing and affordable housing, especially near transit. The Comprehensive Plan also encourages the types of office, retail, PDR/Maker uses, and other economic development drivers that are included in the Project. Not insignificantly, the Project advances urban design and other objectives of the Comprehensive Plan.
- Small Area Plan: The Project is generally consistent with the objectives of the Small Area Plan, which are summarized on Exhibit F.
- Mayor’s Housing Order: The Mayor’s Housing Order sets a goal of creating 36,000 new residential units in DC by 2025. The Project alone represents approximately 1% of that goal, a significant contribution from a single site and an opportunity for the District at large. The Project is more than just consistent with the Mayor’s Housing Order: The Project is precisely the type of transit-oriented, contextually-designed, mixed-income new development with permanent affordable housing units that will be essential to achieving the Mayor’s housing objectives.

To the extent the Project introduces any inconsistencies, the Commission should balance those inconsistencies against the competing objectives of producing additional housing and affordable housing near transit as encouraged elsewhere in the Comprehensive Plan and as strongly urged in the Mayor’s Housing Order. The housing production goals, taken in the context of the Project’s design allow the Commission to find that the Project satisfies the first prong of the three-part PUD evaluation standard as being not inconsistent with the Comprehensive Plan *as a whole*.

¹⁵ This Map is not yet effective and is unlikely to be effective prior to set down in this proceeding. However, the Applicant provides this note for context.

B. The Project Does Not Result in Any Unacceptable Impacts on the Surrounding Area or on the Operation of District Services or Facilities

In reviewing a PUD application, the Commission must evaluate whether the subject project would result in any unacceptable impacts on the surrounding area or on the operation of District services and facilities and whether any potential impacts are capable of being mitigated or acceptable in light of the project's public benefits. 11-X DCMR § 304.4(b). The Commission's review of potential impacts must be based on substantial evidence.

The Applicant has carefully studied the Project's potential impacts and offers the evidence below and attached that the Project has no unacceptable adverse impacts on the surrounding area or on the operation of District services or facilities that cannot be mitigated or that are not acceptable in light of the Public Benefits. The Applicant prepared the following impact review based on input from its team of expert consultants, including its architects, engineers, and planners. This impact review satisfies the foregoing evidentiary standard, and the Applicant will provide supplemental information to address any questions or concerns that are raised during the PUD process.

i. The Project Has No Adverse Impacts on the Surrounding Area

Zoning and Land Use. The Project has no unacceptable zoning or land use impacts on the surrounding area and any impacts are instead either favorable, capable of being mitigated, or acceptable given the quality of Public Benefits in the Project.

This Application proposes to change the existing PDR-1 zone to MU-30 with respect to the Property. The MU-30 zone is consistent with the Comprehensive Plan's Future Land Use Map Mixed Use/High-Density designations for the Property. The change in zoning alone is unlikely to have any adverse impacts on the surrounding area. The area surrounding the Property already allows very intense PDR uses or is subject to PUDs allowing heights and densities as great or nearly as great as those allowed under the MU-30. Moreover, the Project does not require all of the density allowed under the MU-30 zone. Furthermore, New York Avenue, NE is anticipated to be an area that is appropriate for changes in intensity and uses as noted by OP in the pending Comprehensive Plan amendments.

From a land use perspective, the Project creates no unacceptable impacts on the surrounding area. Any impacts from the Project's proposed land use are either favorable, capable of being mitigated, or acceptable given the quality of the significant Public Benefits included as part of the Project. The Project's mix of retail/commercial/PDR Maker, office, and multifamily residential uses, along with the publicly-accessible Rooftop, is entirely appropriate given the Property's proximity to transit and highway access, the ongoing development efforts in the neighborhood, and the extensive planning and community support for the Small Area Plan. The Project's mix of uses, height, and mass are appropriate given the planning objectives for Union Market.

The Project's introduction of a critical mass of commercial and multifamily uses to the neighborhood is a favorable land use impact. These proposed uses create economic opportunities and contribute to the emergence of job opportunities in the neighborhood and provide new, high-

quality multifamily housing units to Ward 5. Moreover, the Project's creation of a thoughtfully-designed public space also has favorable land use impacts. To the extent there are any ancillary unfavorable impacts arising out of the Project's land uses, such impacts are either mitigated by the Project's design or offset by the quality of the Public Benefits.

Housing Market Impacts. The Project's addition of new housing is a favorable impact. The Project continues the trend of creating new, high-quality, transit-accessible housing units. Such units are in high demand across the District. The addition of new housing also has favorable impacts by adding residents to support the proposed commercial uses in this Project and nearby. The Project's inclusion of enhanced permanently-affordable units has favorable impacts because it helps establish the Union Market District as an inclusive, mixed-income community and not one that overly concentrates affordable housing in one location. The Project does not displace any existing residents and is unlikely to create any adverse impacts on the surrounding housing market. Instead, the addition of the Project's new housing units helps buffer increasing housing costs, as increases in supply are widely understood to dampen rent increases. In addition, the Court of Appeals has concluded that the presence of the IZ program itself mitigates potential negative housing market impacts.¹⁶

Historic District Impacts. Although the Property is not within a historic district, the blocks east and south of the Property are within the Union Market Historic District. Accordingly, this Application analyzes the Project's potential impacts on those resources. The Project has no unacceptable impacts on the nearby Historic District. The Project is designed to harmonize with the contributing structures on 4th Street, NE and 5th Street, NE and includes interpretative elements (e.g., canopies) and materials that recall characteristic elements of the contributing structures.

The Project's overall height and density are of a different scale than the low density, existing historic structures. In terms of height and density, the Project is much more akin to the other new buildings in the Union Market District and not imitative of the scale of the contributing structures. However, the Commission has consistently found that the height and density of the Union Market District PUDs does not have adverse effects on the Union Market Historic District, and there is no reason to believe the Project will be any different insofar as it is north of the contributing structures (and therefore unlikely to have shadow or light impacts) and does not disturb the rhythm or context for those contributing structures.

From a site plan perspective, the Project avoids placing any vehicular entrances across from historic structures and the Project is compatible with the pedestrian scale of the Historic District and with the Streetscape Guidelines.

Construction-Period Impacts on Neighbors. During the development period for the Project, impacts on the surrounding area are capable of being mitigated. The Applicant has

¹⁶ *Cole v. District of Columbia Zoning Comm'n.*, No. 17-AA-360 (D.C. Jun. 27, 2019) (“In short, mitigation of the potential displacement of low-income residents through gentrification and market pressures is taken into account in the Zoning Commission’s IZ regulations” and “the proposed PUD’s compatibility with the [Area Element] development policy and with the [Small Area Plan] enable us to discern the agency’s path: a recognition that the pressures of gentrification are inevitable, but can be mitigated through inclusionary zoning and through the types of programs discussed in [the Small Area Plan], rather than avoided by having underutilized property remain as it is.”).

significant experience successfully completing construction projects in infill locations without disturbing neighbors. There are no existing residential units on the Property or on any adjacent blocks. In addition, the PNC Bank will remain open during construction on the adjacent site, minimizing impacts on neighbors who currently rely on that service and on the employees who operate out of that building.

Open Space, Urban Design and Massing Impacts. The Project favorably improves upon the existing conditions with respect to the relationship between the proposed building, proposed and existing open spaces, and the urban design of the Project. The Project has favorable impacts on the public realm through: (i) the construction of the pocket park and the addition of the Rooftop as a publicly-accessible space, (ii) the construction of improved streetscaping in accordance with the Streetscape Guidelines, and (iii) provision of ground level uses and new residents to activate the public realm.

In addition, the Project creates a strong presence along both 4th Street and New York Avenue, NE, avoiding blank walls and surface parking, providing high quality landscaping and streetscaping, and creating pedestrian-first porosity in the street network. Finally, the Project has favorable impacts on the surrounding area as a keystone linking the emerging projects elsewhere in the neighborhood and establishing the context for the future, higher-density phases and design.

The Project's urban design and massing produce favorable impacts. Those elements of the Project are a grand gesture framing the entrance to the Union Market District and heralding its arrival as a significantly emerging economic hub in the District and the greater region.

Design and Aesthetic Impacts. The Applicant anticipates the Project's design and architecture having a significantly favorable outcome, no unacceptable impacts, and becoming a destination for visitors from the region and beyond. The Project architect, SHoP, is renowned for its spectacular architecture, and the Project furthers that reputation. The Project incorporates world-class architecture and exemplary design. Upon completion of the Project, the new building will appear contemporary and emblematic of new investment without appearing out-of-place among the more rugged industrial buildings surrounding the site. The Project continues the contemporary architectural vocabulary that is emerging in the Union Market District and that establishes a high baseline of quality of design and finishes expected for projects in the vicinity. The Project's landscaping and public realm detailing are truly exemplary and have a strongly favorable impact on surrounding areas, as it further contributes to the sense of place in the neighborhood. The Project's overall design and its details strongly reinforce and strengthen the character of the surrounding residential areas and are favorable for the neighborhood.

Transportation and Mobility Impacts. The proposed Project does not have any unacceptable impacts on the public transportation facilities or roadways that it relies on for service. Instead the Project's transportation impacts are either capable of being mitigated or acceptable given the quality of Public Benefits arising from the Project. The Project's vehicular traffic impacts are strongly mitigated by its transit options and the forthcoming TDM plan. The Project achieves the right balance of mobility.

The Property is well-served by transit and vehicular infrastructure, and the Project does not introduce adverse impacts on either system. A Metrorail station is approximately a one-half

of a mile walk from the Property. Numerous Metrobus lines also service the Union Market District and Florida Avenue, NE, and it is expected that many of the Project's residents will use public transit.

The Property has a WalkScore of 86, a TransitScore of 72, and a BikeScore of 85.¹⁷ The Project's favorable pedestrian, bicycle, and transit access help mitigate any expected traffic concerns.

Bicycle usage is thoughtfully integrated into the design of the Project, with long-term spaces in two, separate dedicated storage rooms (one each for the residential and non-residential users of the building), with over three dozen short-term spaces provided in public space and showers and changing areas for employees who choose to cycle to work at the Project. Approximately 175-250 below-grade parking spaces accommodate the parking demand of residents, office employees, retail patrons, and other visitors to the Project.

The Project's physical form mitigates traffic impacts by promoting and encouraging active mobility over driving, with all of the existing curb cuts being closed. At the same time, the Project makes reasonable accommodations for those who choose to or must drive, and ensures that parking demand does not adversely interfere with the on-street parking supply. The Project provides sufficient new off-street parking to serve new residents, but not so much parking as to induce unnecessary driving.

The Applicant has again engaged Gorove/Slade as transportation analyst for the Project. Gorove/Slade prepared a detailed transportation impact study as part of other PUDs in the Union Market District and proposed transportation mitigation measures incorporated into those approvals. Gorove/Slade will prepare a CTR for the Project as part of this Application. The team will work with DDOT throughout this process.

Economic Impacts. As with the Applicant's development of Union Market otherwise, the Project has favorable economic impacts on Union Market and the District more generally. The Applicant's investments in Union Market go far beyond physical and capital improvements, and EDENS has undertaken a robust incubation and economic development effort focused on small businesses and long-time vendors in the Union Market District. The Project will continue to attract patrons and outside investment to the Union Market District, add transit-accessible job opportunities as well as construction period jobs, and have a stabilizing and positive effect on the economy of Ward 5 and the District as a whole. The introduction of new residential uses in the Union Market District contributes patrons for the existing businesses. The retention of the existing PNC Bank service benefits the existing community members and businesses that rely on that bank and offsets concerns about adverse economic impacts or changes to the neighborhood's retail and service mix in a way that does not serve long-time businesses and residents.

The intensification of land use on the Property has positive tax revenue effects for the District. To the extent there are any adverse effects from the Project, such effects are more than offset by the aforementioned mitigating factors and the Project's Public Benefits.

¹⁷ The TransitScore and BikeScore are based on an algorithm using geographic data to rank a neighborhood's non-vehicular mobility. See WALKSCORE, <http://www.walkscore.com> (last visited November 15, 2019) [1348 4th Street, NE].

Cultural and Public Safety Impacts. The Project has favorable impacts on the culture of the surrounding area. The Rooftop will be an important “third space” in Ward 5 and the Union Market District particularly. The Project’s important contributions to the public realm provide neighborhood gathering and event spaces, celebrations, performance opportunities, and opportunities for social interactions and engagement. The addition of residents to the neighborhood and the Project’s urban design adds street activity, “eyes on the street”, quality lighting, and other improvements all of which have positive effects on crime deterrence. In addition, the Project replaces underutilized commercial lots with well-designed, more intense uses that support the broader cultural build-out and significance of the Union Market District generally.

ii. The Project Has No Adverse Impacts on the Environment, Public Facilities or District Services

Water Demand. The proposed project contains approximately 550,600 square feet of new GFA. The average daily water demand for this project can be met by the existing District water system. The proposed connection for the fire and residential water supply is from within the existing distribution system and will be coordinated with DC Water. The Applicant anticipates the components of the Project having individual water meters. Additional information regarding water demand is included in the Plans or will be included in future iterations thereof.

Sanitary Sewer Demand. The proposed sanitary sewer connections for the Project are from within the existing distribution system and will be coordinated with DC Water during the permitting process. Additional information regarding sewer generation is included in the Plans or will be included in future iterations thereof.

Stormwater Management. The Project has been designed to achieve high levels of on-site stormwater retention. The proposed bio-retention basin planters, green roofs, and permeable pavement are designed to meet or exceed District Department of Energy and Environment (“DOEE”) stormwater management retention and detention requirements. The requisite inlets and closed pipe system are designed and constructed to be in compliance with the standards set by DOEE, DC Water, and DDOT. More information is included in the Plans.

Solid Waste Services. Solid waste and recycling materials generated by the Project will be collected regularly by a private trash collection contractor and will not have any adverse effect on the District’s municipal waste collection services.

Electrical Services. Electricity for the new Buildings will be provided by the Potomac Electric Power Company (“PEPCO”) in accordance with its usual terms and conditions of service. All electrical systems are designed to comply with the D.C. Energy Code. Transformers will be installed on the Property or covered in the adjacent public space (or on Lot 819) in accordance with PEPCO’s and DDOT’s design guidelines.

Energy Conservation. The Project is designed in compliance with the Energy Conservation requirements of the District of Columbia Building Code. Conformance to code standards minimizes the amounts of energy needed for the heat, ventilation, hot water, electrical distribution, and lighting systems contained in the building.

Erosion Control. During excavation and construction, erosion on the Property will be controlled in accordance with District of Columbia law and there will be no adverse impacts on the environment or the surrounding area.

Environmental Impacts. The Project does not have any unacceptable impacts on the environment, and instead has favorable impacts. The Project is designed to achieve high levels of environmental performance as evidenced by its satisfaction of the LEED Silver v4 design standards. The location of the Project is a heavily-urbanized and entirely impervious commercial site. The Project's delivery of high-quality environmental design as well as usable outdoor spaces is a net improvement and superior to what would be achievable via a matter of right development. The Project's environmental impacts may be further evaluated if questions arise during the course of this proceeding.

Public Schools. The Project is highly unlikely to have an unacceptable impact on schools in the District given the size of the Project, its mix and type of units, and the capacity for the District's nearby schools to take on additional students. The Project is within the boundaries of Wheatley Education Campus at 1299 Neal Street, NE and Dunbar Senior High School at 101 N Street, NW.¹⁸ DCPS data show that all of the nearby neighborhood public schools are below capacity.¹⁹ In addition, several private and charter schools are near the Project, offering educational options to residents who may seek alternatives to the neighborhood public schools. The Applicant expects that the school network will be able to accommodate, without any unfavorable impacts, the school-age children that may reside at the Project.

Parks/Recreation Centers/Library Services/Emergency and Health Services. The Project has no adverse impacts on District services, such as parks, recreation centers, public library, and emergency and health services. To the extent the Project's future residents are new to the District, they will be contributing new tax dollars, both in the form of income taxes and through the indirect payment of property taxes associated with the Project, that facilitate the provision of District-run services. To the extent the Project's future residents are existing District residents, they have no net new impact.

With its construction of the Rooftop, the Project adds to the inventory of public open spaces and recreation areas in Ward 5. In addition, the Existing South Building is adding an interim rooftop park use (by an affiliate of the Applicant) which fills an important need in the Union Market District. More broadly, the National Arboretum is an easy bike ride, stroll or jog from the Project, and is one of the most significant park and recreation resources in all of Northeast. On balance, the Project is unlikely to have any adverse impacts on the District's park services, and is instead likely to be a net positive contributor of park services.

Ward 5 has a balanced mix of state of the art and new recreation facilities and libraries. Trinidad Recreation Center, Joe Cole Recreation Center, and Rosedale Recreation Center are all within walking distance of the Project, and all have been updated, renovated, or added as new centers within the past few years. The Project will include resident amenity areas, so it is unlikely that the Project's residents will have any adverse impacts on District-run recreation

¹⁸ Enrollment Boundary Information System, D.C. PUBLIC SCHOOLS, <http://dcatlas.dcgis.dc.gov/schools>

¹⁹ See Exhibit E for references.

centers. Likewise, nearby library branches include Rosedale, Northeast, and Woodridge, all of which have been renovated or constructed in recent years. There are approximately thirty public library branches or other public facilities in the District.²⁰ That works out to approximately one library branch per 23,500 residents.²¹ It is highly unlikely that an additional approximately 360 residential units (i.e., potentially up to approximately 600 additional residents, some of whom may already be District residents thereby reducing the net demand generated by such units) would result in any adverse over-use or other adverse impacts on the District’s library resources. The calculus for recreation centers is similar. There are approximately 65 public recreation centers in the District, for a ratio of approximately one center per 11,000 residents.²² It is similarly inconceivable that the Project’s addition of approximately 360 residential units would result in any adverse over-use or other adverse impacts on the District’s recreation centers, especially when the Project includes private recreation amenities. The District has approximately 30 engine companies spread around the District.²³ As stated above, the Project alone does not require any increase in the number of stations or Fire and Emergency Services (“FEMS”) personnel. The Applicant intends to engage in outreach with FEMS and the Metro Police Department during the PUD process to obtain any relevant feedback from those agencies and to confirm that those agencies do not anticipate any adverse impacts arising from the Project.

C. The Project Includes Specific Public Benefits

The Project provides a commendable package of Public Benefits, which satisfy the requirements for a PUD. The PUD Evaluation Standards, at Subtitle X, Section 304.4(c), require the Commission to find that the proposed development “[i]ncludes 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.” Section 305.2 requires that “Public benefits [be] superior features of a proposed PUD that 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 of this title,” and Section 305.4 requires that a majority of the public benefits of the proposed PUD relate to the geographic area of the ANC in which the application is proposed.

A description of the Project’s Public Benefits is provided below. The Project’s Public Benefits are not inconsistent with the Comprehensive Plan or with other adopted public policies and active programs because such benefits and amenities are integral parts of the Project, which itself is not inconsistent with the Comprehensive Plan or related policies, as described above.

²⁰ See DC Public Library, *Hours and Locations*, <https://www.dclibrary.org/hours-locations> (last visited May 27, 2019).

²¹ According to a December 2018 report from the Office of the Chief Financial Officer, there were 702,455 District residents as of July 2018. See Office of the Chief Financial Officer, DISTRICT OF COLUMBIA ECONOMIC AND REVENUE TRENDS: DECEMBER 2018 at 1 <https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/Economic%20and%20Revenue%20Trends%20Report%20December%202018.pdf>

²² See Dep’t. of Parks and Recreation, *Recreation Centers* <https://dpr.dc.gov/page/recreation-centers-00> (last visited May 27, 2019).

²³ See Fire and EMS Department, *Fire and EMS Locations* <http://geospatial.dcgis.dc.gov/FEMSLocator/> (last visited May 27, 2019).

The Public Benefits also satisfy the requirements of Sections 305.2 and 305.4 (together with the requirement that public benefits be not inconsistent with the Comprehensive Plan, the “**Public Benefits Criteria**”).

i. Identification of Specific Public Benefits and Project Amenities

This Application achieves the goals of the PUD process by providing high quality development with significant Public Benefits to the neighborhood and the District as a whole. Many of the Public Benefits relate primarily to the geographic area of the ANC in which the Project is located, and the housing-related Public Benefits accrue to the District as a whole. The objective of the PUD process is to encourage high quality development that provides public benefits and project amenities by allowing applicants greater flexibility in planning and design than may be possible under matter-of-right zoning. This Application satisfies that objective. The specific Public Benefits are identified below.

The Project includes five categories of substantive Public Benefits as defined according to the public benefits categories set forth in Subtitle X, Section 305 of the Zoning Regulations.

1. Superior urban design, architecture, and landscaping (11-X DCMR § 305.5(a) and (b)). The Project’s urban design, architecture, landscaping, and provision of open space are superior public benefits. Urban design, architecture and landscaping are categories of public benefits and project amenities for a project proceeding under a PUD.

- Urban Design: The Project incorporates numerous design precepts that guide superior urban design in the District and that represent significant improvements over the existing aesthetic and functional conditions of the Property. For instance, the Project’s urban design creates a gateway from New York Avenue, NE into the Union Market District, while preserving important views. The bridge over the 4th Street Airspace is an innovative urban design move and creates an eye-catching entrance into the District. At the same time, the Project’s east-facing elevation is designed with a canopy element and a pocket park to stitch into the existing fabric of 4th Street, NE.
- Architecture: The Project similarly includes elements of superior architectural design. For example, the Project presents a thoughtful ground floor design that integrates into the surrounding context and utilizes high quality façade materials and finishes. The Project’s differentiated massing, articulation and design responds to its context on all sides, while its materials palette creates a cohesive design.
- Landscaping: The Project’s landscape and site improvements create a range of vegetation and outdoor spaces that “green” the Property while also providing functional services to building residents.
- Rooftop: The Project’s Rooftop is a unique opportunity that would allow for public recreational options in an area currently lacking such resources.

2. Site planning, and efficient and economical land utilization (id. § 305.5(c)). The approved site plan is another superior benefit of the Project. Site planning and efficient and economical land utilization are public benefits. The benefits of the Project’s site plan and

efficient land utilization are reflected in the Project's overall density, introduction of residential uses on underutilized lots located near transit, the absolute number of new residential units provided, and introduction of income-restricted housing. The Project's greater heights and density near a transit node exemplifies economical land utilization. The Project also improves land that has been underdeveloped relative to the surrounding transportation and other infrastructure, and its development makes it a significant contribution to establishing a community within Union Market. At an FAR of 9.1, the proposed density is appropriate for the Property given its location at the edge of the Union Market District along New York Avenue, NE, its proximity to transit options, and the scarcity of nearby low-density residential uses. Further, the Applicant proposes an efficient, economical land utilization strategy with respect to parking. That is, given the limited number of parcels within Union Market that are large enough to facilitate efficient parking garage layouts due to the fractured ownership throughout the Union Market historic areas and existing structures that may be maintained, constructing additional parking on this site illustrates the strategic macro-perspective called for in the Small Area Plan. The Project introduces a significant amount of community-serving or community-anchoring retail/commercial space in an area that is currently underserved.

3. Housing and affordable housing (*id.* § 305.5(f), (g)). The Project includes a greater number of housing units than could be developed on the site as a matter-of-right plus permanently affordable housing. Pursuant to ZR16, Subtitle X, Subsections 305.3(f) and (g), the production of housing that exceeds the amount that would have been required through matter-of-right development under existing zoning and affordable housing above what is required under the IZ provisions is a public benefit.

The Project includes a greater number of housing units than could be developed on the site as a matter-of-right. Pursuant to ZR16, Subtitle X, Subsections 305.3(f) and (g), the production of housing that exceeds the amount that would have been required through matter-of-right development under existing zoning and affordable housing above what is required under the IZ provisions is a public benefit. The District faces a shortage of virtually every kind of housing product, but the need is particularly severe for housing near transit. The Project produces a significant amount of new residential units on a site that is transit-accessible, part of an exciting mixed-income development, and well-positioned to take advantage of economic opportunities that emerge in the Union Market neighborhood in the future. The housing proposed as part of the Project exceeds the amount possible through a matter-of-right redevelopment pursuant to the applicable limits in the underlying zone (i.e., the PDR-1 zone) by approximately 346,200 square feet. Under the underlying zoning residential use is not permitted at all. Accordingly, *all* new residential uses in the Project qualify as housing benefits. The Project also reserves ten percent (10%) percent of its residential GFA for affordable housing units, all of which represents affordable housing above what could be constructed through a matter-of-right development on the Property. Accordingly, the affordable housing of the Project is a public benefit as well. Finally, 10 percent of such affordable component will be set aside for households earning no more than 50% MFI and the remainder will be set aside for households earning no more than 60% MFI.

4. Environmental and sustainable benefits (*id.* § 305.5(k)). The Project includes innovative sustainable design elements and achieves appropriate levels of environmental certification, given the mix of multiple uses. The Project has been designed to exceed

environmental design standards at the LEED Silver v4 level (i.e., equivalent of LEED Gold 2009). Specific sustainable benefits in the Project include energy modeling use of environmentally-preferred materials; inclusion of green roof and rooftop bio-retention; and ongoing identification and investigation of photovoltaic solar panels.

5. Other Public Benefits Which Substantially Advance the Comprehensive Plan (id. § 305.5(r)). The proposed Project is consistent with many of the District's policy goals and objectives. The Zoning Regulations provide that elements of a project that advance the Comprehensive Plan and related policies are public benefits. Exhibit F identifies many specific Small Area Plan policy goals and objectives advanced by the Project along with the Project's consistency with the Comprehensive Plan maps. Further, the Project provides the PDR/Maker use package on the lower floors of the Project similar to that included by affiliates of the Applicant in recent approvals.

ii. The Approved Public Benefits Satisfy the Public Benefits Criteria

Subtitle X, Sections 304.4(c), 305.2 and 305.4 require that the public benefits proposed as part of a PUD application (a) be not inconsistent with the Comprehensive Plan and other adopted public policies, (b) benefit the surrounding neighborhood or the public in general to a significantly greater extent than would likely result from a matter-of-right development of the Property, (c) be tangible, quantifiable, measurable, and able to be completed prior to issuance of a certificate of occupancy, and (d) relate to the geographic area of the ANC(s) in which the Project is located. The Project's Public Benefits satisfy each of these Public Benefits Criteria.

The Public Benefits are not inconsistent with the Comprehensive Plan or other adopted public policies because the benefits are integral parts of the Project, which itself is not inconsistent with the Comprehensive Plan or other adopted public policies, all as described above.

With respect to the second criterion above, the Public Benefits would not be required and likely would not be economically feasible under a matter-of-right development of the Property. Only a project the scale of the one proposed here could contribute the high quality urban design, architecture, landscaping, planning, amount of housing and level of affordability, and the environmental, and other special benefits proposed.

Additionally, each of the Public Benefits applicable to the construction of the Project is tangible, quantifiable, measurable, and able to be completed prior to issuance of a certificate of occupancy. Finally, the majority of the benefits relate to the geographic area of the ANC, except for the housing and affordable housing related Public Benefits which benefit the District as a whole.

Accordingly, the Public Benefits satisfy the Public Benefits Criteria.

D. The Project Satisfies the Evaluation and Balancing Criteria Required for Commission review of a PUD

Pursuant to Subtitle X, Sections 303.12 and 304.3, in deciding on this Application, the Commission must, according to the specific circumstances of the instant application, judge,

balance, and reconcile the relative value of: (i) the Public Benefits, (ii) the development incentives, including the Map Amendment and zoning and other flexibility requested as part of the Project, and (iii) any potential adverse effects of the Project.

The Project satisfies the foregoing PUD balancing test. The Project's Public Benefits, primarily its contribution of additional market rate and affordable housing justify the Map Amendment, which is the primary development incentive of this Application. The Project's publicly-accessible Rooftop justifies the special exception for rooftop eating and drinking establishment because the Rooftop accommodates the general public's use of the Rooftop and those eating and drinking establishments complement such access and use. In addition, the Rooftop's public accessibility and enhanced affordable housing commitment justify the Airspace Development. The requested design flexibility is warranted by the Project's superior architecture and design. The Project's modest potential adverse effects—all further outlined above—are more than justified by the Project's provision of such a significant amount of new and new affordable housing, environmental benefits, and the Rooftop. The relative value of the Project and its Public Benefits warrant granting the requested PUD approval.

VI. CONCLUSION

For the foregoing reasons, the Applicant submits that this Application for review and approval of a consolidated PUD, Map Amendment, Airspace Development, and special exception meets the standards of the Zoning Regulations; is consistent with the purposes and intent of the Zoning Regulations and Zoning Map; enhances the health, welfare, and safety and convenience of the citizens of the District of Columbia; satisfies the requirements for approval of a PUD; provides significant public benefits; and advances important goals and policies of the District.

Accordingly, the Applicant respectfully requests the Commission set this application down for a public hearing at the earliest possible date.

Respectfully submitted,

Goulston & Storrs

/s/ Jeffrey C. Utz

Jeffrey C. Utz

/s/ David A. Lewis

David A. Lewis

November 26, 2019

Appendix A

Design Flexibility

- a. Interior Components: To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atria, and mechanical rooms, provided that the variations do not change the exterior configuration of the building as shown on the plans approved by the order;
- b. Exterior Materials – Color: 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 shown on the plans approved by the order;
- c. Exterior Details – Location and Dimension: To make minor refinements to the locations and dimensions of exterior details that do not substantially alter the exterior configuration of the building or design shown on the plans approved by the order. Examples of exterior details would include, but are not limited to, doorways, canopies, railings, and skylights;
- d. Number of Units: To provide a range in the approved number of residential dwelling units of plus or minus ten percent (10%);
- e. Parking Layout: To make modifications to the parking configuration, including layout and number of parking spaces between 175 and 250 spaces and size and number of garage levels constructed, so long as the number of automobile and bicycle parking spaces is at least the minimum number of spaces required by the Zoning Regulations;
- 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 or the Public Space Committee;
- g. Signage: To vary the font, message, logo, and color of the approved signage, provided that the maximum overall dimensions and signage materials are consistent with the signage on the plans approved by the order and are compliant with the DC signage regulations;
- h. Sustainable Features: To vary the approved sustainable features of the project, provided the total number of LEED points achievable for the project does not decrease below the minimum required for the LEED standard specified by the order;
- i. Ground Floor Uses: To vary the uses of the spaces the ground floor of the Project labeled as “retail” on the Plans to be used for any use allowed in the MU-30 zone; and
- j. Bridge: To construct the Project with or without the bridge element over the 4th Street Airspace.

[End of Appendix A]