

**BEFORE THE
ZONING COMMISSION
FOR THE DISTRICT OF COLUMBIA**

**APPLICATION FOR A SECOND-STAGE PUD &
MODIFICATIONS TO AN APPROVED
FIRST-STAGE PUD**

**MARKET TERMINAL
BUILDINGS A2, C2 and D**

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I. INTRODUCTION

This statement and the attached documents are submitted on behalf of 300 Morse CPK Owner, LLC, 350 Morse CPK Owner C2, LLC, 350 Morse CPK Owner, LLC, Grosvenor USA Limited, and Carr Properties OC, LLC (collectively, the “Applicant”) in support of an application to the Zoning Commission for the District of Columbia (the “Zoning Commission”) for a second-stage planned unit development (“PUD”) to develop (i) a mixed-use building containing residential and retail uses in Square 3587, Lot 840 (“Building A2”); (ii) a mixed-use building containing office and retail uses in Square 3587, Lot 834 (“Building C2”); and (iii) a mixed-use building containing residential and retail uses in Square 3587, Lot 835 (“Building D”), in accordance with the Zoning Commission’s first-stage approval in Z.C. Case No. 15-27. This request also includes a modification to the approved first-stage PUD for Building C2 to convert the building from primarily residential use to primarily office use.

The application is submitted in accordance with Subtitle X, Chapter 3 and Subtitle Z of the 2016 District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”). Pursuant to 11-A DCMR §§ 102.1 and 102.3(a), the second-stage application for Buildings A2 and D has vested development rights under the 1958 Zoning Regulations because the architectural drawings submitted herewith are consistent with the unexpired first-stage PUD for Buildings A2 and D that was approved prior to the effective date of the 2016 Zoning Regulations. Accordingly, all zoning tabulations for Buildings A2 and D are based on the 1958 Zoning Regulations. Due to the proposed modification to convert the primary use of Building C2 from residential to office, the modification to the first-stage PUD and the second-stage PUD for Building C2 is evaluated under the 2016 Zoning Regulations.

II. PUD SITE AND APPROVED PUD

Pursuant to Z.C. Order No. 15-27, dated March 27, 2017, and effective on July 21, 2017, (Exhibit A), the Zoning Commission approved a consolidated PUD, a first-stage PUD, and a related Zoning Map amendment from the C-M-1 District to the C-3-C District¹ for Lots 805, 814, and 817 (part of Record Lot 6) in Square 3587 (the “PUD Site”).² The PUD Site has a land area of approximately 215,250 square feet and is bounded by New York Avenue, NE to the north, 4th Street, NE to the northeast, Morse Street, NE to the southeast, Florida Avenue to the southwest, and the Amtrak and Metrorail rail lines to the west.

At the time that Z.C. Order No. 15-27 was approved, the PUD Site was improved with one-story industrial buildings previously used for wholesale distribution. As of the filing of this application, all of the buildings on the PUD Site have been razed in connection with the PUD Site’s redevelopment.

Pursuant to Z.C. Order No. 15-27, the Zoning Commission approved development of the PUD Site with four buildings (“Building A,” “Building B,” “Building C,” and “Building D”) containing residential, retail, office, and optional hotel uses (the “Overall Project”). The Overall Project was approved to be constructed in two phases. Phase I was the consolidated PUD and included the southern portion of Building A (“Building A1”), Building B, and the southern portion of Building C (“Building C1”). Phase II was the first-stage PUD and included development of the northern portion of Building A (“Building A2”), the northern portion of Building C (“Building

¹ Z.C. Order No. 15-27 was approved under the 1958 Zoning Regulations. Under the 2016 Zoning Regulations, which repealed and replaced the 1958 Zoning Regulations on September 6, 2016, the C-M-1 District was re-designated to the PDR-1 District and the C-3-C District was re-designated to the MU-9 District.

² Following approval of Z.C. Order No. 15-27, new Assessment & Taxation lots were created for the PUD Site, such that the PUD Site is now known as Lots 819, 833-835, and 838-840. A new survey was also prepared and confirmed that the PUD Site area is 215,250 square feet.

C2”), and Building D. The Applicant now seeks approval of a second-stage PUD for Buildings A2, C2, and D, and a modification to the approved first-stage PUD for Building C2 to convert Building C2 from residential use to office use.

In granting Z.C. Order No. 15-27, the Zoning Commission found that the consolidated and first-stage PUDs and related Zoning Map amendment were not inconsistent with the Comprehensive Plan, including the PUD Site’s designation on the Future Land Use Map as mixed-use High Density Commercial, High Density Residential, and Production, Distribution and Repair, and on the Generalized Policy Map as a Multi-Neighborhood Center. *See* Z.C. Order No. 15-27, FF Nos. 88, 91-106. The C-3-C District (the MU-9 District under the 2016 Zoning Regulations) is identified in the Comprehensive Plan as being compatible with the High Density Commercial designation. *See* 10A DCMR §§ 225.11. Moreover, the Zoning Commission found that the PUD furthered numerous goals and policies of the written elements of the Comprehensive Plan and other District planning goals for the immediate area. *See* Z.C. Order No. 15-27, Conclusions of Law No. 10. Furthermore, the Zoning Commission found that the consolidated and first-stage PUDs and related Zoning Map amendment were consistent with the Florida Avenue Market Study (“FAMS”) and the Ward 5 Works Industrial Land Transformation Study (“Ward 5 Works Study”), the two small area plans applicable to the PUD Site. *See* Z.C. Order No. 15-27, FF No. 126-131 and 133-135.

In Z.C. Order No. 15-27, the Zoning Commission also found that the PUD will implement the purposes of Chapter 24 of the 1958 Zoning Regulations (11-X DCMR, Chapter 3 of the 2016 Zoning Regulations) to encourage well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter-of-right standards. *See* Z.C. Order No. 15-27, Conclusions of Law No. 5.

III. APPROVED FIRST-STAGE PUD

As noted above, the Zoning Commission approved the PUD Site to be developed with four new mixed-use buildings constructed in two phases. The Overall Project was approved to have an aggregate density of approximately 7.1 floor area ratio (“FAR”) with approximately 1,091,201 square feet of gross floor area devoted to residential use, approximately 52,968 square feet of gross floor area devoted to retail use, and approximately 217,558 square feet of gross floor area devoted to office use. *See* Z.C. Order No. 15-27, Decision No. A(2). The approved Overall Project included approximately 105,469 square feet of gross floor area devoted to parking and loading support spaces, with a total of 682 parking spaces spread among the buildings. Building heights were approved at heights ranging from 78 feet to 130 feet.

As part of the Overall Project the Zoning Commission approved the following development parameters for the buildings within the first-stage PUD:

1. Building A2: Approved to be developed to a maximum building height of 130 feet with approximately 249,323 square feet of gross floor area devoted to residential use, approximately 4,570 square feet of gross floor area devoted to retail use, and additional gross floor area devoted to parking and loading. Building A2 included 198 residential units and 63 on-site parking spaces;
2. Building C2: Approved to be developed to a maximum building height of 130 feet, with approximately 211,784 square feet of gross floor area devoted to residential use, approximately 9,200 square feet of gross floor area devoted to retail use, and additional gross floor area devoted to parking and loading. Building C2 included approximately 232 residential units and 90 on-site parking spaces; and
3. Building D: Approved be developed to a maximum building height of 130 feet, with approximately 121,484 square feet of gross floor area that could be devoted to either

residential, hotel, or office uses. Building D included approximately 115 residential units and 83 on-site parking spaces.

Pursuant to 11 DCMR § 2403.2 of the 1958 Zoning Regulations in effect at the time that Z.C. Order No. 15-27 was reviewed and approved, the Overall Project was required to dedicate 8% of its residential gross floor area to Inclusionary Zoning (“IZ”) units (approximately 87,296 square feet of gross floor area) to households earning up to 80% of the Area Medium Income (“AMI”). The Overall Project exceeded that requirement by dedicating 11% of the total residential gross floor area (approximately 120,036 square feet of gross floor area) as IZ units, with half of the IZ floor area dedicated to households earning up to 50% of the AMI and half of the IZ floor area dedicated to households earning up to 80% of the AMI.

Z.C. Order No. 15-27 included a provision that if Building A2 was developed as for-sale housing, then the proffered affordable housing would be redistributed such that Building A2 would be required to dedicate 8% of its residential gross floor area to IZ units earning up to 80% of the AMI, and would require 13,713 square feet of gross floor area in Buildings A1 and B combined to be dedicated to households earning up to 50% of the AMI. *See* Z.C. Order No. 15-27, Finding of Fact (“FF.”) No. 74, Decision No. B(2), and Footnote 6.

IV. PROPOSED SECOND-STAGE PUD AND MODIFICATIONS TO THE APPROVED FIRST-STAGE PUD

The proposed second-stage Architectural Plans and Elevations (the “Second-Stage Plans”) for Buildings A2, C2, and D are attached hereto as Exhibit F. As shown on the Second-Stage Plans, the Applicant proposes to develop Buildings A2, C2, and D a follows:

1. Building A2 will be developed to a maximum building height of 130 feet, with approximately 259,931 square feet of gross floor area devoted to residential use, approximately 6,700 square feet of gross floor area devoted to retail use, and additional

gross floor area devoted to parking, loading, and building service areas. Building A2 will include approximately 260 residential units (plus or minus 10%) and approximately 165 on-site parking spaces. Consistent with Z.C. Order No. 15-27, Decision No. B(2), the Applicant will dedicate 8% of Building A2's residential gross floor area to IZ units for households earning up to 80% of the AMI. Building A2 will also include penthouse habitable space that generates an additional IZ requirement not previously contemplated in Z.C. Order No. 15-27. As set forth below, the Applicant requests flexibility to either provide an on-site IZ unit or to make a contribution to the affordable housing trust fund.

2. Building C2 will be developed to a maximum building height of 130 feet, with approximately 218,042 square feet of gross floor area devoted to office use, approximately 8,448 square feet of gross floor area devoted to retail use, and additional gross floor area devoted to parking, loading, and building service areas. Building C2 will also include approximately 1,125 square feet of gross floor area devoted to "Maker Space," as required by Z.C. Order No. Decision No. B(24). Approximately 133 zoning-compliant parking spaces and nine tandem spaces will be provided below grade in Building C2.
3. Building D will be developed to a maximum building height of 130 feet, with approximately 146,194 square feet of gross floor area devoted to residential use, approximately 2,424 square feet of gross floor area devoted to retail use, and additional gross floor area devoted to loading and building service areas. Building D will include approximately 256 residential units and no on-site parking spaces. Approximately 1,125 square feet of the 2,424 square feet devoted to retail space will be dedicated as Maker Space, as required by Z.C. Order No. Decision No. B(24). Consistent with Z.C. Order No.

15-27, Decision No. B(1)(b), the Applicant will dedicate 11% of Building D's residential gross floor area to households earning up to 50% and 80% of the AMI.

Detailed descriptions of the proposed uses, architectural programs, and designs for Buildings A2, C2 and D are set forth below and shown in in the Second Stage Plans.

A. Building A2

Building A2 will be a 13-story structure comprised of approximately 259,931 square feet of gross floor area devoted to residential use (260 units plus or minus 10%) and approximately 6,700 square feet of gross floor area devoted to retail use. The building will have a maximum height of 130 feet, not including penthouses, and a maximum density of 7.88 FAR. The building's penthouse includes communal amenity space for building residents and the second-story of six individual residential units. Outdoor terraces on the roof are provided for the communal recreation space and for the individual units, and additional outdoor amenity space and private outdoor terraces will be provided above the second floor of the building. The residential units will be offered for-sale as a condominium structure.

Approximately 165 parking spaces will be located in three levels of parking, accessed from a single driveway on Building A1's lot. One loading berth and one service/delivery space will be located on Building A1's lot and accessed from the same single driveway. Approximately 130 long-term bicycle parking spaces will be located in a bicycle room on the ground floor accessed directly from Neal Place Park, and approximately 135 short-term bicycle parking spaces will be located in a ground floor bike room.

Pursuant to Z.C. Order No. 15-27, FF. No. 74, Decision No. B(2) and Footnote 6, because Building A2 will be developed as for-sale housing it is required to dedicate 8% of its residential gross floor area to IZ units earning up to 80% of the AMI. Accordingly, approximately 20,794 square feet of gross floor area will be dedicated to IZ units for households earning up to 80% of

the AMI. In addition, approximately 7,044 square feet will be provided as residential use in the penthouse. As noted below, the Applicant requests flexibility to either (i) dedicate 8% of the residential penthouse floor area to an IZ unit within Building A1 and dedicated to a household earning up to 50% of the MFI, consistent with 11-C DCMR §§ 1003.2 and 1003.7; or (ii) to provide a contribution to the affordable housing production trust fund consistent with the provisions of 11-C DCMR §§ 1505.13 through 1505.16, consistent with 11-C DCMR § 1006.10. The Zoning Commission has granted this flexibility in a number of cases. *See, e.g.* Z.C. Order Nos. 17-14, 14-07B. Moreover, Building A2's design was thoughtfully implemented to offer larger affordable units to accommodate families. All residents of the building will have access to the common amenities on the building's second floor, penthouse, and lobby level.

The defining feature of Building A2 is the design and implementation of Neal Place Park, which was approved in the first-stage PUD but without design details.³ Neal Place Park will encompass approximately 11,500 square feet of land area and will provide an area of refuge for the public within the Overall Project. Inspired by the topography and natural features of the Great Falls National Park located approximately 20 miles away from the PUD Site, Neal Place Park allows for seasonal activation through immersive greenery and intimate gathering spaces. The park is cradled on three sides by Building A2 to create a warm and intimate feeling, and otherwise spills into the public realm to draw visitors from elsewhere within the PUD Site and overall

³ Given that the developer of A2 is also developing Neal Place Park, the Applicant proposes to amend Decision No. B(14) of Z.C. Order No. 15-27 as follows, and to strike Decision No. B(15):

Prior to the issuance of a Certificate of Occupancy for Building A2, the Applicant shall demonstrate to the Zoning Administrator that it has completed ~~75%~~ **90%** of construction of the Neal Place Park in accordance with Sheets 20, L1.01-L1.02, and L1.20-L1.21 of the Plans, and as certified by the landscape architect. Neal Place Park shall be 100% completed within 120 days after issuance of the Certificate of Occupancy, as certified by the landscape architect. (Ex. 61A.) The Applicant shall submit detailed landscape design sheets as part of the Second-Stage PUD application that shall be consistent with the above-referenced sheets.

neighborhood. Neal Place Park includes a variety of seating options, including garden “bolder” seating for quiet contemplation, as well as movable café seating for the public to utilize in connection with the surrounding retail spaces. Neal Place Park has been designed to complement Morse Plaza on the western border of the PUD Site by providing more immersive greenery and more intimate gathering spaces. It will also be fitted with high canopy trees to serve as a beacon to those enjoying Union Market and as an invitation to enjoy the quiet respite within its borders.

The primary residential entrance to Building A2 is located in the center of Neal Place Park. Retail entrances are located along the park and along 3rd Street. Direct access to the long-term bicycle parking for Building A2’s residents is also located off of the park.

Building A2’s façade is divided into two distinct design elements that together create the concept of an “oyster”: a soft, elegant pearl surrounded by a tougher and harder shell. The façade overlooking Neal Place Park, or the “pearl” façade, consists mostly of glass, which contributes to the more serene atmosphere of Neal Place Park. The “shell” façade on the outer edges of the building is intended to shield the pearl from the tougher and grittier city lifestyle, including the rail lines and New York Avenue directly adjacent to the building. This shell façade consists of masonry, metal panel, and glazing, which are appropriate materials to protect the softer glass façade while also providing differentiation in aesthetic for those traveling by car, train, bicycle, or foot through DC’s major arteries.

Various other design elements and creative use of materials will be implemented to reflect the neighborhood’s rich history, including a long, continuous retail canopy along the border of the building and Neal Place Park. The canopy will also serve to protect pedestrians from the elements and provide additional privacy for the residential units on the lowest residential floor above. In addition, in order to minimize the number of bird-to-window strikes, Building A2 will include

bird-friendly glazing or other treatment on the window walls/facades that front on Neal Place Park and on the southern window wall/façade that faces Building A1.

Consistent with the first-stage PUD requirement, Building A2 will achieve LEED Gold certification under the LEED for New Construction v2009 rating standards. Building A2 will also include solar panels on the roof.

B. Building C2

Building C2 will be an 11-story office building comprised of approximately 218,042 square feet of gross floor area devoted to office use, approximately 8,448 square feet of gross floor area devoted to retail use, and approximately 1,125 square feet of gross floor area devoted to Maker Space, consistent with Z.C. Order No. Decision No. B(24). The building will have a maximum height of 130 feet, not including penthouses, and a maximum density of 10.7 FAR. The building's penthouse includes communal amenity space for the office use, plus additional mechanical space. The penthouse has a maximum height of 20 feet and meets all penthouse setback requirements.

Approximately 133 zoning-compliant parking spaces and 9 tandem parking spaces will be located in three levels of below-grade parking accessed from the private alley to the east of Building C2. One loading berth and one service/delivery space will be located on the ground floor and also accessed from the alley. The loading spaces will be shared between the office and retail uses. Approximately 74 long-term bicycle parking spaces will be located on the first level of the garage, and approximately eight short-term bicycle parking spaces will be located adjacent to the building's entrances.

Building C2 offers unique amenity spaces. For example, the building includes a two-story office lobby with an open retail concept that is intended to activate the public space and draw a variety of patrons into the building. In doing so, the building intentionally blurs the traditional boundaries between retail, office lobby, and public space to encourage maximum activation and

utilization. The building façade showcases a rustic masonry and exposed steel aesthetic to evoke the industrial history of the Union Market neighborhood. Abundant plantings are used on the exterior and interior of the building to provide a soft, biophilic approach to design and to foster a sense of nature and serenity. The building's penthouse will include a variety of informal gathering spaces, seating arrangements, and small and large conference rooms that are linked by a meandering, heavily planted path that gives the space a greenhouse feel and provides tranquil alternative in which building tenants can work and socialize.

The primary office lobby entrance is located in the middle of the façade along 3rd Street, with multiple retail entrances located along 3rd Street and Neal Place. The adjacent streetscape design is intended to encourage pedestrian activity and will include abundant plantings in planters and on the vertical face of the building to soften the building edges and further highlight the biophilic approach to the design. The streetscape will be highlighted by a 90-foot long canopy and accessed through the building's main lobby. This canopy will provide an additional gathering space above the sidewalk and will help to further activate the streetscape surrounding the building.

Building C2 will achieve LEED Gold certification under LEED v4 BD+C. Building C2 will also include solar panels on the roof.

C. Building D

Building D will be a 13-story structure comprised of approximately 146,194 square feet of gross floor area devoted to residential use (256 units plus or minus 10%) and approximately 2,424 square feet of gross floor area devoted to retail use on the ground floor, of which approximately 1,125 square feet will be devoted to Maker Space, in compliance with Z.C. Order No. Decision No. B(24). One below-grade level will accommodate utilities, mechanical equipment, building storage, and bicycle parking.

Building D will have a maximum height of 130 feet, not including penthouses, and a maximum density of 8.1 FAR. The building's penthouse includes communal amenity space for building residents with a second story for mechanical equipment. An outdoor rooftop terrace is also provided. The residential units will be offered as rental units. A minimum of 11% of Building D's residential gross floor area will be dedicated to IZ units for households earning up to 50% and 80% of the AMI.

Building D's 256 units, which average less than 500 square feet per unit, are being developed within the context of over 800 other residential units also being developed within the PUD Site, which average over 750 square foot per unit. The specific size, design, and unit mix in Building D are a response to the desire of some renters who prefer to live alone or modestly within the confines of newer and well-amenitized buildings located in vibrant and emerging DC markets. Strategically clustering the Overall Project's smaller units within one boutique building allows for customized common areas and amenities that are suitable to the anticipated market demand. The unit mix and floor plans are similar to prior successful development projects in various District sub-markets, including The Harper at 1919 14th Street, NW and The Drake at 1355 17th Street, NW, which were also designed by Building D's architect Eric Colbert & Associates.

Building D's unit layouts are similar to unit layouts in The Harper and The Drake and also cater to the market renters who prefer a cost-efficient opportunity to live in a highly desirable location at a lesser cost without compromising quality of building finish or age of product. Projects similar in nature throughout the District boast occupancy rates nearing 100% and favorable renter reviews. Therefore, the Applicant believes that the unit size and mix proposed for Building D will be highly desirable and an appropriate balance to the larger mix of units also being developed at the PUD Site.

Parking will not be provided in Building D. Given the anticipated renter type for Building D, the Applicant expects that the majority of Building D tenants will not own their own vehicle. However, if there is a demand, Building D residents will be able to utilize parking within the other buildings on the PUD Site, which provide more parking spaces than are required by the Zoning Regulations. One loading berth and one service/delivery space for Building D will be located on the ground floor and accessed from the private alley.

The primary residential entrance is located at the midpoint of the Neal Place façade. Retail entrances are located on Neal Place and on the private alley. A vehicular drop-off zone is provided on Neal Place adjacent to the building entries. Bicycles will enter the building through the residential entrance, which leads directly to the bicycle room located in the below-grade level adjacent to the elevator core.

Building D extends the pedestrian circulation pattern from the residential development to the east. The pedestrian circulation zone then widens as it moves west on Neal Place in front of Building D, which will provide greater views towards Neal Place Park.

The composition of Building D's facades is a playful expression of overlapping rectangular forms. The larger 13 story façade is activated through the presence of lightly colored offset metal panels, shadow boxes, and window mullion configurations. Superimposed over this larger face is a narrower 10 story rectangular grid work of dark metal panels and glass. The composition of this smaller rectangular form is much more regular and static than the larger more dynamic face. The contrast between the two façade types helps to break down the massing of the building into smaller elements and creates visual hierarchy in the façade. Building D's ground level along Neal Place is comprised primarily of storefront, with masonry added to the composition of the north and east ground floor facades. The habitable portion of the penthouse is composed of dark metal panel,

punctuated by floor-to-ceiling windows. The upper penthouse parapet walls are solid to fully screen the mechanical equipment within.

Building D's façade along Neal Place is setback 6'-8" from the façade of the planned adjacent building to the east. The southwest corner of Building D is in the exact same position as it was in the approved first-stage PUD. The design also incorporates a projecting colonnade along the eastern-most third of the Neal Place façade. This 4'-8" projection creates a meaningful transition between the setback of the main façade in relation to the building to the east, which is closer to Neal Place. The projection extends from the third floor to the tenth floor only, and adds approximately 1,464 square feet to the building. The building projection is supported by the colonnade along the retail storefront, which will offer retail tenants a clearly defined exterior space for outdoor use and will not interfere with pedestrian circulation or vehicular drop-off along Neal Place. As shown in the Second-Stage Plans, the views to Neal Place Park at the end of Neal Place are not obstructed by the projection. Balconies are provided in the center of the façade on Neal Place in order to accentuate the main building entry below.

Consistent with the first-stage PUD requirement, Building D will achieve LEED Gold certification under the LEED for New Construction v2009 rating standards. Building D will also include solar panels on the roof.

V. FLEXIBILITY UNDER PUD GUIDELINES

The PUD process was created to allow greater flexibility in planning and design than may otherwise be possible under conventional zoning procedures. As part of the first-stage approval, the Zoning Commission granted flexibility from (i) the loading requirements to provide 30-foot long berths instead of 55-foot long berths, as required by the 1958 Zoning Regulations; (ii) the rear yard depth requirements for Building A; (iii) the open court width requirements for Building C; and (iv) the building lot control requirements for all of the Buildings.

A. Zoning Flexibility Requested

1. Rear Yard Flexibility for Building A

Z.C. Order No. 15-27 granted rear yard flexibility for Building A as a whole. As shown on the Zoning Tabulation sheet included in the Second-Stage Plans, Building A2 on its own continues to require relief from the rear yard depth requirements.

2. Loading Flexibility for Building C

Buildings C1 and C2 are considered one building for zoning purposes. Pursuant to 11-C DCMR § 901.1, Building C is required to provide three loading berths and one service/delivery space for the office use, and two loading berths for the retail use. The Applicant is requesting relief to provide a total of three total loading berths and one service/delivery space in Building C, with two berths located in Building C1 and one berth and one service/delivery space located in Building C2. Consistent with 11-C DCMR § 902.2, the loading facilities will be shared by the office and retail uses. Given that the office use will not need to utilize the loading berths other than for move-in and move-outs of office tenants, the shared loading facilities will be easily accommodated for the office and retail tenants of the building.

3. Parking Flexibility for Building D

Pursuant to the 1958 Zoning Regulations, Building D's residential use generates a parking requirement of 64 on-site parking spaces. Building D's retail use does not generate a parking requirement. However, the Applicant proposes to not provide any parking spaces in Building D and therefore requests flexibility from the requirements of 11 DCMR § 2101.1. This flexibility will not result in any adverse impacts, since residents of Building D will be able to park within the other buildings in the PUD Site, which have more parking spaces than required by the Zoning Regulations. The Overall Project as a whole also provides more parking spaces than the minimum number required, even taking into consideration that Building D will not provide any on-site

parking spaces. Moreover, Building D will be located in a transit-rich and mixed-use neighborhood, such that many residents of the building will not need or choose to own a car.

B. Design Flexibility Requested

The Applicant has made every effort to provide a level of detail that conveys the significance and appropriateness of the architectural design for Buildings A2, C2, and D. Nonetheless, some flexibility is necessary that cannot be anticipated at this time. Thus, the Applicant requests that the Zoning Commission approve the design flexibility for Buildings A2, C2, and D that was previously granted in Z.C. Order No. 15-27, Decision No. A(8). In addition to the previously-granted flexibility, the Applicant also requests that the Commission grant the following additional flexibility:

1. For Building A2’s IZ requirement generated by the penthouse habitable space, flexibility to either provide on-site IZ units or make a contribution to the affordable housing trust fund; and
2. For Building C2, flexibility for the second-floor of the atrium to be dedicated to office and/or retail uses.

VI. PUBLIC BENEFITS AND PROJECT AMENITIES

Pursuant to 11 DCMR § 2403.8 of the 1958 Zoning Regulations, the Zoning Commission “shall judge, balance, and reconcile the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case.”

As previously recognized by the Zoning Commission in Z.C. Order No. 15-27, the approved PUD “includes significant public benefits and amenities that warrant the high-density development.” *See* Z.C. Order No. 15-27, FF. No. 130. Indeed, the Zoning Commission “judged, balanced, and reconciled the relative value of the project amenities and public benefits offered, the

degree of development incentives requested, and any potential adverse effects, and conclude[d] approval is warranted.” *Id.* at Conclusion of Law No. 6. The approved public benefits fall within the categories of exceptional urban design, architecture and open space; housing and affordable housing; environmental benefits; employment benefits; transportation benefits; and uses of special value to the neighborhood and to the District as a whole. *Id.* at FF. No. 69-87. The Applicant does not propose any changes to the approved public benefits as part of this application, and has not proposed additional flexibility that would warrant a re-balancing according to 11 DCMR §§ 1504.2. Therefore, the Applicant has not included additional proffers with this application.

VII. THE PROJECT MEETS THE STANDARDS OF THE ZONING REGULATIONS AND THE PUD REQUIREMENTS

A. Area Requirements Under Section 2401.1 (Subtitle X § 301.1)

Pursuant to 11 DCMR § 2401.1 of the 1958 Zoning Regulations, the minimum land area for a PUD in the C-3-C District is 15,000 square feet. Pursuant to Z.C. Order No. 15-27, Conclusion of Law No. 3, the Zoning Commission found that the PUD Site met the minimum land area requirements of 11 DCMR § 2401.1. The PUD Site’s land area is 215,250 square feet and therefore meets the minimum requirement of both the 1958 Zoning Regulations for the C-3-C District (15,000 square feet) and of the 2016 Zoning Regulations for the MU-9 District (15,000 square feet). Moreover, the individual land areas for Buildings A2, C2, and D also exceed the minimum requirement of 15,000 square feet. Therefore, this second-stage PUD application continues to meet the PUD area requirements.

B. Height and FAR Requirements Under Section 2405 (Subtitle X §§ 303)

Section 2405 of the 1958 Zoning Regulations set forth the maximum height and density standards for a PUD. Pursuant to Z.C. Order No. 15-27, Conclusion of Law No. 7, the Zoning Commission found that the first-stage PUD met the applicable height and bulk standards of the

1958 Zoning Regulations. The Zoning Commission also found that the PUD would not cause a significant adverse effect on any nearby properties, that the approved uses were appropriate for the PUD Site's location, and that the PUD's height, bulk, and uses were consistent with the District's planning goals for the surrounding neighborhood. The height and bulk of Buildings A2, C2, and D have not changed in this application, and therefore will continue to not create any adverse impacts on nearby properties.

C. **Not Inconsistent with Comprehensive Plan Under Section 2403.4 (Subtitle X § 304.4(a))**

Pursuant to 11 DCMR § 2403.4 of the 1958 Zoning Regulations and 11-X DCMR § 304.4 of the 2016 Zoning Regulations, the Zoning Commission shall find that a proposed PUD is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site. For a PUD request that is comprised of multiple applications, as is the case here, the scope of the Zoning Commission's review of each application is different. For a first-stage PUD, the Zoning Commission must find that the application is not inconsistent with the Comprehensive Plan (among other evaluation standards). *See* 11-X DCMR §§ 302.2(a), 304.4(a) and 11-Z DCMR 300.11. For a second-stage PUD, the Zoning Commission must only find that the application is in accordance with the intent and purpose of the Zoning Regulations, the PUD process, and the first-stage approval. *See* 11-X DCMR 302.2(b) and 11-Z DCMR 300.12(j). Pursuant to 11-DCMR § 309.2, "[i]f the Zoning Commission finds the application to be in accordance with the intent and purpose of...the first-stage approval, the Zoning Commission shall grant approval to the second-stage application, including any guidelines, conditions, and standards that are necessary to carry out the Zoning Commission's decision." *See also* Z.C. Order No. 08-07C, FF No. 53. Accordingly, because the Zoning Commission has already determined

that the PUD is not inconsistent with the Comprehensive Plan as part of its review and approval of the first-stage PUD, the Zoning Commission is not required to revisit that decision. *Id.*

Similar to the Zoning Commission's evaluation of a first-stage PUD, a request for a modification of significance to an approved first-stage PUD must meet the first-stage PUD application requirements, including an evaluation of the Comprehensive Plan. *See* 11-X DCMR § 302.2(a) and 11-Z DCMR § 300.11. However, the scope of a hearing for a modification of significance is limited to the impact of the modification on the subject of the original application, and does not permit the Zoning Commission to revisit its original decision. *See* 11-Z DCMR § 704.4. Therefore, a request to modify an approved first-stage PUD involves an evaluation of the Comprehensive Plan only as it relates to the impact of the modification on the Zoning Commission's previous Comprehensive Plan determination, and not the impact of the entire first-stage application. Thus, in the present case, the Zoning Commission need not revisit or reevaluate its determination on the first-stage PUD's consistency with the Comprehensive Plan; rather the Zoning Commission must only find that the proposed change in use for Building C2 from residential use to office use is consistent with the Comprehensive Plan.

As noted above, the Zoning Commission found in Z.C. Order No. 15-27 that “[a]pproval of the PUD and rezoning is not inconsistent with the Comprehensive Plan... [and] the proposed PUD is consistent with the PUD Site's mixed-use High-Density Commercial, High-Density Residential, and Production, Distribution and Repair designation on the Future Land Use Map, and furthers numerous goals and policies of the written elements of the Comprehensive Plan as well as other District planning goals for the immediate area.” Z.C. Order No. 15-27, FF. No. 10. *See also* FF. Nos. 88-123. The Zoning Commission also found that the PUD would help to

implement the FAMS and was consistent with policy actions within the Ward 5 Works Study. *See* FF. Nos. 124-135.

The Zoning Commission already found that office use, which was originally approved for Building C1 and as an optional use for Building D, was not inconsistent with the Comprehensive Plan. Thus the proposed office use for Building C2 is also not inconsistent with (i) the purposes of the Comprehensive Plan (*see* Z.C. Order No. 15-27, FF. 90, stating that the proposed mix of uses, including office use, would attract residents, visitors, employees, and the general public to the area, and would promote the social, physical, and economic development of the District); (ii) the Future Land Use Map (*see* Z.C. Order No. 15-27, FF. Nos. 102 and 104, stating that the Project is consistent with Comprehensive Plan policies that encourage creating new compatible uses in the area, including “office space, that create[s] jobs for Upper Northeast area residents and that minimize[s] off-site impacts on the surrounding residential area”); (iii) the Generalized Policy Map (*see* Z.C. Order No. 15-27, FF. No. 106, where the Zoning Commission found that the “proposed mix of new residential, retail, office, and potential hotel uses are consistent with the C-3-C zone designation and will help to improve the overall neighborhood fabric... in compliance with the goals and objectives of Multi-Neighborhood Centers.”); (iv) the guiding principles of the Comprehensive Plan (*see* Z.C. Order No. 15-27, FF. Nos. 108 and 109 where the Zoning Commission found that redeveloping the PUD Site as a vibrant new mixed-use development that includes office uses would further the revitalization of the surrounding neighborhood, create new jobs for District residents, increase the city’s tax base, help to reinvigorate the existing neighborhood fabric, and create a vibrant new mixed-use and transit oriented community); and (v) many of the citywide and area elements of the Comprehensive Plan (*see generally* Z.C. Order No. 15-27, FF. Nos. 111-123 where the Zoning Commission found that the office use as part of the

overall PUD was consistent with a range of policies that encourage mixed-use and transit-oriented development, neighborhood revitalization, balanced growth, the rezoning of industrial areas, neighborhood-level service delivery, and the promotion of local hiring initiatives, among others. The Zoning Commission also found that the proposed mix of uses, including office use, were found throughout the immediately surrounding area and in other recently approved PUDs).

The proposed office use is also consistent with the FAMS, which specifically encourages new uses, including office uses, that create a vibrant, mixed mixed-use destination that retains a revitalized wholesale/retail market and incorporates a mix of densities. *See* Z.C. Order No. 15-27, FF. No. 127.

Therefore, the proposed change in use for Building C2 continues to be consistent with the Comprehensive Plan, as previously determined by the Zoning Commission .

VIII. ENGAGEMENT WITH THE COMMUNITY

The Applicant mailed a Notice of Intent to file the subject application to the owners of all property within 200 feet of the perimeter of the PUD Site on September 14, 2018. The Applicant has also had extensive engagement with ANC 5D since that time. The Applicant met with the Single Member District commissioner for the PUD Site on October 16, 2018; presented the subject application at a SMD public community meeting on October 30, 2018; and presented the application to the full ANC 5D at its regularly scheduled, duly noticed public meeting on November 13, 2018. At the November 13, 2018 public meeting, ANC 5D voted unanimously with a quorum present to support the application.

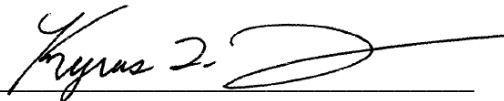
IX. CONCLUSION

For the reasons stated above, the Applicant submits that this application for a second-stage PUD and modifications to the approved first-stage PUD for Building C2 meet the standards of 11-X DCMR, Chapter 3 and Subtitle Z of the 2016 District of Columbia Zoning Regulations; meet

the standards and requirements of Z.C. Order No. 15-27; are not inconsistent with the purposes and intent of the Zoning Regulations and Zoning Map and with the land use objectives of the District of Columbia; will enhance the health, welfare, safety, and convenience of the citizens of the District of Columbia and provide significant public benefits and project amenities; and will advance important goals and policies of the District of Columbia. The Applicant therefore respectfully requests that the Zoning Commission set down the application for a public hearing.

Respectfully submitted:

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