

March 2, 2015

VIA HAND DELIVERY

Anthony J. Hood, Chairman
Zoning Commission for the District of Columbia
441 Fourth Street, NW, Suite 210S
Washington, DC 20001

Re: Zoning Commission Case No. 14-12 – Application of EAJ 1309 5th Street LLC to the D.C. Zoning Commission for a Consolidated and First Stage Planned Unit Development and Related Zoning Map Amendment for 1309-1329 5th Street NE (Lot 800, Square 3591) (the “Property”) – Post-Hearing Submission of the Applicant

Dear Chairman Hood and Commissioners:

On behalf of EAJ 1309 5th Street LLC (the “**Applicant**”), the applicant in Zoning Commission Case No. 14-12, we hereby file the post-hearing submission for the Applicant’s application for a consolidated and first stage planned unit development and related map amendment (the “**Project**”) as requested by the Commission at the February 11, 2015 hearing at the Zoning Commission (the “**Hearing**”). The Applicant greatly appreciates the opportunity to present its case to the Zoning Commission at the Hearing.

I. Details of Community Events and Space for Events at the Property

The Zoning Commission requested additional information regarding the community-focused events that have been held to date at the Property. A list of community events held both inside and outside by the Applicant in, on and around the Property is attached as Exhibit A. This list details the community events that have been held during 2013 and 2014 – the first two full calendar years that The Market has been operational. As can be seen with a review of Exhibit A, the community events at the Property cater to a wide variety of community organizations and institutions and can take many forms – from drive in movies to earth day events to sit-down dinner celebrations benefiting a specific non-profit.

The Zoning Commission also requested additional information regarding when the Applicant's proposed public benefit of the provision of space for events will begin. Such information was provided in the Applicant's post-hearing submission of the proposed benefits and amenities, dated February 18, 2015 (Exhibit 50 in the record). The Applicant confirms that it would provide discounted or free event space or related services in or on the Property or, if available and applicable, adjacent outdoor space to the community, non-profits or similar institutions in the DC metropolitan area at a value of \$30,000 per year beginning upon the recordation of the first PUD Covenant for the project and until five (5) years after such date. In operation, the interested community groups as described on Exhibit A (or other similar institutions or community groups or organizations in the discretion of the Applicant) will submit requests to the Applicant to utilize event space at the Property. The Applicant will review these requests at its sole discretion and determine scheduling viability. The Applicant will maintain records of all community events at the Property and the value of the related discount or subsidy for the duration of this obligation.

For the sake of consistency, the Applicant will provide no less than ten (10) community events per year beginning upon the recordation of the first PUD Covenant for the project and until five (5) years after such date.

II. Union Market Building Identifier

The Zoning Commission requested additional information regarding the "Union Market" identifier (the "**Identifier**") previously proposed by the Applicant to be located on the roof of the South Building. The Zoning Commission urged the Applicant to remove the Identifier from the Project's roof and explore alternative locations. The Applicant has removed the Identifier from the Project's roof.

The Applicant has studied several locations for the Identifier and has enclosed studies of two such options as Exhibit B:

- Option 1 (the preferred option) – Fifth Street Façade at Top of Theater Component – The first option, the Applicant's preferred option, removes the Identifier from the Project's roof. This location allows for a high level of pedestrian oriented visibility of the building while avoiding many of the Commission's sensitivities regarding the height implications of the previous rooftop proposal and demarcation of the overall neighborhood. In particular, it activates 5th Street and draws attention to this street that will be a main pedestrian pathway. This location ensures that the Identifier is not "lost" between the South Building and the building to-be-constructed on the property immediately to the south. In response to the Commission's requests, the Applicant has included six (6) views showing the visual effect of this option. These views are taken from several possible vantage points – along the street and sidewalk levels of Neal Place and 5th Street – and elevations and a rendering of the South Building are included to provide a complete sense of the Identifier's appearance once constructed.

- Option 2 – “Neal Place” at Top of Theater Component – Similar to the above, the Applicant’s second option removes the Identifier from the Project’s roof and locates it at the top of the theater component, while moving it to the west of the Property along 5th Street, NE. This location would allow for greater visibility along 5th Street, NE, which will become a primary pedestrian meridian. Locating it from the east side to the west side of the Property allows the Identifier to move more towards the heart of the pedestrian oriented neighborhood and will draw people to the building from the neighborhood. In addition, it gives the Identifier an opportunity to be seen by more pedestrians moving north from Florida Avenue and the Metrorail station.

In lieu of the above options, the Applicant retains the ability to remove the Identifier from the Property completely and install it at an alternative location within the vicinity of the Project.

The Applicant incorporated feedback from the Zoning Commission to remove the Identifier from the roof. In so doing, the Identifier no longer acts as the demarcation for the entirety of the surrounding neighborhood. As a result, further correspondence from the community regarding the nomenclature for the sub-district is not included in this submission. Since the Applicant has removed the Identifier from the South Building’s roof, the Applicant has not included any additional studies of such location in order to keep the record clear.

III. History of the Union Market District

The Zoning Commission also requested information relating to the Applicant’s research on the historic nomenclature for the Union Market district. The Applicant has performed extensive research relating to the area, combining sources from the D.C. Archives and other historic records, to those records found on site during individual property inspections. A brief overview of the history relating the Union Market district, particularly its nomenclature, is summarized below:

- 1792: The L’Enfant Plan is completed with plans for a public market (as the primary outlet for urban food distribution).
- 1797: George Washington authorizes two acres for the Center Market (which opened December 15, 1801) with both wholesale and retail vendors – it was nicknamed the Marsh or Mash Market (because it was often flooded by the Tiber Creek).
- 1874: The square of four buildings replaces the shacks of the market and are called “City Market”. It is also called “Center Market.”
- 1926: The Public Buildings Act calls for the market to be replaced with the National Archives Building.
- July 1928: Merchants known as the “Union Terminal Market Association” purchase 40 acres of the Patterson Tract to set up their own private market.

- February 16, 1931: “Union Terminal Market” built by Charles Tompkins opens. It is comprised of 42 buildings and a sausage plant, with both wholesale and retail operations. Through the 1950s more buildings are constructed as more vendors arrived.
- 1966: Construction of a new building begins – it is the largest single structure in the area designed exclusively for food merchants and farmers it is known as the “DC Farmers Market.” This is South Building of the Project (ie, “The Market). The entire area continues to be known as the “Union Terminal Market.”
- September 1984: The market is renamed when Mayor Marion Barry announces plans for major improvements to the “Capital City Market.”

IV. Confirmation of the South Building’s Façade’s Reflectivity

The Zoning Commission requested additional information regarding the reflectivity of the South Building’s white façade component. As noted by the Commission, the South Building’s façade is accentuated by the theater’s primarily white volume constructed over and above The Market at Union Market (“**Theater Component**”). Although the primary color of the Theater Component is white, such coloring will not create disruptive glare or magnify light at the Property.

There are only very few instances of certain highly-reflective facades creating an abnormally high temperature on surrounding properties. For example, one high profile building – London’s “Walkie Talkie” Building at 20 Fenchurch Street designed by Rafael Vinoly – utilized a concave glass façade that reflected the sun in a manner that created concentrated rays. Similarly, a Vinoly building in Las Vegas – the Vdara Hotel – again utilized a concave largely-glass façade that reflected sunlight in a manner that amplified it. The only other examples of overly-reflective facades our research was able to uncover include the Disney Concert Hall in Los Angeles, designed by Frank Gehry, which featured concave highly-reflective metal panels and Museum Tower in Dallas, which featured extensive glass cladding and a unique curvature of the façade.

In each of the above cases, the materials utilized are different than those proposed for the Theater Component. Each example above featured a façade design that “bent” the facades in a way that artificially redirected and concentrated light. There is no concave glass or metal on the Project. It is not anticipated that a similar effect will be created by the Theater Component. The metal panel from the Gehry building was intended to be more reflective than the materials proposed for the Theater Component. The Gehry building’s reflectivity was solved by sanding certain reflective panels to add texture to mitigate the reflectivity. The Theater Component is a metallic panel system that will allow for variations in texture among the panels. This variation – which will add visual interest to the façade – will also assist in the reduction of glare. The texture on the project’s façade is already designed to incorporate a material approach similar to the solution utilized in the Gehry building – where metal panels were sanded down to introduce texture to decrease the metal panel reflectivity. In addition, the Project’s panels

will be primarily comprised of a metallic material rather than the more reflective glass façades found in most of the above-referenced examples.

V. Process Regarding Valuation of Additional Inclusionary Zoning Units

As described at the Hearing and in the Applicant's February 2, 2015 pre-hearing filing (Exhibit 35 in the record), the Applicant has reserved two (2) residential units ("50% Units") for residents earning 50% or less of the Washington, D.C. Area Median Income ("AMI"), if the top four floors of the South Building will contain a residential use. In its February 2, 2015 pre-hearing submission, the Applicant assigned a value of \$700,000 to these two (2) units. At the Hearing, the Zoning Commission requested additional information regarding the valuation methods for these units.

In order to approximate the value of the 50% Units, the Applicant utilized an industry standard valuation method that: (1) calculates the cost to construct each unit, and (2) subtracts the income produced by each such unit over a certain period of time.

Regarding the first metric of this valuation method, the average all in design and construction cost of the residential component of the building is approximately (and conservatively) \$39,200,000. Assuming an estimated 112 residential units in the building and spreading the costs evenly over the number of units in the building, the value of the design and construction of each individual unit is over \$350,000.

Regarding the second metric of the above valuation method, the 50% Units will produce no income for an owner of the units. That is, the operating costs for the residential component of the building spread evenly over each of the building's residential units is greater than the maximum rent allowable for the 50% Units, resulting in no income (and likely an operating deficit) for the 50% Units. The Applicant approached the valuation of the affordable units conservatively so as to not overstate their cost (i.e., value as a public benefit). That is, the Applicant did not incorporate an amount estimating the operating loss for the 50% Units to boost the valuation calculation, although it is likely that an operating loss will occur. In addition, the Applicant assumed that the 50% Units will be owned and rented going forward.

Therefore, the value of the 50% Units is \$700,000 (the cost of two (2) units at \$350,000 per unit) minus zero (the income production of the units).

VI. Information Relating to LEED Point Discussion

As discussed at the Hearing and in the February 2, 2015 submission, the Applicant has agreed to obtain a LEED Silver v. 2009 level for the Project and will obtain certification for the theater and office components on the Property. As discussed at the Hearing, DDOE suggested that the Applicant consider committing to provide additional LEED points to enhance the certification level from Silver (50 credits) to Gold (60 credits).

The Applicant has spent a great deal of time investigating opportunities to obtain additional LEED points in the Project. While the Applicant has improved the Project's

sustainability to meet the LEED Silver level, the reuse of The Market structure and various use components being constructed as part of the same building create difficulties to achieve the LEED Gold level. Nonetheless, the Applicant will work to provide as many additional LEED points as possible as part of the Project.

The Applicant intends to use LEED/Core and Shell for the office component (if constructed) and LEED/New Construction for the residential use component (if constructed). Based on DDOE's suggestion and further review of the Project design, it could be possible for the Applicant to achieve three (3) additional LEED credits for residential and four (4) additional LEED credits for office beyond the LEED Silver level. An additional six or seven credits, for the office and residential components, respectively, would be required to achieve the LEED Gold level. This amount of additional LEED points would likely only be available through "EAcl". Any additional EAcl credits would require a different mechanical system, and necessitate a substantial redesign of the Project.

Specifically, the Applicant has reviewed each of DDOE's suggestions and offers the following responses.

- **SSc9 – Tenant Design and Construction Guidelines, 1 credit** – *This credit is available to the Applicant if the building is office under LEED/Core and Shell, but the credit does not exist LEED/New Construction if the building is residential. The Applicant will obtain this additional LEED point if the upper component of the South Building is constructed as office.*
- **EAcl – Optimize Energy Use, up to 19 credits** – *The LEED scorecard submitted on February 11, 2015 (as Exhibit 44 in the record) already assumes that the Project will achieve nine (9) credits, which corresponds to a 28% improvement in energy performance over the reference standard. It is the Applicant's opinion that any additional credits in this category would require the use of a different mechanical system, necessitating a substantial redesign of the project.*
- **MRc4 – Recycled Content, up to 2 credits** – *The Applicant is already proposing to achieve one (1) credit for recycling 50% of construction waste and an additional one (1) credit is available to the Applicant for recycling 75% of the construction waste. The Applicant will obtain this one (1) additional LEED points.*
- **ID credits – Innovation in Design, up to 6 credits** – *The LEED scorecard already assumes that the Project will achieve four (4) ID credits. There are two (2) additional ID credits available to the Applicant.*

VII. Transportation Demand Management-Related Financial Incentives for Office Use

During the Hearing, the Applicant presented its Transportation Demand Management Plan. The Applicant's TDM Plan is intended to encourage the users of the Project to utilize public transportation and other non-vehicular modes of transportation.

As submitted into the record as Page 47 of Exhibit 44, the Applicant included financial incentives to provide each office worker in the South Building with access to a corporate bike share membership up to the maximum value of \$15,000 cumulatively for the Project or to provide each resident in the South Building with access to a bike share membership up to the maximum value of \$10,000 cumulatively for the Project. In its report filed February 9, 2015 and at the Hearing, DDOT requested that the maximum values stated above were increased to \$35,000 and \$14,000, respectively. For the office financial incentive, DDOT utilized an estimated square footage per employee of 225 (for an office component of 120,000 gross square feet).


As stated at the Hearing, the Applicant will raise the financial incentive cap for the residential use of the South Building from \$10,000 to \$14,000, in compliance with DDOT wishes.

The Applicant will also raise the financial incentive cap for the office use of the South Building from \$15,000 to \$20,000. The Applicant estimates that the per square foot per employee estimate is approximately 275, based on the type of target tenant and their related open space requirements. Such figure would equate to an estimated 407 employees in the office component of approximately 112,000 gross square feet. Although the participation rate will be less than 100%, the \$20,000 allotment would allow for almost all employees in the office component to be provided the \$50 Bikeshare memberships.

VIII. Conclusion

If you have any questions regarding this application, please feel free to contact Maureen at 202-721-1101 or Jeff at 202-721-1132. Thank you for your attention to this application.

Respectfully submitted,



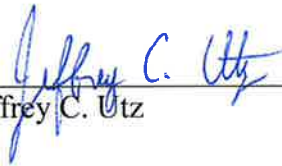
Maureen E. Dwyer



Jeffrey C. Utz

Certificate of Service

I certify that on March 2, 2015, I delivered a copy of the foregoing document via hand delivery or first class mail to the addresses listed below.



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