



required both re-programming and re-design of the Project's South Building to include loft office space for non-traditional office tenants. The theater partner's internal re-organization and the change in theater industry and resulting theater partner's response resulted in significant cost and delays to the Project.

9. The Project was originally envisioned as 2 independent buildings that could be residential use and/or office use. The Project was approved with flexibility to build either building with either use (or a mix of uses). Based on the flexibility built into the PUD, Owner has been negotiating with development partners on both buildings continuously since the PUD was approved. Such efforts are detailed more fully below:
  - South Building (residential building above Union Market) - Shortly after PUD approval, Owner entered into discussions with a prominent local residential condominium developer, signed a non-binding agreement, and began negotiating a contract. Also at this time, architectural plans for a residential building, including unit layouts and full Design Development structural plans were produced. Ultimately, the weight of the residential building and size of the theater truss proved cost-prohibitive and the contract was never executed. Owner notes that significant design funds were expended on both sides to attempt to reduce the weight, and therefore the cost, of the building.
  - North Building (office building above retail) – Shortly after PUD approval, Owner entered into discussions with a prominent local office and mixed use developer with other major projects in the area, signed a non-binding agreement, and began negotiating a contract to develop an office building with ground floor retail. While EDENS' own experience leasing office space within the Union Market District at this time was positive, the North Building development partner ultimately required financing and leasing contingencies and outside commencement dates that were not able to be integrated into the Project plan and intended timeline. Owner also notes that they were in negotiations with the current development partner, Great Gulf, on another project within the Union Market District (a portion of the project approved by Z.C. Case No. 14-07), at the same time as this negotiation was underway. The relevance of this is further explained below.

### **Current Efforts to Implement Project**

10. Owner notes that of the 3 approved PUDs within the Union Market District affiliated with EDENS, the Edison project, approved by Z.C. Order No. 06-40, is nearing completion and will open the first Trader Joe's in Ward 5 in October 2017. The second approved PUD, approved by Z.C. Order No. 14-07 and located at 1270 4<sup>th</sup> Street NE, is under construction and will deliver Q1 2019. The third approved PUD is the subject of this request.
11. During fall and winter 2016, Owner began negotiating a joint venture with Great Gulf, the parent company of the developer partner for the project approved by Z.C. Order No. 14-07. After negotiations and finalizing of various agreements, Owner and an affiliate of Great Gulf, GG MRKT II LP ("**Developer**"), entered into a purchase and sale agreement

regarding the development on the Property on February 7, 2017. Owner notes, as mentioned above, that Owner also entered into similar agreement with a Great Gulf affiliate in April 2016 relating to the project approved by Z.C. Case No. 14-07, which has since closed and that joint venture has been a major contributing factor toward the instant joint venture relating to the Project.

12. From such date until the present, Developer performed an expedited due diligence on the Property, including Phase I and Phase II environmental reports, a geotechnical report, title work, and an ALTA survey.
13. Shortly after the start of such due diligence, Owner and Developer also began design modifications to the Project. In so doing, Owner and Developer incurred costs from architecture, civil, legal, and other firms involved in such redesign.
14. Despite the above, since May 2015, the development team has been meeting with various District agencies, including the Office of Planning, the Office of the Deputy Mayor for Planning and Economic Development and the District Department of Transportation (DDOT) to further the Project's implementation. Of specific note, since the issuance of the Order, Owner engaged a consultant to prepare the "Public Space Guidelines" for the Union Market District and has been working since that time with DDOT, other owners, stakeholders, and the community to draft such document. The document has received preliminary approval DDOT and is in the final approval stages.
15. Given the totality of the above, the previously approved Project has not been able to proceed.

#### **Funding Sources and Project Expenditures**

16. Owner is an affiliate of EDENS, a privately-owned national real estate firm with nearly 45 years of experience in the real estate industry. EDENS has substantial financial wherewithal and long-standing relationships with many of the world's largest financial institutions and has private sources of capital, but due to the complexities and expense of the Project, the lack of a developer partner prior to the involvement of Developer, the loss of the theater partner, and the still nascent office market within the Union Market District, Owner has been unable to proceed with final permitting and construction of the Project.
17. Owner plans to utilize equity for funding the retail components of this Project. Developer will provide equity and/or equity and financing for the residential and office components of the Project and to construct the Project. Therefore, there is no lender and no brokers have been involved in this Project to arrange financing. Such equity utilization will allow Owner and Developer to proceed more expeditiously once all approvals are obtained.
18. Further, Owner intends to partner with Developer to build a shared garage and both the North and South Building during the same single phase of the Project, which will also allow Owner and Developer to proceed more expeditiously once all approvals are obtained.
19. Since May 2015, Owner has expended significant time, money and resources to implement, study and modify the previously approved Project. The following chart

summarizes the approximate amounts of money expended by Owner since May 2015:

<u>Cost Category</u>	<u>Amount</u>
Architectural (Including Structural)	\$700,000
Landscape (Including Streetscape Design Guidelines)	\$270,000
Legal: Transactional and Zoning	\$450,000
Civil Engineering	\$150,000
Other Consultants	\$200,000
Marketing	\$10,000
General & Administrative	\$240,000
<b>Total Expenditures To Date</b>	<b>\$2,020,000</b>

NOTES:

1. Expenditures to date do not include Owner interest carry or real estate taxes.
  2. Expenditures to date do not include costs incurred by Developer (nor the other developers Owner negotiated with described in Number 9 above.).
20. Since May 2015, Owner has spent approximately \$2,020,000 relating to its pursuit of the Project to date.
21. Owner has every intention of developing the Property in accordance with the approved PUD, as will be requested to be modified and intends to joint venture with Developer to make application for building permits and commence construction on the modified PUD as soon as it is approved.
22. Owner remains actively engaged in pursuing the expeditious development of the PUD as modified, and we have been working closely with the Developer and consultants to try to break ground on the Project as soon as possible.
23. If Owner loses the entitlements granted by the Zoning Commission under the Order, the efforts to implement the Project will be even further hampered.

I hereby swear and affirm under penalty of perjury that the statements made in the foregoing affidavit are true and correct to the best of my knowledge, information, and belief.



Name: Jeff Kaufman  
Title: Senior Vice President – Development  
EDENS, parent company of 1309 5th Street LLC

Subscribed and sworn to before me this 5<sup>th</sup> day of MAY 2017.



Notary Public

My Commission expires: 9/5/2017  
[Notarial Seal]

EVELYN SIOLO CHANDELLE HAWKINS  
Notary Public-Maryland  
Frederick County  
My Commission Expires  
September 05, 2017