

August 6, 2014

**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 5<sup>th</sup> Street NE (Lot 800, Square 3591) (the “Property”) – Pre-Hearing Statement of the Applicant**

Dear Chairman Hood and Commissioners:

Pursuant to 11 DCMR Section 3013.1, EAJ 1309 5th Street LLC (the “**Applicant**”), the applicant in Zoning Commission Case No. 14-12, hereby files its pre-hearing statement for its application for a consolidated and first stage planned unit development and related map amendment (the “**Project**”). The Applicant hereby requests to be scheduled for a hearing before the Zoning Commission at the earliest opportunity.

**Background**

The project site consists of Lot 800 in Square 3591 (the “**Property**”). The Property consists of approximately 85,820 square feet of land area and is currently improved with two structures – the unique, artisanal market and event space known as “The Market” at Union Market and “Dock 5” in the existing south building on the Property and the warehouse and distribution facility in the existing north building on the Property. The Property is presently zoned C-M-1.

The Property is located in the Northeast quadrant of the District of Columbia bounded by a surface lot to the south, a vacant lot used for maintenance storage to the

north, 6<sup>th</sup> Street NE to the east, and 5<sup>th</sup> Street NE to the west. Situated within the eastern portion of Union Market (also known as Florida Avenue Market), the Property is less than 1/3 mile from the entrance to the NoMA-Gallaudet University Metrorail station.

The PUD site is in Single Member District 5D01 of Advisory Neighborhood Commission (“ANC”) 5D in Ward 5. The Ivy City neighborhood is to the north, Gallaudet University and Trinidad are to the east, and Eckington is located to the west. The structures themselves were originally designed for wholesale distribution, but the existing south structure has seen a rebirth as The Market and Dock 5. The Florida Avenue Market is an area that the District of Columbia has identified and targeted for redevelopment as recommended in the Florida Avenue Market Study (“**Small Area Plan**”).

On July 10, 2014, the Applicant filed an application for a consolidated and first stage planned unit development and related map amendment to permit the redevelopment of the Property. The Project will have a height of 120 feet and contain up to approximately 6.3 FAR, for a total of up to approximately 541,400 gross square feet, comprised of theater, retail, office, and possibly residential uses.

#### **Setdown Meeting and Responses to the Zoning Commission**

The Zoning Commission set the above-referenced application down for a public hearing at its public meeting on July 28, 2014. The development team heard the Commission’s comments at the project’s setdown meeting and is currently working to address them. The Applicant will file additional materials prior to the hearing date for this case, including refined plans, additional details relating to parking and loading, and an updated traffic and parking report, among other items.

Specifically, at the setdown meeting, the Commission requested clarification on the items as discussed and addressed below.

1. *Building Design*. The Commission requested additional roof plans and sections (including illustration of proposed projections) along with information on the proposed design and use of the project’s balconies.

Since the filing of the initial application, the Applicant has been further studying the concept design of the Project. The Applicant will meet with Office of Planning (“OP”) staff to review the design and gather input on its pre-hearing package to be submitted to the Commission. The Applicant will further develop elevations, as requested by OP in its setdown report dated July 18, 2014. The plans will also incorporate feedback from DDOT and the community. The plans

and additional information requested by the Commission will be submitted to the Commission before the hearing.

Per the Zoning Commission's guidance at its June 30, 2014 and July 28, 2014 public meetings, the Applicant will file two alternatives for the roof structures prior to the hearing. The first plan will show a by-right scheme that is designed according to the current penthouse requirements (although the Applicant is requesting relief from the uniform height requirements of Section 411 of the Zoning Regulations). The second plan will show a scheme that would implement the amendments to the roof structure requirements as suggested under Z.C. Case No. 14-13.

2. Benefits and Amenities. The Commission requested additional details and information regarding the Applicant's proposed benefits and amenities package offered by the Project. Specifically, the Commission requested information relating to the sustainable design (LEED) equivalency of the Project.

The Applicant is working with ANC 5D and OP to further develop and define its benefits and amenities package and will continue to do so. The Applicant will detail its benefits and amenities package prior to the hearing.

As described in the application statement on pages 5 to 8 and 45 to 50 and discussed by OP at the setdown meeting on July 28, 2014, the Applicant already started to provide benefits and amenities in the Market area through initiatives such as renovating old warehouse buildings to revitalize the area and bring the Small Area Plan to reality, incubating unique local businesses, delivering new retail to this underserved area, sponsoring and hosting many community organizations and events, and improving lighting and security throughout the Union Market district.

3. Parking and Parking Management Plan. The Commission requested additional information regarding the parking provided by the Project. Similarly, OP requested that the Applicant provide a Parking Management Plan.

As described by OP at the Project's setdown meeting and the setdown meeting for Z.C. Case No. 04-07, the Project will share parking throughout the 45-acre Union Market District (also known as the Florida Avenue Market). Due to Union Market's fragmented ownership, small lot sizes, and existing structures likely to be maintained (which limit opportunities for and feasibility of construction of parking garages), it is the Applicant's intent to create "pools" of parking to ensure that the Union Market District is sufficiently parked. For example, an affiliate of

the Applicant, the applicant in Z.C. Case No. 04-07, plans to construct such additional parking under portions of the development of its project at 1270 4<sup>th</sup>, NE. The Applicant will provide additional information on its “pooling” concept prior to the hearing on this case.

To that end, the Applicant will work with DDOT and OP to create its Parking Management Plan and submit such plan to the Zoning Commission in advance of the hearing.

4. *Loading*. The Commission requested additional information regarding the loading proposed by the Project.

The Applicant will work with DDOT and OP to ensure that its loading facilities and plans are appropriate for the Project to create a loading management plan.

5. *Additional Information*. The Commission requested additional information or clarifications on a few additional items. Specifically, these requests related to the LED screens proposed for the building, how bicycle parking will be provided for the south building, an explanation of deafspace design principles, further information regarding the Project’s event space, the relationship of retaining the existing façade while still allowing for tenant design flexibility, an explanation of the demolition plan for the Project, and the FAR calculations of the Project components.

The Applicant will address all requests for additional information and clarifications prior to the hearing.

The Commission requested no other changes or information regarding the project.

OP also requested additional information from the Applicant. OP requested information regarding the Applicant’s proposal for the improvement of the public space adjacent to the Property. The Applicant has met with DDOT on the proposed streetscape plan and will continue to meet and work with DDOT to further develop the proposed design, a good implementation of deafspace design principles. The Applicant believes that the unique design approach to the public space is essential to creating the vibrant destination district, with active retail, to implement the vision of the Small Area Plan. In addition, OP requested information regarding the Project’s provision of a rear yard as one half of an adjacent street. The Applicant will provide additional information relating to the Project’s rear yard prior to the hearing.

The Applicant will continue to work with the community regarding the Project, including, as noted above, further discussion of the amenities package. The Applicant will meet with ANC 5D prior to the Zoning Commission hearing. At meetings to date, the commissioner of ANC 5D01 expressed support for the Project (as evidenced by the letter of support submitted with the initial application). The Applicant will continue to engage with community members, local institutions, local vendors, other nearby owners, and interested individuals prior to the public hearing as well.

### **Witness List, Proposed Testimony, and Time Estimate for Presentation**

We look forward to presenting this case to the Commission. The Applicant will provide at least four witnesses to testify on its behalf: representatives of the Applicant, a representative of Shalom Baranes Architects, the project architect, a representative of Gorove/Slade Associates, Inc., the traffic consultant, and a representative of Bohler Consulting, the project civil engineer. Outlines of the testimony of all of the Applicant's witnesses are attached as Exhibit A. Expert witness resumes are attached as Exhibit B. If additional witnesses will be called, the Applicant will identify them in a supplemental filing prior to the hearing. The written report of the Applicant's traffic consultant will also be submitted prior to the hearing.

The Applicant anticipates at this time that its presentation will require up to 60 minutes.

### **Project Plans**

A full set of plans was included as Exhibit A of the initial application. As described above, updated plans reflecting any revisions and refinements made in response to comments from the Commission and resulting from input by OP, DDOT, and the community will be submitted to the Commission prior to the hearing.

### **Publicly Available Maps**

Per Section 3013.1(f), the Applicant offers the following publicly available maps and documents into evidence in support of its case: the District of Columbia Zoning Regulations and Map, the District of Columbia Comprehensive Plan, and the District of Columbia Future Land Use Map and Generalized Land Use Map, WMATA transit maps related to this site, previous Orders of the District of Columbia Zoning Commission.

**Hearing Fee**

The Applicant will file its hearing fee of \$44,870 with the Commission. Such amount is calculated as shown on Exhibit C, the Applicant's Hearing Fee Calculator (Form 116).

**Conclusion**

As set forth above, the Applicant has met the requirements of Section 3013, and accordingly requests that a public hearing be scheduled as soon as possible. The development team looks forward to presenting this application to the Commission.

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.

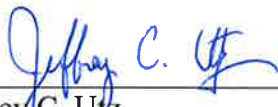
Respectfully submitted,

  
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Maureen E. Dwyer

  
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Jeffrey C. Utz

## Certificate of Service

I certify that on August 6, 2014, I delivered a copy of the foregoing document via hand delivery or first class mail to the addresses listed below.

  
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Jeffrey C. Utz

Brandice Elliott (2 copies)  
District of Columbia Office of Planning  
1100 4<sup>th</sup> Street, SW, Suite 650E  
Washington, DC 20024

Jamie Henson  
Jonathan Rodgers  
Policy and Planning  
District Department of Transportation  
55 M Street SE, 5<sup>th</sup> Floor  
Washington, DC 20009

Advisory Neighborhood Commission 5D (7 copies)  
1807 L Street, NE  
Washington, DC 20002

ANC Commissioner Peta-Gay Lewis (5D01)  
1868 Corcoran Street, NE  
Washington, DC 20002