

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

Z.C. CASE NO. 15-27A

REVISED APPLICATION FOR A SECOND-STAGE PUD

**MARKET TERMINAL
BUILDING A2**

March 1, 2019

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LIST OF EXHIBITS

<u>Description</u>	<u>Exhibit</u>
Architectural Plans and Elevations	A
Name and address of the owners of property within 200 feet of the Building A2 site	B

I. INTRODUCTION

This statement and the attached documents are submitted on behalf of Grosvenor USA Limited (the “Applicant”) in support of a revised application to the Zoning Commission for the District of Columbia (the “Zoning Commission”) for a second-stage planned unit development (“PUD”) to develop a mixed-use building containing residential and retail uses in Square 3587, Lot 840 (“Building A2”), in accordance with the Zoning Commission’s first-stage approval in Z.C. Case No. 15-27.

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 Building A2 has vested development rights under the 1958 Zoning Regulations because the architectural drawings submitted herewith are consistent with the unexpired first-stage PUD for Building A2 that was approved prior to the effective date of the 2016 Zoning Regulations. Accordingly, all zoning tabulations are based on the 1958 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 2C in Z.C. Case No. 15-27A) 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

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 Under the 2016 Zoning Regulations, which repealed and replaced the 1958 Zoning Regulations on September 6, 2016, the C-M-1 District was re-designated to the to the PDR-1 District and the C-3-C District was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.

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. Since that time, 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 C2"), and Building D. The Applicant now seeks approval of a second-stage PUD for Building A2 only.

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 first-stage PUD, the Zoning Commission approved Building A2 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.

Pursuant to 11 DCMR § 2403.2 of the 1958 Zoning Regulations in effect at the time that Z.C. Order No. 15-27 was 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 approved 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. As set forth below, Building A2 will be developed as for-sale housing, such that it will take advantage of these provisions in providing a minimum of 8% of its residential gross floor area to IZ units at 80% of the AMI.

IV. PROPOSED SECOND-STAGE PUD

The proposed second-stage Architectural Plans and Elevations (the “Second-Stage Plans”) for Building A2 are attached hereto as Exhibit A. As shown on the Second-Stage Plans, the Applicant proposes to develop Building A2 as a for-sale residential building with a maximum building height of 130 feet, 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. (7.88 FAR total). Building A2 will include approximately 260 residential units (plus or minus 10%) and approximately 165 on-site parking spaces.

Building A2's penthouse will include both communal amenity space for building residents and the second-stories of six individual residential units. This penthouse habitable space will generate an IZ requirement that was not previously contemplated in Z.C. Order No. 15-27. As set forth below, the Applicant requests flexibility to either provide one on-site IZ unit or to make a contribution to the affordable housing trust fund. In addition to the penthouse spaces, outdoor terraces on the roof will be provided for the both communal recreation space and for the six individual units. Additional outdoor amenity space and private outdoor terraces will be provided above the second floor of the building as well.

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 135 long-term bicycle parking spaces will be located in a bicycle room on the ground floor of Building A2 accessed directly from Neal Place Park, and approximately 15 short-term bicycle parking spaces will be located outside adjacent to the building.

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. The Applicant requests flexibility to either (i) dedicate 8% of the residential penthouse floor area to an IZ unit within Building A2 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 previously 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 neighborhood. Neal Place Park includes a variety of seating options, including garden “bolder”

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.

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. All other improvements to the public realm outside of Building A2's property line will be undertaken by the developers of Buildings C2 and D as part of those second-stage PUD applications.

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 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. In addition to creating the oyster effect, the linear masonry façade is a contemporary revitalization of the industrial materials from Union Market's past.

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.

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.

V. FLEXIBILITY UNDER PUD GUIDELINES

A. Zoning Flexibility

As part of the first-stage approval for Building A, the Zoning Commission granted flexibility from (i) the loading requirements to provide 30-foot long berths where 55-foot long berths were required; (ii) the rear yard depth requirements to provide a rear yard depth of 18'-6" for Building A whereas a depth of 27'-1" was required; and (iii) the building lot control requirements. No new or additional relief is requested as part of this second-stage application; however, Building A continues to require the same flexibility previously granted.

B. Design Flexibility

The Applicant has made every effort to provide a level of detail that conveys the significance and appropriateness of the architectural design for Building A2. Nonetheless, some flexibility is necessary that cannot be anticipated at this time. Thus, the Applicant requests that the Zoning Commission approve the same design flexibility for Building A2 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 area of flexibility for Building A2:

- 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.

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 area for Building A2 also exceeds 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 Building A2 have not changed as part of 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.*

VIII. ENGAGEMENT WITH THE COMMUNITY

The Applicant mailed a Notice of Intent to file the original second-stage application for Buildings A2, C2, and D to the owners of all property within 200 feet of the perimeter of the PUD Site on September 14, 2018. The Applicant also engaged significantly with ANC 5D since that time, including participating in two meetings with the Single Member District commissioner for the PUD Site and their constituents in October, 2018. The Applicant presented the overall second-stage application to the full ANC 5D at its regularly scheduled, duly noticed public meeting on November 13, 2018, and at that meeting ANC 5D voted unanimously with a quorum present to support the application. A copy of the ANC’s resolution in support of the application is included as Exhibit 3 in the case record.

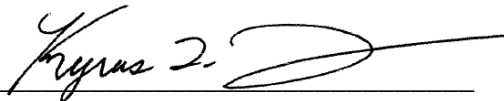
IX. CONCLUSION

For the reasons stated above, the Applicant submits that this revised application for a second-stage PUD for Building A2 meets the standards of 11-X DCMR, Chapter 3 and Subtitle Z of the 2016 District of Columbia Zoning Regulations; meets the standards and requirements of

Z.C. Order No. 15-27; is 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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