

March 19, 2021

VIA IZIS  
Anthony Hood, Chairman  
District of Columbia Zoning Commission  
441 4<sup>th</sup> Street, NW  
Suite 200-S  
Washington, DC 20001

**Re: Z.C. Case No. 20-27 – Application of High Street District Development Inc. (the “Applicant”) for a Consolidated Planned Unit Development and Map Amendment – Square 445, Lots 191, 192, 193, 194, 800, 821, 822 (collectively, the “Property”) - Pre-Hearing Submission**

Dear Chairman Hood and Members of the Commission:

On February 25, 2021, the Zoning Commission set down the above-referenced case for a public hearing. The Applicant hereby submits additional exhibits and information into the record in response to comments raised by the Commission at the public meeting. At the outset, the Applicant notes that despite the diminishing number of projects that are proceeding in this challenging economic environment, the Applicant is committed to transforming this underutilized site.

**I. Updates to Building Design**

As the Commission is aware, the Applicant has modified the Project’s massing along Marion Street, by reducing the portion of the building that is built up to the eastern property line by a full story and by doubling the width of the eastern setback above the 7<sup>th</sup> floor of the building, from 15 feet to 30 feet, as discussed in the Applicant’s Supplemental Submission dated February 12, 2021 (the “**Applicant’s Supplemental Submission**”). Updated and new illustrations, views and plans, along with additional supplemental pages, are attached as Exhibit A (the “**Plans**”). These plans clearly show the full impact of these changes. Through these reductions, the building is compatible with the scale of the buildings along Marion Street including the buildings along Marion directly east of the Project as shown on page A14 of the Plans. As a result of the newly

increased setback of the building along Marion Street, the variance relief for a noncompliant court requested in the Applicant's initial statement dated November 3, 2020 and found at Exhibit 3 of the record in this case (the "**Applicant's Initial Statement**") is no longer required.

## **II. Project Benefits and Amenities**

The Applicant has continued to develop the public benefits and project amenities for the Project. Below is an updated summary with additional details on the proposed benefits. The Applicant is continuing to discuss the Project's public benefits with the ANC and other stakeholders, and will provide an additional update, if any, closer to the public hearing.

### **A. Affordable Housing**

The Project's central amenity is the provision of a significant affordable housing component. The need for affordable housing at multiple income levels will become only more acute after the pandemic as the city addresses the needs of those residents who have been most profoundly affected. As shown on Sheet A08 of the Plans, the Project will include both IZ units as well as additional deeply affordable units, which are provided pursuant to separate affordability covenants that run with the Property (the "**Affordability Covenants**"). In response to comments from the Zoning Commission, the Applicant has removed all affordable units from the cellar level, and plans to provide both these units and the IZ units throughout the above-ground levels, approximately in the locations shown on Sheet A08 of the Plans. The Applicant has been extremely sensitive in designating the affordable housing units so that they are indistinguishable from the market rate units, including providing some affordable units with balconies. There is no sub-standard tier of affordable units.

The Applicant is proffering 12% of the residential gross floor area of the Project not already subject to the Affordability Covenants as IZ units at 60% of the Area Median Income ("**AMI**") and 12% of the penthouse gross floor area as IZ units at 50% of the AMI, resulting in a total of approximately 19 IZ units. This proffer will include a larger proportion of two-bedroom IZ units relative to the proportion of market rate units that are two-bedroom.

The Applicant will also meet the requirements of the Affordability Covenants by providing 10 affordable units, with at least 25% of the units at 30% of Median Family Income ("**MFI**") and the remaining affordable units between 30% and 50% MFI.

This proposed amenity provides a significant amount of affordable housing, including two-bedroom units at a greater level of affordability than required by IZ, which is a benefit to the District as a whole and in particular to those households that seek to live in affordable housing in this portion of the District.

B. LEED

Even with the redesign of the building massing, the Project will continue to meet the requirements of LEED Gold certification, which will include important new solar panel technology.

C. Solar Credit

The project will include a solar component. The Applicant is exploring a system by which the solar energy generated by the Project's solar panels can be used to off-set the utility expenses of the IZ and affordable units, allowing those units to receive a credit on utility costs based on the amount of solar energy generated by the Project. The specific mechanics of this innovative arrangement are still being developed, but the Applicant is committed to implementing a system through which this credit can be granted to the IZ and affordable units. The novel strategy will direct the benefits of solar to those who needs the savings most.

D. Retail Tenant

As discussed in its initial statement, the Applicant will offer the current operator of the barber shop located on Lot 194 a comparable amount of new space in the Project to continue operation of the barber shop, at a significantly reduced rent for 10 years, with the option to renew for an additional 10 years. Furthermore, the Applicant will provide relocation assistance to the barber shop during the time the Project is under construction.

E. Coordination with Community Groups

The Applicant is in active discussions with following community groups:

- Shaw Main Streets
- The Friends of Kennedy Playground
- City Blossoms for Marion Street Intergenerational Garden
- Citizens Organized Patrol Efforts

- New Endeavors by Women

The Applicant and these groups are currently evaluating the most effective way that the Applicant can support the needs of these community groups, including contributions of materials and equipment or programing grants. The Applicant will continue to collaborate with these community organizations to determine the manner in which the Applicant can make a meaningful contribution that advances the mission and goals of these organizations.

### **III. Comprehensive Plan**

At the January 28, 2021 Zoning Commission public meeting, members of the Zoning Commission requested additional discussion of the proposed Project as it relates to the Future Land Use Map (“**FLUM**”) of the Comprehensive Plan. There was a particular sensitivity to the Project’s relationship with Marion Street. The Property’s designation is mixed between the Medium Density Commercial/Medium Density Residential on the majority of the site, with a Moderate Density Residential designation located on the east side of the Property along the corner of P and Marion Streets. On the Generalized Policy Map, the eastern portion of the Property along Marion Street is designated as a “Neighborhood Enhancement Area” and the majority of the Property is designated as a “Main Street Mixed-Use Corridor.” The description of the characteristics of these FLUM and Generalized Policy Map designations from the Framework Element of the Comprehensive Plan is attached as Exhibit B.

When considered in its entirety, the proposed Project is not inconsistent with the Comprehensive Plan. The Project promotes a significant number of important Comprehensive Plan policies, including those related to affordable housing, environmental protection, high quality design, and active streetscapes animated by retail. The specific policies that the Project advances are detailed in the Applicant’s Initial Statement, the Applicant’s Supplemental Statement, and the reports of the Office of Planning found at Exhibits 11 and 16 of the record in this case. As described above, the Project includes a significant affordable housing component, including two-bedroom units at an affordability level that exceeds that required by IZ, a commitment to LEED Gold, including provision of solar panels, and preservation of a longstanding small business. The Applicant believes that these aspects of the Project outweigh any limited inconsistency with the suggested density parameters of one of the Property’s FLUM designations - the Moderate Density Residential designation on the east side. Furthermore, the Project will advance the Mayor’s prioritization of affordable housing, as well as the District’s focus on environmental policies and assisting small businesses, especially in light of the pandemic.

The Applicant has been especially sensitive to the Moderate Density Residential portion of the site and modified the building's original height and setback along Marion Street to more closely align with both this designation as well as the Neighborhood Enhancement Area designation. The stepdown to a height of 43 feet, 8 inches along Marion Street is compatible with the typical heights associated with a Moderate Density Residential designation. Nonetheless even with the proposed stepdown, the project exceeds the base density level cited in the Framework Element so there is a need to address this inconsistency. Importantly, the Framework Element does explicitly allow an increase in density above the base cited in the Moderate Density Residential description when a site is developed through the PUD process and particularly if it is a residential PUD that includes IZ units. In other words, a density of more than 1.8 FAR in an area designated for Moderate Density Residential can be exceeded when the development is a PUD that includes IZ units.

Furthermore, any potentially limited inconsistency with a portion of the FLUM is offset and outweighed by the Project's satisfaction of multiple other Comprehensive Plan policies as set forth above. Throughout several recent cases evaluating consistency with the Comprehensive Plan, the D.C. Court of Appeals has noted that "even if a proposal conflicts with one or more individual policies associated with the Comprehensive Plan, this does not, in and of itself, preclude the Commission from concluding that the action would be consistent with the Comprehensive Plan as a whole." *Durant v. District of Columbia Zoning Comm'n*, 65 A.3d 1161, (D.C. 2013). Furthermore, the Framework Element states that "the Future Land Use Map is part of the adopted Comprehensive Plan and carries the same legal weight as the Plan document itself [ . . . ] The Future Land Use Map is intended to be used in conjunction with the Comprehensive Plan's policies and actions." §227.1. Therefore, when considering a PUD and weighing policies of the Comprehensive Plan, the Commission need not give outsized weight to the Project's consistency with the FLUM than it does to the textual policies of the Comprehensive Plan's applicable District Elements and Area Elements. Accordingly, when all relevant policies are weighed and the allowance for more density through a PUD is considered, the overall Project is not inconsistent with the Comprehensive Plan.

#### **IV. Outlines of Witness Testimony and Expert Witness Resumes**

The resumes of expert witnesses appearing on behalf of the Applicant and outlines of witness testimony are attached as Exhibit C and Exhibit D, respectively.

#### **V. Conclusion**

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The Applicant believes it has made positive changes to the project and it looks forward to continuing its dialogue with the Commission, agencies, and stakeholders in this community. The Applicant asks that the Commission schedule a public hearing at its earliest convenience.

Sincerely,

/s/ Allison C. Prince

/s/ Jennifer Logan

Enclosures

## Certificate of Service

The undersigned hereby certifies that copies of the foregoing document will be delivered by email to the following addresses on March 19, 2021.

/s/ Jennifer Logan\_\_\_\_\_

Jennifer Steingasser  
Anne Fothergill  
District of Columbia Office of Planning  
[jennifer.steingasser@dc.gov](mailto:jennifer.steingasser@dc.gov)  
[anne.fothergill@dc.gov](mailto:anne.fothergill@dc.gov)

Aaron Zimmerman  
Policy and Planning  
District Department of Transportation  
[aaron.zimmerman@dc.gov](mailto:aaron.zimmerman@dc.gov)

Advisory Neighborhood Commission 6E  
P.O. Box 26182  
LeDroit Park Station  
Washington, DC 20001  
[6E@anc.dc.gov](mailto:6E@anc.dc.gov)

Alex Lopez, ANC 6E02  
Washington, DC 20001  
[6E02@anc.dc.gov](mailto:6E02@anc.dc.gov)