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November 21, 2022

## VIA IZIS

Zoning Commission  
for the District of Columbia  
441 4th Street, NW, Suite 210S  
Washington, DC 20001

**Re: Z.C. Case No. 22-06  
**Consolidated PUD and Related Map Amendment**  
**Applicant's Post-Hearing Statement****

Dear Members of the Commission:

This Post-Hearing Statement is submitted on behalf of 801 Maine Ave SW PJV, LLC (the "Applicant") in support of the above-referenced application, which was heard by the Zoning Commission on October 6, 2022. During the hearing, the Zoning Commission requested that the Applicant provide additional information related to the green roof and trash room and the Comprehensive Plan analysis previously supported by the Office of the Attorney General regarding MU-9 zoning for property designated Medium Density Commercial. The Zoning Commission also directed the Applicant to re-engage with representatives from Advisory Neighborhood Commission ("ANC") 6D and the Capitol Square Place Homeowners Association (the "HOA") in an effort to reach agreements on measures that address the anticipated impacts resulting from the proposed PUD.

### **I. Items Requested by the Zoning Commission**

#### **A. Green Roof Access and Trash Room**

The Zoning Commission requested that the Applicant explain how the green roof would be accessed for maintenance and the adequacy of the trash room space. Access to green roofs at the upper levels of the building (i.e., the 10<sup>th</sup> level and the roof) will be made available via access doors in the mechanical screen wall and/or around the perimeter of the roof from the penthouse. The locations of these access points will be determined prior to filing a building permit application, based on the Applicant's selection of mechanical equipment and space layouts at the green roof levels. For the green roof at the second level, direct access will be made available via an internal corridor.

As shown on the revised ground floor plan (revised Sheet 19) attached hereto at **Tab A**, the size of the trash room has been revised to accommodate the anticipated retail and residential uses of the building. Total square footage and configuration of space dedicated to trash and service will depend on the specific retail needs, and will be finalized prior to filing a building permit application for the project.

B. Medium Density Commercial / MU-9 Zoning Analysis

Additionally, the Zoning Commission requested a copy of ZC Order No. 20-06 (the “Order”), which granted approval of the PUD and related Zoning Map amendment for the property located at 1333 M Street, SE to MU-9. The Future Land Use Map (“FLUM”) designation for the property at 1333 M Street included Medium Density Commercial.<sup>1</sup> **The Order, which was authored by the Office of the Attorney General, states the MU-9 zone is not inconsistent with the Comprehensive Plan when taken as a whole and that the MU-9 zone’s higher heights and densities would enable the Applicant to shift density in order to maintain visual connections to the Anacostia River and provide a “substantial amount of housing and affordable housing.”** See Order, Conclusion of Law No. 20, p. 28. The Commission also noted that the density approved for the 1333 M Street PUD (6.17 FAR) was well within the density permissible for a PUD utilizing Inclusionary Zoning (“IZ”) in a Medium Density Commercial area (5.67 to 8.64 FAR). See Order, Finding of Fact No. 37, p. 13. A copy of the Order, where the aforementioned Conclusion of Law and Finding of Fact are highlighted for ease of reference, is attached hereto at **Tab B**.

The same circumstances are present in this case. **As demonstrated in the Applicant’s prior filings and through its testimony at public hearing, the MU-9A zone is being sought to shift height and density away from Capitol Square Place and toward the higher-scale Wharf development along Maine Avenue. Moreover, the proposed density for this PUD is 7.99 FAR, and falls directly within the density envisioned for a PUD in a Medium Density Commercial area.** Accordingly, the proposed map amendment to MU-9A is not inconsistent with the Comprehensive Plan, and the Applicant’s proposal reflects a medium density development.

**II. Post-Hearing Meetings with the ANC and HOA**

Since the public hearing, the Applicant met with representatives from ANC 6D and the HOA on the following dates:

Meeting No.	Date	Description Purpose
1	Oct. 18, 2022	Meeting w/ ANC 6D Subcommittee
2	Oct. 24, 2022	Meeting w/ HOA
3	Nov. 2, 2022	Meeting w/ ANC 6D Subcommittee
4	Nov. 9, 2022	Meeting w/ HOA
5	Nov. 16, 2022	Meeting w/ HOA

<sup>1</sup> The precise FLUM designation for the property located at 1333 M Street, SE is Mixed Use (Medium Density Commercial / Institutional). The “Institutional” designation, as described in the Framework Element, does not prescribe heights or densities. 10A DCMR § 227.18.

During these meetings, the ANC and the HOA reiterated their concerns related to (i) the building height and density; (ii) traffic impacts; (iii) elements of the Applicant’s public benefits and amenities package. The outcome of the discussions on each of these matters is discussed below.

### **III. Responses to Community Concerns**

#### **A. Height and Density of PUD**

The Applicant's initial submission proposed a building height of 100 feet for the northern part of the building along G Street, and a building height of 120 feet for the southern part of the building along Maine Avenue. Upon receiving input from OP and the community, the Applicant's design team adjusted the proposed building heights. The height along G Street, closest to the townhomes, was lowered to 90 feet; and the height of the southern portion of the building (fronting on Maine Avenue) was increased to 130 feet, with a section at the southeast corner remaining at 120 feet. The evolution of the building design since the community was first introduced to the Applicant’s proposal is reflected on Sheet 15 of the plans marked as Exhibit [38A2](#) of the case record, a copy of which is attached hereto as **Tab C**.

Notwithstanding the previous changes to the building, the ANC and HOA asked the Applicant to further reduce the height and density of the building. In sum, a reduction in building size would render the Applicant’s proposal economically infeasible, particularly given the current economic climate. Additionally, a smaller building would generate fewer affordable units and fewer new dwelling units overall. This limits the Applicant’s potential to advance several Comprehensive Plan policies applicable to the site, particularly certain objectives of the Lower Anacostia Waterfront/Near Southwest Planning Area that call for “promoting infill development to provide new housing opportunities” (Policy AW-1.1.1: Conservation of Established Waterfront Neighborhoods) and “prioritiz[ing] the creation of a greater number of affordable units” (Policy AW-2.5.11: Affordable and Family-Sized Housing in Southwest).

#### **B. Traffic Concerns**

The ANC and HOA expressed concerns about the existing traffic conditions on the streets surrounding the PUD site, including congestion near the intersection 9th and G Street, and traffic cutting through the private streets at Capitol Square Place. The HOA claims that the highest level of congestion appears to be during evening rush hour and when there are events at The Anthem or other venues at The Wharf. In order to assist in addressing the concerns, the Applicant agrees to the following:

***Study at 9th & G Streets.*** The Applicant agrees to fund a Signal Warrant Study for the intersection of 9<sup>th</sup> and G Streets, SW, which is estimated to cost up to \$30,000 at this time. The purpose of this study will be to provide information to the District Department of Transportation (“DDOT”) needed to determine whether a traffic signal is warranted at this intersection. The study will build upon the analyses already provided in the Applicant’s Comprehensive Transportation Review (“CTR”) report. See Ex. [25A](#) of the case record, and will include the following:

- Coordination with DDOT on project scope;
- Identification of existing traffic data, including data and analyses performed as part of the CTR:
  - Perform supplemental data collection (e.g., 13-hour TMC) to complete warrant analyses as needed; and
  - Project future volumes using similar methodologies from the CTR accounting for background growth and the future PUD
- Field work to assess any geometric or sight distance constraints and observe overall intersection operations;
  - Identify other safety concerns or improvements that may need to be addressed as part of the final recommendations;
- Summary of five-year historical crash data from DDOT;
- Full Signal Warrant study per MUTCD requirements
  - Based on the traffic data and anticipated operation of the signal, determine which approach(es) shall be used as the mainline and which shall be used as the side street for the purpose of the volume-based Warrant Analyses. If necessary, perform the Warrant Analyses for alternative assumptions for mainline and side street.
- Documentation into a draft warrant study and presentation of results to DDOT; and
- Finalization of the warrant study based on DDOT comments.

The Applicant agrees to finalize and provide the study to DDOT prior to the issuance of a building permit for the PUD. The Applicant also agrees to provide the ANC and the HOA with periodic updates on the study and its findings.

***Relocation of G Street Curb Cut.*** In order to deter drivers from cutting through the Capitol Square Place townhome community to access the private driveway for the PUD, the Applicant has agreed to shift its G Street curb cut to the west so that it no longer aligns with the curb cut for the townhouse community. The new location of the curb is shown on the revised site plan (revised Sheet 65) attached hereto at **Tab D**. Originally, the curb cut was shifted 20 feet to the west from its current location. Now, the Applicant proposes to shift it 50 feet to the west – i.e., an additional 30 feet – to create an even greater offset, significantly reducing the likelihood that vehicles from the PUD would cut through Capitol Square Place. The Applicant notes that final

approval of this curb cut location is subject to approval by the Public Space Committee; however, DDOT has indicated its support for the new location.

The existing configuration would require a car cutting through Capitol Square Place to move approximately two (2) car lengths (41 linear feet) against traffic on G Street to access the curb cut for the PUD, in one diagonal maneuver. With the shift in the PUD curb cut, a vehicle cutting through Capitol Square Place would have to travel over 71 linear feet against traffic on G Street (almost four (4) car lengths) to access the curb cut for the PUD. Drivers would have to turn the wrong way – completely against traffic – on G Street and travel a short distance before entering the PUD's private driveway. Thus, the increased offset is expected to serve as an effective mitigation and counteract such unsafe maneuvers, as demonstrated on the graphic attached hereto as **Tab E**.

The proposed location of the PUD curb cut does not meet DDOT's minimum 60-foot spacing requirement from the 9th Street intersection. However, given the concerns expressed by the HOA, DDOT has indicated its support for the newly proposed location because: (i) the proposed change will cause the PUD driveway to be perpendicular to G Street, which is preferred by DDOT; and (ii) the curb cut would only accommodate right-in/right-out maneuvers because G Street travels one-way (eastbound) on this block.

***Monetary Contribution to HOA to Help Mitigate Cut-Through Traffic.*** According to the HOA, Capitol Square Place *currently* experiences a high level of cut through traffic for drivers seeking a short cut to Maine Avenue. The HOA asked the Applicant for \$500,000 to the HOA to cover the cost of a transportation study, by a consultant selected by the HOA, to analyze the level of cut-through traffic and to implement any mitigation measures recommended by the study.

As discussed above, shifting the curb cut 50 feet to the west will significantly deter drivers cutting through Capitol Square Place to get to the PUD. The HOA has not provided any evidence to the contrary. Nonetheless, the Applicant has thoroughly studied five measures to assist the HOA efforts to address cut-through traffic. The benefits and drawbacks for each are outlined in the memorandum prepared by Gorove Slade Associates attached hereto at **Tab F**. The Applicant agrees to contribute up to \$100,000 to the HOA to help implement any of the recommended measures. This contribution will be made to the HOA prior to the issuance of a building permit for the PUD.

Notwithstanding the Applicant's responses to the community's traffic concerns, it bears emphasizing that the proposed project is a transit-oriented development. The Land Use and Transportation Elements of the Comprehensive Plan contain numerous policies that encourage the development of mixed-use projects like the proposed PUD near public transit. In discussing transit-oriented and corridor development, the Land Use Element describes certain general principles that should be applied in the management of land in proximity to transit, which generally include:

- A preference for mixed-use development;
- Providing diverse housing types, including both market-rate and affordable at a mix of unit sizes;
- Attractive, pedestrian-friendly design that de-emphasizes auto-oriented uses;
- Well-designed, well-programmed, and well-maintained public space;
- Appropriate transitions in height and density;
- Convenient and comfortable connections between bus routes and Metrorail stations; and
- Pedestrian and bicycle connectivity with the surrounding neighborhood.

The proposed PUD reflects and/or implements all of the principles above.

The Applicant’s overall transportation objective for the project seeks to maximize use of nearby transit options while simultaneously minimizing potential impacts of project-generated vehicle trips on the surrounding street network. To achieve this objective, the Applicant is proposing approximately 234 below-grade parking spaces that will accommodate a reasonable percentage of the expected parking demand for the building. In its report, DDOT found the amount of proposed parking to be in line with the amount of parking expected given the project size, mix of uses, and distance from transit. Together with the substantial transportation demand management (“TDM”) plan being provided by the Applicant, the project is expected to have minimal impact on the surrounding road network.

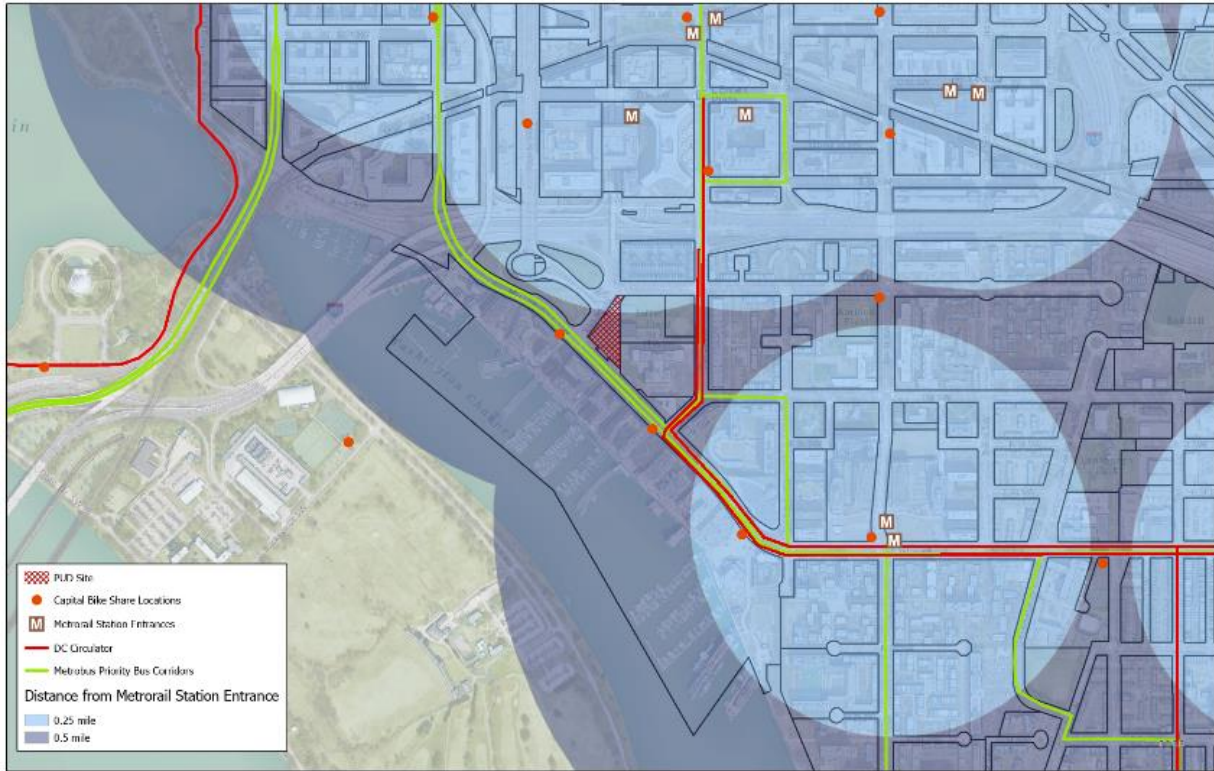
As assessed in the Applicant’s CTR report, the project is expected to generate new trips on Metrorail and other forms of public transit, and the existing services in the District can accommodate these new trips. *See* Ex. [25A](#) at p. 6. Indeed, it is estimated that approximately 65% of the residential trips generated by the project will be made on transit, bike, or walking. This is due to the high-quality, walkability of the pedestrian realm surrounding the PUD site, which has an impressive Walk Score of 94 (Walker’s Paradise).<sup>2</sup> The site is located within walking distance of various neighborhood-serving amenities, such as the commercial and recreational uses at The Wharf, the Southwest Town Center, and the National Mall.

Further, the PUD site has excellent access to numerous modes of transit. As shown in the diagram below, the PUD site is within 0.25 miles of the L’Enfant Plaza Metro station, and within 0.5 miles of the Waterfront Metro station. In addition, the PUD Site is served by the 52 and 74 Metrobus routes, which are both designated Priority Bus Corridors. The site’s close proximity to these two Metrobus routes provides convenient access to nearly every major commercial corridor in the District with only one transfer (two seat commute). The site is also located in close proximity to the Circulator and multiple Capital Bikeshare docks.

[diagram on following page]

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<sup>2</sup> <https://www.walkscore.com/score/899-maine-ave-sw-washington-dc-20024>.



C. Updates to Public Benefits and Amenities Package

In response to community feedback the Applicant proposes to update and expand its benefits and amenities package, as follows:

***Affordable Housing (Subtitle X § 305.5(g)).*** In order to create more family-sized units at deeper affordability levels, the Applicant will adjust its affordable housing proffer such that the eight (8) three-bedroom units currently proposed with the project will be reserved for households with incomes not exceeding 50% of the Median Family Income (“MFI”). The Applicant’s initial affordable housing proffer was to reserve all eight three-bedroom units in the project to households with incomes not exceeding 60% MFI. An updated IZ plan reflecting the changes to the affordability levels of the eight (8) three-bedroom units is attached hereto at **Tab G**. The creation of family-sized affordable units advances the objectives of the Comprehensive Plan. See 10A DCMR § 1914.14 (Policy AW-2.5.11: Affordable and Family-Sized Housing in Southwest).

***Commemorative Works or Public Art (Subtitle X § 305.5(d)).*** The Applicant proffered a contribution of \$75,000 to the Southwest Business Improvement District (the "SW BID") to support a public art installation along Maine Avenue. However, the ANC expressed concerns about the contribution going to the BID. In response, the Applicant agrees to contribute the funds directly to MYLY Design, a minority-owned, woman-owned, certified business entity based in Washington, DC. The contribution will fund and support a public art installation along Maine Avenue in the area identified as the



“Art and Landscape Zone” on Sheet 72 of the plans marked as Exhibit 38A5 of the case record, which is also attached hereto as **Tab H**.

*Uses of Special Value (Subtitle X § 305.5(q)) – Grocery Store.* The ANC and HOA fear that a grocery store of significant size will generate increased vehicle trips from people who don't reside in the immediate neighborhood. Based on this feedback, the Applicant agrees to amend its proffer to commit a minimum of 3,000 square feet of ground floor retail for a neighborhood serving grocer, market, bodega, corner store, or prepared food shop. Originally, the Applicant proffered a minimum of 6,000 square feet for a grocery store.

*Other Project Benefits and Public Amenities (Subtitle X § 305.5(r)) -- Installation of Bike and Scooter Corrals.* The HOA expressed concerns about bikes and scooters being abandoned in their townhome community and asked the Applicant to install bike and scooter corrals along the perimeter of the PUD site that are visible and easily accessible to the public. The Applicant agrees to seek Public Space Committee approval for the bike and scooter corrals consistent with this request, and agrees to fund the installation of the corrals. The application to the Public Space Committee shall be filed prior to the issuance of a building permit for the PUD, and the contribution for the installation of the corrals shall be made prior to the issuance of a certificate of occupancy for the PUD.

#### **IV. Additional Issues Addressed by the Applicant**

In addition to the foregoing, the Applicant agrees to the following, which were requested by the HOA:

A. Construction Management Agreement

The Applicant agrees to make the HOA a party to the Construction Management Agreement that is being negotiated with the Jefferson Middle School PTO. The Applicant has forwarded a copy of the draft agreement to the HOA for their review and input.

B. Student Participation in Building Mural

As shown on Sheet 44 of the plans marked as Exhibit 38A3 of the case record, also attached hereto as **Tab I**, and detailed during public hearing, the Applicant will provide a mural to be painted on the eastern façade of the building. At the request of the HOA, the Applicant has agreed to include students from the Jefferson Middle School Academy in the process for cultivating the artwork.



V. Conclusion

We look forward to the Commission's consideration of this application for proposed action at its public meeting on December 15, 2022. Should you have any questions or need additional information, please do not hesitate to have Office of Zoning staff contact us.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By: *Leila Batties*  
Leila M. Jackson Batties  
Christopher S. Cohen

Encl.

cc: Certificate of Service

**CERTIFICATE OF SERVICE**

I hereby certify that on November 21, 2022, a copy of the Applicant's Proposed Findings of Fact and Conclusions of Law for Zoning Commission Case No. 22-06 was served on the following by electronic mail at the addresses stated below:

1. **D.C. Office of Planning**  
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2. **Capitol Square Place Homeowners Association**  
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*Party in Opposition*
  
3. **Advisory Neighborhood Commission 6D**  
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4. **Dr. Marjorie Lightman**  
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### **List of Exhibits**

- Tab A: Revised Ground Floor Plan (Showing Service/Trash Space)
- Tab B: Copy of Zoning Commission Order No. 20-06
- Tab C: Massing Development, Sheet 15 in Ex. 38A2
- Tab D: Revised Site Plan Showing Reconfiguration of G Street Curb Cut
- Tab E: G Street Curb Cut Impact on Driving Maneuvers
- Tab F: Memorandum re: Cut-Through Mitigation Options
- Tab G: Updated IZ Unit Location Plan Showing 3BR Units at 50% MFI
- Tab H: Maine Ave SW Public Art Exhibit, Sheet 72 in Ex. 38A5
- Tab I: Illustrative Showing Mural Art, Sheet 44 in Ex. 38A3