

1333 M STREET, S.E.

FELICE DEVELOPMENT GROUP

**APPLICATION FOR A
FIRST STAGE PLANNED UNIT DEVELOPMENT
CONSOLIDATED PLANNED UNIT DEVELOPMENT FOR PHASE I
RELATED MAP AMENDMENT**

STATEMENT OF THE APPLICANT

March 13, 2020

Submitted by:

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PREFACE

This statement and the attached exhibits are submitted on behalf of Felice Development Group to the District of Columbia Zoning Commission in support of an application for a (1) first-stage planned unit development ("PUD"), (2) consolidated PUD, and (3) related Zoning Map Amendment from the PDR-4 Zone to MU-9 Zone for the parcel located at 1333 M Street, S.E., which is more particularly described as Square 1025-E, Lot 802, Square 1048-S, Lots 1, 801, 802, RES 129 and RES 299 (the "Property"). The triangular-shaped parcel consists of 127,400 square feet (2.92 acres \pm) and is bounded by M Street, Virginia Avenue, and Water Street. It is within the boundaries of ANC 6B-06.

The proposed PUD is a mixed use project consisting of approximately 791,063 square feet of gross floor area, including 45,419 square feet of retail uses. The PUD includes the construction of three new buildings – Building 1A with approximately 478,548 square feet of gross floor area, including 9,504 square feet of retail; Building 1B with approximately 460,135 square feet of gross floor area, including 34,711 square feet of retail; Building 2 with approximately 72,914 square feet, including 1,204 square feet of retail. The project will have a maximum building height of 130 feet and a density of approximately 6.20 Floor Area Ratio ("FAR"). Building 1A and Building 1B will be a single building for zoning purposes, and Building 1B will be constructed in Phase 1 of the project.

The Applicant met with the Single Member District Representative for ANC 6B-06 to discuss the application on February 11, 2020, and intends to present the application to the ANC's Planning & Zoning Committee on April 7.

As set forth below, this statement and the attachments satisfying the filing requirements for a PUD application pursuant to Subtitle X, Chapter 3 of the District of Columbia Zoning Regulations.

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Exhibit	Description
A	Architectural Plans and Elevations for First-Stage PUD
B	Architectural Plans and Elevations for Consolidated PUD
C	Portion of Zoning Map
D	Portion of Future Land Use Map
E	Portion of Generalized Policy Map
F	Certified Surveyor's Plat
G	Authorization Letter
H	Certificate of Notice, Notice of Intent, and List of Owners of Property within 200 feet of the PUD Site, including two sets of mailing labels
I	ZC Order 13-12
J	ZC Order 13-12A

I. INTRODUCTION

A. Overview

Felice Development Group, the designated representative of land owner, 1333 M Street LLC (collectively, the "Applicant"), submits this statement and attached documents to the District of Columbia Zoning Commission in support of its application a (1) first-stage planned unit development ("PUD"), (2) consolidated PUD and (3) related Zoning Map Amendment from the PDR-4 Zone to MU-9 Zone for the parcel located at 1333 M Street, S.E., which is more particularly described as Square 1025-E, Lot 802, Square 1048-S, Lots 1, 801, 802, RES 129 and RES 299 (the "Property").

The Property is located in the southeast quadrant of the District and is within the boundaries of ANC 6B-06. The Property is a triangular-shaped parcel totaling 127,400 square feet of land area (2.92 acres \pm). It is located on the south side of M Street, bordered by the unimproved right-of-way for Virginia Avenue and the right-of-way for Water Street. Immediately to the south, is the District Yacht Club and the Anacostia River. The Washington Yacht Club confronts the Property to the east, across Water Street. The site directly to the west of the Property is improved with the Maritime Plaza office development. Residential uses are to the north, across M Street and Southeast Boulevard.

The Property is designated as Mixed use Medium Density Commercial/Institutional on the Comprehensive Plan's Future Land Use Map. The Property is also in the Near Southeast Land Use Change Area on the District's Comprehensive Plan Generalized Policy Map. The Future Land Use Map and Generalized Policy Map are attached as Exhibit D and E, respectively. The Property is currently zoned PDR-4, but the Applicant seeks to rezone the Property to the MU-9 Zone, which

is not inconsistent with the Medium-Density Commercial/Institutional land use designation, as discussed below.

B. Proposed Development

The Applicant seeks the proposed PUD approvals and related Zoning Map amendment in order to redevelop the Property with a mixed use project consisting of approximately 791,063 square feet of gross floor area ("GFA") -- 595,133 square feet of GFA dedicated to residential use and 45,419 square feet of GFA dedicated to retail use (the "Project"). The Project involves the construction of three new buildings on three theoretical lots as follows:

Lot	Land Area	Building	Density	Height
1	34,077 s.f.	1A	239,601 s.f. 7.03 FAR	130'
2	84,556 s.f.	1B	478,548 s.f. 5.66 FAR	130'
3	8,866 s.f.	2	72,914 s.f. 8.22 FAR	92'

The overall density for the Project will be approximately 6.20 floor area ratio ("FAR"). Building 1A and Building 1B will be connected via a bridge element at the second level and, therefore, will be a single building for zoning purposes.

This application also seeks approval of a Consolidated PUD approval for Phase 1 of the Project, which includes the construction of Building 1B on Theoretical Lot 2. Building 1B, will have approximately 354,018 square feet of residential GFA, generating approximately 529 residential units, and approximately 34,711 square feet of retail uses; and a maximum building height of 130 feet. The proposed density for Theoretical Lot 2 is 5.66 FAR. Also, in Phase I, two levels of below-grade parking will be constructed with a total of 168 parking spaces spanning

below Theoretical Lots 1 and 2 and loading and service facilities along a private road that connect M street to Virginia Avenue.

C. Prior PUD Approval

The Property is the subject of ZC Order No. 13-12 (Exhibit I), which granted (1) first-stage PUD approval for the Property, (2) a related map amendment that rezoned the Property from M (General Industrial District) to C-3-C, and (3) consolidated approval for Phase 1 of that PUD.¹ Pursuant to ZC Order No. 13-12C (Exhibit J), the approval was extended for two years such that an application for a building permit for Phase 1 of the PUD was required to be filed no later than April 24, 2017, with construction to begin no later than April 24, 2018. These time frames were not met, so the approval expired.

II. FIRST-STAGE PUD APPROVAL

A. Site Description and Vicinity

The Property is situated on a 30-foot high bluff on the western side of the Anacostia River, upriver from the 11th Street Bridges, and a few blocks to the east of the Washington Navy Yard District. Immediately to the west of the Property is Maritime Plaza – a 12-acre riverfront site that currently consists of two office buildings. The site is adjacent to Historic Boathouse Row, which is home to four historic yacht clubs that have been devoted exclusively to affordable community recreational power boating and stewardship of the Anacostia River for over 100 years. The property is currently improved with two fuel pump storage facilities and other ancillary equipment

¹ ZC Order No. 13-12 approved the development of the Property with three buildings containing approximately 673 dwelling units, 10,370 square feet of retail and 221 parking spaces. The project density was 4.14 FAR and the maximum building height was 110 feet.

and improvements. The easternmost portion of the Property is covered with trees and an overgrown bush. The westernmost portion of the Property is used as an overflow parking area.

B. Development Program

The architectural plans and elevations for the first-stage PUD are attached as Exhibit A (the “First-Stage Plans”); the development data for the overall site is provided on Sheet A-6. The Applicant proposes to parcelize the Property into three theoretical lots to be developed as follows:

Theoretical Lot 1 / Building 1A

Building 1A will be constructed in Phase 2 of the Project on Theoretical Lot 1, which consists of 34,077 square feet of land area. The building will have 190,827 square feet of GFA dedicated to residential use, generating approximately 294 dwelling units, and 9,504 square feet of GFA dedicated to retail use. The lot occupancy for Theoretical Lot 1 is 60%; the proposed density is 7.03 FAR; and the proposed building height is 130 feet.

According to the Court and Yards Diagram on Sheet A-7 of the First-Stage Plans, the PUD requires flexibility to permit a rear yard of 11’-5” where a rear yard of 27’-9” is required. Also, flexibility is required to permit a court width of 15’-2” where 44’-6” is required for Court A, a court width of 14’-7” where a court width of 44’-6” is required for Court B, and a court width of 36’-7” where a court width of 40’-3” is required for Court C.

Theoretical Lot 2 / Building 1B

Building 1B will be constructed in Phase 1 of the Project on Theoretical Lot 2, which consists of 84,5567 square feet of land area. The building will have 354,018 square feet of GFA

dedicated to residential use, generating approximately 529 dwelling units, and 34,711 square feet of GFA dedicated to retail use. The lot occupancy for Theoretical Lot 2 is 61%; the proposed density is 5.66 FAR; and the proposed building height is 130 feet. Buildings 1A and 1B will be connected at the second level via a bridge element and, for zoning purposes, will be a single building.

Theoretical Lot 3 / Building 2

Building 2 will be constructed in Phase 3 of the Project on Theoretical Lot 3, which consists of 8,866 square feet of land area. The building will have 50,288 square feet of GFA dedicated to residential use, generating approximately 77 dwelling units, and 1,204 square feet of GFA dedicated to retail use. The lot occupancy for Theoretical Lot 3 is 87%; the proposed density is 8.22 FAR; and the proposed building height is 92 feet.

According to the Court and Yards Diagram on Sheet A-7 of the First-Stage Plans, the PUD requires flexibility to permit a rear yard of 12'-7" where a rear yard of 23'-8" is required. Also, flexibility is required to permit a court width of 17'-1" where 33'-5" is required.

Parking & Loading

The Project will have two levels of below-grade parking that will be constructed during Phase 1. Ingress and egress to the parking garage will be along M Street. Flexibility is required to permit 168 vehicular parking spaces where 177 are required under the Zoning Regulations. Also, the Project requires flexibility to permit 280 long-term bicycle parking spaces where 307 are required.

Together, Building 1A and Building 1B will have one 55-foot loading berth, two 30-foot loading berths, and two service spaces. All of these loading and service functions will occur along a private road that bisects the site connecting M Street to Virginia Avenue. Flexibility from the loading requirements is needed for Building 2 because the Applicant proposes the loading and service functions to occur along M Street.

C. Architectural Design

The Project is inspired by the architectural character of Historic Boathouse Row and the tradition of industrial buildings formally located along the waterfront in this part of the city. The goal is to create an authentic design solution that will honor the past while simultaneously expressing a modern industrial aesthetic.

The overall massing solution for the development was created to respond to the various contextual edges that border the Property. This includes the orthogonal grid to the north facing Capitol Hill, the diagonal orientation of Virginia Avenue to the south, and the irregular waterfront edge to the east along Water Street. Two view corridors have been preserved through the site at the private road and the 14th Street right of way. This ensures that views of the river and Anacostia Hills will be preserved from the north. Additional porosity has been achieved through the introduction of a “cut-out” at floors 3 thru 6 along the façade of Building 1B.

The development program is distributed across three building structures organized within this unique triangular site. Buildings 1A and 1B are connected at the second level through a bridge element that provides access for all building residents to a series of dynamic interior and exterior amenity spaces. Building 2 is a stand alone structure located at the eastern edge of the site. Its building massing is reminiscent of the traditional sailboat form, with a tapered edge at the

intersection of M and Water Streets. In order to take advantage of the steep topography running north/south across the site, a series of retail plazas, outdoor courtyards and private terrace spaces have been organized to create dynamic pedestrian experiences overlooking the Anacostia Waterfront at multiple levels.

Additionally, the Project includes two levels of underground parking with ingress and egress located along M Street. All loading and service function for Buildings 1A and 1B will occur along a private road that bisects the site connecting M Street to Virginia Avenue. Loading and service functions for Building 2 will occur along M Street.

The overall program includes retail tenant space and residential lobbies at grade along M Street and Virginia Avenue. Additional retail uses continue at the upper and lower plaza levels facing the waterfront. Residential units and amenity spaces occupy the upper floors of the buildings. Additional amenity space is located at the rooftop, with a pool, and community garden located at Building 1B.

D. Site Planning

Given the character and current conditions of the Property, the Applicant proposes a visionary mixed use development that reactivates the Anacostia River and provides evocative public spaces giving a full life cycle to this underutilized site. The site is located adjacent to “Historic Boathouse Row,” which is home to four historic yacht clubs that have been devoted exclusively to affordable community recreational power boating and stewardship of the Anacostia River for over 100 years.

E. Public Places, Open Space and Parks

Throughout the duration of this phased development, a balance of soft vegetation and hardscaped public spaces will create a diverse landscape for all seasons. The great lawn and park

at the intersection of M Street, and Virginia Avenue, serves as a gateway to the Project from the west, and is an ideal place for public recreation and leisure activities. A hardscaped pedestrian plaza located at the east end of the park creates a different user experience that anchors the architecture to the PUD site.

A pedestrian promenade with distinctive paving connects this great lawn, park, and plaza to a pedestrian retail plaza at the terminus of Virginia Avenue. This plaza will have filtered shade from lacy textured trees, benches for seating, and lushly planted green panels to capitalize on riverfront views, cultivate social interaction, and activate the adjacent retail and café spaces. The plaza has been designed in a flexible manner to accommodate outdoor dining, small gatherings, art fairs, farmers' markets, and other activities.

A grand staircase and accessible route to Water Street, provides a texturally rich experience while creating a needed public connection down to the Anacostia River. Amphitheater seating within the ramp is a fun and engaging public amenity providing a potential gathering space for temporary events, daily views and access to the river.

The public experience is punctuated by a connection to the retail promenade on the southern and eastern edges of the Project. This generous walkway will be a place for residents and visitors to shop, linger, gather, dine, relax and socialize. Ample room will be provided for outdoor dining and future programming to activate the space. The promenade embraces another great lawn that is terraced by small groups of stairs in an amphitheater fashion. This lawn will have expansive views of the river and could serve as a place for performances, festivals, and open recreation.

Furthermore, a green visual connection will be incorporated between the buildings to align with the 14th Street right-of-way across the Southeast Boulevard freeway. A hardscaped plaza will

mark the entrance to this important site connection. A gently sloping lawn panel will then turn into a sloping hillside planted with wild flower meadow. Although on private property, this green will communicate the continuation of the city's street network.

F. Pedestrian and Vehicular Circulation

Vehicular access to the Project will be primarily from the west of the PUD site on M Street, which will be reconstructed to current DDOT standards. Additionally, the Applicant proposes a new traffic circle to the east of the PUD site, at the intersection of M Street and Water Street, subject to DDOT approval. This circle will enable residents and visitors who are picked-up and/or dropped-off on M Street, within designated areas, to turn around without having to exit the site via the narrower Water Street. Virginia Avenue will be re-established in a defined and improved manner and will provide a connection between M Street and a new mid-block private drive running through the PUD site.

Access to the underground parking garage will be provided via two new curb cuts on M Street. One will be located at the northwest corner of Building 1A and the other at the northeast corner of Building 1B. Loading and service/delivery spaces will be provided in Buildings 1A and 1B and will be accessed from the private drive. Due to the small size and shape of Building 2, which will be situated in the eastern triangular shaped corner of the Property, loading and service facilities will not be provided within the building. Instead, trash will be handled curbside, and a small trash service path will be provided on the north side of Building 2 to allow building personnel to roll trash carts to the curb.

To accommodate the anticipated volume of for-hire/car-sharing services (e.g. Uber, Lyft, and via), passenger drop-off/pick-up ("PUDO") zones will be located along M Street at the pedestrian plaza west of Building 1A, the residential entrance north of Building 1B, and the 14th Street Plaza, subject to DDOT approval. The 14th Street plaza leads to a pedestrian connection to

the retail promenade below that faces the Anacostia waterfront. A PUDO zone also is proposed at the terminus of Virginia Avenue, adjacent to the pedestrian plaza.

Pedestrian circulation is an essential element of the proposed PUD design. Most notably, the Project includes a pedestrian promenade that extends along Virginia Avenue from M Street to Water Street. Ground-level retail and a retail plaza will be located along the promenade, and a grand staircase and walkway will descend to a lower retail promenade and greensward facing the Anacostia River waterfront. M Street and Virginia Avenue will be improved with landscape and streetscape elements to cultivate a pedestrian-friendly and bicycle-friendly experience with a rich urban character. The streetscape along the northern edge of M Street has been designed with flexibility in order to embrace future pedestrian connections from the north of the PUD site, should they occur. The pedestrian experience along the private road includes ground floor retail at the corners of Buildings 1A and 1B as well as an entrance to the market space. Multiple outdoor gathering spaces are threaded throughout the project.

Connections to the Anacostia Riverwalk Trail system have been reinforced and enhanced so that pedestrian, vehicular, and bicycle conflicts are minimized. The trail will be relocated to the north of M Street to provide an unobstructed connection from the existing trail on the east of the site to the existing trail on the west of the site. In essence this will eliminate the need for crossing the new and improved portions of M Street.

III. CONSOLIDATED PUD APPROVAL FOR PHASE 1

A. Proposed Development

The architectural plans and elevations for the Consolidated PUD for Phase 1 are attached as Exhibit B (the “Consolidated PUD Plans”). The development date for Phase 1 is reflected on Sheet A-5 of the Plans.

Building 1B will be constructed in Phase 1 of the Project on Theoretical Lot 2, which consists of 84,5567 square feet of land area. The building will have 354,018 square feet of GFA dedicated to residential use, generating approximately 529 dwelling units, and 34,711 square feet of GFA dedicated to retail use. The proposed density for Theoretical Lot 2 is 5.66 FAR. The lot occupancy for Theoretical Lot 2 is 61%; the proposed density is 5.66 FAR; and the proposed building height is 130 feet.

Two levels of below-grade parking, will be constructed in Phase 1, with ingress and egress located along M Street. Flexibility is required to have 168 vehicular parking spaces where 177 are required under the Zoning Regulations. Also, the Project requires flexibility to have 280 long-term bicycle parking spaces where 307 are required.

Together, Building 1A and Building 1B will have one 55-foot loading berth, two 30-foot loading berths, and two service spaces. All of these loading and service functions will occur along a private road that bisects the site connecting M Street to Virginia Avenue.

B. Architectural Design

The envelope design for Building 1B can be seen as juxtaposition between the past and present. The massing of the building has been broken down to the scale of two separate structures with a connecting elements between them.

The element to the west reads like a traditional masonry bar building with one end canted to respond to the diagonal edge along Virginia Avenue. The element to the east reads like a modern industrial building, with a two story frame work present across the façade, and the connecting element between these two unique facades reads like metal and glass warehouse building façade.

Although the architectural language remains consistent, across the entire façade, each face of the building has been treated differently. Framed views with projected balconies and more glass are present along the southern and eastern edges of the building, while traditional masonry with punched openings exists on the north and west facades, facing the city.

C. Minor Design Flexibility

The Applicant has made every effort to provide a level of detail that conveys the architectural significance of the Project and only requires minimal flexibility from the requirements of the Zoning Regulations. Nonetheless, some flexibility is necessary to address potential issues that arise during construction and other issues that cannot be anticipated at this time. Thus, the Applicant requests minor design flexibility in the following areas:

- a. Number of Dwelling Units: To vary the total number of dwelling units in Phase 1 by plus or minus 10%;
- b. Interior Components: To vary the location and design of all interior components, including amenities, partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, escalators, and toilet rooms, provided that the variations do not change the exterior configuration of the building;
- c. Exterior Details: To make minor refinements to the locations and dimensions of exterior details that do not substantially alter the exterior design shown on the approved plans. Examples of exterior details would include, but are not limited to, doorways, canopies, railings, and skylights;
- d. Exterior Materials: To vary the final selection of the colors of the exterior materials based on availability at the time of construction, provided such colors are within the color ranges shown in the [approved plans];
- e. Parking Layout: To make refinements to the garage configuration, including layout, number of parking spaces, and/or other elements, so long as the number of parking spaces does not decrease below the minimum level required by the Zoning Regulations;
- f. Retail Uses: To vary the types of uses designated as “retail” use on the [approved plans] to include the following use categories: (i) Retail (11-B DCMR § 200.2(cc)); (ii) Services, General (11-B DCMR § 200.2(dd)); (iii) Services, Financial (11-B DCMR § 200.2(ee)); (iv) Eating and Drinking Establishments (11-B DCMR § 200.2(j)); (v)

Medical Care (11-B DCMR § 200.2(p)); and (Arts, Design, and Creation (11-B DCMR § 200.2(e));

- g. Signage: To vary the font, message, logo, and color of the proposed signage, provided that the maximum overall dimensions and signage materials do not change from those shown on the approved plans];
- h. Affordable Units: To vary the number and mix of inclusionary units if the total number of dwelling units changes within the range of flexibility requested, provided that the location and proportionate mix of inclusionary units generally conforms to the layout shown in the [approved plans];
- i. Streetscape Design: To vary the location, attributes, and general design of the approved streetscape to comply with the requirements of, and the approval by, the DDOT Public Space Division; and
- j. Sustainable Features: To vary the approved sustainable features of the Project, provided the total number of LEED points achievable for the Project does not decrease below the minimum required for the LEED standard specified by the order.

IV. EXISTING AND PROPOSED ZONING

A. Matter of Right Development Under PDR-4

As shown on the Zoning Map attached hereto as Exhibit C, the Property is zoned PDR-4, a district that permits certain residential and retail uses as a matter of right. The PDR zones provide for: (a) heavy commercial and light manufacturing activities employing large numbers of people and requiring some heavy machinery under controls that minimize any adverse effect on other nearby, more restrictive zones; and (b) areas suitable for development as heavy industrial sites, but at the same time protect those industrial developments from the intrusion of non-industrial uses that impede the full utilization of properly located industrial sites. 11-J DCMR § 100.1. Specifically, the PDR-4 zone is intended to permit high-density commercial and PDR activities employing a large workforce and requiring some heavy machinery under controls that minimize

any adverse impacts on adjacent, more restrictive zones and minimize non-industrial uses. 11-J DCMR § 200.4.

As a matter-of-right, the PDR-4 zone permits a maximum overall density of 6.0 floor area ratio ("FAR"), of which no more than 1.0 FAR can be devoted to Restricted Uses. 11-J DCMR § 202.1 and 11-U DCMR § 803.2. Utilizing the Inclusionary Zoning ("IZ") bonus (20%) a maximum density of 7.2 FAR is permitted in the PDR-4 district. 11-C DCMR § 1002.3. Under a PUD, a maximum overall density of 8.64 FAR is permitted in the PDR-4 zone, of which no more than 2.04 FAR may be devoted to non-residential uses. 11-J DCMR § 202.1 and 11-X DCMR §§ 303.3 and 303.4.

In the PDR-4 zone, the maximum permitted building height, not including the penthouse, is 90 feet, with no limit on the number of stories. 11-J DCMR § 203.1. The maximum building height in the PDR-4 zone is also 90 feet as a PUD. 11-X DCMR § 303.7. Above the maximum building height, a penthouse of 20 feet and one story is permitted for penthouse habitable space, with a mezzanine or a second story permitted for penthouse mechanical space. The same limitations apply for a PUD development. 11-J DCMR § 203.6 and 11-X DCMR § 303.18.

Specifically, the PDR-4 zone is subject to the following development standards (*see* 11-J DCMR §§ 202 through 210):

- **Density:** 1.0 FAR for restricted uses; 6.0 FAR for uses provided under 11-J DCMR § 202.1²; 7.2 FAR with Inclusionary Zoning ("IZ"), and 8.64 for a PUD, with a maximum of 2.04 for non-residential use. 11-J DCMR § 202.1; 11-X DCMR §§ 303.3, 303.4.

² These uses include: (a) agriculture, large; (b) animal care and boarding and animal shelter; (c) arts, design, and creation; (d) basic utilities; (e) large-scale government; (f) production, distribution, and repair; and (g) waste-related services.

- Height: 90 feet as a matter-of-right and for a PUD. 11-J DCMR § 203.1; 11-X DCMR § 303.7.
- Penthouse: 20 feet; and 1 story plus a mezzanine or a second story permitted for penthouse mechanical space, as a matter-of-right and for a PUD. 11-J DCMR § 203.6 and 11-X DCMR § 303.18.
- Rear Yard: The minim rear yard is two and one-half inches (2.5 in.) per one foot (1 ft.) of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than twelve feet (12 ft.). 11-J DCMR § 205.1
- Side Yard: No side yard shall be required on a lot in a PDR zone, except where a side lot line of the lot abuts a residential zone or lot developed with a residential use. A required side yard may be within a required transitional setback provided all transitional setback conditions are met. 11-J DCMR §§ 206.1, 206.2.
- Transition Setback: Transition setback regulations apply along any and all lot lines of a lot in a PDR zone when the lot or portion of the lot directly abuts a residential zone, a lot developed with a residential use, or an alley that abuts a residential zone, unless the PDR-zoned lot is only used for residential purposes. 11-J DCMR § 207.1.
- Green Area Ratio: A lot in any PDR zone shall have a Green Area Ratio ("GAR") of at least 0.3., except that: (a) a lot with a principal building that is one (1) story in height shall have a GAR of at least 0.1; and (b) a lot with a principal building that is two (2) stories in height shall have a GAR of at least 0.2. 11-J DCMR § 208.1 For lots that have more than one (1) building, the GAR requirement shall be that applicable to the tallest building; unless the tallest building has a footprint less than 450 square feet, in such case the building with the largest footprint shall constitute the principal building for purposes of determining the GAR requirement. 11-J DCMR § 208.2
- Court: Where an open court is provided, the width of the court shall be a minimum of 2.5 inches per foot of height of court but not less than 6 feet wide; where a closed court is provided the width shall be a minimum of 2.5 inches per foot of height of court but not less than 12 feet wide; and a closed court shall have an area at least twice the square of the required width of court dimension, but not less than 250 square feet. 11-J DCMR § 209.1.
- Parking for Production, Distribution, and Repair: 1 space per 1,000 square feet in excess of 3,000 square feet, except warehouse or storage facility (1 per 3,000 square feet). 11-C DCMR § 701.5.
- Bicycle Parking for Production, Distribution, and Repair: 1 space for each 20,000 square feet (long-term); no short-term. 11-C DCMR § 802.1.

- Loading for Production, Distribution, and Repair: 1 loading berth and 1 loading platform required for 5,000 to 25,00 square feet of gross floor area; 2 loading berths and 2 loading platforms required for more than 25,000 square feet of gross floor area; one additional loading berth and loading platform required for each 100,000 square feet of gross floor area more than 50,000 square feet. 11-C DCMR §§ 901.1, 901.4.

B. Matter of Right Development Under MU-9/PUD Requirements

The Applicant proposes a map amendment to rezone the Property from the PDR-4 to the MU-9 zone. The MU-9 zone is intended to: (a) permit high-density mixed use development including office, retail, and housing, with a focus on employment; and (b) be located in or near the Central Employment Area, on arterial streets, in uptown and regional centers, and at rapid transit stops. 11-G DCMR § 400.8. The MU-9 zone is subject to the following development standards:

- Density: 6.5 FAR; 7.8 FAR with IZ, with a maximum of 6.5 for non-residential use; and 9.36 FAR for a PUD, with a maximum non-residential FAR of 3.18. 11-G DCMR § 402.1; 11-X DCMR §§ 303.3, 303.4.
- Height: 90 feet, with no limit on the number of stories; and 130 feet for a PUD. 11-G DCMR § 403.1; 11-X DCMR § 303.7.
- Penthouse: 20 feet; and 1 story plus a mezzanine or a second story permitted for penthouse mechanical space, as a matter-of-right and for a PUD. 11-G DCMR § 403.3 and 11-X DCMR § 303.18.
- Lot Occupancy: There maximum lot occupancy is 100% for both residential or non-residential uses. 11-G DCMR § 404.1.
- Rear Yard: The minimum rear yard is two and one-half inches (2.5 in.) per one foot (1 ft.) of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet well, but not less than twelve feet (12 ft.). 11-G DCMR § 405.3. In the MU-9 zone, a horizontal plane may be established at twenty feet (20 ft.) above the mean finished grade at the middle of the rear of the structure for the purpose of measuring rear yards. 11-G DCMR § 405.4
- Side Yard: No side yard is required for a building or structure other than a detached single dwelling unit or semi-detached single dwelling unit; however, if a side yard is provided it shall be at least two inches wide for each one foot of height of the building but no less than five feet. 11-G DCMR § 406.1.

- Green Area Ratio: The minimum required GAR for the MU-9 zone is 0.2. 11-G DCMR § 407.3.
- Parking for Residential, multiple dwelling unit: 1 space per 3 dwelling units in excess of 4 units. 11-C DCMR § 701.5.
- Parking for Retail: In excess of 3,000 square feet, 1 space per each 1,000 square feet of gross floor area. 11-C DCMR § 701.5.
- Bicycle Parking for Residential Apartment: 1 space for each 3 dwelling units (long term); 1 space for each 20 dwelling units (short term). 11-C DCMR § 802.1.
- Bicycle Parking for Retail: 1 space for per 7,500 square feet (long term); 1 space per 3,500 square feet (short term). 11-C DCMR § 802.1.
- Loading for Residential More than 50 Units: 1 loading berth, 1 loading platform and 1 service/delivery space. 11-C DCMR § 902.2.
- Loading for Retail with 5,000 to 20,000 square feet of gross floor area: 1 loading berth, 1 loading platform and 1 service/delivery space. 11-C DCMR § 902.2.

C. Table Comparing PDR-4 and MU-9 Zone

DEVELOPMENT STANDARD	PDR-4	MU-9
Density	<p>1.0 FAR for restricted uses;</p> <p>6.0 FAR for uses provided under 11-J DCMR § 202.1³;</p> <p>7.2 FAR with Inclusionary Zoning ("IZ"); and</p> <p>8.64 for a PUD, with a maximum of 2.04 for non-residential use.</p> <p>[11-J DCMR § 202.1; 11-X DCMR §§ 303.3, 303.4.]</p>	<p>6.5 FAR;</p> <p>7.8 FAR with IZ, with a maximum of 6.5 for non-residential use; and</p> <p>9.36 FAR for a PUD, with a maximum non-residential FAR of 3.18.</p> <p>[11-G DCMR § 402.1; 11-X DCMR §§ 303.3, 303.4.]</p>
Height	90 feet as a matter-of-right and for a PUD.	90 feet, with no limit on the number of stories; and 130 feet for a PUD.

³ These uses include: (a) agriculture, large; (b) animal care and boarding and animal shelter; (c) arts, design, and creation; (d) basic utilities; (e) large-scale government; (f) production, distribution, and repair; and (g) waste-related services.

	[11-J DCMR § 203.1; 11-X DCMR § 303.7.]	[11-G DCMR § 403.1; 11-X DCMR § 303.7.]
Penthouse	20 feet; and 1 story plus a mezzanine or a second story permitted for penthouse mechanical space, as a matter-of-right and for a PUD. [11-J DCMR § 203.6 and 11-X DCMR § 303.18.]	20 feet; and 1 story plus a mezzanine or a second story permitted for penthouse mechanical space, as a matter-of-right and for a PUD. [11-G DCMR § 403.3 and 11-X DCMR § 303.18.]
Lot Occupancy	N/A.	The maximum lot occupancy is 100% for both residential or non-residential uses. [11-G DCMR § 404.1.]
Rear Yard	The minimum rear yard is two and one-half inches (2.5 in.) per one foot (1 ft.) of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than twelve feet (12 ft.). [11-J DCMR § 205.1.]	The minimum rear yard is two and one-half inches (2.5 in.) per one foot (1 ft.) of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than twelve feet (12 ft.). [11-G DCMR § 405.3.] In the MU-9 zone, a horizontal plane may be established at twenty feet (20 ft.) above the mean finished grade at the middle of the rear of the structure for the purpose of measuring rear yards. [11-G DCMR § 405.4.]
Side Yard	No side yard shall be required on a lot in a PDR zone, except where a side lot line of the lot abuts a residential zone or lot developed with a residential use. A required side yard may be within a required transitional setback provided all transitional setback conditions are met. [11-J DCMR §§ 206.1, 206.2.]	No side yard is required for a building or structure other than a detached single dwelling unit or semi-detached single dwelling unit; however, if a side yard is provided it shall be at least two inches wide for each one foot of height of the building but no less than five feet. [11-G DCMR § 406.1.]
Transition Setback	Transition setback regulations apply along any and all lot lines of a lot in a PDR zone when the lot or portion of the lot directly abuts a residential	N/A.

	<p>zone, a lot developed with a residential use, or an alley that abuts a residential zone, unless the PDR-zoned lot is only used for residential purposes.</p> <p>[11-J DCMR § 207.1.]</p>	
Green Area Ratio	<p>A lot in any PDR zone shall have a Green Area Ratio ("GAR") of at least 0.3., except that:</p> <ul style="list-style-type: none"> a. a lot with a principal building that is one (1) story in height shall have a GAR of at least 0.1; and b. a lot with a principal building that is two (2) stores in height shall have a GAR of at least 0.2. 11-J DCMR § 208.1 <p>For lots that have more than one (1) building, the GAR requirement shall be that applicable to the tallest building; unless the tallest building has a footprint less than 450 square feet, in such case the building with the largest footprint shall constitute the principal building for purposes of determining the GAR requirement.</p> <p>[11-J DCMR § 208.2.]</p>	<p>The minimum required GAR for the MU-9 zone is 0.2.</p> <p>[11-G DCMR § 407.3.]</p>
Court	<p>Where an open court is provided, the width of the court shall be a minimum of 2.5 inches per foot of height of court but not less than 6 feet wide; where a closed court is provided the width shall be a minimum of 2.5 inches per foot of height of court but not less than 12 feet wide; and a closed court shall have an area at least twice the square of the required width of court dimension, but not less than 250 square feet.</p> <p>[11-J DCMR § 209.1.]</p>	N/A.

Vehicle Parking	1 space per 1,000 square feet in excess of 3,000 square feet, except warehouse or storage facility (1 per 3,000 square feet). [11-C DCMR § 701.5.]	<u>Parking for Residential, multiple dwelling unit:</u> 1 space per 3 dwelling units in excess of 4 units. 11-C DCMR § 701.5.
		<u>Parking for Retail:</u> In excess of 3,000 square feet, 1 space per each 1,000 square feet of gross floor area. 11-C DCMR § 701.5.
Bicycle Parking	1 space for each 20,000 square feet (long-term); no short-term. [11-C DCMR § 802.1.]	<u>Parking for Residential Apartment:</u> 1 space for each 3 dwelling units (long term); 1 space for each 20 dwelling units (short term). 11-C DCMR § 802.1.
		<u>Parking for Retail:</u> 1 space for per 7,500 square feet (long term); 1 space per 3,500 square feet (short term). 11-C DCMR § 802.1.
Loading	1 loading berth and 1 loading platform required for 5,000 to 25,00 square feet of gross floor area; 2 loading berths and 2 loading platforms required for more than 25,000 square feet of gross floor area; +1 additional loading berth and loading platform required for each 100,000 square feet of gross floor area more than 50,000 square feet. [11-C DCMR §§ 901.1, 901.4.]	<u>Loading for Residential More than 50 Units:</u> 1 loading berth, 1 loading platform and 1 service/delivery space. 11-C DCMR § 902.2.
		<u>Loading for Retail with 5,000 to 20,000 square feet of gross floor area:</u> 1 loading berth, 1 loading platform and 1 service/delivery space. 11-C DCMR § 902.2.

V. THE PUD MEETS THE STANDARDS OF THE ZONING REGULATIONS AND PUD REQUIREMENTS

A. Standards Applicable to an Application for a Zoning Map Amendment

Pursuant to 11-X DCMR § 500.1, the Commission is authorized to evaluate and approve a Zoning Map amendment application. As discussed in this section, the proposed amendment to

rezone the Property from the PDR-4 to the MU-9 zone is not inconsistent with the Comprehensive Plan and with other adopted District policies. 11-X DCMR § 500.3.

B. PUD Process is Appropriate Mechanism for the Project

The PUD process is the appropriate mechanism for guiding the development of the Property. The Commission's approval will enable the Applicant to redevelop an underutilized site with an exceptional planned development comprised of approximately 900 residential units and approximately 27,006 square feet of ground-floor retail uses. The proposed density and mixture of uses fulfill the goals of the Comprehensive Plan.

In addition to providing the Zoning Commission with jurisdiction both over permitted uses, building envelope, percentage of occupancy and circulation of the Project, the PUD review and approval process assures the participation and input of community stakeholders and relevant District agencies. The PUD process provides the community at-large and District agencies ample opportunities to work with the Applicant to ensure an exceptionally well-planned development.

C. PUD Requirements Under Subtitle X, Chapter 3 of the Zoning Regulations

1. Minimum Land Area Requirements Under 11-X DCMR § 301.1

Pursuant to 11-X DCMR § 301.1, a PUD in the MU-9 zone requires a minimum land area of 15,000 square feet. In this case, the Property consists of 127,400 square feet (2.92± acres)

2. Height and FAR Requirements Under 11-X DCMR §§ 303.3 and 303.7

A PUD in the MU-9 zone permits development of up to 9.36 FAR, of which no more than 3.18 FAR may be devoted to non-residential uses, and a maximum building height of 130 feet not including penthouses. The Project will have a density of approximately 6.20 FAR (791,063 square feet of GFA, of which approximately 595,133 square feet of GFA will be devoted to residential

uses and approximately 45,419 square feet of GFA will be devoted to retail uses). The maximum building height will be 130 feet for Building 1A, 130 feet for Building 1B, and 92 feet for Building 2. Accordingly, the Project complies with the FAR and height requirements for a PUD in the MU-9 zone.

3. Not Inconsistent with Comprehensive Plan Under 11-X DCMR § 304.4(a)

The proposed PUD is not inconsistent with the Comprehensive Plan, including the FLUM and GPM. As noted above, the FLUM designates the Property as Mixed use Medium Density Commercial / Institutional. Medium Density Commercial is used to define shopping and service areas that are somewhat greater in scale and intensity than the Moderate Density Commercial areas. Retail, office, and service businesses are the predominant uses, although residential uses are common. Areas with this designation generally draw from a citywide market area. 10A DCMR § 227.12. It should be noted that the Office of Planning (“OP”) is recommending that the land use designation on the Property be changed to Mixed use Medium Density Commercial / High Density Residential. High Density Residential is used to define neighborhoods and corridors generally, but not exclusively, suited for high-rise apartment buildings. Pockets of less dense housing may exist within these areas. Density is typically greater than a FAR of 4.0, and greater density may be possible when complying with Inclusionary Zoning or when approved through a PUD. 10A DCMR § 227.8.

The GPM designates the Property as a Land Use Change Area, which is an area that anticipates different land uses and is intended encourage and facilitate new development. Moreover, a Land Use Change Area is recognized as having the capacity to become mixed use communities.

As set forth in the detailed Comprehensive Plans analysis below in Section VI of this statement, the Project is not inconsistent with the proposed FLUM or GPM designations, or the guiding principles, citywide elements, and Lower Anacostia Waterfront/Near Southwest element.

4. Impacts of Project Under 11-X DCMR § 304.4(b)

The Project will not result in any unacceptable impacts on the surrounding area or on the operation of city services and facilities. To the contrary, the proposed PUD will have a favorable effect on the surrounding area, including enhancing the physical environment of the Anacostia Waterfront and bringing new housing, retail, and public space amenities to this area of the District.

D. Public Benefits and Project Amenities

The PUD provisions of the Zoning Regulations require the Zoning Commission to evaluate specific public benefits and project amenities of a proposed project. Public benefits are defined as "superior features of a proposed planned unit development that benefit the surrounding neighborhood or the public in general to a significantly greater extent that would likely result from development on the site under the matter of right provisions of this title." 11-X DCMR § 305.2. A project amenity is defined as "one (1) type of public benefit, specifically a functional or aesthetic feature of the proposed development that adds to the attractiveness, convenience, or comfort of the project for occupants and immediate neighbors." 11-X DCMR § 305.10. Furthermore, in deciding a PUD application, the Zoning Commission is required to "judge, "judge, balance and reconcile the relative value of amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case." 11-X DCMR § 304.3.

Public benefits and project amenities may be exhibited in a variety of ways and may overlap with furthering the policies and goals of the Comprehensive Plan. In the present case, the Project and its exceptional features provide significant and exceptional public benefits to the area and the District as a whole, thus satisfying the requirements of Subtitle X, Chapter 3.

As described in detail in this statement, the PUD exhibits the following public benefits and amenities:

- (1) Superior urban design and architecture;
- (2) Superior landscaping or creation or preservation of open space;
- (3) Site planning and efficient and economical land utilization;
- (4) Affordable housing that exceeds what would have been required through matter-of-right development under the existing zoning;
- (5) Environmental and sustainable features; and
- (6) Streetscape plans.

VI. COMPLIANCE WITH THE COMPREHENSIVE PLAN

A. Purposes of the Comprehensive Plan

The purposes of the Comprehensive Plan are six-fold: (1) to define the requirements and aspirations of District residents and, accordingly, influence social, economic and physical development; (2) to guide executive and legislative decisions on matters affecting the District and its citizens; (3) to promote economic growth and jobs for District residents; (4) to guide private and public development in order to achieve District and community goals; (5) to maintain and enhance the natural and architectural assets of the District; and (6) to assist in conservation, stabilization, and improvement of each neighborhood and community in the District. D.C. Code §1-245(b).

The PUD significantly advances these purposes by promoting the social, physical, and economic development of the District through the provision of a high-quality, mixed use PUD with housing, including affordable housing, retail and substantial recreation space and amenities, without generating any adverse impacts.

B. Future Land Use Map

The proposed PUD and related map amendment to the MU-9 zone are not inconsistent with the Comprehensive Plan Future Land Use Map (“FLUM”). As shown on the portion of the FLUM attached hereto as Exhibit D, the Property is designated for Mixed Use Medium Density Commercial/Institutional Uses.

The FLUM, which is an adopted part of the Comprehensive Plan, is intended to represent the land use policies set forth in the Land Use Element (D.C. Code § 1-306.02). As stated in the Framework Element, the FLUM is not a zoning map. *See* 10A DCMR § 228.1(a)⁴; *see also* Z.C. Order No. 11-13; Z.C. Order No. 10-28. Whereas zoning maps are parcel-specific and establish detailed requirements for setback, height, use, parking, and other attributes, the FLUM does not follow parcel boundaries and its categories do not specify allowable uses or dimensional standards. *Id.* By definition, the FLUM is to be interpreted broadly. *Id.* Decisions on requests for rezoning shall be guided by the FLUM and read in conjunction with the text of the Comprehensive Plan, including the Citywide and Area Elements. *Id.*

The land use category definitions of the FLUM describe the general character of development in each area, citing typical Floor Area Ratios as appropriate. The granting of density

⁴ When citing Title 10A of the District of Columbia Municipal Regulations within this Section V of this statement, the Applicant is citing the section numbers provided under the Comprehensive Plan Framework Amendment Act of 2019 (D.C. Act 23-217).

bonuses (for example, through Planned Unit Developments or Inclusionary Zoning) may result in density that exceed the typical ranges cited. *Id.* at § 228.1(c). Areas where the mixing of two or more uses is encouraged will be designated as “Mixed Use” on the FLUM, such as the case with the Property. A “Mixed Use” designation is not intended to be interpreted according to its individual land use designations. Rather, “Mixed Use” is a specific land use designation unto itself that is frequently assigned to, among other areas, commercial corridors or districts which may not contain substantial amounts of housing today, but where more housing is desired in the future.” 10A DCMR § 227.20(b). As discussed below, such is the circumstance presented in this case where the Property is located at the eastern terminus of the vibrant M Street, S.E. commercial corridor. However, the Property currently is somewhat isolated from the rest of the corridor due to barriers created by existing transportation infrastructure that could potentially be overcome through redevelopment of the site with a mix of uses that includes a substantial amount of new housing, as well as new open spaces and improved connections to the waterfront.

The general density and intensity of development within a Mixed Use area is determined by the specific mix of uses shown. If there is a desired development outcome for an area that emphasizes one use over another, the FLUM may note the dominant use by showing it at a slightly higher density than the other use or uses. The Comprehensive Plan Area Elements may also provide detail on the specific mix of uses envisioned. 10A DCMR § 227.21. In this case, the FLUM does not express a dominant use; however, further guidance provided in the Lower Anacostia Waterfront / Near Southwest Area Element strongly encourages new residential uses as further discussed below.

As described in the recently adopted Comprehensive Plan Framework Element,⁵ the Medium Density Commercial land use category is:

“used to define shopping and service areas that are somewhat greater in scale and intensity than the Moderate Density Commercial areas. Retail, office, and service businesses are the predominant uses, although residential uses are common. Areas with this designation generally draw from a citywide market area. Buildings are larger and/or taller than those in Moderate Density Commercial areas. Density typically ranges between a FAR of 4.0 and 6.0, with greater density possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The MU-8 and MU-10 Zone Districts are consistent with the Medium Density category, and other zones may also apply.” 10A DCMR § 227.12.

The Institutional category is described as including:

“land and facilities occupied and used by colleges and universities, large private schools, hospitals, religious organizations, and similar institutions. While included in this category, smaller institutional uses such as churches are generally not mapped, unless they are located on sites that are several acres in size. Zoning designations vary depending on surrounding uses. Institutional uses are also permitted in other land use categories.” 10A DCMR § 227.18.

Regarding the Property’s Medium Density Commercial FLUM component, it is worth noting that while the description of the Medium Density Commercial land use category says nothing about housing, this does not mean housing is precluded from areas with this designation. On the contrary, the Framework Element expressly acknowledges that “areas shown purely as ‘Commercial’ may also contain other uses, including housing.” 10A DCMR § 227.22. (emphasis added). Further, as stated above, the Property is designated as “Mixed Use” which is often applied to commercial corridors where housing is desired.

⁵ See Comprehensive Plan Framework Amendment Act of 2019 (D.C. Act 23-217).

As for the Property's Institutional FLUM component, a review of Comprehensive Plan legislative history suggests the current FLUM designation was adopted between 1998 – 2006. Prior, the Property was designated as Production, Distribution, and Repair ("PDR"). If at one time an institutional use was envisioned for the Property, the recently released draft Comprehensive Plan reflects that the District now has a different vision for the site. Specifically, while not formally adopted to date, the proposed FLUM released by OP for public comment on October 15, 2019, recommends that the Property be designated Mixed Use (Medium Density Commercial / High Density Residential). This proposed amendment is consistent with the land use policy guidance provided in the Lower Anacostia Waterfront / Near Southwest Area Element that specifically encourages high-density mixed use development and significant increases in residential use in the Near Southeast Policy Focus Area.

As stated above, a Mixed Use designation on the FLUM is assigned to areas where two or more uses are encouraged, but not mandatory. Thus, based on the current FLUM and the guidance provided in the Comprehensive Plan text, the Project's use mix is not inconsistent with the Comprehensive Plan. The Project consists of 791,063 square feet of GFA, of which approximately 595,133 square feet is devoted to residential use, which is equal to 77% of the Project. The high percentage of residential use is consistent with the preference for high density residential use expressed in the proposed FLUM published by OP and the District's current efforts to develop 36,000 new housing units (12,000 of which are affordable) by 2025.

Although the Applicant is requesting to rezone the Property to MU-9, which under the Framework Element is categorized as High Density Commercial, the overall density of the Project is well within the Medium Density Commercial range. According to the Framework Element, development within areas designated Medium Density Commercial typically ranges between 4.0

- 6.0 FAR, with greater density possible when complying with Inclusionary Zoning (“IZ”) or when approved through a PUD. When applying IZ and PUD bonuses available under the Zoning Regulations, development within Medium Density Commercial areas could achieve densities of 5.76 – 8.64 FAR. The zone districts specifically identified in the Framework Element as being consistent with the Medium Density Commercial land use category include MU-8 and MU-10, although other zones may apply. Under a PUD, the MU-8 and MU-10 zones permit a maximum density of 7.2 FAR and 8.64 FAR, respectively. At 6.20 FAR, the overall density of the Project is within the matter-of-right guidance provided in the Framework Element, and is significantly below the densities that could be achieved under a PUD in the MU-8 and MU-10 zones. Thus, the Project is correctly considered a medium density.

As stated above, the MU-8 and MU-10 zones are considered consistent with the Medium Density FLUM designation, although other zones may apply. Under a PUD, these zones permit buildings heights of 90 and 110 feet (not including the penthouse), respectively. While portions of the Project are consistent with these permitted heights, other portions of the Project extend to 130 feet as permitted in the MU-9 Zone. As discussed below, the additional height afforded by the MU-9 zone is not inconsistent with the Comprehensive Plan, and is necessary to balance other competing Comprehensive Plan policies that are applicable to the Project.

As stated in the Framework Element, the FLUM does not specify allowable uses or development standards, including height, and by definition is to be interpreted broadly. In this case, the desired objective for the Property is medium density development, which, as discussed above, is exactly what the Project proposes. The Framework Element also acknowledges the flexibility afforded through the PUD process, and that PUDs may include buildings that are larger or smaller than what is described in the various land use categories and specified by matter-of-

right zoning. Specifically, the Framework Element states that the Zoning Commission may amend the District of Columbia zoning map in two ways, one of which is through a PUD whereby development flexibility greater than specified by matter-of-right zoning, such as increased building height or density is balanced with a commendable number or quality of public benefits, and protects and advances the public health, safety, welfare, and convenience. 10A DCMR § 224.6. (emphasis added).

Based on guidance provided in the Framework Element, the 130-foot building height proposed for a portion of the Project is not inconsistent with the Comprehensive Plan. The extra height is necessary in order to advance other competing Comprehensive Plan policies relating to housing, open space, and waterfront access. Specifically, as discussed in greater detail below, the additional height advances Housing Element policies by permitting approximately 595,133 GFA of more housing on the Property, resulting in a minimum of 47,610 square feet of GFA dedicated to new affordable housing. The additional height also allows for greater site porosity (Urban Design Element), a substantial amount of new publicly accessible open space (Parks and Open Space Element), and improved waterfront connectivity (Lower Anacostia Waterfront / Near Southwest Area Element). Indeed, as proposed the Project's overall lot occupancy is only 63%, well below what is permitted as a matter-of-right in the MU-8 and MU-10 zones, which enables a significant amount of the Property to be devoted to open space and other permeable surfaces. This also enables the overall footprints of the proposed buildings to be smaller, which affords greater physical and visual connectivity through the Property and to the Anacostia River.

Approval of the requested MU-9 zone is not inconsistent with the Comprehensive Plan, and is well within the Commission's authority to do so under the flexibility afforded by the PUD process. The Commission's ability to allow higher intensity development on a site without running

afoul of the FLUM has been recognized and upheld by the D.C. Court of Appeals. Specifically, the Court has stated the following:

We agree with the Commission, however, that permitting some high-density development on the site does not necessarily make the PUD inconsistent with the FLUM. The FLUM explicitly contemplates two ways in which more intensive development than is otherwise reflected in the FLUM may be permissible: (1) a larger development that as a whole is consistent with the FLUM designation may contain individual buildings with greater height or density; and (2) the PUD process may permit greater height or density. *Friends of McMillan Park v. District of Columbia Zoning Comm'n*, 149 A.3d 1027, 1035 (D.C. 2016).

It is clear the Commission is not bound by the specific zones listed in the Framework Element description of the Medium Density Commercial land use category. However, to the extent the requested MU-9 zone is viewed as a potential inconsistency the *McMillan* case is instructive yet again. Notably, in addressing the issue of potential Comprehensive Plan inconsistencies the Court stated:

The Comprehensive Plan is a “broad framework intended to guide the future land use planning decisions for the District.” *Wisconsin-Newark Neighborhood Coal. v. District of Columbia Zoning Comm'n*, 33 A.3d 382, 394 (D.C. 2011) (internal quotation marks omitted). “[E]ven 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, 1168 (D.C. 2013). The Comprehensive Plan reflects numerous “occasionally competing policies and goals,” and, “[e]xcept where specifically provided, the Plan is not binding.” *Id.* at 1167, 1168 (internal quotation marks omitted). Thus “the Commission may balance competing priorities in determining whether a PUD is consistent with the Comprehensive Plan as a whole.” *D.C. Library Renaissance Project/West End Library Advisory Grp. v. District of Columbia Zoning Comm'n*, 73 A.3d 107, 126 (D.C. 2013). “[I]f the Commission approves a PUD that is inconsistent with one or more policies reflected in the Comprehensive Plan, the Commission must recognize these policies and explain [why] they are outweighed by other, competing considerations.” *Friends of McMillan Park v. District of Columbia Zoning Comm'n*, 149 A.3d 1027, 1035 (D.C. 2016) (brackets and internal quotation marks omitted).

As already stated, the proposed height of the Project is not inconsistent with the FLUM, especially when read in conjunction with the text and policies of the Lower Anacostia Waterfront / Near Southwest Area Element, which contemplates increased density along the waterfront and encourage “high-density mixed use development and open space on newly configured parcels.” 10A DCMR §§ 1907.2(e) and 1913.7. Nonetheless, to the extent the additional height provided by the requested MU-9 zone is viewed as being inconsistent with the FLUM, the inconsistency is far outweighed by the numerous other competing Comprehensive Plan policies and considerations addressed below, and the impacts caused by the additional height are acceptable given the public benefits of the Project.

C. Generalized Policy Map – Land Use Change Area

The Generalized Policy Map (“GPM”) of the Comprehensive Plan designates the Property as a Land Use Change Area. A portion of the GPM is attached hereto as Exhibit D. Land Use Change Areas are described in the Framework Element as:

areas where change to a different land use from what exists today is anticipated. In some cases, the Future Land Use Map depicts the specific mix of uses expected for these areas. In other cases, the Future Land Use Map shows these sites as “Federal,” indicating the District does not currently have the authority to develop appropriate plans for these areas but expects to have this authority by 2025. 10A DCMR § 225.9.

The guiding philosophy for Land Use Change Areas is to encourage and facilitate new development and to promote the adaptive reuse of existing structures. Many of these areas have the capacity to become mixed use communities containing housing, retail shops, services, workplaces, parks, and civic facilities. The Comprehensive Plan’s Area Elements provide additional policies to guide development and redevelopment within the Land Use Change Areas, including the desired mix of uses in each area. As Land Use Change Areas are redeveloped, the District aspires to create high-quality neighborhoods that demonstrate exemplary site and

innovative environmental features, are compatible with nearby neighborhoods, protect cultural and historic assets, and provide significant affordable-housing and employment opportunity. *See* 10A DCMR §§ 225.11 and 225.12.

The Project is not inconsistent the GPM. The Property is extremely underutilized when considering its development potential, proximity to the waterfront, proximity to the Capital Riverfront and Capitol Hill neighborhoods, and access to multiple modes of transportation infrastructure. The existing uses on the site do not reflect the mixed use designation set forth in the FLUM and the policy guidance provided in the Lower Anacostia Waterfront / Near Southwest Area Element, especially the guidance provided in the Near Southeast Policy Focus Area. As discussed above, the FLUM designates the Property for medium density mixed use development. Upon considering the guidance provided in the text of the Comprehensive Plan, the Mayor's Executive Order on housing and the specific housing targets set forth in the Mayor's Housing Equity report, and OP's proposed FLUM designation for the Property, it would appear there is a strong preference for residential use to be the dominant use when the Property is redeveloped. The Project is not inconsistent with this preference given that residential makes up approximately 77% of the total proposed GFA. Finally, consistent with the guiding philosophy of Land Use Change Areas, the Project will deliver a high-quality development consisting of exemplary design, innovative environmental features, and significant affordable housing that will makes a substantial contribution to the continued growth of Near Southeast and revitalization of the Anacostia River.

D. Compliance with Guiding Principles of the Comprehensive Plan

The PUD is consistent with the guiding principles of the Comprehensive Plan for managing growth and change, creating successful neighborhoods, increasing access to education and employment, connecting the city, and building green and healthy communities. 10A DCMR § 218.2.

1. Managing Growth and Change

The Project is consistent with principles related to overcoming physical, social, and economic obstacles to ensure that the benefits and opportunities available to District residents are equally distributed. Specifically, the Project will expand the range of housing opportunities within Near Southeast and along the Anacostia Waterfront by providing an array of dwelling units that can accommodate households of different sizes. The Project will also provide approximately 45,419 square feet of GFA dedicated to retail uses that serve residents and visitors of the Project, and create job opportunities for District residents.

The Project also exhibits many of the characteristics that are typical of a successful infill project. The Property is currently significantly underutilized considering its close proximity to the Yards, Nationals Park, the Anacostia Waterfront, and Capitol Hill. It is also less than one mile from the Potomac Avenue Metrorail Station, and is less than 0.5 miles to the blue and orange DC Circulator routes which connect to several other Metrorail stations enroute to Union Station, the Southwest Waterfront, L'Enfant Plaza, Anacostia, and Congress Heights. The Project is also in close proximity to the V1 and V4 Metrobus routes which operate along M Street, and also provide service to other Metrorail stations and downtown Washington. Finally, the Project is immediately adjacent to the Anacostia Riverwalk Trail.

2. Creating Successful Neighborhoods

The Project is consistent with principles related to creating successful neighborhoods. First, the Project will improve the character of the neighborhood by replacing a vacant site with a new mixed use development containing residential and retail uses that is designed in a context-sensitive manner, and is compatible with the height, scale, massing, materials, and architectural styles several other developments in Near Southeast. Additionally, the Project furthers principles

related to the need for growing an inclusive city and addressing ongoing challenges to housing affordability through the construction of approximately 900 new housing units, including new affordable dwelling units.

3. Connecting the City

The Project is consistent with the guiding principles pertaining to connecting the city. As referenced above, the Project is located in a transit accessible location. The Project also aims to improve the walkability of the location and surrounding neighborhood with the construction of several traffic and pedestrian improvements that will improve circulation on and around the Property and the overall neighborhood.

4. Building Green and Healthy Communities

The Project advances the Comprehensive Plan's guiding principles pertaining to building green and healthy communities. Currently, the Property is largely impervious and lacks any form of sustainable storm water management. The Project will replace this environmentally insensitive condition with a number of new landscaped areas, shade trees, and green roof areas that will provide numerous environmental benefits.

E. Compliance with Citywide Elements

1. Land Use Element

The Comprehensive Plan provides that "[b]ecause the Land Use Element integrates the policies and objectives of all the other District Elements, it should be given greater weight than the other elements as competing policies in different elements are balanced." 10A DCMR § 300.3. The underlying goal of the Land Use Element is to "[e]nsure the efficient use of land resource to meet long-term neighborhood, citywide,, and regional needs; to help foster other District goals; to

protect the health, safety, and welfare of District residents and businesses; to sustain, restore or improve the character and stability of neighborhoods in all part of the city; and to effectively balance the competing demands for land to support the many activities that take place within District boundaries. 10A DCMR § 302.1.

The proposed PUD and related map amendment are consistent the following policies of the Land Use Element of the Comprehensive Plan.

- *LU-1.1.5: Urban Mixed Use Neighborhoods. Encourage new central city mixed use neighborhoods combining high-density residential, office, retail, cultural, and open space uses in the following areas: (5) Near Southeast / Navy Yard*
- *LU-1.4.1: Infill Development. Encourage infill development on vacant land within the city, particularly in areas where there are vacant lots that create “gaps” in the urban fabric and detract from the character of a commercial or residential street. Such development should complement the established character of the area and should not create sharp changes in the physical development pattern.*
- *LU-2.1.1: Variety of Neighborhood Types. Maintain a variety of residential neighborhood types in the District, ranging from low-density, single family neighborhoods to high-density, multi-family mixed use neighborhoods. The positive elements that create the identity and character of each neighborhood should be preserved and enhanced in the future.*
- *LU-2.2.4: Neighborhood Beautification. Encourage projects which improve the visual quality of the District’s neighborhoods, including landscaping and tree planting, façade improvement, anti-litter campaigns, graffiti removal, improvement or removal of abandoned buildings, street and sidewalk repair, and park improvements.*
- *LU-3.1.4: Rezoning of Industrial Areas. Allow the rezoning of industrial land for non-industrial purposes only when the land can no longer viably support industrial or PDR activities or is located such that industry cannot co-exist adequately with adjacent existing uses. Examples include land in the immediate vicinity of Metrorail stations, sites within historic districts, and small sites in the midst of stable residential neighborhoods. In the event such rezoning results in the displacement of active uses, assist these uses in relocating to designated PDR areas.*

2. Transportation Element

The overarching goal of the Transportation Element is to create a safe, sustainable, efficient and multi-modal transportation system that meets the access and mobility needs of District residents, the regional workforce, and visitors; supports local and regional economic prosperity; and enhances the quality of life for District residents. See 10A DCMR § 401.1. Overall, the Project is not inconsistent with the Transportation Element:

- *Policy T-1.1.2: Land Use Impact Assessment. Assess the transportation impacts of development projects using multi-modal standards rather than traditional vehicle standards to more accurately measure and more effectively mitigate development impacts on the transportation network. Environmental and climate change impacts, including that of carbon dioxide, should be included in the assessment to land use impacts.*
- *Policy T-1.1.3: Context-Sensitive Transportation. Design transportation infrastructure to support current land uses as well as land use goals for compact, accessible neighborhoods. Make the design and scale of transportation facilities compatible with planned land uses.*
- *Policy T-1.2.3: Discouraging Auto-Oriented Uses. Discourage certain uses, like "drive-through" businesses or stores with large surface parking lots, along key boulevards and pedestrian streets, and minimize the number of curb cuts in new developments. Curb cuts and multiple vehicle access points break-up the sidewalk, reduce pedestrian safety, and detract from pedestrian-oriented retail and residential areas.*
- *Policy T-2.3.1: Better Integration of Bicycle and Pedestrian Planning. Integrate bicycle and pedestrian planning and safety considerations more fully into the planning and design of District roads, transit facilities, public buildings, and parks.*
- *Policy T-2.4.4: Sidewalk Obstructions. Locate sidewalk cafes and other intrusions into the sidewalk so that they do not present impediments to safe and efficient pedestrian passage. Maintain sidewalk surfaces and elevations so that disabled or elderly pedestrians can safely use them.*
- *Policy T-2.5.3: Road and Bridge Maintenance. Maintain the road and bridge system to keep it operating safely and efficiently and to maximize its useful life.*
- *Policy T-3.3.1: Balancing Good Delivery Needs. Balance the need for goods delivery with concerns about roadway congestion, hazardous materials exposure, quality of life, and security.*

3. Housing Element

The overarching goal of the Housing Element is to "[d]evelop and maintain a safe, decent, and affordable supply of housing for all current and future residents of the District of Columbia."

10A DCMR § 501.1. Overall, the Project is not inconsistent with the Housing Element, and in particular the following policies:

- *Policy H-1.1.3: Balanced Growth. Strongly encourage the development of new housing on surplus, vacant and underutilized land in all parts of the city. Ensure that a sufficient supply of land is planned and zoned to enable the city to meet its long-term housing needs, including the need for low- and moderate-density single family homes as well as the need for higher-density housing.*
- *Policy H-1.4.4: Mixed Use Development. Promote mixed use development, including housing, on commercially zoned land, particularly in neighborhood commercial centers, along Main Street mixed use corridors, and around appropriate Metrorail stations.*
- *Policy H-1.1.5: Housing Quality. Require the design of affordable housing to meet the same high-quality architectural standards required of market-rate housing. Regardless of its affordability level, new or renovated housing should be indistinguishable from market rate housing in its exterior appearance and should address the need for open space and recreational amenities, and respect the design integrity of adjacent properties and the surrounding neighborhood.*

4. Environmental Protection Element

The Environmental Protection Element addresses the protection, restoration, and management of the District's land, air, water, energy, and biologic resources. 10A DCMR § 600.1.

Overall, the Project is not inconsistent with the Environmental Protection Element, and in particular the following policies:

- *Policy E-1.1.1: Street Tree Planting and Maintenance. Plant and maintain street trees in all parts of the city, particularly in areas where existing tree cover has been reduced over the last 30 years. Recognize the importance of trees in providing shade, reducing energy costs, providing air and water quality, providing urban habitat, absorbing noise, and creating economic and aesthetic value in the District's neighborhoods.*

- *Policy E-1.1.3: Landscaping. Encourage the use of landscaping to beautify the city, enhance streets and public spaces, reduce stormwater runoff, and create a stronger sense of character and identity.*
- *Policy E-2.2.1: Energy Efficiency. Promote the efficient use of energy, additional use of renewable energy, and a reduction of unnecessary energy expenses. The overarching objective should be to achieve reductions in per capita energy consumption by DC residents and employees.*
- *Policy E-3.1.2: Using Landscaping and Green Roofs to Reduce Runoff. Promote an increase in tree planting and landscaping to reduce stormwater runoff, including the expanded use of green roofs in new construction and adaptive reuse, and the application of tree and landscaping standards for parking lots and other large paved surfaces.*
- *Policy E-3.2.2: Support for Green Building. Encourage the use of green building methods in new construction and rehabilitation projects, and develop green building methods for operation and maintenance activities*

5. Parks, Recreation and Open Space Element

The Parks, Recreation and Open Space Element recognizes the important role parks play in recreation, aesthetics, neighborhood character, and environmental quality. 10A DCMR § 800.1. Overall, the Project is not inconsistent with the Parks, Recreation, and Open Space Element, and in particular the following policies:

- *Policy PROS-3.2.1: Protecting Waterfront Open Space. Recognize the importance of the city's waterfront for recreation, public access, ecological protection, and scenic beauty.*
- *Policy PROS-4.3.3: Common Open Space in New Development. Provide incentives for new and rehabilitated buildings to include "green roofs", rain gardens, landscaped open areas, and other common open space areas that provide visual relief and aesthetic balance.*

6. Urban Design Element

The overall goal of the Urban Design Element is to “[e]nhance the beauty and livability of the city by protecting its historic design legacy, reinforcing the identity of its neighborhoods, harmoniously integrating new construction with existing buildings and the natural environment, and improving the vitality, appearance, and security of streets and public spaces”. 10A DCMR §

901.1. Overall, the Project is not inconsistent with the Urban Design Element, and in particular the following policies:

- *Policy UD-1.3.1: DC as a Waterfront City. Strengthen Washington's civic identity as a waterfront city by promoting investment along the Anacostia River, creating new water-related parks, improving public access to and along the shoreline, and improving the physical and visual connections between the waterfront and adjacent neighborhoods.*
- *Policy UD-1.3.2: Waterfront Public Space and Access. Develop public gathering spaces along the waterfronts, including promenades, viewpoints, boating and swimming facilities, and parks. Such space should be designed to promote continuous public access along the rivers, and to take full advantage of site topography and waterfront views. Design treatments should vary from "hardscape" plazas in urban settings to softer, more passive open spaces that are more natural in character.*
- *Policy UD -1.3.3: Excellence in Waterfront Design. Excellence in Waterfront Design. Require a high standard of design for all waterfront projects, with an emphasis on shoreline access, integration of historic features and structures, an orientation toward the water, and the creation of new water-oriented public amenities.*
- *Policy UD-1.3.6: "Activating" Waterfront Spaces. Encourage design approaches, densities, and mixes of land uses that enliven waterfront sites. Architectural and public space design should be conducive to pedestrian activity, provide a sense of safety, create visual interest, and draw people to the water.*
- *Policy UD-1.3.7: Neighborhood Connectivity. Improve the physical connections between neighborhoods and nearby waterfronts. Where feasible, extend the existing city grid into large waterfront sites to better connect nearby developed areas to the shoreline.*

F. Lower Anacostia Waterfront/Near Southwest Element

The Property is located within the Near Southeast Policy Focus Area as described in the Lower Anacostia Waterfront/Near Southwest Area Element of the Comprehensive Plan. Among the primary objectives of the Near Southeast Plan is to provide pedestrian-friendly streets and establish great public spaces, and add thousands of units of new market rate and workforce housing. 10A DCMR § 1913.3. The Near Southeast Plan envisions M Street, SE, as a great urban

boulevard with high-density offices and apartments activated by ground floor retail space, restaurants, and civic uses. 10A DCMR § 1913.4.

The proposed PUD will help achieve the District's vision for the Near Southeast Policy Focus Area through its consistency with the following policies:

- *Policy AW-2.3.1: Restoring the Urban Pattern of Near Southeast. Encourage high-density mixed use development an open space on newly configured parcels, with new buildings designed and oriented to make the most of their waterfront or near-waterfront settings.*
- *Policy AW-2.3.2: Near Southeast Shoreline Access. Improve shoreline access and movement to and through the Near Southeast by eliminating real and perceived barriers, improving public space and street corridors, reducing the amount of land occupied by surface parking and industrial uses, and encouraging new land uses that maximize public activity near the waterfront.*
- *Policy AW-2.3.3: Near Southeast Housing Opportunities. Near Southeast Housing Opportunities. Significantly increase residential land uses in the Near Southeast, particularly in the Southeast Federal Center, Capper Carrollsburg, Canal Blocks, and South Capitol Gateway areas. Consistent with the existing zoning for these areas, mixed use development that includes housing as well as commercial uses should be strongly encouraged. The mix of housing should accommodate residents of all incomes and household types.*
- *Policy AW-2.3.4: M Street Southeast. Transform M Street into an attractive pedestrian-oriented thoroughfare, lined with retail shops and services, with upper story office, hotels and residential uses. The street itself should be designed as a multi-modal boulevard, accommodating pedestrians, bicycles and transit vehicles as well as cars. It should strengthen connections between the Near Southeast, Southwest, and Capitol Hill.*
- *Policy AW-2.3.6: Near Southeast Urban Amenities. Leverage new development in the Near Southeast to create amenities such as parks, trails, child care facilities, civic uses, and retail space that serve the area's residents and workforce.*

VII. CONCLUSION

For the foregoing reasons, this application meets the standards of 11-X DCMR Chapter 3 and Chapter 5 of the Zoning Regulations; is consistent with the purposes and intent of the Zoning

Regulations and Zoning Map; is consistent 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; satisfies the requirements for approval of a first-stage PUD, the consolidated approval for Phase I of the Project, and a related Zoning Map amendment. Additionally, the proposed development provides significant public benefits and project amenities; advances important goals and policies of the District of Columbia. Accordingly, the Applicant requests the Zoning Commission set down this application for public hearing.

Respectfully submitted,

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