

**Market Terminal  
300, 325 and 350 Morse Street, N.E.**

**STATEMENT  
OF THE APPLICANT  
TO THE  
D.C. ZONING COMMISSION  
FOR A FIRST STAGE AND CONSOLIDATED  
PLANNED UNIT DEVELOPMENT  
AND ZONING MAP AMENDMENT**

**October 29, 2015**

Submitted By:

HOLLAND & KNIGHT LLP  
800 17<sup>th</sup> Street, NW, Suite 1100  
Washington, DC 20006  
Norman M. Glasgow, Jr.  
Kyrus L. Freeman  
Jessica R. Bloomfield

## **DEVELOPMENT TEAM**

Applicant: KF Morse LLC  
c/o Kettler  
1751 Pinnacle Drive, #700  
McLean, VA 22102

Architect: R2L:Architects  
3222 N St NW #500  
Washington, DC 20007

Civil Engineer: Bohler Engineering  
1301 Pennsylvania Ave., NW, #825  
Washington, DC 20004

Traffic Consultant: Gorove Slade Associates, Inc.  
1140 Connecticut Avenue, NW  
Suite 600  
Washington, DC 20036

Land Use Counsel: Holland & Knight, LLP  
800 17th Street, NW  
Suite 1100  
Washington, DC 20006

## TABLE OF CONTENTS

DEVELOPMENT TEAM.....	II
TABLE OF CONTENTS.....	III
LIST OF EXHIBITS.....	V
I. INTRODUCTION.....	1
II. SUBJECT PROPERTY AND SURROUNDING USES.....	3
A.    LOCATION AND CURRENT USE.....	3
B.    SURROUNDING AREA.....	4
III. PROJECT DESCRIPTION.....	6
A.    OVERALL PROJECT.....	6
B.    DESCRIPTION OF PROJECT COMPONENTS IN CONSOLIDATED PUD APPLICATION.....	7
C.    DESCRIPTION OF PROJECT COMPONENTS IN FIRST STAGE PUD APPLICATION.....	12
D.    MATTER OF RIGHT DEVELOPMENT UNDER EXISTING ZONING.....	12
E.    DEVELOPMENT UNDER PROPOSED C-3-C REQUIREMENTS.....	13
F.    TABULATION OF DEVELOPMENT DATA.....	14
G.    FLEXIBILITY UNDER PUD GUIDELINES.....	14
1.    Flexibility from the Loading Requirements.....	14
2.    Flexibility from the Rear Yard Requirements for Buildings A and D.....	15
3.    Flexibility from the Side Yard Requirements for Building A.....	15
4.    Flexibility from the Open Court Requirements for Building C.....	16
5.    Flexibility from the Roof Structure Setback Requirements for Buildings A and C.....	16
6.    Flexibility from the Parking Requirements for Building B.....	17
H.    ADDITIONAL AREAS OF FLEXIBILITY.....	18
I.    TIMING TO CONSTRUCT SECOND-STAGE APPLICATION.....	19
IV. THE PUD MEETS THE STANDARDS OF THE ZONING REGULATIONS AND PUD REQUIREMENTS.....	19
A.    STANDARDS APPLICABLE TO AN APPLICATION FOR A ZONING MAP AMENDMENT.....	19
B.    PUD PROCESS IS APPROPRIATE MECHANISM FOR THE PROJECT.....	20
C.    PUD REQUIREMENTS UNDER CHAPTER 24 OF THE ZONING REGULATIONS.....	20
1.    Area Requirements Under Section 2402.1(c).....	20
2.    Height and FAR Requirements Under Section 2405.1 and 2405.2.....	21

3.	Impacts of Project Under Section 2403.3 .....	21
4.	Consistency with the Comprehensive Plan under Section 2403.4.....	23
D.	PUBLIC BENEFITS AND PROJECT AMENITIES .....	24
1.	Overview .....	24
2.	Urban Design, Architecture, Landscaping and Open Space (Section 2403.9(a)) and Site Planning, and Efficient and Economical Land Utilization (Section 2403.9(b)).....	25
3.	Housing and Affordable Housing (Section 2403.9(f)).....	27
4.	Transportation Features (Section 2403.9(c)) .....	28
5.	Environmental Benefits (Section 2403.9(h)) .....	29
6.	Employment and Training Opportunities (Section 2403.9(e)) .....	30
7.	Uses of Special Value to the Neighborhood or the District of Columbia as a Whole .....	30
V.	COMPLIANCE WITH THE COMPREHENSIVE PLAN .....	30
A.	PURPOSES OF THE COMPREHENSIVE PLAN .....	31
B.	FUTURE LAND USE MAP .....	31
C.	GENERALIZED POLICY MAP.....	34
D.	COMPLIANCE WITH GUIDING PRINCIPLES OF THE COMPREHENSIVE PLAN .....	35
1.	Managing Growth and Change .....	36
2.	Creating Successful Neighborhoods .....	36
3.	Building Green and Healthy Communities.....	36
E.	LAND USE ELEMENT.....	37
F.	TRANSPORTATION ELEMENT.....	39
G.	HOUSING ELEMENT.....	40
H.	ENVIRONMENTAL PROTECTION ELEMENT .....	42
I.	URBAN DESIGN ELEMENT.....	43
J.	UPPER NORTHEAST AREA ELEMENT.....	43
VI.	COMPLIANCE WITH THE FLORIDA AVENUE MARKET STUDY .....	44
VII.	CONCLUSION .....	45

**LIST OF EXHIBITS**

<b>Exhibit</b>	<b>Description</b>
A	Architectural Plans and Elevations
B	Portion of Zoning Map
C	Portion of Future Land Use Map
D	Portion of Generalized Policy Map
E	Building Plat Prepared by D.C. Surveyor's Office
F	Certificate of Notice, Notice of Intent, and Property Owner List
G	Summary of Transportation Analysis

## I. **INTRODUCTION**

KF Morse LLC (the "Applicant") submits this statement and the attached documents in support of its application to the Zoning Commission for the District of Columbia (the "Commission") for consolidated and first-stage review and approval of a Planned Unit Development ("PUD") and a related Zoning Map amendment to rezone a portion of Record Lot 6 in Square 3587 from the C-M-1 District to the C-3-C District.

The property that is subject of this application is located entirely within Record Lot 6 in Square 3587 and consists of Assessment and Taxation ("A&T") Lots 805 and 814 and Condominium Lots 2001-2044. The condominium lots are located on an A&T lot that was previously known as A&T Lot 817. Together, the PUD site (A&T Lots 805, 814, and 817) is referred to herein as the "Subject Property." The Applicant is presently the owner of Lot 814 and has been authorized by the current owners of Lot 805 and Lots 2001-2044 to file and process this application. Letters of authorization from those owners are included as part of this application package. The remaining portion of Record Lot 6 is known as A&T Lot 819 and is owned by the District. Lot 819 is not included in the PUD application and is not part of the Subject Property. However, as described in detail below, the Applicant proposes to undertake significant improvements to Lot 819 as part of redevelopment of the Subject Property.<sup>1</sup>

---

<sup>1</sup> Lot 819 is subject to certain multiple building covenants ("Multiple Building Covenants") which establish Lot 819 as a "Common Easement Area" for the purpose of providing rights of way for access, utilities, fire protection, parking, and other such purposes for the benefit of the other owners of buildings on Record Lot 6, their invitees and licensees. The Multiple Building Covenants provide that the maintenance and upkeep of the Common Easement Area includes, but is not limited to, "lighting, trash and litter removal; snow removal and maintenance and replacement of all paved areas; railroad track easement; any landscaping; liability and other insurance; compensation of the managing agent; and any other capital repairs and replacements." The Fourth Amendment to the Multiple Building Covenants established Sun Development, its successors and assigns in interest to ownership of the Sun Development property,<sup>1</sup> as the managing agent, with the express responsibility to perform the maintenance and upkeep of the Common Easement Area. The Sun Development Property refers to A&T Lot previously known as Lot 817. The Applicant is the contract purchaser of this property.

The Subject Property is located in Square 3587, which is bounded by New York Avenue, N.E. to the north, 4<sup>th</sup> Street, N.E. to the northeast, Morse Street, N.E. to the southeast, Florida Avenue to the southwest, and the Amtrak and Metrorail lines to the west. Record Lot 6 in Square 3587 has frontage on New York Avenue, N.E. and Morse Street, N.E. and has approximately 343,030 square feet of land area. The Subject Property has approximately 213,044 square feet of land area. The Subject Property is located in Advisory Neighborhood Commission (“ANC”) 5D, and is within Single Member District 5D01.

As shown on the Architectural Plans and Elevations (the “Plans”) attached hereto as Exhibit A, the Subject Property is currently improved with one-story industrial buildings used for wholesale distribution.

As shown on the Zoning Map attached hereto as Exhibit B, the Subject Property is presently zoned C-M-1. The Applicant is seeking to rezone the Subject Property to the C-3-C District in connection with this application. The requested map amendment is consistent with the Comprehensive Plan's Future Land Use Map designation of the Subject Property as mixed-use: High-Density Residential, High-Density Commercial, and Production, Distribution and Repair. *See* Exhibit C. The requested map amendment is also consistent with the Comprehensive Plan's Generalized Policy Map designation of the Subject Property as a Multi-Neighborhood Center. *See* Exhibit D. Moreover, as described in detail below, the proposed map amendment and PUD will help to implement the strategic redevelopment goals and visions set forth in the Florida Avenue Market Study (“FAMS”), which envisions the area as a vibrant, mixed-use neighborhood that protects the look and feel of the historic retail markets while also providing a basis for new development and rehabilitation.

The Applicant proposes to redevelop the Subject Property with a mixed-use project comprised of four buildings (“Building A,” “Building B,” “Building C,” and “Building D”), which will include residential, retail, and office uses (the “Project”). The Project will be constructed in two phases. Phase I (the consolidated PUD) will include the southern portion of Building A (“Building A1”), Building B, and the southern portion of Building C (“Building C1”). Phase II (the first-stage PUD) will include the northern portion of Building A (“Building A2”), the northern portion of Building C (“Building C2”), and Building D.

Upon completion of all buildings, the Project will have an aggregate floor area ratio (“FAR”) of approximately 6.3 FAR. Approximately 868,939 square feet of total gross floor area will be devoted to residential use, approximately 67,215 square feet of total gross floor area will be devoted to retail use, and approximately 303,395 square feet of total gross floor area will be devoted to office use. Building heights will range from approximately 76 feet to 130 feet. The Project will include a total of approximately 755 off-street parking spaces.

As set forth below, this statement and the attachments meet the filing requirements for a first stage and consolidated PUD and Zoning Map amendment application under Chapter 24 of the District of Columbia Zoning Regulations.

## **II.** **SUBJECT PROPERTY AND SURROUNDING USES**

### **A. Location and Current Use**

The Subject Property is located in the northeast quadrant of the District and has approximately 213,044 square feet of land area. The Subject Property is within the Florida Avenue Market district, which has historically been the District’s center for wholesale and specialized retail food distribution. The newly renovated market at the Union Market building, which is located to the east of the Subject Property, is a year-round indoor market of local



artisans and vendors, including local farmers, bakers, and butchers. The Florida Avenue Market district is located at the strategic intersection of New York and Florida Avenues, is served by the NoMA-Gallaudet Metrorail station, and situated between Gallaudet University, NoMa, and H Street, N.E. The Florida Avenue Market district is an easily-accessible and rapidly growing shopping and entertainment destination for local residents and regional consumers alike. *See* Washington DC Economic Partnership, DC Neighborhood Profiles 2014, p. 48.

The Subject Property is currently improved with one-story industrial buildings used for wholesale distribution. The buildings are oriented to facilitate the loading and un-loading of trucks at the front of the buildings, and all public space surrounding the Subject Property prioritizes truck movements and loading activities at the expense of any pedestrian experience. The Applicant proposes to raze the existing buildings in connection with this application and reconfigure the adjacent public spaces to provide a walkable and pedestrian friendly residential, retail, and office environment.

## **B. Surrounding Area**

The Subject Property is located at the intersection of several District neighborhoods, with Ivy City to the east; NoMa to the southwest, Old City to the south,, and Eckington to the northwest. The area immediately surrounding the Subject Property has been the location of a variety of recently-approved mixed-use developments, many of which are being developed as PUDs in the C-3-C District. The area south of the Subject Property and the Florida Avenue Market is the NoMa Business Improvement District (“BID”), which has seen sustained investment over the past decade as private developers have invested more than \$5 billion in the 35-block NoMa BID boundary, and have plans to develop more than 20 million square feet of

additional office, residential, hotel, and retail space, plus new parks and public spaces. *See* <http://www.nomabid.org/the-neighborhood/>.

The site directly to the east of the Subject Property (1270 4<sup>th</sup> Street, N.E.) was approved by the Commission as a PUD and related Zoning Map amendment from the C-M-1 District to the C-3-C District pursuant to Z.C. Order No. 14-07. This project will be a mixed-use development containing over 40,000 square feet of retail space and approximately 545-680 residential units. The site directly to the south of the Subject Property (320 Florida Avenue, N.E.) was approved by the Commission as a PUD and related Zoning Map amendment from the C-M-1 District to the C-3-C District pursuant to Z.C. Order No. 15-01, and will include almost 10,000 square feet of ground floor retail and approximately 313 residential units. The site directly to the southeast of the Subject Property (340 Florida Avenue, N.E.) was also approved as PUD and related Zoning Map amendment from the C-M-1 District to the C-3-C District pursuant to Z.C. Order No. 06-40C, and will generate almost 28,000 square feet of retail space and between 170 and 216 residential units.

The Subject Property is otherwise surrounded by a mix of uses. Properties to the east of the Subject Property, including the Gallaudet University campus and surrounding residential properties, are primarily located in the R-4 District. Properties to the south of the Subject Property, south of Florida Avenue, N.E., are zoned a mixture of C-M-1, C-M-3, and C-2-B. Properties to the southwest are located in the C-3-C District, and properties to the northwest, across New York Avenue, N.E., are primarily located in the M District.

### III. PROJECT DESCRIPTION

#### **A. Overall Project**

As shown on the Plans, the Applicant proposes to raze the existing buildings and redevelop the Subject Property with four new mixed-use buildings consisting of residential, retail, and office uses. The Project will be constructed in two phases, with Buildings A1, B, and C1 constructed in Phase I (consolidated PUD), and Buildings A2, C2, and D constructed in Phase II (first stage PUD). The Applicant will create a new theoretical lot for each building (“Theoretical Lots A, B, C, and D”), as shown on the Plans.

The Project will have an aggregate density of approximately 6.3 FAR, with building heights ranging from approximately 76 feet to 130 feet. Approximately 868,939 square feet of total gross floor area will be devoted to residential use, approximately 67,215 square feet of total gross floor area will be devoted to retail use, and approximately 303,395 square feet of total gross floor area will be devoted to office use. The Project will include a total of approximately 755 off-street parking spaces and loading facilities.

The Applicant will dedicate approximately 8% of the residential gross floor area of the overall project as Inclusionary Zoning (“IZ”) units, as required by Chapter 26 of the Zoning Regulations. Approximately 20% of the gross floor area devoted to IZ units will be reserved for households earning up to 50% of the area medium income (“AMI”), and approximately 80% of the gross floor area devoted to IZ units will be reserved for households earning up to 80% of the AMI, which is a steeper subsidy than that required by Chapter 26. The IZ calculations for the consolidated portion of the PUD are provided below:

<b>Residential Unit Type</b>	<b>GFA and % of Total (Approx.)</b>	<b>Units</b>	<b>Income Type</b>	<b>Affordable Control Period</b>	<b>Affordable Unit Type</b>
<b>Total</b>	446,192 sf of GFA (100%)	527	N/A	N/A	N/A
<b>Market Rate</b>	410,497 sf of GFA (92%)	474	Market rate	N/A	Rental/ownership
<b>IZ (total)</b>	35,695 sf of GFA (8%)	542			
<b>IZ (at 80% AMI)</b>	28,555 sf of GFA (80% of the 8% IZ)	33	80% AMI	For the life of the Project	Rental/ownership
<b>IZ (at 20% AMI)</b>	7,140 sf of GFA (20% of the 8% IZ)	9	50% AMI	For the life of the Project	Rental/ownership

The Project will achieve LEED Silver and will incorporate a number of sustainable and environmentally-friendly elements, such as energy and water efficient systems, construction waste management techniques, landscaping and street tree planting, bicycle parking. The Project will also replace several acres of concrete pavement with tree-lined streets, bio-filtration, and green space, which will significantly improve the area’s stormwater treatment and management. Moreover, the Project will be located in an infill, transit-rich setting in close walking distance to multiple types of services, amenities, and entertainment options.

**B. Description of Project Components in Consolidated PUD Application**

The Applicant proposes to develop Buildings A1, B, and C1 as a consolidated PUD. This consolidated portion of the Project includes approximately 446,192 square feet of residential uses, approximately 43,313 square feet of retail uses, and approximately 203,728 square feet of office uses.

1. *Building A1*

Building A1 is the centerpiece of the Market Terminal development and will include approximately 450 residential units, extensive ground floor retail, three-levels of parking, and significant residential amenity space.

Building A1 consists of an eleven-story high-rise component and a six-story mid-rise component. Located at the south end, the taller portion of the building fronts visually on a proposed new public plaza, which is integrated with the public park to be constructed as part of the development immediately to the south along Florida Avenue. The configuration of the building and the plaza maximizes the solar exposure of the outdoor space, and allows the iconic building to serve as a visual entry marker for the neighborhood. The unique curvilinear shape of the building, to be clad in bold red vertically oriented composite metal panels, will be highly visible for pedestrians walking from the Metro along either Florida Avenue or 3<sup>rd</sup> Street to the south; for motorists on Florida and New York Avenues; and for riders of both Metro and Amtrak trains. The design, massing, and color will be unique in the city, immediately accentuating the special and dynamic character of this redeveloping neighborhood.

Connected to, but architecturally distinct from the high-rise tower, will be a six-story mid-rise building, which extends north along 3<sup>rd</sup> Street. The design of this portion of the building will recall the more industrial/commercial character of the warehouse structures and market halls that characterized the neighborhood in the past. Various design elements and creative use of materials will be implemented to reflect the neighborhood's history, such as a long, continuous retail canopy along 3<sup>rd</sup> Street and double-height retail floor level, which are inspired by the deep canopies covering the existing truck loading docks on the site and nearby properties. This

canopy will also serve as a balcony for the residential units above, providing a unique feature while protecting the units from the hub-bub of the street.

Contrasting with the high-rise component, the façade of the mid-rise component will have a strong horizontal design, which is also consistent with the former character of the block and the present character of this portion of the market neighborhood located two blocks to the east. The use of brick for lower floors and composite metal panels for the upper two floors accentuates this horizontality. The design of the ground floor façade visually and physically connects the tower and midrise portions of the building, and also creates a consistent framework that will accommodate a varied mix of retail store frontages. All of these features, in concert with the street trees and roadway improvements of 3<sup>rd</sup> Street, will create a strong pedestrian-friendly streetscape and public space. The building's residential entrances, parking and loading, and utility infrastructure have been located to not interrupt the continuity, flexibility, and viability of the retail space.

The west façade of the midrise portion of the building is consistent, and horizontal in its design. With the brick and metal panel materials similar to the east façade, the building recalls the prevalent industrial and warehouse buildings that can be seen all along the Northeast rail corridor from Washington to Boston. The west and north facades of the high-rise component of the building are consistent with the rest of that tower, so that the unique and iconic character can be seen from all vantage points.

Most resident amenity spaces for Building A1 will be located in the high-rise portion of the building. Amenity spaces will be located primarily on the ground and mezzanine levels, such as the leasing office, lounge, and a grand double-height residential lobby. The second floor will provide a fitness center and workout areas, with an outdoor terrace overlooking the plaza and a

visual connection to the interior courtyard wrapped by the mid-rise structure. A set of outdoor monumental stairs below the south tower and fronting the public plaza create a sunny public amphitheater with views towards the Capitol and Washington Monument. The roof will provide additional amenity spaces and a pool.

## 2. *Building B*

Building B is a six-story structure with approximately 125 residential units above ground floor retail. It is located at the southern end of the development with frontage on Morse Street and the intersection of Morse with 3<sup>rd</sup> Street, but also extending west of the intersection to engage and define the public plaza. The building's predominantly orthogonal form, fenestration, and varied material palette have been carefully coordinated with the curvilinear and taller façade of Building A to create a unique, three-dimensional public space. The ground floor has been configured with the main residential entry on Morse Street and loading to the far east end, allowing the continuous retail space to wrap around the west end and to activate the public plaza.

Building B will include minimal amenity spaces, as the Applicant intends for the amenities within Building A to be shared with residents of Building B. The proposed shared program will foster a close residential community, neighborhood exchange, as well as constant movement across the public plaza. The open stair at the plaza is intended to be an inviting gesture for residents of Building B to easily access the 2nd floor fitness center in Building A, as well as to provide access for visitors to the leasing center.

## 3. *Building C1*

The southern portion of the Subject Property will be developed as a high-rise office building with significant ground floor retail and below-grade parking. Building C1 will be

bounded by 3rd Street to the west, Morse Street to the south, the Neal Place extension to the north, and an alley to the east.

Building C1 is proposed to be a modern elegant structure with a primary and secondary grid as a frame for the floor to ceiling window elements. The building design and materials consciously differ from Buildings A and B in order to create an eclectic character for the neighborhood, but the massing is consistent with traditional Washington urban planning, clearly defining the public realm of Morse and Third Streets. The main entrance lobby is located on the southwest corner of the building, where it activates the street corner and engages the public plaza diagonally across the intersection. The ground floor is predominantly glass both at the office lobby as well as on the remainder of the Morse and Third Street facades, which are designed as high-quality retail shell spaces with high ceilings. The building will be set back on the 7th floor to create an intermediate cornice line to add visual interest and a finer-grained massing corresponding to the varied mix of heights within this development and the neighborhood. The setback is more prominent on the south side, to further accentuate the varied massing as well as to provide a large outdoor area serving as an amenity to the building. An exterior terrace space will be provided at the second floor on the north side of the building, and additional building amenity space will be provided within a portion of the rooftop mechanical penthouse. A green roof will add to the environmental performance of the structure. The extensive exterior terrace areas and amenities will differentiate the building from conventional office buildings in the area and offer flexible/shared work space with unique spatial configurations, fantastic views, and convenient access to outdoor spaces to gather, relax, and work.



**C. Description of Project Components in First Stage PUD Application**

The Applicant is seeking first-stage approval for the development of Buildings A2, C2, and D. This first stage portion of the Project includes approximately 422,747 square feet of residential uses, approximately 23,902 square feet of retail uses, and approximately 99,667 square feet of office uses. Building A2's design will complement the proposed design for Building A1, rising to a maximum height of 130 feet, with a residential tower (approximately 150 units) above ground floor retail. Building C2 will also rise to maximum height of 130 feet, with a residential tower (approximately 250 units) above ground floor retail. Building D will be a 130-foot office tower on top of ground floor retail. As noted below, the Applicant requests flexibility to convert the uses within Buildings A2 and D to hotel use, based on market demand at the time of the second-stage application for the buildings.

**D. Matter of Right Development Under Existing Zoning**

The Subject Property is currently zoned C-M-1. The C-M Districts are "intended to provide sites for 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 districts." 11 DCMR § 800.1. The Zoning Regulations note that "heavy truck traffic and loading and unloading operations are expected to be characteristic of C-M Districts." 11 DCMR § 800.2. The C-M-1 District prohibits residential development except as otherwise specifically provided. 11 DCMR § 800.4. As a matter-of-right, property in the C-M-1 District can be developed with a maximum density of 3.0 FAR. 11 DCMR § 841.1. The maximum permitted building height in the C-M-1 District is 40 feet and three stories. 11 DCMR § 840.1.

### **E. Development under Proposed C-3-C Requirements**

The Applicant proposes to rezone the Subject Property to C-3-C in connection with this application. The C-3-C District permits medium-high density development, including office, retail, housing, and mixed-use development. 11 DCMR § 740.8. The C-3-C District permits, as a matter-of-right, a maximum building height of 90 feet with no limit on the number of stories (11 DCMR § 770.1), a maximum permitted density of 6.5 FAR for any permitted use, but a density of 7.8 FAR for projects subject to IZ (11 DCMR §§ 771.2 and 2604.1). The maximum percentage of lot occupancy in the C-3-C District for all uses is 100%. 11 DCMR § 772.1. Rear yards in the C-3-C District must have a minimum depth of 2.5 inches per foot 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 12 feet. 11 DCMR § 774.1. A side yard is not required in the C-3-C District; however, when a side yard is provided, it must have a minimum width of two inches per foot of height of building, but not less than six feet. 11 DCMR § 775.5.

The parking and loading requirements for buildings are based upon the proposed use of the property. For example, an apartment house or multiple dwelling in the C-3-C District requires one parking space for each four dwelling units. 11 DCMR § 2101.1. Retail or service establishments in excess of 3,000 square feet are required to provide one parking space for each additional 750 square feet of gross floor area. *Id.* An apartment house or multiple dwelling with 50 or more units in all zone districts is required to provide one loading berth at 55 feet deep, one loading platform at 200 square feet, and one service/delivery space at 20 feet deep. 11 DCMR §2201.1.

**F. Tabulation of Development Data**

The tabulation of the Project's development data is included in the Plans attached hereto as Exhibit A.

**G. Flexibility Under PUD Guidelines**

The PUD process was created to allow greater flexibility in planning and design than might otherwise not be possible under conventional zoning procedures. Thus, the Applicant seeks flexibility with respect to the following provisions of the Zoning Regulations. As permitted under 11 DCMR § 2403, the Commission may grant such flexibility in its discretion.

**1. Flexibility from the Loading Requirements**

The Applicant requests flexibility from the loading requirements. Pursuant to 11 DCMR § 2201.1, for an apartment house with 50 or more dwelling units, one loading berth at 55 feet deep is required. However, the Applicant proposes to provide 30 foot loading berths for the apartment houses within the PUD (Buildings A1, A2, B, and C2). In addition, Building C1 requires three loading berths at 30 feet and three loading platforms at 100 square feet for the approximately 203,728 square feet of gross floor area devoted to office use in that building. Rather than providing three berths and three platforms, the Applicant proposes to provide two berths at 30 feet and two platforms at 30 feet for this portion of the project.

Given the nature and size of the proposed residential units, the Applicant anticipates that 55-foot trucks will not be making deliveries to these buildings. The residential loading facilities will be coordinated through a loading management plan and will be used primarily for move-ins and move-outs only, thus generating no adverse impacts. Moreover, three loading berths are not necessary for the proposed office uses within Building C1. As with the other buildings, Building

C1 can reasonably share loading space with Building C2, which will be providing a variety of loading facilities for its proposed retail and residential uses.

## **2. Flexibility from the Rear Yard Requirements for Buildings A and D**

The Applicant requests flexibility from the rear yard depth requirements for Building A. Pursuant to 11 DCMR § 774, Building A is required to have a rear yard depth of 27'-1" feet. However, Building A has an irregularly-shaped rear yard with an average depth of 18'-6" feet, thus requiring flexibility. The overall footprint of the building is based on a typical width for a double loaded residential building with an interior courtyard that is sized appropriately for the building height, and therefore the Applicant cannot increase the rear yard depth. However, based on the location of the building with its rear yard adjacent to the rail tracks, the reduced rear yard depth will not have any adverse impacts.

In addition, the Applicant requests flexibility to not provide any rear yard for Building D. If Building D had a rear yard it would be adjacent to the future park located to the north of the site, and therefore would create an unnecessary gap between the rear of Building D and the park. The lack of a rear yard in this location will not result in any adverse impacts to the public good or the zone plan, since the park will provide adequate open space, light, and air for building occupants.

## **3. Flexibility from the Side Yard Requirements for Building A**

The Applicant requests flexibility from the side yard requirements for the side yard to the north of Building A2. Pursuant to 11 DCMR § 775, a minimum side yard of 26 feet is required for Building A. However, the northern side yard for Building A (adjacent to Building A2) is only six feet in width for a portion of the building, measured at its narrowest dimension, thus requiring flexibility. The proposed shape of the building creates a 26 foot wide side yard for

over one third of the overall building length. The rest of this façade creates a strong building edge that creates a framed setting (in conjunction with the west façade of Building D) for the future park design at the northern portion of the site. The non-compliant rear yard will not result in any adverse impacts to the public good or zone plan, since a large public park is proposed to be located directly adjacent to the rear yard, thus providing adequate open space for light, air, and ventilation. Moreover, it is not until the Project's second-stage is complete and Building A2 is constructed that a non-compliant rear yard will be provided. The consolidated portion of the PUD (Building A1) does not require yard relief.

#### **4. Flexibility from the Open Court Requirements for Building C**

The Applicant requests flexibility from the open court requirements for Building C. Building C provides two open courts, one of which is located in between Buildings C1 and C2 and is 30 feet wide, and one of which is located to the within building C2 and is 40 feet wide. Pursuant to 11 DCMR § 776, a minimum open court width of 36'-4" is required, thus necessitating flexibility for the 30 foot wide court. However, the 30 foot court will provide adequate light, air, and ventilation, and an adequate separation of window lines, for both portions of Building C, which will be divided by this court into two different uses. Moreover, it is not until the Project's second-stage is complete and Building C2 is constructed that a non-compliant court will be provided. The consolidated portion of the PUD (Building C1) does not require rear yard relief.

#### **5. Flexibility from the Roof Structure Setback Requirements for Buildings A and C**

The Applicant requests flexibility from the roof structure setback requirements for Building A1, since the main roof structure on the high-rise portion of Building A1 is not setback from the court wall adjacent to the mid-rise portion of Building A1. The Applicant also requests

flexibility to provide two roof structures on the high-rise portion of Building A1 to provide for a separated egress stair. On Building C2, the Applicant also requests flexibility to provide two roof structures, since there will be one roof structure for the primary amenity space, and a separate roof structure for the egress stair. The proposed flexibility will not result in any adverse impacts. The lack of any setback for the roof structure on Building A1 is located at the court wall only, such that the roof structure will not impact the light and air of any adjacent buildings. Moreover, providing multiple roof structures on Buildings A1 and C2 will not result in any adverse impacts since the structures will be setback significantly from all exterior walls, will not impact light and air of any adjacent buildings, and will allow access, including handicapped access to the roof. The Applicant could theoretically create one large roof structure to cover both roof structures on each of Buildings A1 and C2; however, to do so would be contrary to the intent of the Zoning Regulations to “exercise a reasonable degree of architectural control upon roof structures in all districts.” 11 DCMR § 411.1.

#### **6. Flexibility from the Parking Requirements for Building B**

The Applicant requests flexibility from the off-street parking requirements for Building B. Pursuant to 11 DCMR § 2101.1, Building B is required to provide 39 parking spaces for the proposed retail use (10 spaces) and residential use (29 spaces). However, the Applicant proposes to provide shared parking for Building B within Building A’s parking garage, which will provide a total of 414 parking spaces whereas only 163 spaces are required for Building A’s proposed retail use (22 spaces) and residential use (141). A total of 342 spaces will be located in the first stage of development (Building A1) alone. Therefore, the excess number of parking spaces in Building A can be used by Building B residents and retail patrons and employees, resulting in no adverse impacts.

Moreover, the extensive use of fill material on the site will require excavation under Building A. As such, the most efficient parking structure for both Buildings A and B is below the rectangular footprint of Building A1, which accommodates the exact dimensions for six bays of parking and drive aisles. Building B's footprint is narrow and would result in a highly inefficient parking garage.

#### **H. Additional Areas of Flexibility**

The Applicant has made every effort to provide the highest level of detail in the drawings to convey the quality and appropriateness of the Project's design and uses for this location.

Nonetheless, some flexibility is necessary with respect to certain details. Thus, the Applicant requests modest flexibility in the following areas:

1. To be able to provide a range in the number of residential units of plus or minus 10%;
2. To vary the number, location, and arrangement of parking spaces, provided that the total number is not reduced below the minimum number of parking spaces required;
3. To develop Buildings A2 and D with hotel use above the proposed ground floor retail, should the market demand be more appropriately satisfied with hotel use;
4. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the building;
5. To vary the sustainable design features of the Project, provided the total number of LEED points achievable for the each building within the Project is not below the LEED Silver rating standards under the United States Green Building Council LEED for New Construction v2009.
6. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and to make minor refinements to exterior details, locations, and dimensions, including: window mullions and spandrels, window frames, doorways, glass types, belt courses, sills, bases, cornices, railings, canopies and trim; and any other changes in order to comply with all applicable District of Columbia laws and regulations that are otherwise necessary to obtain a final building permit;

7. In the retail and service areas, flexibility to vary the location and design of the ground floor components of the Project in order to comply with any applicable District of Columbia laws and regulations, including the D.C. Department of Health, that are otherwise necessary for licensing and operation of any retail or service use and to accommodate any specific tenant requirements; and to vary the size of the retail area; and
8. To vary the features, means and methods of achieving the code-required Green Area Ratio ("GAR") of 0.20.

**I. Timing to Construct Second-Stage Application**

The Applicant requests that the Zoning Commission approve a five-year timeframe for the second-stage PUD, such that a second-stage application must be filed for Buildings AC, C2, and D within five years of the effective date of the Zoning Commission Order approving the first-stage application. Five years will provide adequate time for the project to absorb market demand and ensure successful development of the second-stage plans. In the interim, the second-stage development portion of the Subject Property will contain temporary surface parking spaces, turnarounds for vehicular traffic, and landscaping/open space, as reflected in the attached Plans.

**IV.**  
**THE PUD MEETS THE STANDARDS OF THE**  
**ZONING REGULATIONS AND PUD REQUIREMENTS**

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

The Zoning Act sets forth a number of criteria that must be applied by the Commission when adopting and amending the Zoning Regulations and zoning map. The Zoning Act states that the Zoning Regulations are designed to "promote the health, safety, morals, convenience, order, prosperity, or general welfare of the District of Columbia and its planning and orderly development as the national capital ... ." D.C. Code § 6-641.01 (2001). The Zoning Act further provides that:



[z]oning maps and regulations, and amendments thereto, shall not be inconsistent with the comprehensive plan for the national capital, and zoning regulations shall be designed to lessen congestion in the street, to secure safety from fire, panic, and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the undue concentration of population and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection of property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein.

D.C. Code § 6-641.02 (2001). The Commission must apply those standards and criteria in determining whether to approve a requested map amendment. The proposed rezoning of the Subject Property from the C-M-1 District to the C-3-C District in conjunction with the PUD as requested herein will promote each of the purposes described above.

**B. PUD Process is Appropriate Mechanism for the Project**

The PUD process is the appropriate mechanism for guiding the development of the Subject Property. It allows the Project to be developed within the statutory purview of the Zoning Commission while at the same time providing opportunities for input from various agencies and parties. Through the PUD process, the Office of Planning and other District agencies will have the opportunity for greater participation in the fulfillment of the District's planning objectives for this area. Similarly, nearby property owners and area residents will have the opportunity to express their views about the proposed Project. Accordingly, the use of the PUD process gives the community and District agencies an opportunity to work with the Applicant to ensure a well-planned Project.

**C. PUD Requirements Under Chapter 24 of the Zoning Regulations**

**1. Area Requirements Under Section 2402.1(c)**

The minimum land area requirement for a PUD in the C-3-C District is 15,000 square feet. At approximately 213,044 square feet of land area, the Subject Property exceeds the minimum land area requirement.

## **2. Height and FAR Requirements Under Section 2405.1 and 2405.2**

The Project meets the building height and density requirements under §§ 2405.1 and 2405.2 of the Zoning Regulations. Subsection 2405.1 of the Zoning Regulations permits a maximum building height of 130 feet, and the proposed building heights range from 76'-5" to 130 feet. Subsection 2405.2 of the Zoning Regulations permits a maximum density of 8.0 FAR in the C-3-C District. The overall Project has a maximum density of 6.3 FAR and thus conforms with the PUD density limitation.

## **3. Impacts of Project Under Section 2403.3**

The Project will have a favorable impact on the surrounding area. Overall, the Project will significantly improve the area by virtue of the exceptional architectural design of the buildings, which carefully consider longstanding nearby uses, proposed and approved new development projects, and the overall urban context. The Project will replace outdated uses on the underutilized Subject Property with active uses in new buildings that will increase the vitality of the neighborhood. Moreover, the Project's proposed building heights and massing are consistent with recently-approved nearby development projects and with the District's planning goals for the future of the surrounding area.

The Project will provide significant new housing opportunities, including new affordable housing, which will help meet the housing needs of District residents. The Project will help to further rejuvenate the surrounding neighborhood by providing new community-serving retail uses to an underserved area. The Project's retail component will also contribute to an already-

established retail destination and will bring new retail and service amenities to an otherwise underserved market.

The Project will not create any appreciable impacts on traffic or parking in the surrounding neighborhood, and will promote the goal of transit-oriented development. The Project is extraordinarily well-served by public transportation. The Subject Property is located in close proximity to the NoMa/Gallaudet University Metrorail station, multiple Metrobus stops and routes, two Capital Bikeshare stations, and a variety of separated bicycle lanes, including the Metropolitan Branch Trail, an eight mile multi-use trail that runs from Union Station in the District of Columbia to Silver Spring in Maryland. Furthermore, the Subject Property is located in convenient walking distance to the residential and office district in the NoMa neighborhood, the dining and entertainment options in the Union Market and H Street, N.E. neighborhoods, and just one Metro station away from intercity and commuter trains and buses connecting at Union Station. Therefore, the Applicant anticipates that many residents, visitors, and employees of the Project will not need or want to use a car to access the Subject Property. Moreover, the Project will improve the pedestrian experience by incorporating new sidewalks, crosswalks, landscaping, street trees, lighting, and other pedestrian amenities at the street level where none currently exist. Thus, the Project will generate a nominal amount of vehicular trips and will not have any unmitigated adverse traffic impacts on the surrounding neighborhood.

The Applicant has retained Gorove/Slade Associates as its transportation consultant for the project. As indicated in the Transportation Summary Analysis Memorandum attached hereto as Exhibit G, Gorove/Slade will prepare a Comprehensive Transportation Review (“CTR”) scoping form for the project in consultation with the District Department of Transportation (“DDOT”) and

will submit a full transportation impact study to DDOT and the Zoning Commission no later than 45 days in advance of the PUD hearing.

Each building within the Project will achieve LEED Silver certification through the implementation of innovative designs and technologies for all the buildings within the project. Given the location of the Subject Property, the project will be able to reconnect to the larger community using existing resources and infrastructure. As shown on the Plans, the Project includes new circulation patterns, a reconnected street grid, pedestrian walkways, and bicycle lanes, all of which will greatly enhance mobility throughout the site and the entire neighborhood.

The Project includes extensive and intensive green roofs to reduce the heat island effect and to control storm water run-off. The Applicant will convert extensive existing surface parking areas into open space, landscaping, terraces, reduced hardscape, and appropriate surface water management. Storm water run-off will be reused for irrigation of landscape elements and for use in the cooling towers.

Moreover, by providing energy-efficient and well-insulated building envelopes, the Project will optimize energy efficiency and promote a responsible use of energy resources available to the residents. Amenity spaces will only be equipped with “green” products, recycling stations, water re-fill stations, and sensor-controlled lighting to further limit the use of resources and promote a responsible way of using available resources.

#### **4. Consistency with the Comprehensive Plan under Section 2403.4**

As discussed at length below in Section V, the Project is not inconsistent with the District of Columbia Comprehensive Plan.

## **D. Public Benefits and Project Amenities**

### **1. Overview**

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 than would likely result from development on the site under the matter of right provisions of this title.” 11 DCMR § 2403.6. A project amenity is defined as “one 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 DCMR § 2403.7. Furthermore, in evaluating a PUD application, the Zoning Commission is required to “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 DCMR § 2403.8.

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 will help to achieve a number of the goals of the PUD process by creating a mixed-use, mixed-income, transit-oriented development with a thoughtful, high-quality, environmentally-friendly design. These and the other significant public benefits and amenities, described in more detail below, will enhance the surrounding community and provide significant and exceptional public benefits to the area and to the District as a whole, thus satisfying the requirements of Chapter 24.

**2. Urban Design, Architecture, Landscaping and Open Space (Section 2403.9(a)) and Site Planning, and Efficient and Economical Land Utilization (Section 2403.9(b))**

As shown on the Plans, the Project exhibits the characteristics of exemplary urban design, architecture, and landscaping. The buildings incorporate high-quality design that will have a positive impact on the visual and aesthetic character of the immediate neighborhood, will fully respond to the Subject Property's location and historical context, and will integrate a variety of uses that will directly benefit the community. The Project includes significant new streetscape features, including new sidewalks, plantings and street trees, bicycle racks, benches, lighting, and other amenities, which will encourage pedestrian activity and greatly improve the existing streetscape which presently caters exclusively to vehicles and provides unsafe sidewalk conditions. The Project's overall streetscape plan will contribute to the appearance of the proposed buildings and their appeal to residents and visitors by creating an animated sense of place that connects retail activity with pedestrians on the street and the residents above.

In addition, the Applicant proposes to develop two public parks/plazas within and adjacent to the Subject Property. The first will be a public plaza and park at the southwest corner of the Subject Property. This community gathering area will include terraced public gardens, park space, a water feature, planted buffers, biofiltration gardens, and a "gantry" feature that will attract pedestrians into and through the plaza, offer neighborhood identity, and help create a spatial definition to the proposed plaza. The plaza will provide a pedestrian connection into the Florida Avenue Market district, anchored by retail in the adjacent Buildings A and B, and will create a lively, well-designed public space for the entire neighborhood to enjoy. Although the Applicant will only own a portion of the land on which the plaza is proposed to be located, the Applicant will maintain the entire plaza, and plans to program this area with various events such

as farmer's markets, outdoor concerts and movies, and other community-oriented activities and presentations.

In addition, the Applicant is working with Level 2 Development, the owner of Lot 4 in Square 3587, to design and program the proposed park that extends to Florida Avenue from the plaza. Pursuant to Z.C. Order No. 15-01, the Commission approved redevelopment of Lot 4 as a PUD and related Zoning Map amendment, which approval included development of a park on District-owned land to the northwest of Lot 4 and adjacent to the Subject Property. The park was approved to provide a "pedestrian path from Florida Avenue up to the abutting property line to the north for future connection to Morse Street" (*see* Z.C. Order No. 15-01, Finding of Fact No. 24). The park and pathway will connect into the Applicant's proposed public plaza, thus providing critical pedestrian connectivity from the evolving 3<sup>rd</sup> Street, N.E. retail developments in NoMa (anchored by REI at the Uline Arena) to Union Market and Gallaudet University beyond. Moreover, it will serve as a much desired public green space and gathering place conveniently located between the NoMa and Florida Avenue Market neighborhoods.

The second public park will be located to the north of the Subject Property within Record Lot 6, and will provide passive park and green space with landscaped buffers shielding the park from New York Avenue. This park is provided in the second phase of development; detailed plans will be submitted as part of the second-stage PUD application.

With respect to site planning and efficient and economical land utilization, the Applicant's proposal to replace the existing one-story wholesale buildings with new mixed-use, mixed-income buildings constitutes a significant urban design benefit. This is particularly significant given the Subject Property's location in the Florida Avenue Market district and its proximity to numerous new and exciting development projects.

### 3. Housing and Affordable Housing (Section 2403.9(f))

The Project will create new housing and affordable housing consistent with the goals of the Zoning Regulations, the Comprehensive Plan, and the Mayor's housing initiative. Given that the Subject Property is currently zoned C-M-1, new residential uses currently cannot be developed. Thus, the Applicant's proposal to construct approximately 868,939 square feet of residential gross floor area (approximately 927 units in the overall project, plus or minus 10%) is significant. Of this amount, 8% of the residential gross floor area will be devoted to affordable housing as required by Chapter 26 of the Zoning Regulations. Pursuant to 11 DCMR § 2603.4, all of the required IZ units may be set aside for moderate income households earning up to 80% of the AMI. However, the Applicant proposes to set aside 20% of the IZ gross floor area to households earning up to 50% of the AMI.

The following chart summarizes the housing being provided in the Project in the Consolidated PUD. The IZ calculations for the consolidated portion of the PUD are provided below:

<b>Residential Unit Type</b>	<b>GFA and % of Total (Approx.)</b>	<b>Units</b>	<b>Income Type</b>	<b>Affordable Control Period</b>	<b>Affordable Unit Type</b>
<b>Total</b>	446,192 sf of GFA (100%)	527	N/A	N/A	N/A
<b>Market Rate</b>	410,497 sf of GFA (92%)	474	Market rate	N/A	Rental/ownership
<b>IZ (total)</b>	35,695 sf of GFA (8%)	542			
<b>IZ (at 80% AMI)</b>	28,555 sf of GFA (80% of the 8% IZ)	33	80% AMI	For the life of the Project	Rental/ownership
<b>IZ (at 20% AMI)</b>	7,140 sf of GFA (20% of the 8% IZ)	9	50% AMI	For the life of the Project	Rental/ownership



#### **4. Transportation Features (Section 2403.9(c))**

The Project will include a number of elements designed to promote effective and safe vehicular and pedestrian movement, transportation demand management (“TDM”) measures, and connections to public transportation services. As will be explained in detail in the comprehensive transportation report prepared by Gorove/Slade, the Project will include sufficient on-site parking and loading facilities to accommodate the proposed mix of uses. The Applicant will also work with DDOT to develop an appropriate TDM plan that will encourage residents, visitors, employees, and retail patrons to take advantage of the abundant nearby public transportation options and will fully mitigate any potential impacts of the Project.

In addition, the Applicant proposes to undertake significant improvements to the streetscape surrounding and within the Subject Property, and to fully improve the transportation network and vehicular circulation in the Florida Avenue Market district overall. The Applicant will reconnect the street grid by extending Morse Street, adding a new section of 3<sup>rd</sup> Street, and connecting Neal Place into 3<sup>rd</sup> Street, thus creating a two-way vehicular circulation route that connects Morse Street to 3<sup>rd</sup> Street to Neal Place. The Applicant will also open and improve the existing alley running parallel to and between 3<sup>rd</sup> and 4<sup>th</sup> Streets (the “Alley”), creating a secondary circulation route around the Subject Property. The Applicant will also improve Morse Street, 3<sup>rd</sup> Street, Neal Place, and the Alley with new paving, curbs, gutters, sidewalks, landscaping, lighting, and other pedestrian amenities, all in accordance with DDOT standards and will provide street-activating and community-serving retail along both sides of 3<sup>rd</sup> Street. The streets will be privately managed and maintained by the Applicant, under a similar agreement to that established by the existing Multiple Building Covenants, described above.

In addition, to promote pedestrian and bicycle travel, the Applicant proposes to undertake significant improvements to the streetscape surrounding and within the Subject Property, provide secure, indoor bicycle parking, and will work with DDOT to install bicycle racks in appropriate locations adjacent to the buildings. Specifically, the Applicant proposes to provide a dedicated bicycle lane on the Alley that will provide a future bicycle connection under New York Avenue to the proposed trail linking to the National Arboretum to the north.

As described above, the Subject Property is extremely well linked to a variety of public transportation options, dedicated bicycle lanes and trails, and safe pedestrian infrastructure. The Subject Property is located within convenient walking distance of the NoMa/Gallaudet University Metrorail station and is served by several Metrobus routes, including routes 90, 92, 93, P6, and X3, which are all located within 0.3 miles of the Subject Property. The Subject Property is also located within 0.3 miles of two existing Capital Bikeshare stations, and is situated within a few blocks from the entrance to the Metropolitan Branch Trail. Furthermore, the Subject Property is located in convenient walking distance to the residential and office district in the NoMa neighborhood, walking distance to the dining and entertainment options in the Union Market and H Street neighborhoods, and just one Metro station away from intercity and commuter trains and buses connecting at Union Station.

#### **5. Environmental Benefits (Section 2403.9(h))**

Through the development of the Project, the Applicant will ensure environmental sustainability through the implementation of a series of sustainable design features. The Applicant will implement a number of strategies to further enhance the already sustainable nature of the Subject Property's mixed-use, transit-rich location and to promote a healthy lifestyle that will holistically benefit the Project 's residents, employees, and visitors, while

minimizing impacts on the environment. The Project provides a host of environmental benefits consistent with the recommendations of 11 DCMR§ 2403.9(h), which include street tree planting, landscaping, energy and water efficient systems, construction waste management techniques, methods to reduce stormwater runoff, and ample bicycle parking. Moreover, each building within the Project will be LEED Silver certified.

In addition, the Applicant will work in coordination with DC Water to pay for the replacement and realignment of a 100 year old eight foot sewer interceptor located between the Subject Property and the rail tracks to the west.

**6. Employment and Training Opportunities (Section 2403.9(e))**

Expanding employment opportunities for residents and local businesses is a priority of the Applicant. Therefore, the Applicant will enter into a First Source Employment Agreement with the Department of Employment Services.

**7. Uses of Special Value to the Neighborhood or the District of Columbia as a Whole**

The Applicant will work closely with ANC 5D, the ANC in which the Subject Property is located, to develop appropriate public benefits as part of the Project. In doing so, the Applicant will provide a more detailed description of the proposed benefits and amenities prior to the public hearing on this application.

**V.**  
**COMPLIANCE WITH THE COMPREHENSIVE PLAN**

The Project advances the purposes of the Comprehensive Plan, is consistent with the Future Land Use Map and Generalized Policy Map, complies with the guiding principles in the Comprehensive Plan, and furthers a number of the major elements of the Comprehensive Plan, as described herein.

## **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 Project significantly advances these purposes by promoting the social, physical and economic development of the District through the provision of a high-quality residential development with ground floor retail on the Subject Property, without generating any adverse impacts.

## **B. Future Land Use Map**

According to the District of Columbia Comprehensive Plan Future Land Use Map, the Subject Property is designated in the mixed-use High-Density Commercial, High-Density Residential, and Production, Distribution and Repair (“PDR”) land use categories.

The High Density Commercial designation is used to define the central employment district of the city and other major office employment centers on the downtown perimeter. It is characterized by office, mixed residential/retail, and mixed office/retail buildings greater than eight stories in height, although many lower scale buildings, including historic buildings, are interspersed. The corresponding zone districts are generally C-2-C, C-3-C, C-4, and C-5, although other districts may apply. 10A DCMR § 225.11. The High Density Residential

designation is used to define neighborhoods and corridors where high-rise (eight stories or more) apartment buildings are the predominant use. The corresponding zone districts are generally R-5-D and R-5-E, although other districts may apply. 10A DCMR § 225.6.

The PDR category is used to define areas characterized by manufacturing, warehousing, wholesale and distribution centers, transportation services, food services, printers and publishers, tourism support services, and commercial, municipal, and utility activities which may require substantial buffering from noise, air pollution, and light-sensitive uses such as housing. The PDR designation is not associated with any industrial zone and therefore permits a building height of up to 90 feet with 6.0 FAR.

The Applicant's proposal to rezone the Subject Property to the C-3-C District to construct four new mixed-use buildings is consistent with the Comprehensive Plan's designations. The proposed C-3-C zoning classification is specifically identified to accommodate major business and employment areas and to provide substantial amounts of employment, housing, and mixed uses. 11 DCMR §§ 740.1-2. The C-3-C Districts permit medium and high density development, including retail, housing, and mixed-use development. 11 DCMR §§ 740.8. The Project incorporates all of these elements into a two high-density buildings with a mix of residential, retail, and employment opportunities.

The Framework Element of the Comprehensive Plan provides that the Land Use Map is not a zoning map. *See* 10A DCMR § 226.1(a); *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 Future Land Use Map does not follow parcel boundaries and its categories do not specify allowable uses or dimensional standards. *Id.* By definition, the Map is to be interpreted broadly. *Id.* Furthermore, the land use category

definitions describe the general character of development in each area, citing typical building heights (in stories) as appropriate. The granting of density bonuses (for example, through Planned Unit Developments) may result in heights that exceed the typical ranges cited here. *Id.* at § 226.1(c). The zoning of any given area should be guided by the Future Land Use Map, interpreted in conjunction with the text of the Comprehensive Plan, including the citywide elements and the area elements, as well as approved Small Area Plans. *Id.* at § 266.1(d). Thus, in evaluating the proposed map amendment, the Subject Property should be viewed in context and not as an isolated parcel.

When taken in context with the surrounding neighborhood, the Applicant's proposal to rezone the Subject Property from the C-M-1 District to the C-3-C District in order to construct a mixed-use project with significant new housing and affordable housing is consistent with the Comprehensive Plan designation of the Subject Property and with other recently-approved projects in the surrounding area. For example, pursuant to Z.C. Order No. 15-01, dated July 13, 2015, the Commission approved a PUD and related Zoning Map amendment from the C-M-1 District to the C-3-C District for 320 Florida Avenue, N.E., to be constructed with a maximum density of 8.0 FAR and a maximum building height of 120 feet. Similarly, pursuant to Z.C. Order No. 06-40C, dated January 27, 2014, the Commission approved a PUD and Zoning Map amendment from the C-M-1 District to the C-3-C for 340 Florida Avenue, N.E., to be constructed with a maximum density of 5.0 FAR and a maximum building height of 80 feet. The 320 Florida Avenue project and the 340 Florida Avenue project are located directly to the south of the Subject Property and are also located in the High Density Commercial, High Density Residential, and PDR land use categories on the Comprehensive Plan Future Land Use Map.

The Zoning Commission also recently approved a PUD and related Zoning Map amendment at 300 M Street, N.E., located two blocks south of the Subject Property. The 300 M Street project includes a map amendment from the C-M-1 District to the C-3-C District on property located in the Medium Density Residential category on the Future Land Use Map. The Office of Planning testified in support of this project at the public hearing, noting that the PUD and map amendment were “consistent with the Comprehensive Plan and the land use changes that have been envisioned for the area,” that the project “fits within the guidelines of the Comprehensive Plan for what would constitute medium density,” and that it is “at the upper end of [the medium-density designation] but it’s certainly not outside of what has in the past been considered acceptable.” *See* Z.C. Case No. 14-19 Zoning Commission Public Hearing Transcript Dated July 9, 2015, pp. 64-65, 72.

Based on this context, the proposed C-3-C zoning classification and PUD will enable the Subject Property to be developed with four new mixed-use buildings constructed to a maximum building height of 130 feet and a maximum density of approximately 6.3 FAR. The proposed heights and density are consistent with the limitations permitted in high-density zones and are appropriate given the location of the Subject Property and its context adjacent to other recent development projects in the surrounding area.

### **C. Generalized Policy Map**

The Subject Property is located in a Multi-Neighborhood Center category on the District of Columbia Comprehensive Plan Generalized Policy Map. Multi-Neighborhood Centers contain many of the same activities as Neighborhood Commercial Centers<sup>2</sup> but in greater depth

---

<sup>2</sup> Neighborhood Commercial Centers meet the day to day needs of residents and workers in the adjacent neighborhoods. Typical uses include convenience stores, sundries, small food markets, supermarkets, branch banks, restaurants,

and variety. Multi-Neighborhood Centers' service areas are typically one to three miles. These centers are generally found at major intersections and along key transit routes, and they might include supermarkets, general merchandise stores, drug stores, restaurants, specialty shops, apparel stores, and a variety of service-oriented businesses. These centers may also include office space for small businesses, although their primary function remains retail trade. Mixed use infill development should be encouraged to provide new retail and service uses, and additional housing and job opportunities. 10A DCMR § 223.18.

The Project is consistent with the policies indicated for the Multi-Neighborhood Centers. The existing C-M-1 District is inconsistent with the Policy Map's designation of the Subject Property since C-M Districts are "intended to provide sites for 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 districts." 11 DCMR § 800.1. In contrast, the proposed mix of new residential, retail, and office uses consistent with the C-3-C zone designation will help to improve the overall neighborhood fabric and bring new residents and retail uses to the area, in compliance with the goals and objectives of Multi-Neighborhood Centers.

**D. Compliance with Guiding Principles of the Comprehensive Plan**

The Project is consistent with the guiding principles in the Comprehensive Plan for managing growth and change, creating successful neighborhoods, and building green and healthy communities, as set forth below.

---

and basic services such as dry cleaners, hair cutting, and child care. Office space for small businesses, such as local real estate and insurance offices, doctors and dentists, and similar uses, also may be found in such locations. 10A DCMR § 223.15



## **1. Managing Growth and Change**

In order to manage growth and change in the District, the Comprehensive Plan encourages, among other goals, the growth of both residential and non-residential uses. The Comprehensive Plan also states that redevelopment and infill opportunities along corridors is an important part of reinvigorating and enhancing neighborhoods. The Project is fully consistent with each of these goals. Redeveloping the Subject Property as a vibrant mixed-use development with residential, retail, and office uses will further the revitalization of the surrounding neighborhood. The proposed retail and office spaces will create new jobs for District residents, further increase the city's tax base, and help to reinvigorate the existing neighborhood fabric.

## **2. Creating Successful Neighborhoods**

One of the guiding principles for creating successful neighborhoods is getting public input in decisions about land use and development; from development of the Comprehensive Plan to implementation of the plan's elements. The Project furthers this goal since, as part of the PUD process, the Applicant will be working with ANC 5D to ensure that the Project has a positive impact on the immediate neighborhood. Indeed, the Applicant is in the process of working with ANC 5D and other stakeholders on the proposed public benefits package, and will continue to work to refine the details of the package.

## **3. Building Green and Healthy Communities**

A major objective for building green and healthy communities is that building construction and renovation should minimize the use of non-renewable resources, promote energy and water conservation, and reduce harmful effects on the natural environment. As

discussed in detail above, the Project will include a substantial number of sustainable design features and will achieve a LEED Silver rating.

**E. Land Use Element**

For the reasons discussed above, the Project supports the following policies of the Land Use Element:

*1. Policy LU-1.2.2: Mix of Uses on Large Sites*

The Project, which includes residential, retail, and office uses on a large underutilized site, is consistent and compatible with adjacent uses and will provide a number of benefits to the immediate neighborhood and to the city as a whole. In addition, as discussed above, the proposed mix of uses on the Subject Property is consistent with the Comprehensive Plan Future Land Use Map's designation of the Subject Property.

*2. Policy LU-1.3 Transit-Oriented and Corridor Development*

The project exemplifies the principals of transit-oriented development. The Subject Property is located within convenient walking distance (approximately four minutes) from the NoMa/Gallaudet University Metrorail station and is served by several Metrobus routes, including routes 90, 92, 93, P6, and X3, which are all located within 0.3 miles of the Subject Property. The Subject Property is also located within 0.3 miles of two existing Capital Bikeshare stations and within a few blocks from the entrance to the Metropolitan Branch Trail, an eight-mile multi-use trail that runs from Union Station in the District of Columbia to Silver Spring in Maryland. Furthermore, the Subject Property is located in convenient walking distance to the residential and office district in the NoMA neighborhood, dining and entertainment options in the Union Market and H Street neighborhoods, and just one Metro station away from intercity and commuter trains and buses connecting at Union Station. In addition, the Project is consistent with the following

principles: (i) a preference for mixed residential and commercial uses rather than single purpose uses, particularly a preference for housing above ground floor retail uses; and (ii) a preference for diverse housing types, including affordable units.

3. *Policy LU-1.3.4: Design to Encourage Transit Use*

The Project is designed to encourage transit use and enhance the safety, comfort and convenience of passengers walking to the Metrorail station and local bus stops, since the Project incorporates ground floor retail uses that will activate and animate the surrounding streets, plus new sidewalks and crosswalks that will create safe spaces to walk to and from public transportation facilities. Most significantly, the Project will complete the pedestrian connection from the market to Florida Avenue, as recommended in the FAMS.

4. *Policy LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods*

In designing the Project, and consistent with this policy element, the Project architect sought to augment the mixed income housing supply in the area and expand neighborhood commerce with the parallel goals of protecting the neighborhood's character and its existing environment.

5. *Policy LU-2.2.4: Neighborhood Beautification*

Policy LU-2.2.4 encourages projects to improve the visual quality of the District's neighborhoods. As shown on the Plans, the Project architect designed the buildings to improve the visual aesthetic of the neighborhood. Moreover, redevelopment of the Subject Property will be a significant improvement to the current site condition and will help to revitalize the area. The Project also includes a significant amount of landscaped and open spaces, which will greatly enhance the surrounding streetscape.

6. *Policy LU-3.1.4: Rezoning of Industrial Areas*

This policy encourages the rezoning of land for non-industrial purposes when the land can no longer support industrial or PDR activities or is located such that industry cannot co-exist adequately with adjacent existing uses. As shown on the Plans, the Subject Property is surrounded by a variety of uses, including industrial warehouses to the north, residential, commercial, and charter school uses to the east and south, and industrial warehouse and major mixed use residential and commercial developments to the west. The Subject Property is located on the east side of the growing NoMa neighborhood, which is extending north and east through numerous recently-approved development projects. As these residential and commercial developments continue to expand, particularly around the NoMa/Gallaudet University Metrorail station, the Subject Property will no longer be suitable for industrial and warehouse activities. The proposed Project and requested map amendment supports the policy of rezoning industrial land to permit residential and commercial uses on land included in targeted redevelopment areas.

**F. Transportation Element**

The Applicant's proposal to develop the mixed-use Project on the Subject Property will help to advance several policies and actions of the Transportation Element of the Comprehensive Plan, including the following:

1. *Policy T-1.1.4: Transit-Oriented Development*

As described above, the Project is a textbook example of transit-oriented development due to its location along a major transportation corridor and adjacent to a Metrorail station, multiple Metrobus routes, and bicycle lanes. The Project will include secure bicycle storage areas and public space improvements, including new sidewalks, lighting, landscaping, street trees, and other pedestrian-oriented amenities. The Applicant will also work with DDOT to

develop an appropriate TDM plan for the Project that will be grounded in the Subject Property's transit-rich location.

2. *Policy T-2.3.1: Better Integration of Bicycle and Pedestrian Planning*

As shown on the Plans, the Project architect carefully considered and integrated bicycle and pedestrian safety considerations in the design of the Project. The Project incorporates secure indoor bicycle parking, and the Applicant will work with DDOT to provide short-term bicycle parking adjacent to the buildings in public space. The Applicant will also repave the streetscape surrounding the Subject Property according to DDOT's standards, and will otherwise improve the public realm by planting trees and making other landscape and lighting improvements. Together, these physical enhancements to the streetscape will encourage bicycle and pedestrian activity and will bring additional revitalization to the area. A bicycle lane is also proposed for the Alley east of Building C. Most significantly, the Project will complete the pedestrian connection from the market to Florida Avenue as recommended in the FAMS.

3. *Action T-2.3-A: Bicycle Facilities*

This element encourages new developments to include bicycle facilities. As stated above, the Applicant proposes to include secure bicycle parking and bicycle racks as amenities within the Project that accommodate and encourage bicycle use.

**G. 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." 10 DCMR § 501.1. The Project will help achieve this goal by advancing the policies discussed below.

1. *Policy H-1.1.1: Private Sector Support*

The Project helps meet the needs of present and future District residents at locations consistent with District land use policies and objectives. Specifically, the project will contain approximately 868,939 square feet of gross floor area devoted to residential use, which represents a substantial contribution to the District's housing supply. Of this housing, a minimum of 8% of the residential gross floor area will be dedicated as affordable housing, which will add to the District's affordable housing stock; whereas, under the current zoning, no new housing can be provided. Of the affordable housing provided, 80% will be dedicated to households earning up to 80% of the AMI, and 20% will be dedicated to households earning up to 50% of the AMI, which is a steeper subsidy than that required by the Zoning Regulations. Moreover, the provision of new housing at this particular location is fully consistent with the District's land use policies.

2. *Policy H-1.1.3: Balanced Growth*

This policy strongly encourages the development of new housing on surplus, vacant and underutilized land in all parts of the city, and recommends ensuring 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 and higher-density housing. The Project supports this policy goal by developing new housing on underutilized land in a rapidly growing and changing mixed-use neighborhood.

3. *Policy H-1.1.4: Mixed Use Development*

The Project is consistent with the goals of promoting mixed use development, including housing, on commercially or industrially zoned land, particularly in neighborhood commercial centers.

4. *Policy H-1.2.3: Mixed Income Housing*

The residential component of the Project is mixed-income and includes both market-rate and affordable housing units. Thus, the Project will further the District's policy of dispersing affordable housing throughout the city in mixed-income communities, rather than concentrating such units in economically depressed neighborhoods. Of the total gross floor area devoted to housing, 8% will be devoted to affordable IZ units. In contrast, under the current zoning, there would be no new housing on the Subject Property.

**H. Environmental Protection Element**

The Environmental Protection Element addresses the protection, restoration, and management of the District's land, air, water, energy, and biologic resources. This element promotes specific environmental policies, including the following:

- Encouraging the planting and maintenance of street trees in all parts of the city (Policy E-1.1.1);
- Encouraging 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-1.1.3);
- Promoting the efficient use of energy, additional use of renewable energy, and a reduction of unnecessary energy expenses (Policy E-2.2.1); and
- Promoting tree planting and landscaping to reduce stormwater runoff, including the expanded use of green roofs in new construction (Policy E-3.1.2).

As discussed in both the Environmental Benefits and Building Green and Healthy Communities sections of this statement, the Project includes street tree planting, landscaping, energy efficiency, construction waste management techniques, recycled and sustainable materials, bicycle parking, and methods to reduce stormwater runoff. The Project will be a density development at a transit-oriented location, and will be designed to achieve LEED Silver. Therefore, the Project is fully consistent with the Environmental Protection Element.

## **I. Urban Design Element**

The goal of the Comprehensive Plan's 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. In keeping with this objective, the Applicant has gone to great lengths to align the Project with the character of the surrounding neighborhood. Consistent with Policy UD-2.2.1: *Neighborhood Character and Identity*, and Policy UD-2.2.7: *Infill Development*, the Project will help strengthen the architectural quality of the immediate neighborhood by relating the Project's scale to the existing neighborhood context, including both existing and approved development projects. In addition, as shown on the Plans, the Project includes elegant, visually-interesting and well-designed building façades to create stunning visual interest and to contribute to the architectural quality of the neighborhood and streetscape. See Policy UD-2.2.5. The Project is also consistent with the goals of *Policy UD-3.2.5: Reducing Crime Through Design*, since the development will bring additional "eyes and ears" to the area, as well as improved lighting, clear lines of sight, and visual access, all of which will help to minimize the potential for criminal activity in the immediate area.

## **J. Upper Northeast Area Element**

The Subject Property is located within the boundaries of the Upper Northeast Area Element. Section 2407 of the Comprehensive Plan explains the Upper Northeast Area Element's planning and development priorities. One stated priority is to expand retail choices in the Upper Northeast, particularly retail districts along Florida Avenue and areas around Metrorail stations, which have the potential to become pedestrian oriented shopping districts. See 10A DCMR § 2407.2(i). The Upper Northeast Area Element also encourages compatible infill development



(Policy UNE-1.1.2), Metro station development (Policy UNE-1.1.3), streetscape improvements (Policy UNE-1.2.1), and environmental quality (Policy UNE-1.2.8), all of which are policies and goals that the Project directly supports. The Project will provide much-needed new infill housing, retail, and employment opportunities while protecting the nearby lower density residences and increasing pedestrian accessibility and safety in the area.

## **VI.** **COMPLIANCE WITH THE FLORIDA AVENUE MARKET STUDY**

The PUD and related map amendment will help to implement the FAMS, which provides a framework for the strategic redevelopment of the Florida Avenue Market study area as a vibrant, mixed-use neighborhood that protects the look and feel of the historic retail markets, while also providing a basis for new development and rehabilitation. *See* FAMS, page 9. The FAMS envisions its study area as one with new residential, office, and retail uses that create a vibrant, mixed-use destination that retains a revitalized wholesale/retail market and incorporates a mix of densities, ranging from moderate to medium to high density, designed to be integrated into surrounding development and community fabric. *Id.* at 53. The FAMS includes a number of components, but the Development Framework section makes detailed recommendations for improving the area’s land use, development priorities, transportation facilities, and public realm features. Key elements of the Development Framework include the following:

- Provide opportunities for additional density and associated building height, especially in areas designated as “High Density” or “Medium High Density.” High Density is further defined in the FAMS as 130’-00” height and 8.0 FAR, when implementing the PUD mechanism.
- Encourage the development of larger scale projects adjacent to the rail line.
- Support a mix of uses throughout the study area and on individual development parcels.

- Encourage active ground-floor uses (such as restaurants and retail) along expected pedestrian routes to increase visual interest and safety.

The Project is consistent with all of these and many more specific recommendations set forth in the FAMS. For example, the Project will help support development that includes a mix of retail uses and street enlivening activity, and will provide excellent sustainable design and incorporate low impact development best practices. *See FAMS, pp. 82, 86.* Overall, the project is consistent with the vision for the study area as set forth in FAMS and will help implement the recommendations and goals detailed in the study.

More specifically, the FAMS' zoning and intensity plan (*see page 57*) recommends high density for the Subject Property and for all other properties in the Florida Avenue Market district located to the west of 4th Street, N.E. As defined in the FAMS, the "high density sub-area encourages the development of larger scale projects adjacent to the rail line and along New York Avenue, which is considered one of the "gateways" to the city. The width and traffic volumes of New York Avenue support this level of building height and density. It is also consistent with the density approved for the Washington Gateway Project PUD. High density development at these locations is in accordance with the goals of the *Northeast Gateway Revitalization Strategy* and the *New York Avenue Corridor* studies."

## **VII.** **CONCLUSION**

For the foregoing reasons, the Applicant submits that the application meets the standards of Chapter 24 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 consolidated and first stage PUD and

related map amendment; provides significant public benefits and project amenities; advances important goals and policies of the District of Columbia and, therefore, should be adopted by the Zoning Commission. Accordingly, the Applicant requests that the Zoning Commission approve the consolidated and first stage PUD application and related map amendment to the C-3-C District for the subject property.

Respectfully submitted,

HOLLAND & KNIGHT LLP

A handwritten signature in black ink, appearing to read "Kyrus L. Freeman", with a long horizontal flourish extending to the right.

By: \_\_\_\_\_  
Kyrus L. Freeman  
Jessica R. Bloomfield