

March 22, 2019

VIA ELECTRONIC FILING

Anthony J. Hood, Chairman
District of Columbia Zoning Commission
441 4th Street, NW, Suite 200-S
Washington, DC 20001

Re: Z.C. Case No. 02-38J: Application of WFS2, LLC (the “Applicant”) to the District of Columbia Zoning Commission for a Second-Stage PUD Application for 1000 4th Street, SW (Square 542, Lot 822, the “Property”) – Applicant’s Further Revised Submission Regarding Public Benefits

Dear Chairman Hood and Members of the Commission:

The Applicant hereby submits one further revision to its list of proffers and corresponding conditions of approval. This revision reflects further comments from ANC 6D and the Amidon-Bowen Parent Teacher Association (“PTA”) regarding the Applicant’s proffer with respect to Amidon-Bowen Elementary School. The Applicant noted in its March 11, 2019 filing that this proffer was expected to be revised in light of then-ongoing conversations with the community groups.

In sum, the amount of the proffer (\$75,000) is unchanged, however, the PTA requested additional flexibility in the use of the funds to adapt to the school’s changing needs and to maximize the utility of the proffer. As set forth in the PTA’s March 14, 2019 filing (Exhibit 50), the PTA anticipates using the funds for “capital improvements, programming and technology” rather than merely the technology use originally proffered by the Applicant. In discussions with the Applicant, the PTA emphasized the importance of this flexibility as enhancing the value of the proffer to them. The Applicant recognizes that the proposed proffer allows more flexibility in the use of the dedicated funds than is typical of many proffers to non-governmental agencies. However, in light of the PTA’s mission and the needs of the school, and in light of the oversight mechanism agreed to by the ANC, the Applicant is confident that the proffer satisfies the relevant regulatory standard and the intent of the public benefits regime for a PUD.

Proffer

Uses of Special Value to the Neighborhood (11-X DCMR § 305.5(q)): Following post-hearing discussions between the Applicant and the Amidon-Bowen PTA, the Applicant has committed to purchase \$75,000 worth of equipment and improvements for Amidon-Bowen Elementary School.

Original Condition (filed March 11, 2019)

~~15. Not more than [90] days after the issuance of this Order with no appeal having been taken (or in the event of an appeal of this Order, no more than [90] days following the issuance of a mandate fully and finally affirming this Order), the Applicant shall deliver to Amidon-Bowen Elementary School either (i) \$75,000 worth of (a) laptop computers and (b) corresponding number of compatible laptop computer storage carts, or (ii) such other combination of up to \$75,000 worth of information technology equipment as may be agreed-upon by the Applicant, the Amidon-Bowen PTA, and DCPS representatives. In satisfaction of this condition, the Applicant shall submit to DCRA invoices evidencing proof of purchase of such \$75,000 of equipment together with evidence that all such equipment has been delivered to Amidon-Bowen Elementary School.~~

Revised Condition

15. Not more than ninety (90) days after the issuance of this Order with no appeal having been taken (or in the event of an appeal of this Order, no more than ninety (90) days following the issuance of a mandate fully and finally affirming this Order), the Applicant shall establish an account with an escrow agent selected by the Applicant and shall place into such account funds in the amount of \$75,000.00 for the direct support and benefit of the students of Amidon-Bowen Elementary School and its teachers and staff.

a. The funds may be drawn only by the Amidon-Bowen PTA or its designee, for the following purposes:

- i. Capital improvements to Amidon-Bowen Elementary School for: sound proofing, stage curtains, new cafeteria sound system;
- ii. Technology, repairs, and supplies for: iPads, Smartboards, laptops, desktops, copy paper;
- iii. Aftercare/enrichment programs for: scholarships for afterschool programs, gap coverage for new aftercare vendor, purchase of uniforms and field trips; and/or
- iv. Family engagement programs for: continuation of Kindred Dialogue group, support groups for children who have had a death or trauma, emergency housing, and meals at PTA meetings and other school events.

- b. Each draw shall be accompanied by a letter to ANC 6D, accompanied by evidence such as invoices or receipts as applicable, setting forth the manner in which the funds will be used to advance one of the purposes set forth above.
- c. Pursuant to Subtitle X, Section 311.2 and notwithstanding the requirements of Subtitle X, Section 305.2 of the Zoning Regulations, the Commission authorizes the satisfaction of this condition through an escrow account, and compliance with this condition shall be demonstrated by funding of such account. The Applicant shall not be required to demonstrate that the items or services have or are being provided as a condition of obtaining or maintaining any permit or certificate of occupancy for the project.
- d. Any agreement between the escrow agent and the PTA shall provide that in the event any funds remain in said account after five (5) years (as measured from the date the account is funded by the Applicant), the funds shall be returned to the Applicant. Any interest earned on the escrow account shall be used to fund the fees of the escrow agent.

The Applicant looks forward to the Commission's action on this matter. Please feel free to contact the undersigned with any questions.

Respectfully submitted,

/s/ David M. Avitabile

cc:

Gail Fast, 700 7th Street SW #725, Washington, DC 20024 (1 copy via hand delivery)
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Mr. Joseph Lapan, DMPED, 1350 Pennsylvania Avenue NW, Suite 317, Washington, DC 20004
DC Public Library, Southwest Neighborhood Library, 900 Wesley Place, SW, Washington, DC 20024 (1 copy via hand delivery)

CERTIFICATE OF SERVICE

I certify that on or before March 22, 2019, I delivered a copy of the foregoing document via e-mail, hand delivery, or first class mail to the addresses listed below.

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Attn: Paul Greenberg and Paula Van Lare

Carrollsborg Square Condo Assn. (*1 copy via U.S. Mail*)

c/o: The New Washington Land Company

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/s/ David A. Lewis _____