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November 19, 2014

VIA IZIS AND HAND DELIVERY

Mr. Anthony J. Hood, Chairman
D.C. Zoning Commission
One Judiciary Square
441 4th Street, N.W., Suite 210
Washington, DC 20001

Re: Z.C. Case No. 13-18 - WBG Wheeler Road, LLC
Consolidated PUD & Related Map Amendment
Square 5925, Lots 820 & 821

Dear Chairman Hood and Members of the Commission:

At the October 20th Public Meeting, the Zoning Commission left the record open to allow the Applicant to respond to the filings made on November 12, 2014. The Zoning Commission, after determining that the ANC Report filed was deficient for failing to meet the requirements of 11 DCMR 3012, requested that the ANC refile an ANC Report that meets the proper requirements. On November 12, 2014, Chairman of ANC 8E, Anthony Muhammad, filed an ANC Report and attached documents. However, the ANC Report filed by Chairman Muhammad again raises several compliance questions.

While the ANC Report references a July 7, 2014 meeting with a 6 person quorum present, the recorded vote of 4-1 reflects the vote taken at the October ANC meeting. The 6-0 vote taken on July 7, 2014 was not on a motion to recommend approval or denial of the application but rather to request additional information from the Applicant. We have no information on the notice or quorum of the 4-1 vote at the October meeting. At the November 3rd ANC 8E meeting, the October vote regarding the project was mentioned, and the record was opened for discussion among the Commissioners (not the

public), but Commissioner Armstead's procedural questions were not addressed and no revote or confirmation vote was taken. Commissioner Muhammad never recalled the issue for a vote. No formal action was taken to rectify the deficiencies; but rather the ANC submitted an old vote.

Notwithstanding the procedural concerns, the below will address the points in opposition raised by Commissioner Muhammad's November 12 filing. The filing raised objections to parking, loading, the setback of the seventh story, the quality of design, and the Applicant's community outreach. Each point is now addressed in turn.

Parking

Both the Office of Planning ("OP") and the District Department of Transportation ("DDOT") support the parking provided by this PUD Application. The Applicant has worked closely with DDOT to provide a comprehensive Transportation Demand Management (TDM) plan. TDM measures include identifying a TDM leader; providing long-term bicycle parking spaces; mounting a transportation information screen in the lobby; providing an enhanced bus shelter; and reserving a location for a Capital Bikeshare dock. DDOT has indicated that "the availability of curbside spaces in the vicinity would provide sufficient parking if parking demand should exceed available on-site parking supply." See DDOT Report at **Case Log #25**. Gorove/Slade, the Applicant's Transportation Consultant, confirmed with DDOT that their support for the project has not changed since the DDOT Report was issued and that the details regarding the specific location of the Capital Bikeshare station and the final size and location of the bus stop will be finalized as part of the Public Space approval process. See Letter from Gorove/Slade at **Exhibit A**. Citing the financial constraints on providing affordable housing, the proximity to the Congress Heights Metro, the future Capital Bikeshare location, the nearby bus shelter and bus routes, bicycle parking spaces, and the transit screen, OP, in the May 19th Report, expressed "no objection to this requested flexibility" from the parking request. See **Case Log #23**. Furthermore, the Applicant has letters of support, submitted with the November 12 filing at **Case Log #51, at Exhibit E**,

from the Vice President of Manor View 1 and a resident of Manor View indicating both their support and the support of other Manor View residents for the project. Support of this neighboring housing development is important, as these residents are most impacted by the project including parking.

The objections raised by Chairman Muhammad to the flexibility requested with respect to parking have been addressed thoroughly by the Applicant, OP, and DDOT. Chairman Muhammad's claim that "the limited parking is discriminatory [to seniors and the disabled], which creates an unfriendly non-inclusive environment, which is a violation of the ADA Federal Act" is misguided. The Applicant, from the very beginning, has prioritized accessibility for low- and moderate-income seniors and the disabled. The residential units themselves are specifically designed to accommodate seniors and those with mobility issues. The parking spaces and curb are specifically designed with seniors and the disabled in mind including wide sidewalks, cautious slope tolerances, an ADA complaint curb cut at the new bus shelter, and ADA compliant parking spaces. Chairman Muhammad's discussion of the ZRR is off base as the ZRR has not yet been approved by the Zoning Commission.

For these reasons, Chairman Muhammad's specific objections and the issue of parking more generally, has been fully vetted and addressed throughout the PUD process.

Loading

Both OP and the District Department of Transportation support the loading plan associated with this PUD Application. The Applicant has worked very closely with DDOT to address the loading needs for the project through a comprehensive Loading Management Plan. The Loading Management Plan includes designating a loading management coordinator, limiting delivery truck size and delivery hours, and other measures to address loading for the project as specifically requested by DDOT. Again, the Applicant's Transportation Consultant confirmed with DDOT that they continue to support the project and that the loading management plan will be finalized as part of the Public Space approval process. See Letter from Gorove/Slade at **Exhibit A**. OP, citing the lack of a need for large delivery trucks to serve the

retail, has no objection to the requested flexibility regarding loading. Chairman Muhammad has simply indicated an objection to curbside loading, quoting the requirement and requested relief but not providing any specific concern regarding the loading plan submitted by the Applicant.

Roof Structure Setback

The Applicant modified its plans to reduce the 1:1 setback relief, only requesting 1'-9" on what was then labeled as a penthouse structure. The 11'-1" setback only exists in one small location which houses the stairwell overrun. This setback was increased to 12'-10" in all other locations, complying with the setback requirement of a distance equal to the height of the top story. That being said, the application was amended such that what was previously deemed a penthouse is now a floor. Thus, the flexibility with respect to the roof structure provisions is no longer being requested by the Applicant. The Office of Planning supported the flexibility from the 1:1 setback and continues to support the layout of what is now the seventh floor plan.

Commissioner Muhammad opposes the setback citing safety concerns but provides no explanation. There is no safety issue presented by the seventh floor setback and the intention of the 1:1 setback is in no way a safety precaution. The safety issue raised by the Zoning Commission, unrelated to the setback, was resolved by increasing the height and setback of the railing.

Quality of Design

The Applicant has worked very hard to provide a high quality design. The Applicant has provided several sets of materials boards and made substantial revisions based on feedback from the Zoning Commission. The Applicant's choice of materials was discussed at length before the Zoning Commission. The Applicant has selected porcelain tile, brick, minor fiber cement siding, and Low-E vinyl windows for the exterior of the building specifically for their high quality and durability. Commissioner Muhammad's claim that the Applicant is "using the least expensive building materials for this project; it will not withstand the test of time" is unsupported and simply inaccurate.

Community Outreach

As described in great detail in the November 12th filing, the Applicant has done extensive community outreach both before the October 20th Public Meeting and in the short time since that meeting. Outreach has included attending and presenting at multiple ANC meetings, meeting with Commissioners and the ACCORD, holding well-advertised public meetings to present the project, and coordinating with local support services to host career fairs and discuss the project further. The SMD for the project remains supportive of the project and has commended the Applicant for its outreach. Commissioner Armstead has provided a letter of support to the Zoning Commission, in which she also includes her opinions (not those of the Applicant) on the challenges of obtaining the formal support of the ANC. See Letter from Commissioner Armstead at **Exhibit B**. The Applicant supplements the prior letters of support with a petition in support of the project with 15 signatures, many of which are residents of Washington Highlands. See Petition in Support at **Exhibit C**.

It is unfortunate that the Applicant could not negotiate a mutually acceptable Community Benefits Agreement with the ANC. However, the Applicant simply could not accept the financial obligations imposed by the CBA provided by Commissioner Muhammad and The ACCORD. The requested benefits, in total, exceed \$3,500,000. See Summary of The ACCORD CBA's Financial Demands at **Exhibit D**. Not only are the requested benefits exorbitant, but they would also jeopardize the Applicant's ability to maintain the desired affordability levels for the project.

Conclusion

Based on the above, the Applicant asserts that the PUD Application meets the standard, as described in the Zoning Regulations, and that the public benefits associated with the Project provide the type of public benefits anticipated by the PUD process. We respectfully request that the Zoning Commission take final action and approve the PUD Application based on the extensive record.

Sincerely,

GRIFFIN, MURPHY,
MOLDENHAUER & WIGGINS, LLP

By:



Meridith H. Moldenhauer

Exhibit A

MEMORANDUM

To: Christina Halvorsen
Washington Business Group

From: Jim Watson, PTP
Erwin Andres, P.E.

Date: November 18, 2014

Subject: Wheeler Renaissance PUD Advisory Neighborhood Commission 8E Statement

This memorandum presents a supplemental statement in response to the Advisory Neighborhood Commission (ANC) 8E statement submitted November 12, 2014 regarding the Wheeler Renaissance PUD project. In terms of the project's transportation elements, the ANC provided comments on the parking, loading, and transit and Bikeshare accessibility of the site. Many of the items requested for more information (such as the specific location of a Bikeshare station, specific details regarding the shifted bus stop, and the detailed loading management plan) will be further developed as Public Space and other approvals are sought, as with many other similar projects. However, these items were preliminarily reviewed by the District Department of Transportation (DDOT) and the Washington Metropolitan Area Transit Authority (WMATA) during the Zoning review process in May 2014, during which time the Applicant coordinated with both DDOT and WMATA on each item's best application in the context of the project.

DDOT issued a report in support on the project on May 19, 2014. DDOT and the Applicant noted during the Zoning review process that many of the items noted as recommendations in DDOT's report (and recently commented upon by the ANC) would be further refined during the Public Space and other approvals processes. Based on recent discussions with DDOT, they confirmed that their support of the project has not changed since the May 2014 report was issued.

Exhibit B



ADVISORY NEIGHBORHOOD COMMISSION 8E

RE: Zoning Case 13-18

November 19, 2014

Dear Chairman Hood:

I first want to thank you for allowing us the Commission 8e the opportunity to try and make this right with the Wheeler Renaissance Project. However, as you can see things remain the same with this Commission. As the Commissioner, Karlene Armstead of this Single Member District 8e 06 and a Ward 8 resident, I have grown tired of the lies, deceit and deception of this Commission and the Chairman Anthony Muhammad.

As I look at the documents that Mr. Muhammad submitted on the behalf of the ANC's where is his first letter of support that he signed and stated that this project would be a great benefit to the Community? What changed? This was before I became involved which was by accident, Mr. Muhammad was wheeling and dealing solely on his own with questionable backing of the ANC's.

Secondly, I question the proper notification to the Community; he states that newspapers, calls and flyers were available to the Community. Then Ms. Pontdexter-Moores' chief compliant was not being notified and / or informed by neither the ANC's, before during and / or after the vote, once again lies, deceit and deception. In all fairness – she was right; there were not public notification from the ANC's'.

Thirdly, Mr. Muhammad and the Community Benefits Agreement and his association with the ACCORD / II, seems to supersede the business of the ANC's. The ACCORD / II are the organization that has been dictating and drives the end results of this project – 'the shakedown' of the Developer. The ACCORD with their signed Zoning submission brings into question the signing members and authenticity of the document.

I, again feel that my Community would benefit from this project and as the re-elected Commissioner my Community stands in agreement with me in supporting this project to move forward. We the Community, the Developer and myself as we continue to work together, this will be a 'win win' in partnership with the Community.

Thank you!

Sincerely yours,



Commissioner Karlene Armstead
ANC 8e – 06

Exhibit C



Wheeler Renaissance the Complete Community Experience

My signature below indicates my full support for WBG's Wheeler Renaissance Project.
Includes 85 affordable housing units, Safer, Eco-Friendly Design, and New and Existing Stores.
This Project will bring enhancements and benefits to my Community.

	NAME	Address	Signature
1	Lorice Winbgo	812 Foxhall Pl. SE	Lorice Winbgo
2	Thomas Winbgo	512 Foxhall Pl. SE	Thomas Winbgo
3	Larson, Bruce	521 Foxhall Pl. SE	Bruce Larson
4	Theresa Prevost	541 Foxhall Pl. SE	Theresa Prevost
5	Latronna Byrd	913 Wahler Pl SE Wash. DC	Latronna Byrd
6	Chanel Williams	931 Wahler pl SE	Chanel Williams
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Petition in support of the Wheeler Renaissance

My signature below indicates my full support for the Washington Business Group's Wheeler Renaissance mixed use development project. I believe that the 85 affordable housing units, brighter safer streetscapes, eco-friendly design, and all other features will be a great benefit to my community. In the best interests of my neighborhood I urge the Zoning commission to approve this project.

	NAME	Address	Signature
1	Anthony D Mckin	1351 Riggs St NW	Anthony D Mckin
2	Keith Manning	4246 4th St SE	Keith Manning
3	Clifton Martin	1118 Varney S.E. 80. C	Clifton Martin
4	ROBERT WALLACE	1228 SOUTHERN AVE SE	Robert Wallace
5	Marking Bell	840 Barnaby St SE	Marking Bell
6	Vernon Blakey	7830 Stanton Rd SE	Vernon Blakey
7	NISA Fletche	4003 Blakey Lake	Nisa Fletche
8	Kidobaxton	2100 30th St. SE.	Kidobaxton
9	Dillon Gallman	4217 Wheeler road S.E.	Dillon Gallman
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Exhibit D

ACCORD II CBA FINANCIAL DEMANDS

Item #	Description	Amount	Notes
1.9	2 Paid Interns (3yrs)	\$224,016.00	Based on \$17.95/hr full time.
6.10	Job Training Employment	672,048.00	Based on 6 people x 3 yrs each 17.95/hr
6.11	Funding of Job training	\$50,000.00*	*Plus employment of 2 graduates
1.12	Additional Training Programs	\$50,000.00	
7.13	Revolving Working Capital Fund	\$500,000.00	To allow for service payments to CBE's weekly instead of industry standard construction practice of monthly pay application; thus, holding the developer not the GC responsible
8.12	William Lockridge Foundation Office (40 year lease)	\$864,000.00*	Based on rate of 1,800.00/month including utilities *(based on 2014 market)
8.3	Lead the Way Foundation	\$1,140,150.00 (228,030.00 x 5 yrs)	With 1 st payment of \$228,030 due at signing, not upon approval of PUD
TOTAL		\$3,500,214.00	