

November 5, 2019

VIA HAND DELIVERY AND IZIS

Anthony J. Hood, Chairman
Zoning Commission for the District of Columbia
441 Fourth Street, NW, Suite 200S
Washington, DC 20001

Re: Z.C. Case No. 14-12E: Application of Clarion Gables Multifamily Trust, L.P. and EAJ 1309 5th Street LLC (collectively, the “Applicant”) to the District of Columbia Zoning Commission for a Second-Stage PUD at 1329 5th Street, NE (the “Property”) – Applicant’s Supplemental Pre-Hearing Statement

Dear Chairman Hood and Commissioners:

On behalf the Applicant, we hereby submit this supplemental pre-hearing statement with respect to the above-referenced application for a second-stage PUD for the mixed-use multifamily residential building with ground floor retail, PDR/maker, other neighborhood-serving uses, and below-grade parking located on the Property (the “**Project**”). The Property is within the boundaries of the first-stage PUD approved as part of Z.C. Case No. 14-12 (the “**Approved PUD**”). A public hearing on this application is scheduled for November 25, 2019.

This statement provides additional responses to questions and comments raised by the Office of Planning (“**OP**”) in its July 19, 2019 report (“**OP Report**”) filed at Exhibit 12 in the record of this proceeding. This statement follows the format and numbering used in the OP Report and addresses only those items not addressed in the Applicant’s September 19, 2019 pre-hearing submission filed at Exhibit 14 in the record.

In addition, on October 24, 2019, OP hosted the Applicant and its team at an interagency meeting regarding the application with representatives from DC Water, the Department of Energy and the Environment (“**DOEE**”), the Department of Transportation (“**DDOT**”), Department of Parks and Recreation (“**DPR**”), and the Department of Housing and Community Development (“**DHCD**”). Following the meeting, OP sent the Applicant a list of the questions and comments raised at the meeting and asked the Applicant to provide responses on the record. Most of the items

raised in that meeting are addressed here, but the Applicant continues to study a few of the items and will provide an update at the public hearing (or possibly before).¹

This filing includes the following attachments:

Exhibit A is the Applicant’s proposed design flexibility for the Project. This flexibility includes a combination of (i) the flexibility included in the Approved PUD, (ii) flexibility that the Commission has approved in other recent PUD and design review cases, and (iii) additional flexibility reflecting the unique situation of the Project and requests made by District agencies, which the Applicant requests the Commission approve specifically for this proceeding.

Exhibit B includes additional witness resumes. The Applicant seeks to proffer Mr. Rob Schiesel of Gorove Slade as an expert in transportation planning analysis and engineering. Mr. Schiesel has been accepted by the Commission previously as an expert in that field. The Applicant also offers Mr. Daniel Solomon to testify on behalf of the Applicant in the field of in transportation planning analysis and engineering. Mr. Solomon is not being proffered as an expert at this time.

Exhibit C is an updated Certificate of Compliance.

Exhibit D includes Updated plans for the Project (the “**Updated Plans**”), showing changes discussed below.

Finally, the Applicant expects that its public hearing presentation will last for approximately 45 minutes.

OP Comment/Question	Applicant Response
5. Detailed renderings of the rooftop, including all proposed structures, should be provided (the applicant has requested flexibility from uniform roof structure height, and additional information is necessary to understand the impact of the flexibility)	The Updated Plans at page A16-A18 include new, detailed renderings of the Project’s rooftop, including all proposed rooftop structures. The roof plan has evolved relative to the original submission. The Applicant does not seek any flexibility from the penthouse requirements of the Zoning Regulations.
9. The applicant is encouraged to locate solar panels on the green roof	The Applicant proposes to include solar panels on a portion of the penthouse above green roof per DOEE’s guidelines and recommendation.
15. Additional information regarding the types of materials to be used, including material type, color, and samples, demonstrating that the proposed building materials will be of a high-quality	At the public hearing, the Applicant will provide a physical materials board. Page A35 of the Updated Plans includes images of the proposed materials.

¹ The Comments/Questions from DC Water, DOEE, DPR, DHCD, and OP’s Design Division are verbatim from the summary that OP sent the Applicant after the interagency meeting. The Comments/Questions from DDOT are from the Applicant’s notes of the meeting.

DC Water Comment/Question	Applicant Response
1. Ensure that the sidewalk and landscaping in public space are not in conflict with the 48-inch water line under 6 th Street.	The Applicant and DDOT confirmed that the public space improvements related to the Project will not conflict with the DC Water line under 6 th Street, NE.
2. Provide a plan demonstrating how sheeting and shoring will be supported and not in conflict with the water lines.	Sheeting and shoring plans are not available at this early stage of the Project’s schematic design. However, the Applicant and its design team and engineers are aware of the existing infrastructure, notably the existing 48-inch water main and will design any support of excavation along 6 th Street, NE to ensure the protection of that infrastructure.
DOEE Comment	Applicant Response
1. DOEE is available for consultation regarding the incorporation of solar in the green roof design.	As the Applicant works through the design and permitting process for the Project and its solar panels, the Applicant will continue to consult with DOEE for best practices and expertise.
DPR Comments/Questions	Applicant Response
1. There is a need for shade in the Plaza, which consists largely of hardscape. Consider incorporating design elements that increase shade and make the space more useable.	The Applicant intends to incorporate shade into the Plaza in two ways: (1) initially temporary shade elements (e.g., umbrellas, shade sails, etc.) will be incorporated into the overall Plaza landscape design strategy to provide shade and comfort while still allowing flexibility in terms of uses and time of day, and individual food and beverage tenants may provide additional time of day and seasonally appropriate umbrella-shaded seating, and (2) over the longer-term, once the South Building is constructed that building will provide shade at the hottest points during the day.
2. Incorporate playful elements for all ages, including programming, color, activities, and play space.	The Plaza and its companion park on the south side of the South Building (the “ Park ”) will be flexibly designed to accommodate rotating uses and programming over the course of its life, which will naturally allow for the incorporation of elements similar to those requested over the course of its evolution.

<p>3. Provide flexible furniture with back and arm support for seniors.</p>	<p>Similar to the above, the Plaza and the Park will be flexibly designed to accommodate rotating uses and programming over the course of its life.</p>
<p>4. Crater’s Bowl, a skate structure and cultural events venue, is located north of the proposed building. Describe how impact to the structure will be limited during construction.</p>	<p>This structure is not on the property that is the subject of this PUD application, it is on adjacent, separately-owned property, and the Applicant does not control what happens to it. The Applicant does not anticipate that it will be affected by the construction of the North Building, but in the event construction staging affects the location of this structure, the Applicant will work with the owner of the property on which it is located to move it temporarily or find another temporary solution.</p>
<p>5. The plans depict a moveable stage and various chairs and tables in [the] plaza adjacent to the south building. Please explain what happens to these features once the south building is fully constructed.</p>	<p>Once the South Building is constructed, the moveable stage and other moveable features will nonetheless still be able to be situated in the Plaza from time to time, as intended by the original approval under Z.C. Order No. 14-12. The depiction of the moveable landscaping elements in the Plaza is intended to be illustrative. The Plaza is (and always has) been designed and intended to be dynamic and adaptive, capable of transforming based on time of day and season and for special events. Thus, even before the South Building is constructed, there may be days when, for instance, the stage moves to the center of the Plaza (e.g., for a show or concert) or is not in the Plaza at all (e.g., to make space for an activity that does not require the stage, such as a farmers’ market).</p>
<p>6. Will there be any educational or historic signage integrated into the project design? The plaza could be a venue for these features.</p>	<p>As part of the Conditions applicable to the Consolidated PUD for the South Building, the Applicant is installing signage around the Union Market District and anticipates that additional signage will be incorporated into the Plaza.</p>

OP Design Division Comments/Questions	Applicant Response
<p>1. OP continues to encourage the applicant to explore the relocation of the lobby to the southeast corner of the property along 6th Street and the Plaza so that retail can be provided along 5th Street. This would be consistent with the intent of the Union Market Guidelines, which encourages 5th Street to be “designed to incorporate retail activity, flexible gathering places, and other programmed spaces” to encourage pedestrian-driven uses.</p>	<p>The Applicant continues to respectfully disagree with OP on this point. As noted in its previous submission, the 5th Street, NE façade has many advantages for the residential entry to the building. Further, there is no requirement in the Union Market Streetscape Guidelines that 5th Street, NE be exclusively retail.</p> <p>Instead, 5th Street’s retail uses, the predominant existing and planned use along that street, will benefit from some residential activity, as the pedestrians originating from and heading to that entry will generate foot traffic at times of day when retail traffic is often lighter (e.g., weekday mornings). In addition, the 5th Street, NE residential entry avoids potential pedestrian-vehicular conflicts that might emerge if the entry was located on 6th Street, NE next to the Project’s parking and loading entry (a design practice that DDOT discourages). Finally, the proposed location of the residential lobby is consistent with the approved first-stage PUD which showed a residential entrance at the proposed location. The Applicant sees no reason to deviate from the approved design.</p>
<p>2. Consider incorporating shade structures in the Plaza to improve functionality of the space.</p>	<p><i>See the response to the similar question from DPR above.</i></p>
<p>3. OP continues to encourage the applicant to explore the use of bolder color and pattern on the building, which would contribute to the sense of place encouraged by the small area plan. (“The Florida Avenue Market of the future will continue to be an exciting, bustling place, full of surprises. People looking for a quiet residential neighborhood, or a sterile office environment should look elsewhere.” Page 50)</p>	<p>As noted in the Applicant’s previous submission, the Applicant “modified the Project’s color strategy in two ways to create a bolder expression. Firstly, the value difference between the light-colored brick and the dark metal has been enhanced to create a more striking contrast between the two. Secondly, the neutrality of the major materials is offset by a more liberal use of a brighter metal accent material as described above on the more prominent and projecting architectural features. The accent metal material is a vibrant rust or Corten-like material. Additionally, the dark metal portion of the architecture has been</p>

	detailed to include more physical depth and variation which adds pattern and interest and breaks up the long southern façade facing the plaza.”
4. Describe the impact that construction of the North Building will have on the Plaza and a preliminary plan for ensuring the Plaza may continue to be used for pedestrian traffic. The plan should also address loading, as may be required by DDOT.	The Plaza between the North Building and South Building will need to be entirely rebuilt to tie in proposed grades and to address deteriorated concrete paving. The construction will occur in phases to ensure access to the South Building for both vehicular and pedestrian access. Truck access is needed for both loading and trash, and pedestrian access is needed for emergency egress from the second level Dock 5 space.
5. OP continues to encourage the applicant to enhance the street space with artwork, parklets, café seating, and generous tree sizes.	The Applicant agrees with this suggestion and believes that its design currently reflects these objectives. Further, the Applicant will work with OP and DDOT to explore concepts to implement the type of artwork and similar components described in this OP comment.
6. The thick gray band that extends into public space and encircles the oriel window projections on 5 th and 6 th Streets is not a type of projection specifically allowed by the regulations and would likely require a modification from the construction code. OP would support it as an embellishment.	The Applicant will seek a modification of the Construction Code with respect to the cornice projection if deemed necessary by DCRA. The Applicant appreciates OP’s stated support.
7. The width of the bay windows and balconies appear to comply with the regulations; however, the drawings are unclear in demonstrating that the balconies project within the 4-foot allowance. This information should be provided on the drawings.	The Updated Plans include dimensions confirming the Project’s balconies comply with the required dimensions, including being no deeper than 4 feet for such spaces. (This dimension was previously shown on page A25 of the plans filed at Exhibit 14C and there is no change proposed here as shown on page A28 of the Updated Plans.)
DHCD Comments/Questions	Applicant Response
1. The Order for ZC Case No. 14-12 does not explicitly provide the affordable housing proffer for the North Building, which means it would have been required to comply with the Zoning Regulations at the	The Applicant’s September 19, 2019 pre-hearing statement (at Exhibit 14) addressed this question in detail in response to OP’s request that the Applicant provide clarification regarding the IZ requirement for the North

time. The IZ Regulations have since been revised, requiring 8% of the GFA at 60% MFI for rental buildings. Unless the Order specified that IZ would be at 80% MFI, then the North Building would be subject to the 60% MFI requirements that are currently in effect. Please explain how 8% of the GFA at 80% MFI is consistent with the First Stage approval.

Building. In sum, the record in the first-stage PUD proceeding is unambiguous: The North Building is obligated to comply with the amount of IZ required at the time the Order was adopted (i.e., 8% of residential gross floor area at 80% AMI). OP's reports from the first-stage PUD proceeding support this reading.

OP's reports from the first-stage PUD clearly recite the affordable housing requirement for the North Building. At Exhibit 10 in Z.C. Case No. 14-12, OP's report provides on pages 12-13: "Should [the North Building] implement Option 2 for the North Building [i.e., the residential option], approximately 260,000 to 290,000 square feet of residential use would be provided. ***The project would be required to comply with Inclusionary Zoning regulations, which require 8% of the floor area to be dedicated to affordable housing at 80% of the Area Median Income.*** In this case, approximately 20,800 to 23,200 square feet would be dedicated as affordable. The applicant has not offered a deeper level of affordability than what is required by the regulations." (Emphasis added.)

At Exhibit 20 in Z.C. Case No. 14-12, OP's second report provides on page 17: "The applicant has indicated that any housing provided in this development would comply with IZ, providing 8% of the units at 80% AMI."

The foregoing recitations make it clear that OP and the Commission understood the IZ requirements for the North Building when the first-stage PUD was approved.

In addition, pursuant to Subtitle A, Section 102.3(a), the North Building is vested under the substantive provisions of the 1958 Zoning Regulations. Those substantive provisions include the IZ provisions of the 1958 Zoning Regulations, which required an 8% set aside at 80% AMI. There are no circumstances

	<p>applicable to this application that would cause the 60% MFI requirements to come into effect.</p> <p>Nevertheless, the Applicant has voluntarily increased its set aside and reduced the level of affordability for a portion of the units without seeking additional flexibility or incentives. Specifically, the Applicant’s proffer (i.e., 9% of residential gross floor area; of which 30% will be at 50% MFI and 70% at 80% MFI) exceeds the first-stage PUD requirements.</p>
<p>2. It was assumed that the South Building would be constructed before the North Building. The South Building was required to provide two units at 50% MFI. Since that building has been delayed and has flexibility to provide residential uses, those two units should be provided in the North Building, where residential uses would certainly be provided.</p>	<p>As noted above, the Applicant has voluntarily agreed to include 50% MFI units in the North Building even though no such units are required under the first-stage PUD approval or otherwise under the Zoning Regulations. At this time, the Applicant expects to include in the North Building seven units affordable at 50% MFI. Of those seven units, four are “family-sized” (i.e., two-bedroom plus den-sized units) because the Applicant has been asked to skew its affordable housing contribution to larger-sized units. <i>See</i> page A44 of the Updated Plans.</p> <p>Moreover, the requirement of Z.C. Order No. 14-12 to provide two 50% MFI units in the South Building is linked expressly to the development of the South Building as a residential project. In the event that the South Building is constructed for office uses, there is no requirement to provide substitute 50% MFI units. Nevertheless, the Applicant has voluntarily agreed to provide 50% MFI units in the North Building to the extent of 30% of the IZ units in the North Building being 50% MFI units. This proffer exceeds the first-stage PUD requirements for the North Building.</p>

DDOT Comments/Questions	Applicant Response
<p>1. DDOT asked the Applicant to attempt to provide some sort of acknowledgement from the owner of the property adjacent to the north that the Applicant's proposal to install knock-out panels in the Project's garage is an acceptable manner for achieving a redundant garage access point for that future neighboring building and asked the Applicant to provide a form of agreement between the property owners.</p>	<p>The Applicant has submitted a request to obtain a written response from the neighboring property owner/developer team but has not yet had sufficient time since the interagency meeting to obtain such document. The Applicant will continue to work with the neighboring property owner/development team and as part of such coordination will attempt to obtain such a document ahead of the hearing.</p> <p>Because the Applicant has not been able to engage with the neighboring land owner in a detailed manner regarding the knock out panels, the Applicant is hesitant to propose a form of agreement that could prejudice future discussions. However, the Applicant is willing to agree to a condition of approval to provide the neighboring property with access through the Project's garage via the proposed knock out panels on commercially reasonable terms acceptable to the Applicant (e.g., terms providing for, without limitation, insurance, indemnity, and cost-sharing obligations from the neighboring landowner).</p>
<p>2. DDOT asked the Applicant to advance concurrent with the Project, the sidewalk upgrades to DDOT-compliant standards with respect to the south side of Neal Place, NE and the western side of 5th Street, NE.</p>	<p>The Applicant notes that the requirement to undertake those sidewalk improvements is linked to the South Building and not the North Building. The purpose for linking those improvements with the South Building was two-fold: (1) the construction and staging of those improvements are logically and spatially connected with the construction and staging of the South Building and the park to the south of the South Building so the two sets of improvements should be designed, permitted, and constructed together, and (2) part of the rationale for those improvements was to provide pedestrian connections between interim off-side parking for the South Building that is no longer necessary due to the construction of parking in the North Building and the anticipated timing of its delivery.</p>

<p>3. DDOT also recommended that the Applicant designate specific zones on the sidewalk and/or Plaza for shared micro-mobility (e.g., electric scooter) storage.</p>	<p>As a result of the new and constantly-evolving trends of the micro-mobility concept and the permanency of a PUD plan set, the Applicant is not able to designate a specific area on the sidewalk or Plaza for this storage space; however, the Applicant continues to support a multi-modal transportation strategy for the Project.</p>
<p>4. DDOT asked for a better depiction of the circulation route that users of the South Building will traverse in order to access the North Building's bicycle storage (given that the South Building will not have long-term bicycle storage of its own).</p>	<p>The Updated Plans at page A46 include a revised circulation plan responding to this comment from DDOT.</p>

Thank you for your attention to this application and for the opportunity to present on November 25th.

Respectfully submitted,

/s/ Jeffrey C. Utz

/s/ David A. Lewis

Enclosures

Certificate of Service

I certify that on or before November 6, 2019, I delivered a copy of the foregoing document and attachments via e-mail, hand delivery, or first-class mail to the addresses listed below.

/s/ David A. Lewis

District of Columbia Office of Planning (*1 copy via e-mail and hand delivery*)
1100 4th Street, SW, Suite 650E
Washington, DC 20004
Attn: Jennifer Steingasser
Joel Lawson
Brandice Elliott

District Department of Transportation (*1 copy via e-mail and hand delivery*)
55 M Street, SE, 5th Floor
Washington, DC 20003
Attn: Jonathan Rogers

Ryan Linehan, SMD 5D01 (*1 copy, via USPS*)
1834 Central Place, NE
Washington, DC 20002

Keisha L. Shropshire, SMD 5D02 (*1 copy, via USPS*)
1239 16th Street, NE
Washington, DC 20002

Steven C. Motley Sr., SMD 5D03 (*1 copy, via USPS*)
1100 21st St NE #104
Washington, DC 20002

Bernice S. Blacknell, SMD 5D04 (*1 copy, via USPS*)
2114 I Street, NE #3
Washington, DC 20002

Sydelle Moore, SMD 5D05 (*1 copy, via USPS*)
813 20th St NE
Washington, DC 20002

Jason E. Burkett, SMD 5D06 (*1 copy, via USPS*)
1147 Oates St NE
Washington, DC 20002

Clarence Lee, Chairperson, SMD 5D07 (*1 copy, via USPS*)
1519 Trinidad Avenue, NE
Washington, DC 20002