

August 8, 2025

VIA IZIS

Mr. Anthony Hood, Chairperson
D.C. Zoning Commission
441 4th Street NW, Suite 200-S
Washington, DC 20001

Re: Z.C. Case No. 25-07: Application of BD Parcel 5, LLC (“Applicant”) for Design Review Approval of Proposed Buildings located in the Northern Howard Road (“NHR”) Zone - Lot 1070 in Square 5860 (the “Property”) Prehearing Statement

Dear Chairperson Hood and Members of the Commission:

Pursuant to 11-Z DCMR § 401.5, the Applicant hereby submits this prehearing statement. On May 16, 2025, the Applicant submitted the above-referenced application for Design Review of a mixed-use building containing residential with ground floor retail that represents the third phase that the Applicant has applied for in the multi-building Bridge District community being developed in the NHR Zone (the “**Application**”). The proposed building will contain approximately 239,328 square feet of gross floor area (“GFA”), of which approximately 8,649 GFA will be devoted to ground-floor commercial uses, and approximately 272 residential units (the “**Project**”). Approximately 12% of residential gross floor area will be devoted to affordable housing for households earning no more than 50% MFI and 60% MFI, with all the three (3) bedrooms within the building devoted to 50% MFI households. The Project will have an overall density of approximately 7.16 FAR and will be built to a maximum height of 130 feet, plus a 20-foot penthouse. The Project will include approximately 160 vehicular parking spaces, and approximately 92 long-term bicycle parking spaces.

The following information is provided below and attached hereto:

- Updated plans and drawings (**Exhibit A**);
- Updated request for design flexibility;
- Request for area variance relief from supplemental solar and stormwater requirements;
- Comprehensive Transportation Review (“CTR”) (**Exhibit B**); and
- Witness testimony outlines and resumes of expert witnesses (**Exhibits C and D**)

I. Updated Plans and Drawings

Attached hereto as **Exhibit A** is a set of updated plans and drawings that reflects refinements made to the Project since the initial submission (“**Updated Plans**”), **which shall fully supplant the plans and drawings previously submitted to the case record as Exhibits 3B1-3B4.**

Most notably, since the initial application, the Applicant has decided to pursue construction of the Project with a mass timber structural system above a concrete podium. Using mass timber in place of concrete reduces the building’s embodied carbon footprint by approximately 30%, driven by four key factors: timber’s renewable sourcing from managed forests, significantly lower production energy compared to concrete, reduced transportation emissions due to its lighter weight, and its ability to sequester carbon over the building’s lifespan. However, mass timber construction adds a significant cost premium to the Project with potential for further escalation due to uncertain trade agreements between the U.S. and countries that are home to mass timber manufacturers. Notwithstanding this, the Applicant is striving to stay true to the sustainable values that underpin its core mission, and its overall vision for the Bridge District. That said, the cost premium imposed by the mass timber system along with its structural limitations and other project constraints have contributed to the Applicant’s need for area variance relief from certain NHR solar energy and stormwater requirements.

For the Commission’s convenience, the following is a general list of changes and refinements made to the proposed Project since initial submission:

- Decreased the total number of dwelling units from approximately 299 to approximately 272 generally within the same building height and massing by incorporating a mix of unit types that have a slightly larger average unit size;
- Increased the total number of balconies in response to comments from the Office of Planning (“**OP**”);
- Increased the number of IZ units that have balconies and terraces by three (including providing a terrace to a 3-bedroom unit at the Level 2 courtyard in response to comments from OP;
- Removed the ground floor pergola above resident amenity terrace on north side of the building;
- Added gate access to the amenity deck at ground floor;
- Added mechanical equipment needed for all-electric building program and to achieve energy reduction target; and
- Removed the ramp from the elevator to the pool deck and added an elevator vestibule to directly access pool deck.

II. Modification of Requested Penthouse Setback Special Exception Relief and New Request for Variance Relief from the Specialized NHR Zone Requirements for Rooftop Solar Panel and Stormwater under 11 DCMR §§ 1010.1(a) and (d)

Pursuant to 11-X DCMR § 603.4, as part of a design review application the Commission may grant special exception and variance relief that might otherwise require approval by the Board of Zoning Adjustment. In its initial statement in support (Exhibit 3), the Applicant requested a

special exception from the penthouse enclosing walls and roof structure (guardrail) setback requirements of 11-C DCMR §§ 1503.4(a) and 1504.1, a special exception from the open court requirements of 11-K DCMR § 1001.11, a special exception from the side yard requirements of 11-K DCMR § 1001.8, and a special exception from the ground floor clear height requirement of 11-K DCMR 1004.3(a).

Since submitting the Application, the Applicant has continued to refine the design and operational aspects of the Project and has identified a need to: (i) modify the special exception requested for penthouse enclosing walls and setbacks, and (ii) request area variance relief from the rooftop solar and stormwater requirements that are unique to development on certain specified properties within the NHR zone, including the Property. Since submitting the application, the Applicant has made changes to the rooftop pool deck access. The initial plans utilized a long ramp that ran along the east side of the pool deck and adjacent to the building's central open court wall. As shown on Sheets A2.08 and A2.09 of the plans attached as Exhibit A, the ramp has been removed and the Applicant is now intending to provide access to the pool via the east elevator, which will directly access the pool deck through a new elevator vestibule that is tucked into the elevator override and stair tower. The vestibule has a height of approximately 13'-0" above the roof, which is lower than the other penthouse mechanical and habitable space on the roof and is not setback 1:1 from the adjacent open court wall. Pursuant to 11-C DCMR § 1504.4, the open court setback requirement does not apply to a rooftop access stairwell or elevator. Prior to filing the application, the Applicant met with the Zoning Administrator to confirm that the Project's rooftop access stairwell and elevators did not require setback relief from the open court setback requirement. However, it is unclear whether the new elevator vestibule is considered part of the elevator that is exempt from the open court setback requirement. As such, out of an abundance of caution, the Applicant is including the new elevator vestibule in its special exception request relating to the setback requirements for penthouse enclosing walls. Despite the addition of the new vestibule, the Applicant will continue to meet the criteria for special exception, as is thoroughly discussed in the Applicant's initial statement in support at Exhibit 3 of the case record. Note, while providing accessible access to the pool deck via the elevator is the Applicant's preferred approach, the Applicant is still coordinating with elevator providers to confirm whether an elevator can access the pool deck level within the 20'-0" maximum penthouse height. If deemed infeasible, then the Applicant will need to revert to the ramp that is shown in the initial plans submitted to the record. The Applicant has included the potential to revert to the ramp in its request for minor design flexibility that is set forth in Section III below.

Pursuant to Subtitle K § 1010.1(a), rooftop solar panels shall be constructed on each new building that can generate 178 kWh per 1,000 square feet of gross floor area. Further, pursuant to Subtitle K § 1010.1(d), each building shall provide a stormwater capacity to withstand a 1.7" stormwater event. As discussed below, the Applicant is unable to meet these two requirements due to a unique combination of site constraints, and overlapping regulatory and policy driven requirements that combined give rise to practical difficulties if these requirements were strictly applied. However, despite the need for relief, the Project will not only comply with the general onsite energy generation requirement of the NHR zone and DOEE's stringent stormwater retention requirements. Indeed, as discussed below, the Project will arguably be more "sustainable" as the requested variance relief will facilitate the Applicant's ability to drive down the overall energy consumption and carbon emissions of the Project while still executing an aggressive stormwater retention approach.

To obtain area variance relief, an applicant must demonstrate that: (i) the property is affected by an exceptional or extraordinary situation or condition such that, (ii) the strict application of the Zoning Regulations will result in a practical difficulty to the applicant, and (iii) the granting of the variance will not cause substantial detriment to the public good nor substantially impair the intent, purpose, or integrity of the Zone Plan. *Palmer v. D.C. Board of Zoning Adjustment*, 287 A.2d 535, 541 (D.C. 1972). Here, the Applicant satisfies all three standards for the variance relief requested.

A. The Property is Affected by an Exceptional Situation or Condition.

The Court of Appeals held in *Gilmartin v. D.C. Board of Zoning Adjustment*, 579 A.2d 1164, 1167 (D.C. 1990), that it is not necessary that the exceptional situation or condition arise from a single situation or condition on the property. Rather, it may arise from a “confluence of factors.” The Property is affected by an exceptional situation in that it is affected by competing demands for site area that is needed to address multiple planning goals and objectives. Indeed, considering the stated intents of the NHR zone, the elevated affordable housing requirements that are unique to the NHR zone, and the specialized rooftop solar, floodplain, and stormwater management requirements that are unique to only certain parcels in the NHR zone, it is nearly impossible to meet all these requirements and objectives given the modest size of the Project.

The Property contains only approximately 33,326 square feet, which is small considering the number of regulatory and policy driven requirements the Applicant is required to address and is striving to address. The Project devotes significant area to required access easements, voluntary access pathways, and creating an activated public realm, all of which increases the difficulty of meeting retention requirements. For instance, the Applicant is required to provide a 20-foot wide (approximately 2,231 square foot) public access easement along the east side of the Property. In addition, consistent with the stated intent of the NHR zone to increase pedestrian and bicycle access, the Applicant is providing an approximately 13-foot wide publicly accessible pedestrian and bicycle promenade along the entire north side of the Property. On the west side of the Property, the Applicant is providing an additional publicly accessible pedestrian pathway and substantial landscaped area that will strengthen the public realm throughout the Bridge District and provide additional connectivity between Howard Road and the pedestrian / bicycle promenade. The substantial landscaped areas on the west side of the Property are also bioretention areas that are critical to the Applicant’s stormwater strategy. However, these ground level bioretention areas are unable to satisfy the DOEE 1.2-inch stormwater retention requirement alone. Indeed, even with that significant landscaped area on the west side of the Property, the Applicant still must provide an enlarged central building courtyard at the second floor, atop the Project’s concrete podium, which is predominately devoted to bioretention.

Overall, the above-described easements, open spaces, and ground level and podium-level bioretention areas amount to approximately 13,381 square feet of land area, leaving only approximately 19,937 square feet of area for the housing and affordable housing component of the Parcel 5 Building, which currently contains a modest number of new housing units, approximately 272 units, of which approximately 29 are set aside as

affordable units at 50% and 60% MFI. Perhaps more importantly is that the limited amount of site area available for the actual Parcel 5 Building significantly limits the amount of roof area available for mechanical equipment, solar panels, and green roof. For this Project, the Applicant is planning a fully electrified building program, including for the ground-floor commercial space which is not common. In addition, the Applicant has introduced additional mechanical equipment on the rooftop to help meet its energy reduction targets. Consequently, the increased electrical demand for the Project increases the amount of roof space needed to accommodate substantially more rooftop condenser units, heat pumps, and energy recovery ventilation equipment.

Finally, there are several requirements within the NHR zone that are unique and not found anywhere else in the Zoning Regulations that all currently impose significant cost premiums due to high construction costs and borrowing rates, stricter equity expectations, and continued uncertainty around increased import tariffs, which are costs that must be borne by the Applicant. These include the 12% affordable housing set aside, with increased requirements for 50% MFI and 3-bedroom units, 500-year floodplain prohibition that requires raising the elevation of the Property, and significant infrastructure improvements required along Howard Road (streetscape, waterlines, underground electrical lines, sewer, telecom, etc.).

B. The Strict Application of the Zoning Regulations Would Result in a Practical Difficulty.

As a result of the above-described site constraints, layered regulatory and policy requirements, and significant cost premiums adhered to the Project, the strict application of the rooftop solar panel and stormwater requirements under § 1010.1 of the NHR zone would result in significant practical difficulties for the Applicant. As detailed above, the public easement, ground-floor open space, pedestrian / bicycle promenade, bioretention courtyard, and penthouse setback requirements severely limit the amount of rooftop area on the Parcel 5 Building. As a result, there is not enough roof area to accommodate both the mechanical systems and required clearances to support an all-electric building program with upgraded mechanical systems (including heat pump hot water and energy recovery ventilation) needed to meet the Applicant's energy reduction targets, the additional green roof needed to meet the elevated 1.7-inch stormwater retention requirement, and a rooftop solar array large enough to meet the 178 kWh per 1,000 square feet of gross floor area requirement.

As shown on the Project plans, the Applicant is proposing to locate rooftop solar panels everywhere there is not a need to locate critical rooftop mechanical equipment, which is enough to meet the 1% on-site renewable energy requirement under §1008.2 of the NHR zone, but insufficient to meet the 178 kWh requirement. Having to increase the size of the proposed rooftop solar array to satisfy the 178 kWh requirement would necessitate removal of critical mechanical equipment or rooftop amenity areas. Similarly, use of the limited amount of roof area for solar panels and critical mechanical equipment significantly reduces the space available for green roof, making compliance with the 1.7-inch stormwater requirement unreasonably burdensome.

The tension between the NHR zone's specialized solar energy production and stormwater management requirements render full compliance incompatible with the Applicant's building energy and carbon reduction goals, which align quite literally with the District's own sustainability goals. To fully comply with these two NHR requirements, the Applicant would be forced to replace energy efficient rooftop heat pumps with inefficient in-unit electric resistance heaters, which would drive up the building's energy usage or convert from the all-electric building strategy (which would eliminate some of the rooftop condenser units), which then potentially causes an imbalance in the building's carbon footprint.

C. Relief can be Granted without Substantial Detriment to the Public Good and without Impairing the Intent, Purpose, and Integrity of the Zone Plan.

The requested variance relief can be granted without causing substantial detriment to the public good or impairing the intent of the Zoning Plan, and specifically the intent of the NHR zone. The requested variances will not negatively impact the public good but rather will benefit the public good by facilitating construction of a project that will address a wide range of District policy goals related to housing, affordable housing, transit-oriented development and walkability, increasing neighborhood-serving amenities in underserved areas, and carbon and energy reduction.

The requested variances will also help advance the intent and purpose of the Zoning Regulations, and specifically the intent of the general sustainability requirements of the NHR zone. Specifically, the Project will achieve the requisite number of points necessary to earn LEED Gold certification (11-K DCMR § 1008.1) and will provide a rooftop solar array that can generate at least 1% of the total energy estimated to operate the Parcel 5 Building (11-K DCMR § 1008.2). Additionally, the requested variance relief will facilitate construction of a mixed-use, transit-oriented project that:

- Utilizes mass timber for the structural system of the building which, compared to an equivalent concrete building, results in a reduction in embodied carbon by approximately 30%;
- Utilizes all-electric building systems for both residential and commercial programs;
- Utilizes an upgraded mechanical system that results in an approximate 25% reduction in operational energy requirements compared to an equivalent concrete building, as set by ASHRAE standard 90.1;
- Balances the roof area needs of on-site renewable energy generating rooftop solar panels with the size and clearance needs of the high-efficiency mechanical systems planned for the Project;
- Employs above-grade and rooftop stormwater retention to the maximum extent possible without overly compromising the energy and carbon reduction strategies also being employed in the Project; and
- Meets or exceeds DOE's 1.2-inch rainfall event retention standard.

III. Request for Design Flexibility

The Applicant has made every effort to provide a level of detail that conveys the architectural design of the Project and only requires minimal flexibility from the requirements of the Zoning Regulations. Nonetheless, some design flexibility is necessary to address potential issues that arise during construction and other issues that cannot be anticipated at this time, particularly considering the mass timber construction type of the Project and the significant cost premium it incurs. Thus, the Applicant requests the following areas of minor design flexibility to accommodate design changes that may arise during development of construction drawings for the Project, and to address issues that arise during permitting. The list contains the standard set of minor design flexibility that is regularly granted by the Commission, with slight refinements made to address certain unique aspects of the proposed Project.

- Exterior Details – Location and Dimension: To make minor refinements to the locations and dimensions of exterior details that do not substantially alter the exterior configuration of the building or design shown on the plans approved by the Order. Examples of exterior details would include, but are not limited to, doorways, canopies, railings, and skylights;
- Exterior Material Type and Color: To vary the final selection of the exterior materials within the color ranges and material types as proposed on Sheets A6.03 and A6.04 of the Approved Plans (titled, "Materials Flex"). In the event the Applicant must deviate from the exterior material type or color beyond the parameters of the Material Palette, the Applicant shall file an application for a Modification without Hearing for the Commission's approval;
- Interior Components: To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atria, and mechanical and fire control-related rooms, provided that the variations do not change the exterior configuration of the building as shown on the plans approved by the Order;
- Number of Units: To provide a range in the approved number of residential dwelling units of plus or minus ten percent (10%);
- Affordable Units: To vary the number and mix of inclusionary units if the total number of dwelling units changes within the range of flexibility granted, provided that the Project complies with all applicable Inclusionary Zoning requirements under Subtitle C, Chapter 10, as modified by Subtitle K §§ 1001 and 1010, as applicable;
- Roof Elements: To vary the roof plan as it relates to the green roof areas, solar panels, planters, terraces, pool, equipment, and outdoor amenity areas, provided that no relief is required beyond that which is expressly granted by the Order. The Applicant shall have flexibility to provide accessible access to the rooftop pool deck via ramp as shown in Exhibit 3B of the case record if the proposed elevator access to the pool deck is deemed infeasible;
- Retail Frontages: To vary the final design of retail frontages of the building, including the location and design of entrances, show windows, signage, and size of retail units, in accordance with the needs of the retail tenants and/or as the result of Code or agency requirements;

- Signage: To vary the font, message, logo, and color of signage, provided that the maximum overall dimensions and signage materials are consistent with the signage on the plans approved by the Order and are compliant with the DC signage regulations;
- Retail/Commercial Use Types: To vary the types of uses designated as “retail” or “commercial” on the Final Plans to any use that is permitted as a matter-of-right in the following use categories, and to allow any such use to also satisfy the NHR zone designated streets requirement of Subtitle K § 1004.2: Retail (11-B DCMR § 200.2(bb)); Services, General (11-B DCMR § 200.2(cc)); (Services, Financial (11-B DCMR § 200.2(dd)); Eating and Drinking Establishments (11- B DCMR § 200.2(i)); Animal Sales, Care, and Boarding (11-B DCMR § 200.2(c)); Daytime Care (11-B DCMR § 200.2(h)); Entertainment, Assembly, and Performing Arts (11-B DCMR § 200.2(m)); Medical Care (11-B DCMR § 200.2(o)); Education, Private (11-B DCMR § 200.2(k)); Education, Public (11-B DCMR § 200.2(l)); and Arts, Design, and Creation (11-B DCMR § 200.2(e));
- Parking Layout: To make refinements to the approved bicycle and vehicle parking configuration, including layout, location, and number of bicycle and vehicle parking space plus or minus ten percent (10%), so long as the number of parking spaces is at least the minimum number of spaces required by the Zoning Regulations and no relief is required;
- Streetscape Design: To vary the location, attributes, and general design of the approved streetscape to comply with the requirements of, and the approval by, the DDOT Public Space Division or the Public Space Committee or utilities;
- Sustainable Features: To vary the approved sustainable features of the Project, provided the total number of LEED points achievable for the Project does not decrease below the LEED Gold standard as shown on Sheet A9.01 of the Approved Plans; and
- Landscape Materials: To vary the final selection of landscaping materials utilized based on availability at the time of construction.

IV. Comprehensive Transportation Review

In consultation with DDOT, the Applicant has prepared a Comprehensive Transportation Review (the “CTR”) summarizing the potential impacts of the Project on the surrounding transportation network and includes recommended measures to mitigate potential impacts through various Transportation Demand Management (“TDM”) strategies and a Loading Management Plan. A copy of the CTR is attached as Exhibit B, which has also been submitted to DDOT.

V. Witness Testimony Outlines and Resumes of Expert Witnesses

The following witnesses will appear on behalf of the Applicant as part of its direct presentation:

1. Sohael Chowfla, Senior Vice President, Development
Redbrick LMD

2. John Mitchell, Associate Partner
HPA Architecture
Proffered as an expert in architecture.
3. Robert Schiesel, Principal
Gorove / Slade & Associates
Proffered as an expert in transportation planning (previously accepted).
4. Shane Dettman, Urban Planner
Goulston & Storrs
Proffered as an expert in land use planning (previously accepted).

Testimony outlines for the foregoing witnesses are attached as **Exhibit C**.

The following witnesses will be available for questions following the Applicant's direct presentation:

5. John Kilborne, Vice President, Development
Redbrick LMD
6. Dan McGee, Senior Associate – Development, Director of Sustainability
Redbrick LMD
7. Lindsay Morton, Director, Community Engagement and Corporate Impact
Redbrick LMD
8. Loran Newman, Senior Associate
HPA Architecture
9. David Seiter, Founding Principal
Future Green
10. Will Lattanzio, Principal-in-Charge
Wiles Mensch
Proffered as an expert in civil engineering (previously accepted).

Resumes for the witnesses that the Applicant is proffering as experts in their respective fields are attached as **Exhibit D**.

The Applicant looks forward to presenting the Project to the Commission at the public hearing on September 8, 2025.

Sincerely,

/s/
Jeff C. Utz

Certificate of Service

The undersigned hereby certifies that copies of the foregoing documents will be delivered by electronic mail to the following addresses on August 8, 2025.

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/s/ _____

Shane L. Dettman