

December 16, 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. (“Gables”) and EAJ 1309 5th Street LLC (“EDENS” and collectively, the “Applicant”) to the District of Columbia Zoning Commission for a Second-Stage PUD at 1329 5th Street, NE (the “Property”) – Applicant’s Post-Hearing Submission

Dear Chairman Hood and Commissioners:

On behalf of the Applicant, we hereby submit this response to the comments and questions from the Commission at the November 25, 2019 public hearing for the above-referenced application for a second-stage PUD for the mixed-use multifamily residential building with ground floor retail and commercial uses, and below-grade parking on the Property (the “**Project**”). The Property is within the boundaries and the Project is within the parameters of the first-stage PUD approved as part of Z.C. Case No. 14-12 (the “**Approved PUD**”).

I. ANC Update

The Applicant presented the Project’s updated proffers to ANC 5D at the ANC’s regularly-scheduled December 10, 2019 meeting. After the presentation, the ANC voted unanimously to adopt a resolution in support of the Applicant’s updated proffers. See **Exhibit A**. The Applicant continues to have a good working relationship with the ANC and appreciates the ANC’s support and thoughtfulness in providing feedback that improved this Project. The Applicant looks forward to continuing that relationship throughout this Project.

II. Public Benefits

The public benefits now proposed as part of the Project significantly enhance both the public benefits the Commission previously approved as part of the Approved PUD and those previously proposed by the Applicant.

As part of the Approved PUD, the Commission approved a package of public benefits that reflected the priorities of the District, ANC 5D, the Commission, and EDENS in 2014 and 2015. At that time, the benefits of the Approved PUD were largely focused around helping ensure that the Union Market District would evolve into a thriving area in accordance with the vision of the Florida Avenue Market Study, that would become beneficial to the nearby neighborhood, that would sustain and foster small businesses, and that would draw visitors from across the District and beyond. As a result, the benefits package originally-approved by the Approved PUD includes such items as security patrols at an expense of \$400,000 annually, place-making streetscape guidelines, community events programming, provision for public outdoor spaces, wayfinding signage, other public space improvements, and jobs training and hiring benefits. The Approved PUD also included benefits related to housing, affordable housing, and sustainable development that rounded out the broader package of public benefits and amenities. Moreover, the housing benefits were not a certainty to be provided because the Approved PUD contemplated office use as a possible primary above-grade use for the two buildings approved thereunder. Also importantly, EDENS has already begun or completed the implementation or delivery of a majority of the benefits of the Approved PUD, *see* **Exhibit B**.

Even before the public hearing, the Applicant enhanced its public benefits as part of the Project even without seeking modifications to the Approved PUD or additional flexibility (in fact, flexibility was removed from the Project). Nevertheless, from the outset the Applicant voluntarily increased its proffers relating to affordable housing and sustainability and proposed an entirely new proffer reserving a portion of the ground floor for PDR/Maker uses and building out that level to enhanced PDR/Maker specifications.

At the hearing, the Commission pressed the Applicant to further enhance its proffers as to affordable housing and sustainability. After the hearing, following internal discussions between EDENS and Gables, the Applicant has committed to further enhance its public benefits consistent with the proffers filed on December 2, 2019 and as summarized below. Notably, ***all of the Project's affordable housing proffer is now affordable at or below the 60% MFI level (with 30% of the residential gross floor area still at the 50% MFI level), and the Project will achieve LEED Gold v4 (equivalent to LEED Platinum 2009).***

The Project's proposed housing and affordable housing are significant enhancements to the Approved PUD. The Project's units, including the affordable units, are all "new" units since the date of the Mayor's May 2019 Executive Order regarding housing insofar as the original first-stage PUD authorized the Property to be developed as office use and without any residential uses at all. The Project's enhanced proffer, pushing the affordable component beyond a set aside of 8% of the residential area for households at or below the 80% MFI level, is a step further towards achieving the Executive Order. Moreover, the Project includes five total "family-sized" units, four of which are reserved as affordable at the reduced MFI levels.

The further enhanced proffers are substantially above and beyond what is required of a typical second-stage PUD that is otherwise in accordance with the first-stage PUD approval. These enhanced proffers are not required in order to satisfy any material additional flexibility or

modifications to the first-stage PUD.¹ Rather, the Applicant believes that the Project’s enhanced public benefits further advance the District’s goals with respect to establishing the Union Market District as an inclusive, thriving, and resilient neighborhood.

A chart tracking the evolution of the specific Project benefits and amenities discussed herein is as follows:

	Public Benefits per Approved PUD	Applicant’s Pre-Hearing Proffer	Post-Hearing Further Enhanced Proffer
Affordable Housing	8% of residential GFA at 80% MFI	9% of residential GFA 30% at 50% MFI 70% at 80% MFI	9% of residential GFA 30% at 50% MFI 70% at 60% MFI
Family-Sized Units	None	Five units, four of which are affordable	
Sustainability	LEED Silver 2009 (no solar panels)	LEED Silver v4 (LEED Gold 2009) + 1,300 sf of solar panels	LEED Gold v4 (LEED Platinum 2009) + 2,000 sf of solar panels
Bicycle TDM Measures	\$14,000 in Capital Bikeshare memberships for North Building and South Building in total	\$14,000 in Capital Bikeshare memberships for North Building + \$14,000 in Capital Bikeshare memberships for South Building (\$28,000 in total)	\$40,000 in Capital Bikeshare memberships for North Building + \$14,000 in Capital Bikeshare memberships for South Building (\$54,000 in total) + ebike charging stations
PDR/Maker Use	None	5% of commercial GFA reserved use for 5 years ^{2 3} 50% of commercial GFA built to enhanced specs	

¹ The Office of Planning and Office of Attorney General appear to be in alignment with the Applicant that the Approved PUD’s public benefits including the prior affordable housing component for the North Building, of 8% of the residential area provided for households earning no more than 80% AMI, are “vested”.

² This PDR/Maker proffer is intended to track the PDR/Maker proffer recently approved as part of Z.C. Case No. 17-14.

³ The Applicant notes that it is not able to commit to an extension of the period offered for the Maker/PDR use component (five (5%) of the non-residential gross floor area on the Project’s ground floor) for longer than the five (5) year minimum described in Conditions 8 and 9 of Exhibit 29 in the case record (the Applicant’s draft conditions). The Applicant reiterates its reasoning provided from Pages 6-8 in Exhibit 25 in the case record.

III. Design Revisions

At the public hearing, the Commission had several comments and questions pertaining to the design of the Project. The Applicant has revised the Project in response to the comments from the Commission and has provided additional requested information as described below:

1. North Façade: The Commission asked the Applicant to consider adding additional ornamentation or other design detailing to the brick façade on the north side of the building to provide greater visual interest and to help break up the dimension of the walls on that elevation. The Applicant agrees with the Commission and has proposed a revised brick detailing design in keeping with the mercantile/industrial heritage of the Union Market District as shown on sheets A16 and A22 of Exhibit C. In addition, the Commission asked the Applicant to consider adding windows to the north façade of the Project, recognizing that any windows on that façade would be “at risk” windows. The Applicant agrees with the Commission that adding windows to that façade improves the exterior appearance of the building. As a result, the Applicant proposes an alternative design for the north façade as shown on sheets A50 and A51 of Exhibit C. The Applicant seeks the flexibility to construct such alternative design in the event that the Applicant has certainty that the property to the north will be constructed with a massing allowing for the use of such “at risk” windows. That is, the Applicant can move forward with the alternative “at risk” window design if it receives assurances either from the owner of the neighboring property or through the approval process for such property that the massing approved for such parcel will not block or render unusable the “at risk” windows. For comparison purposes, both alternative designs for the north façade are shown in Exhibit C. Also as stated in prior filings, in the event the massing of the building to be located property to the north is approved to be built to the property line, the North Building’s north façade will be revised to be code-compliant and may not include the at-risk windows or the revised brick detailing in the locations where there is no separation between the North Building and the building on the property to the north.
2. Trellis Revisions: The Commission asked the Applicant whether solar panels would be incorporated into the trellis, suggested that the lighting elements be reduced or removed from the trellis, and suggested that the trellis incorporate more shading functionality. The Applicant confirms that the trellis will not include solar panels and agrees with the design suggestions. The Applicant has substantially reduced the lighting features incorporated into the trellis and has revised it so that it provides a greater amount of shade. The revised trellis is shown on Exhibit D.
3. Lights: The Commission also asked for more information about the lights on the architectural “surround” on the 5th Street, NE façade of the Project and on the underside of the balconies and suggested that the lighting elements be designed to minimize glare into units, light spillage generally, and energy inefficiency. The Applicant appreciates those comments and confirms that those decorative lighting elements will be controlled by photocells or a timer to automatically turn on and off based on ambient lighting conditions, will be set on timers to limit the nighttime hours that they operate, and will

be positioned and shielded to minimize adverse lighting effects on units and into public space. Images showing the updated lighting strategy are shown on **Exhibit E**.

4. **Signage**: The Commission asked for additional detail regarding the proposed retail signage plan for the Project. The Applicant has added such additional detail to the Project's retail signage plan which is attached as **Exhibit F**. In addition, confusing precedent images were removed from the signage plans. EDENS has a strong record of delivering high-quality retail with thoughtfully-designed signage in the Union Market District. The proposed signage retail plans are consistent with and would allow signage compatible to the existing signage in the District and compatible with what the Commission approved in 2018 in Z.C. Case No. 17-14, which is another recently approved PUD in the Union Market District – at 550 Penn Street, NE.⁴
5. **5th Street, NE Façade “Surround”**: OP commented that the “surround” on the 5th Street, NE façade of the Project may not comply with the projection requirements of the Construction Code. More particularly, the Applicant understands OP's concerns to pertain to the vertical elements of such “surround” structure. OP also indicated that it would support the Applicant if it sought a modification under the Construction Code for such elements. The Commission asked the Applicant to provide information about an alternative design in the event such modification is not approved. Accordingly, the Applicant proposes an alternative Construction Code-compliant projection and requests design flexibility to deliver the alternative projection in the event the Code modification is not approved for the desired “surround” on 5th Street. *See* **Exhibit G**.
6. **Plaza Access Control**: The Commission requested additional information regarding the structural elements that will control transportation access to the Plaza. The Applicant proposes a range of designs that can achieve such control and remain in character and additive to the unique, flexible urban plaza. Such designs are shown on **Exhibit H**, and the Applicant requests flexibility to vary the final design of the gate in accordance with the themes and concepts proposed in such exhibit.
7. **Solar Panels**: The Commission encouraged the Applicant to maximize the Project's solar capacity. Accordingly, the Applicant has increased the minimum solar panel area from 1,300 square feet to 2,000 square feet, an increase in excess of 50 percent of the original commitment. *See* **Exhibit I**.
8. **Other Sustainability Measures**: In addition, the Commission encouraged the Applicant to enhance its sustainability commitment. As noted above, the Applicant commits to achieve LEED Gold v4 and to provide power outlets in the bicycle storage room to accommodate ebike charging. The Applicant is happy to commit to these items and has enhanced the Project's overall sustainable design. Additional sustainability-related features of the Project include improved building envelope performance, more efficient mechanical systems, low-flow water fixtures throughout the project, indoor

⁴ *See* Z.C. Case No. 17-14, Exhibit 27B3 at S-01 through S-07 and Exhibit 35C.

environmental quality considerations, and a number of innovation and regional priority credits. See **Exhibit J**.

In addition to the design changes encouraged by the Commission summarized above, the Applicant has considered the Commission’s comments regarding maintenance of the Project’s brick and its concerns about discoloration and weathering. The Commission also asked for examples of how the proposed brick weathered on other buildings that have made use of it. In response, included as **Exhibit K** are photos of current-day conditions of two local buildings that used the brick proposed for the Project. Those two buildings are the Market at O Street, located at 800 P Street NW, Washington DC 20001 and completed in 2017, and The Boro, located at 8301 Greensboro Drive, Tysons, Virginia 22102 and completed earlier this year. Both buildings have weathered well. In addition, the tonal variation and mottled look of the proposed brick give the buildings a perceived patina and help keep the brick from looking worn or weathered over time. These characteristics are exactly what is sought for the appearance and endurance of the Project’s brick.

IV. Other Items

In addition to the enhanced proffers and design changes, the Commission and District Department of Transportation (“**DDOT**”) raised some additional questions at the hearing.

9. **Plaza Operations:** The Commission asked for more information about how the Plaza will function, whether there will be established and enforced regular hours of operation for loading and unloading, and how the various uses of the Plaza will coexist. As a starting point, the Applicant anticipates that Plaza will be a highly adaptable space with many different uses and users. Accordingly, the loading in the Plaza will be managed and property management professionals responsible for managing the adjacent uses at The Market and Dock 5 and overall Union Market District will oversee operations and protocols of the Plaza. EDENS has significant experience managing active public spaces in shopping and pedestrian zones across its portfolio and looks forward to making the Plaza a unique place at the heart of the Union Market District. The Applicant notes that the Urban Plaza and Park Design Guidelines (submitted in the record of Z.C. Case No. 14-12 as Exhibit 35B) and the Loading Management Plan (submitted in the record of Z.C. Case No. 14-12 as Exhibit 19D) set out the parameters of the operation of the Plaza and would still govern the operation of such area.

The general anticipated loading operations will occur as follows:

- EDENS expects that loading operations on the Plaza will generally occur in the early morning hours to mid-morning hours, consistent with the traditional hours of food loading and wholesale operations in the Union Market District generally.
- By late morning and into the afternoon and evening, the Plaza will generally begin to be activated by pedestrians and not be used for loading and other vehicles. In this mode of use, the Plaza will transition into a pedestrian-oriented space. One pedestrian-oriented configuration might involve a mix of café seating and shading

along with sidewalk games. Another configuration might involve outdoor vendors, or perhaps a temporary stage for a performance.

- At the end of the day (depending on the activities planned for the evening), the pedestrian uses will generally be cleared away so that loading activities can resume the following morning, as needed.

While the process above is generally how loading operations will occur, EDENS requires flexibility in managing the Plaza to adapt to changes in programming and events, a constantly evolving retail mix, alterations in public perceptions of safety, ongoing revisions to DDOT standards, any required capital improvements or maintenance programs, and construction. Pedestrian access to and through a portion of the Plaza is expected to remain in place at most times. *See* sheet L6 and L7 at the end of **Exhibit H**.

10. **Design Flexibility**: The Commission requested that the Applicant revise its design flexibility language. Those changes were reflected in the proposed conditions filed by the Applicant on December 2, 2019 and re-filed herewith incorporating the flexibility language identified above and comments from the Office of Attorney General.
11. **DDOT Conditions**: DDOT requested additional information regarding the Applicant's outreach to the abutting property owner regarding shared garage access. The Applicant obtained a letter from the abutting property owner, and that letter is included here as **Exhibit L**. DDOT also requested a proposed condition regarding the requested shared garage access. That information was included in the proposed conditions filed by the Applicant on December 2, 2019 and re-filed herewith.

DDOT also requested the enhanced Capital Bikeshare membership proffer. As the Applicant noted above, the Applicant agreed to enhance its commitment to cycling-related sustainability efforts by committing to provide every new resident of the Project (for the sake of clarity, here meaning the North Building) with a year's free Capital Bikeshare membership up to a maximum of \$40,000, quadrupling the previous commitment for the Approved PUD as a whole. In terms of membership costs, \$40,000 is the equivalent of a membership for every new resident of every unit, assuming 1.5 residents per unit. The \$14,000 Bikeshare membership commitment from the Approved PUD would be utilized for the South Building.

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 December 16, 2019 (except where noted below), 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

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