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September 4, 2020

## **VIA IZIS**

Zoning Commission for the  
District of Columbia  
441 4th Street, N.W., Suite 210S  
Washington, D.C. 20001

**Re: Z.C. Case No. 20-09 - Applicant's Supplemental 20-day Prehearing Filing  
Consolidated PUD and Zoning Map Amendment  
2419 25<sup>th</sup> Street, SE (Square 5740, Lot 337)**

Dear Members of the Commission:

On behalf of Wagner, LLC (the "Applicant"), and pursuant to 11-Z DCMR § 401.5, we hereby submit this Supplemental Prehearing Statement in support of Z.C. Case No. 20-09 for a consolidated planned unit development ("PUD") and a related Zoning Map amendment for property located at 2419 25<sup>th</sup> Street, SE (Square 5740, Lot 337) (the "Site").

### **I. Updated Architectural Plans and Elevations**

As shown on the updated Architectural Plans and Elevations (the "Updated Architectural Plans") attached hereto as Exhibit A, the Applicant has provided the following additional materials and information:

- Added a curb extension at the corner of Wagner and 24<sup>th</sup> Streets, as requested by DDOT. *See* Sheets A02, C03, and L01.
- Added an outdoor patio at the ground level adjacent to the building's main entrance; extended the entrance canopy over the patio; added a usable outdoor roof deck at the 4<sup>th</sup> floor; and adjusted the windows adjacent to the roof deck, all in response to comments from the Office of Planning ("OP") to provide more outdoor space for building residents. *See* Sheets A02, A04, A09-A12, L01, L02, and L08.
- Added windows to the lower level amenity space in response to comments from OP to bring natural light into this portion of the building. *See* Sheet A10.
- Added additional shade trees to the parking area, in response to comments from OP to increase the amount of landscaping and tree cover on the Site. *See* Sheet L01.

## **II. Update on Public Benefits and Amenities**

Since the application was set down, the Applicant has continued to refine the proposed public benefits and amenities for the project and has updated the proposed PUD proffers as set forth below.

### **A. Public Benefits Previously Proposed by Applicant**

1. Superior Urban Design, Architecture, and Superior Landscaping (11-X DCMR § 305.5(a) and (b)) (*see* Applicant's Statement in Support at Exhibit 3, p. 24);
2. Site Planning and Efficient and Economical Land Utilization; Streetscape Plans and Implementation (11-X DCMR §§ 305.5(c) and (l)) (*see* Applicant's Statement in Support at Exhibit 3, pp. 24-25);
3. Housing that Exceeds the Amount Required through Matter-of-Right Development under Existing Zoning and Senior Housing (11-X DCMR § 305.5(f)) (*see* Applicant's Statement in Support at Exhibit 3, p. 25); and
4. Affordable Housing that Exceeds the Amount Required through Matter-of-Right Development Under Existing Zoning (11-X DCMR § 305.5(g)) (*see* Applicant's Statement in Support at Exhibit 3, p. 26).

### **B. Additional Proposed Public Benefits**

1. Transportation infrastructure beyond that needed to mitigate any potential adverse impacts of the application (11-X DCMR § 305.5(o)). As requested by DDOT, and as shown on Sheets A02, C03, and L01 of the Updated Architectural Plans, the Applicant will install a curb extension (bulb-out) at the corner of 25<sup>th</sup> and Wagner Streets to facilitate easier pedestrian movements; and
2. Uses of special value to the neighborhood or the District of Columbia as a Whole (11-X DCMR § 305.5(q)) as follows:
  - a. Prior to the issuance of the final certificate of occupancy for the Project, the Applicant shall demonstrate to the Zoning Administrator that it has purchased a minimum of \$20,000 of laptops and has delivered them to ANC 8B for distribution to students within ANC 8B boundaries for the 2020-2021 academic year. The laptops will be in new condition, have cameras, and come with or be able to install Microsoft Office, such that students will be able to successfully complete distance learning;
  - b. Prior to the issuance of the final certificate of occupancy for the Project, the Applicant will donate \$7,000 to Families on the Rise to fund programming to provide mental health services for youth in ANC 8B; and

- c. Prior to the issuance of the final certificate of occupancy for the Project, the Applicant will donate \$5,000 to The Gerald Project to fund programming to assist with services for youth in ANC 8B impacted by gun violence.

**III. Response to Comments from Interagency Meeting**

On July 10, 2020, the Applicant participated in an interagency meeting hosted by the Office of Planning (“OP”) to discuss the application. Representatives from OP, the District Department of Transportation (“DDOT”), the Department of Energy and the Environment (“DOEE”), the Department of Housing and Community Development (“DHCD”), and the Department of Aging and Community Living (“DACL”) participated in the meeting and provided comments to the Applicant. The agencies’ comments and the Applicant’s responses thereto are set forth in the following chart:

Agency	Comment	Applicant’s Response
OP Development Review	Provide further justification for the PUD minimum land area flexibility.	<p>The Applicant’s Statement in Support provided a detailed analysis regarding why the application should be granted flexibility from the minimum PUD land area requirements, and in the alternative, how the request also meets the standards for approval as an area variance. <i>See Ex. 3, pp. 12-15.</i> As set forth in Exhibit 3, the Zoning Commission should approve the application despite not meeting the minimum PUD land area requirement for the following reasons:</p> <ul style="list-style-type: none"> <li>• The application satisfies the specific criteria of 11-X DCMR § 301.2 to permit a waiver from the PUD minimum land area requirements because the Site is located outside of the Central Employment Area and is of exceptional merit because 100% of the gross floor area (“GFA”) will be devoted to senior affordable housing;</li> <li>• The project achieves the purposes of the PUD process to provide for higher quality development through flexibility in building controls. The project will be superior to what could be developed under matter of right standards, offers commendable public benefits and amenities, advances the public health, safety, welfare, and convenience, and is not inconsistent with the Comprehensive Plan;</li> <li>• Without the requested flexibility the Applicant would be unable to proceed with the PUD and the Site would therefore be developed with significantly less housing, and less senior affordable housing, which is inconsistent with the</li> </ul>

		<p>Mayor’s housing and affordable housing goals for the District.</p> <ul style="list-style-type: none"> <li>• The Comprehensive Plan specifically encourages modifications to the minimum lot size and other filing and procedural requirements for PUDs in neighborhood commercial areas to allow small property owners to participate in projects that encourage high quality developments and provide public benefits. <i>See</i> 10A DCMR § 309.18(a).</li> <li>• If the Commission alternatively determines that the request should be processed as an area variance, then the Applicant’s Statement in Support demonstrates that the site is affected by an exceptional situation that results in a practical difficulty in complying with the minimum PUD land area requirements, and that granting the relief would not result in a substantial detriment to the public good or impair the intent, purpose, or integrity of the zone plan. <i>See</i> Ex. 3, pp. 14-15.</li> <li>• Specifically, the Site is affected by specific exceptional conditions that give rise to a practical difficulty in meeting the minimum PUD land area requirement. The Site was subdivided in 2004 from the much larger property currently occupied by the adjacent rehabilitation facility. Those lot lines now abut the Site to the south and west, and public streets abut the Site to the east and south. Thus, there is no ability to increase the size of the Site to comply with the minimum land area requirement. As a result of these conditions, the Applicant and any future land owner would have to abandon the PUD process entirely because it could never meet the minimum land area requirement, thus creating a practical difficulty for development of the Site.</li> <li>• A variance from the minimum land area requirement would not result in substantial detriment to the public good or impair the Zoning Regulations or Zoning Map. Quite the opposite, the PUD will provide a substantial benefit to the public good in the form of significant and high quality new affordable senior housing, the removal of a long-vacant and underutilized site, and significant public benefits that have been negotiated and supported by the ANC and which directly improve the lives of residents in the neighborhood. The PUD also will not result in any negative impacts related to traffic,</li> </ul>
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		<p>parking, or pedestrian/vehicular conflicts as set forth in the Applicant’s Transportation Study which found that the amount of parking was appropriate and that the streetscape surrounding the Site would be significantly upgraded to enhance the pedestrian experience and increase safety.</p>
OP Development Review	<p>The Applicant’s environmental benefit proffer should not be considered a public benefit or amenity as part of the PUD balancing test.</p>	<p>The Applicant agrees that its previously-proffered environmental benefit need not be considered a public benefit or project amenity pursuant to 11-X DCMR § 305.5(k). As identified in Section II.A above, the Applicant did not include Environmental Benefits in the list of proposed PUD public benefits and amenities.</p> <p>However, the Applicant maintains that the value of public benefits and amenities offered as part of the application, as updated in this Supplemental Prehearing Submission based on engagement with the ANC, OP, and DDOT, continue to significantly outweigh the degree of development incentives requested, consistent with the PUD evaluation standard set forth in 11-X DCMR § 304.3.</p>
OP Development Review	<p>Confirm that the proposed FAR is shown correctly on the zoning tabulation sheet.</p>	<p>The Applicant confirms that the proposed density for the PUD is 2.59 FAR, as permitted for a PUD in the RA-2 zone. <i>See Zoning Analysis at Sheet G11 included in the Updated Architectural Plans (Exhibit A).</i></p>
OP Development Review	<p>Provide information indicating whether on-street parking is permitted on Wagner Street.</p>	<p>As shown on the curbside management map attached hereto as <u>Exhibit B</u> (excerpted from the Applicant’s Transportation Study included in the record at Exhibit 19), the majority of Wagner Street closest to the Site is Zone 8 Residential Parking (or without a residential parking permit, two-hour parking). Farther north on Wagner Street includes some limited areas where either no parking is permitted or where parking is unrestricted.</p>
OP Urban Design	<p>Provide more outdoor space as part of the project (e.g. balconies, patios, porches, rooftop space, elsewhere on the Site).</p>	<p>As shown on the Updated Architectural Plans, the Applicant is now providing additional outdoor space for building residents in the form of a patio at the ground floor level and a roof deck at the 4<sup>th</sup> level.</p> <p>The ground floor amenity space is adjacent to the main entrance and accessed from the lobby. Residents will be able to use this space to interact with those coming and going from the building. The patio will have a canopy to provide shelter from the elements that wraps the building</p>

		<p>at the corner, as well as shade from adjacent trees. A built-in bench and other furniture options will be provided for seating in this area.</p> <p>The roof deck is located at the 4<sup>th</sup> level setback and will provide an additional outdoor gathering space for the residents, with views of the surrounding area. The Applicant will also provide flexible seating options on the 4<sup>th</sup> floor patio, including shade umbrellas.</p> <p>At the request of OP, the Applicant considered providing balconies for individual residential units. However, adding balconies to all or most of the units would have impacted the massing and other successful design elements employed to ensure the building fits sensitively into the context. The Applicant believes that focusing the outdoor space on common areas that could be enjoyed by all residents and encourage interaction is an appropriate approach for a senior housing project.</p> <p>The Applicant also considered incorporating private outdoor patio spaces at the ground level for individual residential units. However, due to a variety of site constraints, including grade changes and bio-retention facilities, ground floor patios cannot be accommodated. Moreover, the Applicant's preference is to provide the common outdoor spaces as described above, which can more easily be controlled and secured for safety purposes.</p>
OP Urban Design	Add light wells to the basement amenity space.	As shown on Sheet A10 of the Updated Architectural Plans, the Applicant has added clerestory windows to the below-grade amenity space, providing natural light into this portion of the building.
OP Urban Design	Add more landscaping, including street trees on Wagner Street and in the parking area.	As shown on Sheets L01 of the Updated Architectural Plans, the Applicant has provided additional landscaping adjacent to the proposed outdoor patio space at the ground level. The Applicant has also added more shade trees at the south ends of the parking area. Due to constraints with utility poles, overhead lines, stormwater infrastructure and manholes for underground utilities, additional street trees cannot be added along Wagner Street without conflict. However, additional trees were added to the landscape buffer area between the sidewalk and the building prior to setdown in direct response to comments

		from Casey Trees on this issue. <i>See</i> Prehearing Submission (Ex. 14).
DDOT	Provide additional justification for the flexibility requested to not provide the required 30 foot loading berth.	<p>The Applicant’s Statement in Support provided a detailed analysis as to why flexibility should be granted from the loading berth requirement for the PUD. <i>See</i> Ex. 3, pp. 15-16. The Applicant has also continued to work with DDOT to provide additional justification for the requested flexibility as follows:</p> <p>The Zoning Regulations require that the project provide one 30-foot loading berth and one 20-foot service/delivery space. The Applicant proposes to only provide the 20-foot service delivery space. However, given the size of the residential units (approximately 445 to 770 square feet each) it is unlikely that residents of the building would require a 30-foot truck for move-ins or move-outs, and that the 20-foot service/delivery space would be able to easily accommodate trucks serving all of the loading needs for building residents. The proposed 20-foot loading space would also be able to accommodate building deliveries (UPS, Fed-Ex) and building maintenance vehicles.</p> <p>The Applicant also shared truck turning maneuvers with DDOT demonstrating that in order to provide head-in and head-out maneuvers (as required by DDOT), the Applicant would have to cut into a portion of the building, thus resulting in the loss of approximately five senior housing units. The Applicant would also have to increase the amount of pavement and decrease the amount of green space, trees, and landscaping on the Site. Moreover, the maneuvering diagrams indicate impacts beyond the extents of the property line.</p> <p>A 30-foot loading berth would also require a wider curb cut, thus creating a higher likelihood of vehicle/pedestrian conflict on the adjacent sidewalk.</p> <p>Thus, for the foregoing reasons, the Applicant submits that the flexibility requested to not provide the required 30-foot loading berth is fully justified and will not result in any detriment to the public good or create any negative impacts.</p>
DDOT	Provide a curb extension (bulb-out) at the corner of 25 <sup>th</sup> and Wagner	The Applicant has agreed to this request, as set forth in the revised list of PUD public benefits (Section II.B herein)

	Streets to facilitate easier pedestrian movements.	and as shown on Sheets A02, C03, and L01 of the Updated Architectural Plans.
DHCD	The project will be exempt from the IZ requirements so long as it has Low Income Housing Tax Credit funding. Once the LIHTC funding expires, the project would be subject to the minimum IZ requirements (10% of the residential gross floor area).	The Applicant agrees with this conclusion. As described in the Applicant's Statement in Support (Ex. 3), the Applicant will reserve 12% of the residential GFA to IZ units following expiration of the LIHTC funding.
DOEE	The existing 2015 Enterprise Green Communities standard will expire in October, 2020. The Applicant should consider submitting a new scorecard under the 2020 standards.	The Applicant submitted a checklist indicating that the project would achieve a minimum of 60 points under the 2015 Enterprise Green Communities standards. If the project is developed following the adoption of the 2020 standards, then the Applicant will ensure that the project is developed according to the new standards at a level that is equivalent to 60 points under the current 2015 standards.
DOEE	Recommend (i) providing solar panels on the building; (ii) considering climate resiliency by providing a shelter-in-place flex-space in the basement; and (iii) incorporating native planting where possible.	In response, the Applicant (i) is providing solar panels on the roof of the project, as shown on Sheet A06 of the Updated Architectural Plans; (ii) will be able to use the basement amenity area as a shelter in place flex space if needed; and (iii) the landscape design will utilize native and adaptive plantings in all locations around the site.
DACL	Provide the number or percentage of handicapped-accessible units.	A minimum of 15% of the residential units will be accessible.
DACL	Consider providing residential units at lower MFI levels.	The Applicant has proposed to reserve 100% of the residential units in the project to households earning <u>up to</u> 60% of the MFI. Therefore, there is flexibility in the proffer

		to rent units to households at a lower MFI level if the funding sources enable doing so.
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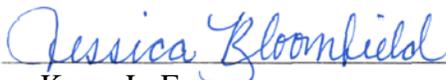
**III. Update on Community Support**

The Applicant presented the application to the affected Advisory Neighborhood Commission (“ANC”) 8B at its public meetings on June 16 and July 21, 2020, and worked with the ANC in developing a Community Benefits Agreement (“CBA”). At the ANC’s duly noticed and regularly scheduled public meeting of July 21, 2020, at which a quorum of commissioners was present, ANC 8B voted unanimously to support the application. A copy of the ANC’s resolution and the signed CBA is attached hereto as Exhibit C.

The Applicant appreciates the Commission’s continued review of this project. We look forward to making a full presentation at the September 24, 2020 virtual public hearing on this application.

Sincerely,

HOLLAND & KNIGHT LLP

By:   
Kyrus L. Freeman  
Jessica R. Bloomfield

Enclosures

- cc: Certificate of Service
- Crystal Myers, D.C. Office of Planning (with enclosures via Email)
- Aaron Zimmerman, DDOT (with enclosures via Email)
- Kimberly Vacca, DDOT (with enclosures via Email)
- Commissioner Leonard Lee Watson Jr., ANC 8B01 (with enclosures via Email)

**CERTIFICATE OF SERVICE**

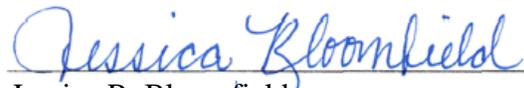
I hereby certify that on September 4, 2020, a copy of the foregoing Supplemental Prehearing Submission was served on the following via email:

Ms. Jennifer Steingasser  
D.C. Office of Planning  
1100 4<sup>th</sup> Street, SW – Suite E650  
Washington, DC 20024

VIA EMAIL

Advisory Neighborhood Commission 8B  
c/o Commissioner Keeon Johnson  
ANC 8B Chair  
8B07@anc.dc.gov

VIA EMAIL

  
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