

May 27, 2022

**Meridith H. Moldenhauer**

Direct Phone 202-747-0763  
mmoldenhauer@cozen.com

**VIA IZIS**

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

**RE: ZC Case No. 22-08  
Applicant's Post-Hearing Submission**

Chairperson Hood and Honorable Members of the Commission:

On behalf of the Applicant NRP Properties, LLC's (the "Applicant"), please consider this post-hearing submission addressing the Commission's comments on the subject voluntary design review application during the public hearing on May 16, 2022. As set forth in the record and discussed during the hearing, the Applicant is proposing to construct a new residential development with 109 all-affordable dwelling units (the "Project") at 4401-4435 Benning Road NE (the "Property").

**I. Revised Architectural Plans**

The Commission requested revisions and clarifications to the architectural plan set for the Project. The Applicant has enclosed revised architectural sheets (the "Revised Plans") at Tab A<sup>1</sup> to address the Commissions' comments, as follows:

*A. Ground Floor Plan*

The Applicant has made several revisions to the Project's ground floor plan in response to Commission comments regarding the location of mechanical/utility rooms along the front façade. In order to better activate the front façade, the Applicant successfully relocated the offices, conference room, and residential amenity space along the building's front façade. *See Tab A*, Sheet A-10. To accommodate this preferred location for three uses, the Applicant relocated the bicycle parking room and maintenance storage room to the western side of the building. The Applicant is still achieving its goal of creating a visible (and, hence, more usable) bicycle storage room, but has reoriented the room so that it occupies less space of the building's front façade. While two smaller utility rooms remain by the garage entrance, as required and noted during the hearings, the

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<sup>1</sup> The Applicant has enclosed only those plan sheets that have been revised as a supplement to the architectural plan set in the record at Exhibit 13A1-13A3 and 15A1-15A2.

Applicant has delivered an updated plan that greatly reduces the number of inactive uses along the Project's front facade.

The front façade now features windows extending between the residential lobby entrance and the utility room toward the eastern lot line. *See Tab A*, Sheet A-20. As a result, the Applicant has removed the decorative metal screening and added a new planting feature by the front façade. *See Tab A*, Sheet L100. Overall, the Applicant believes the Commission's comments have contributed to a better ground floor plan that will increase visual interest and "eyes on the street" for the Project.

### *B. Exterior Material Palette and Façade Updates*

The Commission noted that the gray bands on the Project's façade and penthouse should be a darker color. As such, the Applicant revised the exterior material palette to reflect a darker shade of gray on the Nichiha panels used for the façade and the decorative metal used for the penthouse. *See Tab A*, Sheets A-20; A-40. To further illustrate the new palette, the Revised Plans incorporate updated renderings, which show the darker palette consistently in all renderings as well. *See Tab A*, Sheets A-61; A62; A-65. As a related matter, the Commission questioned whether the gray Nichiha bands were recessed from the rest of the façade. The Revised Plans include a section confirming the gray Nichiha bands are not recessed, but rather are framed with a metal detail that protrudes three inches from the façade. *See Tab A*, Sheet A-47.

The Commission also noted the overhang above the garage created a stark architectural contrast. While a full re-design of this element would be challenging, the Applicant improved this transition by incorporating a dark brick railing above the garage. *See Tab A*, Sheet A-27. This brick replaces the previous metal railing to provide a stronger connection with the eastern side lot line, as viewed from the Property's frontage. As such, the Applicant intends for this new extension above the garage to ease the visual transition.

The Commission made a minor comment regarding the garage venting located on the east side of the Project, and whether the venting would be blocked if a potential future development is constructed to the lot line. The Applicant's architect confirmed that the Project will satisfy the fresh air requirement for the garage without the side venting. Thus, the Revised Plans show the removal of the venting on the east side of the Project. *See Tab A*, Sheet A-21.

### *C. Landscape Plan*

The Commission identified discrepancies between the landscape plans and the architectural site plan. In response, the Applicant's landscape architect testified that the site plan would govern. Nonetheless, the Revised Plans include an updated landscape plan that is consistent with the architectural site plan. *See Tab A*, Sheets A-07B; L100. The updated landscape plan removes the decorative screening and pergola and adds new plantings by the façade to account for the revised ground floor design. *See Tab A*, Sheet L100. The short-term bicycle parking has been shifted to the east, and extra bench seating has been added by the lobby entrance.

Additionally, the Revised Plans confirm that the Applicant is proposing a 4-foot-tall fence around the front setback area. *See Tab A*, Sheets L101; 106B. Since the fence will be partially within the building restriction area, which is public space controlled by DDOT, the fence is subject

to review and approval by DDOT's Public Space Committee ("PSC"). Given the programming for the front setback area, which includes play equipment, the Applicant believes a 4-foot fence is important for safety purposes and will pursue approval with the PSC. As such, the Applicant is requesting design flexibility to modify the fence as approved by the PSC.

#### *D. Rooftop Mechanical Enclosure*

In response to a Commission comment, the Applicant revised the Project's rooftop to screen all mechanical equipment within one enclosure. See Tab A, Sheet A-15A. The screening is a single, uniform height with the exception of the elevator override that is permitted at a different height pursuant to Subtitle C § 1503.4(b). The penthouse height is clearly labeled at 18'4" total and is consistent with the height listed in the updated zoning chart detailed below.

#### *E. Zoning Chart*

The Revised Plans incorporate an updated zoning chart to correct prior omissions on penthouse height, building height and side yard measurement. See Tab A, Sheet A-05. As outlined in the Applicant's response to the Office of Planning's report (Ex. 19) and discussed at the hearing, the zoning chart mistakenly references the penthouse height as 20'. The Revised Plans correct this measurement to reflect the actual penthouse height of 18'4" and maximum in the MU-7B of 18'6". The Zoning Chart has been updated to reflect the total building height of 93'6", remove the court measurements, and add side yard measurements, which are explained in more detail in **Section II** below.

#### *F. New Door for Green Roof Maintenance*

The Commission noted that the green roof above the ground level is only accessible through units but not common space. As such, the Revised Plans incorporate a new door providing access to the green roof from the second-floor business center. See Tab A, Sheet A-12. This new access point will allow for maintenance of the green roof without traversing through private dwelling units.

#### *G. Clarifying Driveway Dimensions*

Finally, the Commission requested clarification on the width of the driveway accessing the Project's parking garage. The Revised Plans provide an updated site plan that depicts the 20-foot-width measurement for the driveway. See Tab A, Sheets A-07B; A-10.

## **II. Side Setback Clarification and Flexibility Request**

During the hearing, the Commission raised a question as to whether the Project's side setbacks should be treated as a court or a side yard. The Project proposes a 6-foot-wide setback beginning at the ground level along the western side lot line. There is a 9-foot-wide setback beginning at the second floor on the eastern side lot line, which narrows to 3-feet at the rear. The Applicant and the Office of Planning previously identified the side setbacks as courts because the Project is attached toward the rear of the western side lot line and for the entirety of the ground level on the eastern side lot line. Once the question was raised, both the Commission and the

Office of Planning agreed to defer to the Zoning Administrator on how the side setbacks would be treated.

Following the hearing, the Applicant met with the Zoning Administrator to review the Zoning Administrator's interpretation of the relevant regulations. The Zoning Administrator confirmed that in the MU-7B zone, any setback from a side lot line is deemed a side yard and not a court pursuant to Subtitle G § 406.3. A copy of the Zoning Administrator's written confirmation is attached at Tab B. Although a side yard is not required in the MU-7B zone, if one is provided it must be two inches per 1 foot of building height. *See* Subtitle G § 406.1. Accordingly, the Project must have side yards that are 15'7" in width for a building height of 93'6".<sup>2</sup> Based on this confirmed interpretation of Subtitle G § 406, the Applicant is filing a separate submission requesting additional flexibility from the side yard requirements for the Project. As detailed in the separate submission, the Applicant has adjusted the percentage of windows facing each side lot line to ensure the windows are permitted openings under the Building Code requirements. *See* Tab A, Sheet A-21.

### **III. Rear Yard Measurement**

The Commission requested clarification on the zoning measurement of the Project's rear yard. The Applicant is requesting flexibility to provide no rear yard where a 19.5-foot rear yard is required in the MU-7B zone. Specifically, the Commission wondered whether the curved rear lot line means there is a small rear yard to either side of the Project's rear façade. As with the side yard issue, the Commission and Office of Planning noted they would defer to the Zoning Administrator's interpretation on the rear yard measurement.

The Zoning Administrator confirmed, in writing, that the Project has no rear yard as previously stated by the Applicant. Under Subtitle B § 100.2, a rear yard is defined as "A yard between the rear line of a building or other structure and the rear lot line, except as provided elsewhere in this title. The rear yard **shall be for the full width of the lot...**" (emphasis added). Since a required rear yard must span the full of a lot, there is no rear yard when a portion of the building touches the rear lot line. Instead, the open spaces to each side of the rear lot line are treated as court niches, not a small rear yard.

### **IV. Revised ANC Resolution**

The Commission noted that ANC 7D's resolution in support (Ex. 20) of the Project was not signed by the ANC Chair or Vice-Chair, as required by Subtitle Z § 406.2(i). The Applicant worked with ANC 7D to have a revised resolution in support signed by Vice-Chair Wendell Felder, which is filed in the record at Exhibit 22.

### **V. Revised Design Flexibility Requests**

At the hearing, the Office of Planning stated it has comments on the Applicant's request for design flexibility, which was late filed at Exhibit 19A. Following the hearing, the Applicant worked with the Office of Planning to revise the design flexibility requests, which are attached at

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<sup>2</sup> The Applicant's request and the Zoning Administrator's confirmation email reference a required side yard of 15'6". This is a typographical error and should read 15.6 feet, which is equal to 15'7".

Tab C.<sup>3</sup> The Applicant is committed to continuing its dialogue with the Office of Planning on the condition language and will finalize the language for the draft written order.

**VI. Conclusion**

In conclusion, the Applicant believes this submission addresses all remaining issues raised by the Commission or the Office of Planning at the hearing and, therefore, completes the record with evidence in support of the subject design review application. We thank the Commission for its consideration of this filing and look forward to the Commission's public meeting on June 9, 2022.

Sincerely,  
COZEN O'CONNOR



Meridith Moldenhauer



Eric J. DeBear

**Certificate of Service**

I HEREBY CERTIFY that on this 27<sup>th</sup> day of May, 2022, a copy of the Applicant's Post-Hearing Submission was served, via email, on the following:

District of Columbia Office of Planning  
c/o Elisa Vitale  
1100 4<sup>th</sup> Street SW, Suite 650E  
Washington, DC 20024  
[Elisa.Vitale@dc.gov](mailto:Elisa.Vitale@dc.gov)

Advisory Neighborhood Commission 7D  
c/o Commissioner Sirraj Hasan, Chair  
Commissioner Stephanie Audain, SMD  
7D02@anc.dc.gov  
7D05@anc.dc.gov



Meridith Moldenhauer

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<sup>3</sup> The Applicant removed flexibility pertaining to signage as a signage plan is not being proposed for the Project.