

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION OF THE DISTRICT OF COLUMBIA

Z.C. ORDER NO. 18-22

Z.C. Case No. 18-22

Forest City SEFC, LLC on behalf of the United States General Services Administration
(Southeast Federal Center Zone Design Review at Square 743, Lot 94)

June 10, 2019

Pursuant to notice, the Zoning Commission of the District of Columbia (the “Commission”) held a public hearing on May 23, 2019 to consider the application of Forest City SEFC, LLC (the “Applicant”) regarding property owned by the United States General Services Administration (“GSA”) for design review approval to construct a new mixed-use office building with ground-floor retail uses and two levels of below-grade parking (the “Project”) in the SEFC-1A zone in The Yards (Square 743, Lot 94, or the “Parcel G”). Design review for the Project is required pursuant to Subtitles K, X, and Z of Title 11 of the District of Columbia Municipal Regulations (“DCMR”) (the “Zoning Regulations,” to which all references are made unless otherwise specified). For the reasons below, the Commission hereby **APPROVES** the application.

FINDINGS OF FACT

Notice

1. On October 16, 2018, the Applicant mailed a Notice of Intent to file a design review application to all property owners within 200 feet of the Property and to Advisory Neighborhood Commission (“ANC”) 6D, the “affected ANC” per Subtitle Z §101.8. (Exhibit [“Ex.”] 2D.)
2. On December 11, 2018, the Applicant filed an application on behalf of GSA, the owner of the Property, for design review and approval of the Project pursuant to Subtitle K §§ 237.4, 241, and 242. (Ex. 1.)
3. On February 12, 2019, the Applicant requested the public hearing, originally scheduled for April 11, 2019 be postponed until May 9, 2019 due to delays in the federal review process for the Project resulting from the protracted federal government shutdown. (Ex. 9.) On April 9, 2019, the Office of Zoning requested that the public hearing on the Project be again rescheduled until May 23, 2019. (Ex. 17.)
4. The Office of Zoning referred the application to the National Capital Planning Commission (“NCPC”) and gave notice of the public hearing by mail to ANC 6D, the Office of Planning (“OP”), the District Department of Transportation (“DDOT”), the D.C. Council, the Department of Consumer and Regulatory Affairs (“DCRA”), the Office of the Attorney

General, the Department of Energy and Environment (“DOEE”), the District of Columbia Housing Authority, and to owners of property within 200 feet of the Property and in the *D.C. Register*. The Applicant provided evidence that notice of the public hearing was posted on the Property on March 27, 2019. (Ex. 4-6, 11-13, 15, 24.)

Parties

5. Apart from the Applicant and the ANC, there were no parties to this proceeding.

The Property

6. Parcel G is located on 39,029 square feet of land in the former Southeast Federal Center (“SEFC”) in a 42-acre site in the southeast D.C. neighborhood known as “The Yards.” Parcel G occupies property owned by the federal government. The Applicant prepared a master plan (the “Master Plan”) for The Yards. GSA selected the Applicant as the master developer to implement the Master Plan. The Master Plan is organized around a central pedestrian-oriented spine leading from M Street, S.E. and a potential third entrance to the Navy Yard Metrorail station, south to Diamond Teague Park and the Anacostia River. Along this spine, 1½ Street is planned as a curbsless street that will run from Quander Street on the north to Potomac Avenue on the south. The Master Plan divides the SEFC into two large parcels: the “Redevelopment Zone,” located between 1st Street, S.E. and New Jersey Avenue, S.E.; and the “SEFC Historic Zone or “Historic Zone” located between 2nd Street, S.E. and the Washington Navy Yard. The Redevelopment Zone and the DC Water Sites PUD are together known as “Yards West.” (Ex. 2.)
7. Parcel G is located on a single lot of record with Parcels A and F and portions of the private street network.
8. Parcel G is bounded by N Street, S.E. to the south, New Jersey Avenue, S.E. to the east, the future Quander Street to the north, and the future 1½ Street to the west.
9. Parcel G is currently improved with a temporary trapeze school building. The Applicant anticipates relocating the trapeze school to Parcel E in The Yards, and such proposal has been approved by the Commission. (See Z.C. Case No. 19-07.)
10. The adjacent Parcel F is currently improved with a surface parking lot, and the Master Plan calls for its future development to contain a mix of office and retail uses. Parcel A is currently open space, and the Master Plan calls for future development on that parcel also to contain a mix of office and retail uses along with potentially a new entrance to the Navy Yard Metrorail station.
11. A mix of uses and future development sites surrounds Parcel G. An entrance to the Navy Yard Metrorail station is located approximately one block north of Parcel G, and Nationals Park is located one block to the west. The U.S. Department of Transportation headquarters office building and its large southern plaza are located to the east of the Property across New Jersey Avenue, S.E.

12. To the east of Parcel G is the site of the future Tingey Square, which is currently under construction and which will be a vital open space linking Yards West with the Historic Zone portion of The Yards further to the east. Parcel I is across N Street, S.E. to the south; the Commission recently approved a mixed-use residential and retail building on Parcel I in Z.C. Case No. 18-20.
13. Parcel G is located in the SEFC-1A Zone. In general, the SEFC zones are intended to “provide for the development of a vibrant, urban, mixed-use, waterfront neighborhood, offering a combination of uses that will attract residents, office workers, and visitors from across the District of Columbia and beyond.” (Subtitle K § 200.1.) The SEFC-1 zones generally provide for high-density mixed-use development with ground-floor retail, with bonus height and density (and related design review) for properties in the Redevelopment Zone. (Subtitle K § 200.3.)

Application

14. The Applicant proposes to construct an 11-story mixed-use building containing approximately 282,813 square feet of office use on floors one through 11 plus a habitable penthouse with an additional 5,623 square feet of office space, approximately 21,141 square feet of retail, eating/drinking establishment, service, and/or retail/office flex uses on the ground floor, and approximately 162 vehicle parking spaces in a below-grade garage. (Ex. 2, 22C1 [note that the Zoning Tabulation Sheet on page eight of Exhibit 22C1 incorrectly added a “9” at the end of the total office square footage, which is correctly reported on page seven as 288,436].)
15. The Project’s massing consists of a double-story ground-level podium that is built to the lot line along all four street frontages. Above the podium is a nine-story, dual-axis tower that features large terraces and a modest step down in height, from 130 feet to 110 feet at the southeastern corner.
16. The proposed step down in height aligns with the maximum height of the proposed building to the south of the Project. The southeastern corner also features a distinctive six-story window wall, which allows a generous amount of light into the building and provides visual interest at the corner of Tingey Square and Yards West, facing the Anacostia waterfront.
17. By pivoting apart the mass of the tower, the Project creates significant space for outdoor terraces. The lower of the two terraces will provide a level of activity and energy proximate to Tingey Square. All of the terraces will include landscaping and green space and will serve as an amenity for the building’s occupants. (Ex. 2.)
18. The Project’s curved form provides ample light and air for occupants of the upper stories and also creates a frame for the New Jersey Avenue vista. The massing differentiation between the podium and towers creates two separate experiences: when viewed from the public realm at a distance, the unique orientation and curves of the upper stories create visual interest and a compelling backdrop to the adjacent Tingey Square at the entrance to Yards West. When viewed at the ground level along the streetscape adjacent to the building, the Project’s strong street presence helps to create a comfortable and interesting

“enclosed” pedestrian realm. The Project is carved back slightly from the southeastern-most corner of the Property to allow additional space in the public realm across from Tingey Square. (Ex. 2.)

19. Brick is the primary façade material of the upper stories, and punched windows create texture, articulation, and geometric rhythms. At the podium level, the materials include a rich palette of brick and concrete with metal accents. (Ex. 2.)
20. The Project includes habitable penthouse space that will be used by the office tenants, and it thereby triggers the requirement for a contribution to a housing trust fund, as defined by the Zoning Regulations. Because the Property is currently owned by the federal government, the current assessed value of the land is a placeholder number established by the Office of Tax and Revenue. With GSA-controlled land, the Office of Tax and Revenue waits to determine the appropriate assessed value until after its transfer to a private entity, so that the assessment can reflect the final development potential and market value based on applicable zoning, covenants, easements, and other factors. Therefore, the actual assessed value of the land that will serve as the basis for the affordable housing calculation will not be determined until the land is transferred to the Applicant and formally assessed. The Applicant requested that the contribution payment for the penthouse be established on the basis of Parcel G only (rather than the entire record lot) because Parcel G only (and not the entire record lot) will be transferred to the Applicant (and assessed) as part of the Parcel G developed. (Ex. 19.)
21. The Applicant committed to achieving LEED v4 Gold certification under the Core and Shell standard. Specific sustainable design features include extensive green roof, low-e glass at the office levels, and a DOAS mechanical system. The Project has an approximate area of 19,470 square feet devoted to green roof and approximately 2,300 square feet devoted to solar panels and is designed to meet or exceed DOEE’s applicable stormwater management standards for private development. The Project significantly exceeds the minimum green area ratio (“GAR”) required (i.e., it provides a GAR of 0.3, whereas only 0.2 is required). The private Yards West streets are designed to an enhanced stormwater management standard that accommodates a 1.7-inch rain event. (Ex. 19.)
22. The Project is outside the 500-year floodplain, with the exception of a portion of the southeast retail area. Major building penetrations, parking ramps, main building entrance, electrical vaults, and other sensitive equipment are outside of the 500-year floodplain. (Ex. 19.)
23. An at-grade bicycle lobby for building users is accessed from 1½ Street, which is intended to increase bicycle usage. Vehicular access, both for parking and loading, is limited to the private Quander Street on the north of the Project. The Project occupies an entire block and does not have any alley access for vehicular activities. Accordingly, Quander Street serves primarily as a service road, separating vehicles from the pedestrian-oriented 1½ Street. (Ex. 2.)

24. The Project will be constructed to a maximum height of 130 feet, which is the maximum permitted height for Parcel G. (Subtitle K § 203.1.)
25. The Project proposes to utilize the 1.0 floor area ratio (“FAR”) bonus density for commercial office use permitted in the SEFC-1A Zone, for a maximum of 7.0 FAR based on the land area of Parcel G. (Subtitle K § 202.1.)
26. The Project uses density from Parcels A and F, with which the Property shares a single record lot. That is, when calculating the FAR of the Project based on the gross floor area of the Project and the lot area of the Property alone, the Project’s effective FAR exceeds 7.0. The 303,954 square feet of gross floor area proposed for the Project over the 39,029 square foot Property results in an effective FAR of 7.79, in excess of the 7.0 maximum allowed in the SEFC-1A zone with the bonus density available pursuant to a design review process. However, FAR is determined based on the aggregate gross floor area of all the buildings on a record lot, in this case all of Parcels A, F, and G, and the Property’s situation relative to the overall record lot allows for shifting of density among the constituent parcels. The Project’s use of density attributable to Parcels A and F will reduce the density available on the record lot at the time the balance of the record lot is developed. In addition, pursuant to Subtitle B of the Zoning Regulations, the overall density available to the record lot containing Parcels A, F, and G will exclude lot area attributable to the private streets proposed for such record lot.
27. The utilization of the additional height and density triggers the requirement for design review. (Subtitle K § 237.4(a)(1), (3).)
28. The Project as designed complies with the other primary development standards in the SEFC-1A zone, including:
 - a. A penthouse floor area ratio (based on the lot area of Parcel G alone) of approximately 0.14 FAR (within the permitted 0.4 FAR);
 - b. A lot occupancy of 98.65% at the ground level (below the 100% lot occupancy maximum for commercial uses) for Parcel G alone;
 - c. A 40-foot rear yard measured from the centerline of New Jersey Avenue, S.E., which is in excess of the required rear yard; and
 - d. Penthouses and courts compliant with dimensional requirements except for one area of flexibility required with respect to the open court along New Jersey Avenue, S.E.
29. The SEFC-1A does not require a court, but if one is provided, the required minimum width should be 21 feet, 10 inches based on the height of the court. The convex curve of the building façade along New Jersey Avenue creates a non-compliant, upper-story open court with a width of approximately 15 feet, seven inches. (Ex. 19.)

30. The Project achieves a minimum GAR of 0.3, significantly in excess of the 0.2 required (based on the area of Parcel G alone), and the entire record lot of Parcels A, F, and G will also comply with GAR.
31. Vehicular parking is not required in the SEFC-1A zone, and the Project satisfies the bicycle parking and loading as required pursuant to the standards established in Subtitle C of the Zoning Regulations.
32. Under Subtitle C § 711.9, a driveway that provides access to *required* parking spaces must have a maximum grade of not greater than 12%. The Project's driveway has a maximum grade of 16%. However, zoning relief is not necessary with respect to such provision because none of the Project's parking is "required," as there is not a minimum amount of parking required in the SEFC-1A zone.
33. The primary use of the Project is as a new office headquarters for a single office tenant named Chemonics International, Inc. ("Chemonics"). Chemonics is expected to accommodate approximately 1,200 employees upon opening with space for an additional 200 employees. The Applicant expects Chemonics will occupy the portion of the ground floor at the northeastern corner of the building New Jersey Avenue, S.E. Together with the main lobby entrance itself, Chemonics' ground-floor space is expected to generate a consistent level of pedestrian activity along this frontage. (Ex. 2.)
34. The Project's ground-floor layout and site plan enhances the mix of office, retail, and residential uses within the Yards. The primary office lobby is located on New Jersey Avenue, S.E. and provides a ceremonial opening onto Tingey Square. The lobby can also be accessed from 1½ Street, providing a direct link for office users to the pedestrian-focused spine, and additional at-grade pedestrian entrances along 1½ Street and N Street, S.E., for the retail, restaurant, and service uses proposed along those streets. (Ex. 2.)
35. Along N Street, S.E., the Project provides ground-level preferred retail and other uses called for the SEFC-1A zone, and the Applicant has integrated slab breaks within the building to allow for the retail spaces to remain in line with the slope of the adjacent street and sidewalk. A mix of retail and office-oriented space define the Project's 1½ Street frontage, which is envisioned to include smaller-scale spaces that fit the pedestrian-focused character of 1½ Street. (Ex. 19.)
36. As a part of the development of the Property, the Applicant will construct the segment of 1½ Street adjacent to the Property as well as the entire length of Quander Street north of the Property, between 1st Street and New Jersey Avenue. (Ex. 19.)
37. The Property is located on a single lot of record with Parcels A and F and portions of the future 1½ Street and Quander Street. The future private streets divide the record lot into its constituent development parcels. (Ex. 2.) Parcel F currently contains approximately 193 parking spaces pursuant to Commission approval in Z.C. Case No. 13-16A and will be

reconfigured as part of the Project to include only approximately 99 spaces when complete. (Ex. 22C at 90.)

38. On March 27, 2019, the Applicant filed a Comprehensive Transportation Review (“CTR”) for the Project. The CTR concludes that the Project will not have a detrimental impact to the surrounding transportation network because of its proximity to Metrorail; the inclusion of short- and long-term bicycle parking; the extension of the pedestrian and vehicular network through the construction of the private Quander and 1½ Streets; and the commitment to a comprehensive transportation demand management (“TDM”) program, curbside management, and loading management measures. (Ex. 14, 14A.)
39. Prehearing Submissions:
 - a. On May 3, 2019, the Applicant filed a supplemental statement reflecting feedback from and discussions with the ANC, federal agencies that reviewed the Project, OP, and DDOT. (Ex. 19.) The Applicant also filed comments from NCPD and the Commission of Fine Arts (“CFA”). (Ex. 19A, 19B.) In addition, the Applicant filed an updated package of plans including updated drawings and signage plans for the Project; (Ex. 19D.)
 - b. On May 16, 2019, the Applicant sought leave from the Commission to file an additional supplemental submission with further revised plans (the “Revised Plans”) reflecting responses to comments from GSA, CFA, OP, and DDOT, which were being submitted after the 20th day prior to the public hearing. (Ex. 21.) The Commission granted the Applicant’s motion and the Applicant submitted the Revised Plans; and (Ex. 22.)
 - c. On May 23, 2019, the Applicant submitted a letter from GSA confirming its approval of the concept design for the Project as well as an updated plan and perspective addressing comments from OP. (Ex. 26.)

Each agency’s comments, and the Applicant’s responses set forth in its pre-hearing submissions, are discussed in detail below.

Relief Requested

40. The Application requests design approval of the Project pursuant to the SEFC provisions of Subtitle K §§ 237.4, 241, and 242.
41. The Application also requests zoning flexibility to provide an open court along New Jersey Avenue, S.E. that is smaller than otherwise required based on the height of such court.
42. In addition, pursuant to Subtitle X § 603, the Application also initially requested variance relief from the GAR requirements of Subtitle K § 209.1. (Ex. 2.) The request for relief was later withdrawn. (Ex. 19.)

Responses to Application

GSA Letter

43. As part of the GSA's disposition of the Property, GSA ensures that developments in The Yards are reviewed by a variety of federal and District agencies pursuant to a series of Memoranda of Agreement and/or Understanding between such agencies and the GSA. The Project underwent such a multi-agency review process.
44. The Applicant submitted a letter from the GSA (the "GSA Letter"), confirming that the Project complied with this process as required under the various agreements and, moreover, incorporated additional design revisions at GSA's request, including a more robust expression of the converging volumes to increase the building's legibility, experimenting with a variety of fenestration typologies, and revisiting the urban window feature. The GSA Letter cited comments from NCPC and other stakeholders that were supportive of the proposed design. Based on the Revised Plans, GSA concluded that the Project is consistent with the Master Plan and approved the Project's design. (Ex. 26A.)

CFA Letter

45. The Applicant's May 3, 2019 filing also included a letter from CFA setting forth its advisory review of the Project (the "CFA Letter"). The letter from CFA commented on the design of the Project, made recommendations, declined to approve the design, and requested a submission of a new design of the Project to CFA. (Ex. 19B.)
46. CFA expressed concern that the proposed design was focused as an "object" building and overemphasized its relationship to the water. CFA questioned the propriety of the design and form of the sculpted tower element above the building's podium, which CFA argued failed to respect the L'Enfant Plan. CFA also expressed concern regarding the color of the variegated brick and other materials, the design of the main entrance, and the window design details. (Ex. 19B.)
47. In response to CFA's comments, the Applicant provided a detailed planning and design analysis of why the Project's form and massing was consistent with the L'Enfant Plan given the intersection of the axial and diagonal components of the Plan at Tingey Square, as well as two additional characteristics that are atypical of the L'Enfant Plan: the open space at Tingey Square that is created by the offset intersection of Tingey Street and N Street, and the direct waterfront view and vista over the Main Pumping Station and Yards Park. Moreover, the Applicant cited multiple planning policies in the Comprehensive Plan and SEFC Master Plan calling for consideration of waterfront views and vistas for buildings located near the Anacostia River. (Ex. 19; Transcript of May 23, 2019 Hearing ["Tr."] at 13-15, 18-22, 65-69.)
48. The Applicant also revised the building design to remove the arc wall along the N Street façade, which allows the two, primary upper-story forms to read as separate masses, changed the window pattern on the eastern wing to further differentiate it as a separate, secondary mass, and refined the materials selections. (Ex. 22; Tr. at 22-26.) (Additional changes made in response to the Commission's comments regarding the brick color and

pattern, window header color, and main entrance canopy that are discussed in Finding of Fact 71 also responded to CFA's concerns.)

49. At the public hearing, GSA's representative confirmed that the procedural requirements for review of the Project had all been satisfied and the Project would not return to CFA for further review. (Tr. at 32-36.)

NCPC Report

50. On April 25, 2019, the NCPC issued a memorandum, which the Applicant subsequently filed with the Commission, finding the Project consistent with the Master Plan and other relevant standards. (Ex. 19A.) NCPC noted that the Project "conforms to the Minimum Phase Performance Design Standards identified in the 2005 Memorandum of Understanding between NCPC and the GSA, which include standards for sustainable design, pedestrian access, architectural design, and urban design/planning." (*Id.*)

OP Report

51. OP filed a report dated May 13, 2019, recommending approval of the Project (the "OP Report") and testified accordingly at the public hearing. (Ex. 20.)
52. OP's report supported the requested design and zoning flexibility. OP also found that the Project is not inconsistent with the designation for the Property on the Comprehensive Plan's Future Land Use Map and Generalized Policy Map. Similarly, OP concluded that the Project conforms to the Master Plan and furthers policies in the Comprehensive Plan's Land Use; Park, Recreation and Open Space; Historic Preservation; Urban Design; and Anacostia Waterfront/Near Southwest Area Elements. OP also examined the Project against the general design review criteria, as well as the SEFC-1A zone design review criteria, and found that the Project satisfied each relevant condition, concluding that the Project advances the goals and objectives of the SEFC zones as set forth in Subtitle K. (Ex. 20.)
53. The OP Report included requests for additional information regarding:
 - a. LEED certification, need for flexibility for canopies and signs and regarding final plan refinement;
 - b. Court flexibility;
 - c. Public realm design, including the possibility for providing benches and café seating along New Jersey Avenue, S.E. in the vicinity of the Project; and
 - d. Design at the ground level along 1½ Street.
54. The Applicant responded with point-by-point explanations to OP's comments in its May 16, 2019 and May 23, 2019 filings. (Ex. 22, 26B, 26C.)
55. At the public hearing, OP testified that the Applicant's responses were satisfactory. (Tr. at 58.)

56. The OP report also included six comments from DOEE including:
- a. A request to provide conceptual stormwater design and calculations with future zoning submissions;
 - b. Encouragement to consider renewable energy sources such as solar panels, as well as information on potential solar panel financing options;
 - c. Consideration of strategies to maximize opportunities for energy efficiency, as well as information on potential energy efficiency financing options; and
 - d. An explanation that full regulatory review of applicable environmental requirements would be undertaken during the building permit process. (Ex. 20 at 14-15.)
57. The Applicant responded to DOEE's comments by updating the plans to provide solar panels on the penthouse roof and to include concept GAR and stormwater management plans. (Ex. 22C2 at 55; Ex. 22C3 at 85, 89.)

DDOT Report

58. DDOT filed a report dated May 1, 2019, stating that it had no objection to the approval of the Project (the "DDOT Report") subject to the conditions imposed herein and subject to ongoing DDOT review. (Ex. 18.)
59. DDOT made a number of findings in its report including that the trip generation assumptions proposed by the Applicant in its CTR are reasonable and that the Applicant's analysis used sound methodology.
60. The Applicant's CTR identified two intersections that triggered the need for mitigation as a result of the Project, but DDOT noted that one of the intersections is being redesigned. Instead, DDOT recommended that the Applicant's TDM plan be enhanced with increased coordination with and training from goDCgo and Commuter Connections, free long-term bike parking and the inclusion of space for non-traditional sized bikes, a carpooling system including preferential carpooling and vanpooling spaces, unbundled parking, limitations on leasing of parking to off-site users, and participation in the Capital Bikeshare ("CaBi") corporate membership program. (*Id.*)
61. The Applicant responded to each of DDOT's comments and recommendations in its May 16, 2019 filing, agreeing with DDOT's initial recommendation on the vast majority of points and offering minor revisions in other instances. (Ex. 22B.)
62. At the public hearing, DDOT acknowledged that it had reached agreement with the Applicant on all issues in its report. (Tr. at 58.)

ANC Report

63. ANC 6D submitted a report dated May 16, 2019 (the “ANC Report”), stating that at its regularly scheduled and duly noticed public meeting on April 8, 2019, with a quorum present, ANC 6D voted to support the application for design review for the Project.
64. The ANC Report noted that the Project “will be a catalyst for the emergence of the office development of ‘Yards West’.” (Ex. 23.) The Single Member District Commissioner for ANC 6D07 also testified at the public hearing that the unique design of the Project received “tremendous” support from ANC 6D residents, who reacted positively to the design. (Tr. at 59-61.)

Public Hearing

65. After proper notice, the Commission held a hearing on the application on May 23, 2019.
66. Expert witnesses appearing on behalf of the Applicant included Jeff Barber of Gensler, as an expert in architecture; Erwin Andres of Gorove/Slade Associates, as an expert in transportation planning engineering; and Craig Atkins of Wiles Mensch, as an expert in landscape architecture. Toby Millman and David Shirey of Brookfield Properties appeared on behalf of the Applicant and Brett Banks appeared on behalf of GSA. (Ex. 19C, 27.)
67. No other persons or organizations spoke at the hearing or introduced written testimony in advance of the hearing.
68. At the hearing, the majority of the discussion focused on a central issue: namely, whether the proposed design met the standards for approval and in particular the requirement under Subtitle X § 604.7 that “Developments near the District’s major boulevards and public spaces should reinforce the existing urban form.” (Tr. 36-56.)
69. At the hearing, members of the Commission considered CFA’s view that the form of the building design as an “object building” does not respect the L’Enfant Plan’s definition of public spaces through building form. Some of the Commissioners concurred with CFA and expressed concern that the Applicant had not sufficiently addressed all of the issues raised by CFA. (Tr. 36-56.)
70. The Commission directed the Applicant to further study certain design elements, including the range of brick colors, the design of the windows at the base of the building, the potential integration of design elements from the urban window into other portions of the façade, the design of the main lobby entrance, and the access to the bike room. (Tr. at 70.)

Post-Hearing Submissions

71. On May 30, 2019, the Applicant filed a post-hearing submission responding to the Commission’s concerns including revised plans and a summary of the Applicant’s decisions regarding certain design elements: (Ex. 28-28A2.)
 - a. Material Palette - The revised materials selection reduced the range of brick colors. The Applicant also clarified the color of the metal accent panel at the building base,

and explained that after further study, it concluded that the urban window should remain distinct from the balance of the bulk of the building; and

- b. Building Entrances - The main lobby entrance design incorporated metal panel on either side of the entrance to better distinguish that element. The Applicant explained how the bicycle room access was located directly off the entry vestibule to facilitate access.

CONCLUSIONS OF LAW

Design Review

1. Section 8 of the Zoning Act of 1938 (D.C. Official Code § 6-641.01 (2018 Repl.)) authorizes the Commission to undertake review and approval of the Project.
2. The Commission must conduct the requested design review of the Project pursuant to Subtitle K § 237.4(a), which provides that design review is required for buildings that are located in the SEFC-1A zone and that utilize bonus height or density. As an application for design review pursuant to Subtitle K § 237.4, the Commission must consider the Project against the general design review criteria of Subtitle X § 604 and the SEFC zone design review criteria in Subtitle K §§ 241.1 and 241.2. In addition, the application must prove that the architectural design, site plan, landscaping, and sidewalk treatment of the proposed building are of “superior quality.” (Subtitle K § 237.4(a).)
3. Pursuant to Subtitle X § 600.1, the purpose of the design review process is to:
 - a. *Allow for special projects to be approved by the Zoning Commission after a public hearing and a finding of no adverse impact;*
 - b. *Recognize that some areas of the District of Columbia warrant special attention due to particular or unique characteristics of an area or project;*
 - c. *Permit some projects to voluntarily submit themselves for design review under this chapter in exchange for flexibility because the project is superior in design but does not need extra density;*
 - d. *Promote high-quality, contextual design; and*
 - e. *Provide for flexibility in building bulk control, design and site placement without an increase in density or a map amendment.*

General Design Review Criteria (Subtitle X § 604)

4. Section 604 requires that in order for the Commission to approve a design review application it must:
 - a. *Find that the proposed design review development is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site (Subtitle X § 604.5);*
 - b. *Find that the proposed design review development will not tend to affect adversely the use of neighboring property and meets the general special exception criteria of Subtitle X, Chapter 9 (Subtitle X § 604.6);*

- c. *Review the urban design of the site and the building according to certain enumerated criteria set forth below (Subtitle X § 604.7); and*
 - d. *Find that the criteria of Subtitle X § 604.7 are met in a way that is superior to any matter-of-right development possible on the site (Subtitle X § 604.8);*
5. The Commission concludes that the Application meets the general design review criteria as elaborated below.

Not Inconsistent with the Comprehensive Plan (Subtitle X § 604.5)

6. The Commission concludes that the Application meets the first prong of the general design review criteria – not to be inconsistent with the Comprehensive Plan (“Comp Plan”) – because the Application is consistent with the Master Plan and is not inconsistent with relevant objectives of the Comp Plan and the 2003 Anacostia Waterfront Framework Plan (“AWF Plan”).
7. The Project’s proposed high-density development, converting the Property to a mix of office and other commercial uses, is not inconsistent with the Comp Plan, and in fact, advances numerous specific objectives of the Comp Plan. (Ex. 2J.)
8. The Future Land Use Map of the Comp Plan shows the Property as appropriate for “High Density Commercial” future uses. Such a designation supports mixed-use buildings of eight stories or more.
9. The Generalized Policy Map of the Comp Plan shows the Property as being located in a “Land Use Change Area (Federal)” where a change to a different land use is anticipated.
10. In addition, the Project is not inconsistent with relevant objectives of the 2013 Near Southeast Urban Design Framework Plan (“NSE Plan”) including prioritizing access and linkage to existing parks and clustering retail uses to create a high-density urban environment in Southeast D.C. and begins to connect The Yards Park and Tingey Square to the Ballpark, M Street, S.E., the Navy Yard Metrorail station, and other amenities and commercial uses. By providing additional ground-floor retail along N Street, S.E. and drawing new employees to the neighborhood to support such retailers, the Project advances the retail cluster objective of the NSE Plan.

Satisfaction of the General Special Exception Criteria (Subtitle X § 604.6)

11. The Commission concludes that the Application meets the second prong of the general design review criteria by meeting the general special exception criteria of Subtitle X, Chapter 9.
12. The Commission concludes that the Project will be harmonious with the general purpose and intent of the Zoning Regulations and Zoning Maps for the SEFC-1A zone and comply with the Zoning Regulations in terms of development standards, including height, FAR, proposed uses, and parking, except for a minor request for flexibility from the open court width standard.

13. The Commission also concludes that the Project will not adversely affect the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps, and instead the Project is designed to fit in and operate compatibly with neighboring properties and uses. The immediately neighboring lots are all controlled by the Applicant and have been master-planned with the current design of the Project in mind. The high-density, mixed-use Project is essential for helping Yards West become thriving mixed-use, transit-oriented neighborhood. The Project's height, massing, orientation, and uses are also unlikely to adversely affect the use of any surrounding properties, all of which currently either serve office tenants or infrastructure uses or are vacant.

Consistency with the Urban Design Criteria (Subtitle X § 604.7)

14. The Commission concludes that the Project meets the third prong of the general design review criteria because it is consistent with each of the urban design criteria listed in Subtitle X § 604.7:

X § 604.7(a) - Street frontages are designed to be safe, comfortable, and encourage pedestrian activity, including:

- (1) Multiple pedestrian entrances for large developments;*
- (2) Direct driveway or garage access to the street is discouraged;*
- (3) Commercial ground floors contain active uses with clear, inviting windows;*
- (4) Blank facades are prevented or minimized; and*
- (5) Wide sidewalks are provided.*

The Project advances each of these five urban design principles. The Project's design prioritizes pedestrian access, activity, and safety. All of the Project's frontages feature safe and comfortable pedestrian-focused design that responds to the surrounding public realm with a particular focus on pedestrian activity on 1½ Street, retail activity on N Street, S.E., and the primary office lobby opening onto the New Jersey Avenue, S.E. Each of the Project's frontages has the potential for multiple pedestrian entrances.

Garage and loading access is separated from these frontages and located only on the Project's north frontage, along Quander Street, which is a private street. East-west pedestrian activity is encouraged along N Street, S.E. and de-emphasized along Quander Street, which is why Quander Street is more appropriate for vehicular access.

The Project makes ample use of ground-level transparency to reduce barriers between public and private space at the ground level, particularly through clear glazing for the retail spaces along N Street, S.E. and 1½ Street.

The ground-floor design along the Project's three primary pedestrian-oriented streets minimizes blank façades, provides multiple entrances, and incorporates interesting architecture and design articulation at the ground level at a scale and with materials appropriate for pedestrians.

The Project also provides wide sidewalks with significant amounts of landscaping and pedestrian amenities along all four frontages. The design accommodates restaurant/eating and drinking establishment uses on the ground floor with appropriate seasonal outdoor seating that further interweaves the public and private realm at the ground level and creating a pedestrian-first experience.

X § 604.7(b) - Public gathering spaces and open spaces are encouraged, especially in the following situations:

- (1) Where neighborhood open space is lacking;*
- (2) Near transit stations or hubs; and*
- (3) When they can enhance existing parks and the waterfront.*

The Commission concludes that the Project and the Yards West public realm plan, generally, both satisfy and advance the three above-referenced public gathering space criteria. The Yards West public realm design creates a network of formal and informal open spaces that connects the Navy Yard Metrorail transit hub with existing open spaces and that supplements existing park infrastructure. The proposed Yards West public spaces extend from the anticipated Metrorail-adjacent urban pedestrian plaza at the northern end to recreational open space connected to the Anacostia waterfront and a planned extension of Diamond Teague Park at the southern.

The proposed design for 1½ Street facilitates this purpose along its entire length through wide sidewalks and a flexible, curbless design that allows for further expansion of the pedestrian zone to accommodate gatherings and activity. The Project reinforces this vision for 1½ Street through strong connections between its interior retail spaces and public outdoor spaces along 1½ Street.

The Project features an at-grade bicycle lobby along 1½ Street, which will help reinforce it as a primary north-south corridor between M Street, S.E. and the waterfront.

Similarly, the Project's retail presence along N Street, S.E. helps create a meaningful pedestrian connection between 1st Street, S.E. and Tingey Square, and the Project's main lobby entrance along New Jersey Avenue, S.E. enhances Tingey Square. In response to comments from OP, the Applicant added street furniture to the New Jersey Avenue, S.E. sidewalk area.

X § 604.7(c) - New development respects the historic character of Washington's neighborhoods, including:

- (1) Developments near the District's major boulevards and public spaces should reinforce the existing urban form;*
- (2) Infill development should respect, though need not imitate, the continuity of neighborhood architectural character; and*
- (3) Development should respect and protect key landscape vistas and axial views of landmarks and important places.*

The Project, taken as a whole, satisfies these criteria. In general, the Project reinforces the L'Enfant Plan and planned urban form for Yards West. The Project also appropriately respects the Historic Zone, and respects and protects key vistas and views. The Project creates a strong two-level street wall along each frontage, and particularly along New Jersey Avenue, S.E. and N Street, S.E., two original L'Enfant plan streets. The Project also helps establish the plan for Yards West as a zone for high-density contemporary design within a re-established urban grid. This is envisioned as a counterpoint to the historic design and guidelines that shaped the Historic Zone to the east. The Project's height and density is compatible with future development, which is generally authorized to reach similar heights and densities of 130 feet and 7.0 FAR.

The original SEFC Master Plan and the more recent Yards West Master Plan both emphasize the street network within the L'Enfant Plan framework of New Jersey Avenue, S.E., M Street, S.E., N Street, S.E., 1st Street, S.E., and a reintroduced Potomac Avenue, S.E. The Yards West public realm plan maintains all key vistas and views along these streets. The Project's design reinforces the urban grid along all four street frontages yet also integrates and addresses the diagonal created by New Jersey Avenue, S.E., a hallmark characteristic of the L'Enfant Plan. The Project's strong streetwalls reinforce and respect the planned urban form and architectural character for Yards West.

The Project is also appropriately respectful of the nearby Historic Zone and the historic DC Water Main Pumping Station. The Project employs brick as a primary material in a nod to the predominant material vocabulary of The Yards' nearby Historic Zone. The southeastern corner of the Project steps down in height in a gesture sympathetic to the lower scale of the historic Pumping Station, which is located to the southeast of the Property.

However, because the Project is in the Redevelopment Zone, it is somewhat freed from the historical design guidelines in the Historic Zone and has liberty to demonstrate contemporary architectural expression and form. Significantly, the Project's curved bars, massing, and terraces evoke modern urban design. The Project's unique form also emphasizes important views and visas both from inside the building and from the public realm near the building and from the waterfront toward the Project. The Project creates an interesting backdrop to Tingey Square, frames axial view corridors along N Street, S.E. and New Jersey Avenue, S.E. and provides sweeping vistas to and from the Anacostia River from its many terraces and obliquely-aligned southeastern façade. As a secondary axial view corridor develops to the waterfront along 1½ Street, the Project's massing and orientation will also help provide a frame for that view.

X § 604.7(d) - Buildings strive for attractive and inspired façade design that:

- (1) Reinforces the pedestrian realm with elevated detailing and design of first and second stories; and*
- (2) Incorporates contextual and quality building materials and fenestration.*

The Project presents an attractive façade design. The Project’s double-story podium includes quality materials, rich architectural detail, and appropriate uses that joins the building’s internal functions to the public realm context on each façade. The Project’s podium-level architecture includes the public-oriented lobby on New Jersey Avenue, S.E.; a continuous line of retail-oriented design (with opportunities for outdoor seating and activities as appropriate) along N Street, S.E.; and a mix of retail bays and secondary lobby entry with a convenient bicycle storage and shower facility along 1½ Street.

The high-quality podium-level materials are varied to create visual interest at the pedestrian scale. The Project’s contextual materials include a multi-hued brick (reduced in range at the request of the Commission), textured concrete, metal panels, and glazing. Above the ground floor, the Project’s materials are similarly high quality and contextually appropriate given the Project’s location within the Redevelopment Zone. The Project eschews the “glass box” design common to many office buildings and features a richer, more textured brick façade that conveys a sense of depth at the window frames.

X § 604.7(e) - Sites are designed with sustainable landscaping.

The Project employs sustainable landscaping that is designed to complement the building. The Yards West Master Plan incorporates sustainable design as a central planning element. The public streets (i.e., N Street, S.E.) utilize the existing Yards-standard low-impact design planting zones, while the private streets include additional bioretention zones and other features to detain and treat stormwater runoff. The Project’s landscape design incorporates a variety of planted areas on multiple terraces and green roofs, each with soil depths capable of supporting landscaping as well as attractive groundcover and achieves a GAR of 0.3, exceeding the minimum requirement by 50%.

X § 604.7(f) - Sites are developed to promote connectivity both internally and with surrounding neighborhoods, including:

- (1) Pedestrian pathways through developments increase mobility and link neighborhoods to transit;*
- (2) The development incorporates transit and bicycle facilities and amenities;*
- (3) Streets, easements, and open spaces are designed to be safe and pedestrian friendly;*
- (4) Large sites are integrated into the surrounding community through street and pedestrian connections; and*
- (5) Waterfront development contains high quality trail and shoreline design as well as ensuring access and view corridors to the waterfront.*

Consistent with these design criteria, the Project advances the Yards West Master Plan’s objective of creating pedestrian-scale connectivity in an area where internal and external

connections are currently limited. The Yards West public realm design creates a safe and pedestrian-friendly multimodal network that interconnects Yards West to the Metro, the Anacostia riverfront, and to the adjacent development to the east and west. The creation of the new grid in Yards West minimizes the need to create public pathways and other connections through the various parcels because each block is integrated into, and sets the stage for, the anticipated surrounding pedestrian fabric. To this end, each parcel is anticipated to be designed in a manner that facilitates such through connection for building occupants and users. The Project links to the bicycle infrastructure that has been integrated thoughtfully into the Yards West public realm, and 1½ Street is planned as a shared street with low speed limits that will accommodate bicycles safely with other forms of transportation. Accordingly, the Project includes an at-grade bicycle lobby accessible from 1½ Street. The Project also includes shower and locker facilities for employees who bike to work.

Superior to Matter-of-Right Development (Subtitle X § 604.8)

15. The Commission concludes that the Project meets the fourth prong of the general design review criteria because the Project satisfies the urban design criteria of Subtitle X § 604.7 in a way that is superior to any matter-of-right development possible on the Property. The Project exemplifies the superior design, site planning, safe pedestrian access, and other features that are superior to typical matter-of-right development. Superior urban design attributes include the Project's unique massing and sculpted form, its resolution of an irregular urban condition that celebrates the termination of the monumental New Jersey Avenue, S.E., the creation of a new public space at Tingey Square, and the views to and from the Anacostia Waterfront. Other superior attributes of the Project include rich detailing and materials selection that move away from the traditional office building typology of the K Street corridor, a richness of pedestrian experience at the ground level, and accommodations for pedestrians and cyclists.

SEFC Design Review Criteria

16. In addition to the general design review criteria of Subtitle X § 604, the Project must also satisfy the SEFC design review criteria as set forth in Subtitle K § 241.1, which requires that a design review application demonstrate that it:
 - (a) *Helps achieve the goals and objectives of the SEFC zone;*
 - (b) *Is designed with a height, bulk, and siting that provide for openness of view and vistas to and from the waterfront and, where feasible, views of federal monumental buildings, particularly along the New Jersey Avenue corridor; and*
 - (c) *Limits at- or above-grade parking so that any such parking is screened by other building uses, landscaping, or other architectural treatment.*

Achieves Goals and Objectives of SEFC Zone (Subtitle K § 241.1(a))

17. The Project helps achieve the relevant goals and objectives of the SEFC zone. The proposed Project's commercial uses, height and density are within the high-density parameters identified in the Comp. Plan, AWF Plan, and NSE Plan. (Subtitle K § 200.2(a).) Consistent with those plans and the goals of the SEFC zones, the Project indirectly supports the goal of providing for reduced height and bulk of buildings along the riverfront by

accommodating the desired commercial density in Yards West away from the shores of riverfront so that the waterfront is reserved for appropriate water-dependent and recreational uses. The Project incorporates retail and service uses that will support not only the office users of the Project but also anticipated new nearby residents and visitors. (Subtitle K §§ 200.2(c).) The Project emphasizes a pedestrian-oriented streetscape, particularly on 1½ Street, N Street, S.E. and New Jersey Avenue, S.E., and provides ground-floor preferred retail and service uses along N Street, S.E. and 1½ Street, both of which are key pedestrian connections. (Subtitle K §§ 200.2(b), 200.2(e).) Finally, although the Project is not located within the Historic Zone, the building’s architectural design nevertheless reflects sensitivity to the nearby historic context through its step down in height and use of brick materials. (Subtitle K § 200.2(g).)

Bulk, Height and Siting Design (Subtitle K § 241.1(b))

18. The Project’s height, bulk, and orientation benefits the views and vistas to and from the waterfront, monumental federal buildings, and along key corridors. As described above, the overall Yards West Master Plan emphasizes these view corridors through Yards West to the waterfront, and the northeast edge of the Project emphasizes axial views toward Capitol Hill along the New Jersey Avenue, S.E. corridor. The Project’s massing along each of its four elevations begins to define these formal view corridors in Yards West, which do not exist today. For its part, the Project’s southern façade creates an expressive frame to the east-west N Street, S.E. corridor, which terminates just to the east at Tingey Square. The Project’s curved upper-story eastern façade creates an interesting backdrop for Tingey Square and an important background for Tingey Street, S.E. approaching from the east. The Project’s sculpted form and massing create interesting views from the waterfront into the urban fabric of Yards West, and the Project’s terraces and setbacks advance the goals of providing for openness in the SEFC zone. From inside the building and from its terraces, the Project has impressive views to the Anacostia River.
19. In light of this unique context, the Commission finds that the reintroduction of the L’Enfant Plan does not require a rigid adherence to monolithic building forms within the individual L’Enfant blocks at this location. The Urban Design Element of the Comp Plan recognizes the particular challenge for waterfront sites, which should respond not only to the urban grid but also the waterfront itself and emphasize that connection to the river. The SEFC’s planning guidelines reinforce this guidance and call for sites that are “designed with a height, bulk, and siting that provide for openness of view and vistas to and from the waterfront.” (Subtitle K § 241.1(b) (emphasis added).) Similarly, the SEFC zone allows a height comparable to downtown office buildings (130 feet) but permits a lower density (7.0 FAR), which directly encourages significant and creative sculpting to create varied roofscapes and address important viewsheds.
20. The Commission concludes that the revisions made by the Applicant and approved by GSA in response to design concerns expressed by CFA, as discussed in Findings of Fact 47 and 70, improved the Project’s overall design clarity and conformance with the relevant design review criteria.

Limit at or above-ground Parking (Subtitle K § 241.1(c))

21. All of the Project’s parking is located underground.

SEFC Additional Design Review Criteria

22. Subtitle K § 241.2 sets forth additional SEFC design review criteria against which the Commission may also consider the Project. These criteria include:

- (a) *Compatibility with buildings in the surrounding area through overall massing, siting, details, and landscaping;*
- (b) *Use of high standards of environmental design that promote the achievement of sustainable development goals;*
- (c) *Façade articulation that minimizes or eliminates the visibility of unarticulated blank walls from public spaces;*
- (d) *Landscaping which complements the building; and*
- (e) *Consideration of the balance and location of preferred uses.*

23. The Commission has reviewed the Project against those additional SEFC zone design review criteria and concludes the Project satisfies such additional criterial as well.

Superior Quality

24. The Commission also concludes that the Project also satisfies the requirement under Subtitle K § 237.4(a) that any building requesting the additional height and/or density available in the SEFC-1A zone must also provide “architectural design, site plan, landscaping, and sidewalk treatment . . . of superior quality.”

25. The Project’s design, site plan, landscaping, and streetscaping are all superior. The Project has an innovative, contextually-appropriate overall form, and features superior quality architectural details and materials. The Project’s site plan constitutes a superior design given the Property’s configuration and surrounding uses and street networking. Finally, the Project’s landscaping and streetscaping are sustainable, attractively designed, and supportive of the public space goals and objectives of Yards West and the SEFC zones.

Zoning Flexibility (X § 603.1)

26. Pursuant to Subtitle X § 603.1, the Commission considered the Applicant’s request for zoning flexibility with respect to the Project’s open court along New Jersey Avenue, S.E., which court does not comply with the dimensional requirements set forth in the Zoning Regulations.

27. Subtitle X § 603.1 provides that the Commission may grant relief from certain development standards but not others. (Subtitle X § 603.1.) Subtitle X § 603.3 provides that the Commission may grant a variance that would otherwise require the approval of the Board of Zoning Adjustment simultaneously with a design review application.

28. The Commission concludes that the Project’s design justifies the modest zoning dimensional flexibility requested in this instance. The Commission notes that since this court opens out onto New Jersey Avenue, a 160-foot-wide right-of-way, the reduced court

width does not adversely impact the amount of light and air available to the Project or surrounding properties. Furthermore, the flexibility facilitates the upper-story sculpting of the building described in detail above. (Tr. at 30-31.)

“Great Weight” to the ANC Report

29. The Commission is required to give “great weight” to the issues and concerns of the affected ANC expressed in its written report. (§ 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.) and Subtitle Z § 406.2.) To satisfy this great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978).)
30. ANC 6D voted to support the application for SEFC zone design review and related zoning relief. The Commission notes that the ANC raised no substantive concerns about the design of the Project and at the public hearing spoke forcefully in favor of the Project’s unique design as an element that attracts activity to The Yards and that benefits the ANC.

“Great Weight” to the Recommendations of OP

31. The Commission is also required to give great weight to the recommendations of OP. (D.C. Official Code § 6-623.04 and Subtitle Z § 405.8.)
32. The Commission gives OP’s recommendation to approve the application great weight, concurs with and incorporates herein OP’s findings, and concludes that the Applicant’s responses appropriately addressed OP’s questions and concerns.

DECISION

At its public meeting on June 10, 2019, in consideration of the case record and the above Findings of Fact and Conclusions of Law, the Zoning Commission for the District of Columbia took **FINAL ACTION** to **APPROVE** the design review application, including variance relief and design flexibility, subject to the following conditions, standards, and flexibility:

1. **Project Development.** The Project shall be built in accordance with the plans and elevations dated May 16, 2019 (Ex. 22C1-22C3), as modified by the plans dated May 23, 2019 (Ex. 26B) and by the plans dated May 30, 2019 (Ex. 28-28A2) (collectively, the “Final Plans”), and with zoning flexibility from the open court dimension requirements, subject to the following areas of flexibility:
 - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, and toilet rooms, provided that the variations do not change the exterior configuration or appearance of the structure;

- b. To vary the colors of the exterior materials based on availability at the time of construction, provided such colors are within the color ranges proposed in the Final Plans;
- c. To make minor refinements to the locations and dimensions of exterior details that do not substantially alter the exterior design shown on the Final Plans. Examples of exterior details would include, but are not limited to, doorways, canopies, railings, and skylights;
- d. To make refinements to the approved parking configuration, including layout and number of parking spaces plus or minus 10%;
- e. 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;
- f. To vary the final streetscaping and landscaping materials on private property as shown on the Final Plans based on availability and suitability at the time of construction, to incorporate materials consistent with adjacent public space (including both DDOT standard and DDOT-approved “Yards Standard” materials, furnishings, and fixtures), or otherwise in order to satisfy any permitting requirements of DC Water, DDOT, DOEE, DCRA, or other applicable regulatory bodies;
- g. To vary the amount, location and type of green roof, solar panels, and paver areas to meet stormwater requirements and sustainability goals or otherwise satisfy permitting requirements, so long as the Project achieves a minimum GAR of 0.3, based on the area of Parcel G, and provides a minimum of 2,300 square feet of roof area containing solar panels and related equipment;
- h. To vary the final design and layout of the mechanical penthouse to accommodate changes to comply with Construction Codes or address the structural, mechanical, or operational needs of the building uses or systems, so long as such changes do not substantially alter the exterior dimensions shown on the Final Plans and remain compliant with all applicable penthouse setback requirements;
- i. To vary the final design and layout of the indoor and outdoor amenity spaces to reflect their final design and programming;
- j. To vary the final design of the ground floor frontage, including the number, size, design, and location of windows and entrances, signage, awnings, canopies, and similar storefront design features, to accommodate the needs of the specific tenants within the parameters set forth in the Storefront and Signage Plans; and
- k. To vary the design of the surface parking lot remaining on Parcel F in accordance with the plan submitted as Exhibit 19D.

2. **Ground-Floor Uses.** The Applicant shall have flexibility to change the use of the space identified as “Retail” or “Retail/Office Flex” in the Final Plans to any use allowed among (i) the “Preferred Uses” in the SEFC-1A zone with respect to the space(s) fronting along N Street, S.E., and (ii) either “Preferred Uses” or office uses in the SEFC-1A zone with respect to the space(s) along New Jersey Avenue, S.E., 1½ Street, and/or Quander Street, S.E.
3. **LEED.** The Project shall achieve certification from the U.S. Green Building Council at the level of LEED Gold v4, provided that the Applicant shall have the flexibility to vary the approved sustainable features of the Project as long as the total number of LEED points achievable for the Project does not decrease below the minimum required for the foregoing LEED standard.
4. **EV Charging Stations. For the life of the Project,** the Applicant shall provide no fewer than three electric vehicle charging stations in the Project’s below-grade garage.
5. **Penthouse Affordable Housing Contribution.** The Applicant shall contribute to the Housing Production Trust Fund an amount equal to one-half the assessed value of the proposed penthouse habitable space associated with the Project, based on the assessed value of Parcel G only. Consistent with Subtitle C § 1505.16, not less than one-half of the contribution shall be made **prior to the issuance of a building permit,** and the balance of the contribution shall be made **prior to the issuance of a certificate of occupancy.**
6. **Loading Management Plan. For the life of the Project,** the Applicant shall adhere to the following loading management plan measures:
 - a. Designate a loading dock manager who will be responsible for coordinating with vendors and tenants to schedule deliveries and who will be on duty during delivery hours;
 - b. Require all retail and office tenants to schedule any deliveries that utilize the loading docks (defined here as any loading operation conducted using a truck 20 feet in length or larger);
 - c. Require the dock manager(s) to schedule deliveries for trucks using the loading berths such that the dock’s capacity is not exceeded, and in the event that an unscheduled delivery vehicle arrives while the dock is full, direct that driver to return at a later time when a berth will be available so as to not impede the drive aisle that passes in front of the loading dock;
 - d. Require the dock manager(s) to monitor inbound truck maneuvers and ensure that trucks accessing the loading dock do not block vehicular traffic except during those times when a truck is actively entering the loading facilities;
 - e. Prohibit trucks using the loading dock from idling and direct compliance with all District guidelines for heavy vehicle operation including but not limited to DCMR 20 – Chapter 9, § 900 (Engine Idling), the regulations set forth in DDOT’s Freight

Management and Commercial Vehicle Operations document, and the primary access routes listed in the DDOT Truck and Bus Route System; and

- f. Assign the dock manager(s) the responsibility for disseminating suggested truck routing maps to the Project's tenants and to drivers from delivery services that frequently utilize the loading dock and for distributing flyer materials as DDOT's Freight Management and Commercial Vehicle Operations document to drivers as needed to encourage compliance with idling laws. The dock manager(s) will also post these documents in a prominent location within the service area.

7. **Transportation Demand Management Measures. For the life of the Project**, the Applicant shall adhere to the following TDM plan measures:


- a. Identify and share with DDOT and goDCgo (info@godcgo.com) the full contact information for the Project's TDM Leader (for planning, construction, and operations) who will distribute and market to tenants of the building various transportation alternatives and options, to act as a point of contact with DDOT/Zoning Enforcement with annual updates;
- b. Provide TDM materials to new tenants of the building in any "welcome" materials and post all TDM commitments online for tenant reference;
- c. Provide the Project's TDM Leaders' contact information to DDOT and goDCgo (info@godcgo.com) and report TDM efforts and amenities to goDCgo staff once per year;
- d. Provide website links to CommuterConnections.com and godcgo.com on property websites;
- e. Provide for the Project's TDM Leaders to receive TDM training from goDCgo to learn about the TDM conditions for the Project and available options for implementing the TDM plan;
- f. Notify goDCgo each time a new office tenant occupying a full floor or more of the Project moves into the Project and provide TDM information to each such new tenant;
- g. Post "getting here" information in a visible and prominent location on the website for the Project's retail component, which information shall feature non-automotive travel modes and shall provide links to godcgo.com, CommuterConnections.com, transit agencies around the metropolitan area, and instructions for customers discouraging parking on-street in Residential Permit Parking zones;
- h. Require the TDM Leader to distribute information on the "Commuter Connections Guaranteed Ride Home" program, which provides commuters who regularly carpool, vanpool, bike, walk or take transit to work with a free and reliable ride home in an emergency;

- i. Implement or require office tenants within the building to implement a carpooling system such that individuals working in the building who wish to carpool can easily locate other employees who live nearby;
- j. Provide tenants with employees who wish to carpool detailed carpooling information and will be referred to other carpool matching services sponsored by the Metropolitan Washington Council of Governments (MWCOG) or other comparable service if MWCOG does not offer this in the future;
- k. Require tenants with 20 or more employees to comply with the DC Commuter Benefits Law and participate in one of the three transportation benefits outlined in the law (employee-paid pre-tax benefit, employer-paid direct benefit, or shuttle service);
- l. Install a Transportation Information Center Display (electronic screen) within the Project's office lobby, which Display shall contain information related to local transportation alternatives;
- m. Work with the Capitol Riverfront BID's marketing efforts targeting the SE and SW quadrants of the District, which marketing efforts shall include installing posters in bus shelter map cases, transit oriented promotional materials, and special transit maps in Navy Yard area;
- n. Provide, at no charge to and for use by any tenant of the building or employee thereof, no fewer than 86 long-term bicycle parking spaces in the Project with room to accommodate non-traditional sized bikes including cargo and tandem bikes;
- o. Provide no fewer than six showers and 50 lockers for tenant of the building or employee thereof;
- p. Provide no fewer than 12 short-term bicycle parking spaces along 1½ Street and/or N Street, S.E.;
- q. Provide a bicycle repair station in the secure long-term bicycle storage room;
- r. Price all parking in the Project at market rates, at minimum, where "market rates" are the average cost for parking at a one-quarter mile radius from the site;
- s. Unbundle the cost of parking from the cost to lease an office unit;
- t. Refrain from leasing unused parking spaces to anyone aside from tenants of the building unless there is an agreement in place in which no parking is provided at the other property;
- u. Designate a minimum of four preferential carpooling spaces and four preferential vanpooling spaces in a convenient location within the parking garage for employee use; and


- v. Require any office tenant occupying 75% or more of the office space in the Project to participate in the Capital Bikeshare corporate membership program and offer discounted annual memberships to employees.
- 8. The Application approved by this Commission shall be valid for a period of two years from the effective date of this Order. Within such time, an application for building permit must be filed as specified in 11-Z DCMR § 702.2. Construction must begin within three years after the effective date of this Order. (11-Z DCMR § 702.3.)
- 9. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §§ 2-1401.01 et seq. (Act), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

VOTE (June 10, 2019): **4-1-0** (Robert E. Miller, Michael G. Turnbull, Anthony J. Hood, and Peter A. Shapiro to **APPROVE**; Peter G. May opposed).

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 18-22, shall become final and effective upon publication in the *D.C. Register*; that is on October 25, 2019.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING