

# GOVERNMENT OF THE DISTRICT OF COLUMBIA



## ZONING COMMISSION OF THE DISTRICT OF COLUMBIA

Z.C. ORDER NO. 18-20

Z.C. CASE NO. 18-20

**Forest City SEFC, LLC on behalf of the United States General Services Administration  
(Southeast Federal Center Zone Design Review at Square 744, Lot 807)**

**May 13, 2019**

At its properly noticed April 11, 2019 public hearing, the Zoning Commission for the District of Columbia (the “Commission”) considered the application (the “Application”) of Forest City SEFC, LLC (the “Applicant”) on behalf of the United States General Services Administration (“GSA”) for design review approval to construct a new mixed-use residential apartment building with ground-floor retail uses and two levels of below-grade parking (the “Project”) in the SEFC-1B zone on Lot 807 in Square 744, known as “Parcel I” in The Yards (“Parcel I”). The Applicant requested design review, as well as special exception relief under Subtitle C § 1502.1(c)(5) and variance relief from Subtitle K § 209.1 of Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016 [the “Zoning Regulations”] to which all subsequent citations refer unless otherwise specified). The Commission reviewed the Application pursuant to the Commission’s Rules of Practice and Procedures, which are codified in Subtitles X and Z. For the reasons stated below, the Commission **APPROVES** the Application.

### **FINDINGS OF FACT**

#### **Notice**

1. On April 3, 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 ANC within which Parcel I is located. (Exhibit [“Ex.”] 2D.) The Applicant also noted its intent to present the Project to ANC 6D. (*Id.*)
2. On October 12, 2018, the Applicant filed an application on behalf of GSA as the owner of Parcel I, for design review and approval of the Project pursuant to Subtitle K §§ 237.4, 241, and 242. (Ex. 2.) In addition, pursuant to Subtitle X § 603.3, the Applicant also requested:
  - Special exception relief under Subtitle C § 1504 from the penthouse setback requirements of Subtitle C § 1502.1(c)(5); and
  - Variance relief from the GAR requirements of Subtitle K § 209.1.
3. The Office of Zoning referred the Application to the National Capital Planning Commission (“NCPC”), and gave notice of the public hearing by publishing notice in the *D.C. Register* and by mail/electronic mail to:
  - ANC 6D;
  - The Office of Planning (“OP”);
  - The District Department of Transportation (“DDOT”);

- The Council of the District of Columbia (“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
- The owners of property within 200 feet of the Property.

(Ex. 6, 7, 10, 18.)

4. On December 17, 2018, the Applicant requested the public hearing, originally scheduled for January 10, 2019, be postponed until March 21, 2019, and on February 12, 2019, the Applicant requested a further postponement until April 11, 2019 due to delays in the federal review process for the Project resulting from the protracted federal government shutdown. (Ex. 9, 15.)
5. The Applicant provided evidence that notice of the public hearing was posted on the Property on January 31, 2019. (Ex. 14.)

### **Parties**

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

### **The Property**

4. Parcel I is bounded by N Street, S.E. to the north, Canal Street, S.E. to the east, and N Place, S.E. to the south. (Ex. 2.)
5. Parcel I consists of approximately 55,041 square feet of land within the former Southeast Federal Center (“SEFC”) on a 42-acre site in the southeast D.C. neighborhood known as “Yards West” of “The Yards.” Parcel I occupies property owned by the federal government. (Ex. 2.)
6. 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 curbless street that will run from Quander Street on the north to Potomac Avenue on the south. (Ex. 2.)
7. An entrance to the Navy Yard Metrorail station is located approximately two blocks north of the Property, and the Washington Nationals Baseball Park is located one block west of the site. To the south of the Property is the “F1 Parcel,” which has received approval for redevelopment as a 100-foot-tall building and parking structure pursuant to a planned unit development (“PUD”). Further to the south is the DC Water Headquarters, which has nearly finished construction pursuant to another PUD. Other parcels to the southwest, west, and north are approved for redevelopment pursuant to the SEFC zoning and first-stage PUD approvals that have been granted by the Commission. (Ex. 2.)

8. Parcel I will eventually be located on a single lot of record with Parcel H. The future 1½ Street will bound the Property to the west and will divide Parcel I from Parcel H. (Ex. 2) Parcels I and H are currently used for surface parking. (Ex. 19E.)
9. The Property is located in the SEFC-1B Zone. (*Id.*) In general, the SEFC zones are 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.)
10. 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 development proximate to the Navy Yard Metrorail Station and the proposed 1½ Street, and with review of the relationship of new buildings to the M Street, S.E. corridor and the adjacent Washington Navy Yard.

(Subtitle K § 200.3.)

### **The Application**

11. The Project is a mixed-use, 10-story building with a habitable penthouse containing approximately 348 residential apartments, approximately 15,913 square feet of ground-floor retail uses, and two levels of below-grade parking with approximately 243 parking spaces. (Ex. 2, 19F, 24D, 25.)
12. The Project’s massing consists of a ground-level podium that is built out toward all street frontages, with a U-shaped building oriented on a double-loaded corridor above. The overall design of the Project allows the building to engage the pedestrian realm and provide ample light and air for residents on the upper stories. The Project’s primary materials consist of brick façades with punched windows atop a precast concrete and glass base. (Ex. 2.)
13. A one-story, double height “bridge” element at the eighth floor creates a signature amenity space within the upper levels of the Project and provides a visual connection to 1½ Street. (*Id.*)
14. The northwest stair tower, which is located adjacent to the main lobby, is intentionally located beyond the edge of the building so that it will be daylit by windows and serve as a meaningful alternative to the elevators for building residents. (*Id.*)
15. The Project’s central courtyard is surrounded by a glazed wall system that brings the landscaping into the building’s lobby and public areas. The Project also features other outdoor spaces for passive recreation, including the 10<sup>th</sup> floor terrace and individual outdoor spaces, such as terraces for the ground-level loft, second-floor courtyard, and penthouse units and balconies for units on each floor. (*Id.*)

16. The primary residential lobby is located along 1½ Street, and thereby encourages pedestrian activity on the planned new shared street that will define the new neighborhood. The Project’s ground-level, loft-style units, each with separate walk-up entrances, front on Canal Street, S.E. (*Id.*)
17. Vehicular access is from N Place, S.E., a two-block street segment that terminates at the D.C. Water Main Pumping Station and will feature significantly less pedestrian activity than other streets around Parcel I. (*Id.*)
18. Retail uses are focused along N Street, S.E., which serves as a pedestrian connection between the Ballpark District, Yards West, and the Historic Zone of The Yards to the east. The Project provides space for “Preferred Uses”<sup>1</sup> along the entirety of its N Street, S.E. frontage, and all such Preferred Use space complies with the requirements (i.e., with respect to height and window/door coverage) of the SEFC zone for Preferred Uses. (*Id.*)
19. The Project is elevated out of the 100-year floodplain and all habitable floors have been elevated out of the 500-year floodplain. However, the Project’s garage entrances are located along N Place, S.E., which happens to be the low point of the Property. Although the garage entrances are located above the 100-year base flood elevation, the entrances cannot be located above the 500-year base flood elevation because of existing grades. In the event of a severe flood event, the Project’s garage is designed to flood to counteract buoyancy and prevent the building from floating. (Ex. 2, 19.)
20. As part of the Project’s resiliency design, the building’s primary electrical switchgear room is located at a mezzanine level above the ground floor to protect it in a flood event. The building’s emergency switchgear and emergency generator are located in the penthouse. (*Id.*)
21. The Project will achieve a minimum of LEED Silver under the LEED v4 standard and will include solar panels on the rooftop. (*Id.*)
22. The Project also incorporates significant energy efficiency and energy conservation measures including high-efficiency VRF mechanical systems with programmable thermostats, Dedicated Outside Air Supply Units with energy recovery wheels, energy efficient LED lighting and controls with vacancy sensors in building common areas, high-performance thermally-broken glazing systems, and a high-performance building envelope. (*Id.*)
23. The Project includes landscape design features, including plantings within the central courtyard and the planted terrace on the second floor, that feature native river birch and flowering dogwood trees that emphasize the proximity to the riverfront. (*Id.*)

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<sup>1</sup> The term “Preferred Uses” is defined in Subtitle K § 236.1 and includes, among other uses, eating and drinking establishments, retail, and general service uses. (See also, *id.* §§ 236.2 and 237.5 (establishing dimensional requirements for Preferred Uses in the SEFC zones).)

24. The Project has a maximum height of 110 feet, which is the maximum permitted height for Parcel I. (Subtitle K § 203.1.) The Project's penthouse has a maximum height of 20 feet, as permitted in the SEFC-1B zone. (*Id.* § 203.4.)
25. The Project proposes to utilize the 1.0 floor area ratio ("FAR") bonus density for residential use that is permitted in the SEFC-1B zone, for a maximum FAR of 7.0 based on the land area of Parcel I. (Subtitle K § 202.2(a).) The Project's use of the 1.0 FAR bonus density triggers the requirement for design review of Subtitle K § 237.4(a)(1)-(4).
26. As required by a development agreement with the District, 20% of the apartment units in the Project are reserved for households earning up to 50% of the median family income ("MFI"). Accordingly, the apartment units (including those in the penthouse) are expressly exempt from the inclusionary zoning requirements pursuant to Subtitle C § 1001.5(a)(6) and Subtitle K § 200.11. Moreover, the Project's affordable units include a minimum of 4,404 square feet of gross floor devoted to three-bedroom units, which is the equivalent of 8% of the 1.0 FAR bonus and in satisfaction of the requirements of Subtitle K §§ 202.2(b) and 237.4(a)(4).
27. The Project as designed complies with the other primary development standards in the SEFC-1B zone, including:
  - a) The SEFC-1B zone permits a maximum habitable penthouse FAR of 0.4 (excluding area devoted to communal recreation space). (Subtitle K § 201.2.) The Project's habitable penthouse FAR is 0.39 (excluding area devoted to communal recreation space);
  - b) The SEFC-1B zone permits 100% lot occupancy for ground-floor non-residential uses and 75% lot occupancy for residential uses. (Subtitle K § 204.1.) The Project has a lot occupancy of 36% for all ground-floor uses, and 33% on the upper floors for residential uses only;
  - c) The SEFC-1B zone requires a rear yard of two and one-half inches per one foot of height or a minimum of twelve feet. (Subtitle K § 206.1.) The Project provides a 40-foot rear yard measured from the centerline of Canal Street, S.E.; and
  - d) The SEFC-1B zone does not have minimum vehicle parking requirements (Subtitle K § 200.10(a)); nevertheless, the Project provides two levels of below-ground parking with approximately 243 spaces and satisfies the bicycle parking and loading requirements of the SEFC-1B zone. (*Id.* § 200.10(b).)
28. The Project's penthouses comply with dimensional requirements except for one area of flexibility required with respect to the setback of the exposed stair tower. (Ex. 2, 19.)
29. The Project achieves the minimum GAR of 0.2 based on the area of Parcel I, but variance relief is required from the GAR requirements with respect to the record lot as a whole for Parcels I and H. (Ex. 2, 19.)

30. The DC Water Main Pumping Station is located immediately to the east of the Property, across the unbuilt right-of-way of Canal Street, S.E. DC Water has expressed concerns about the use of Canal Street for public vehicular traffic because of the large and sensitive sewer infrastructure beneath the right-of-way and because of its proximity to the Main Pumping Station. The Applicant, DC Water, DDOT, and the Deputy Mayor for Planning and Economic Development have agreed that 12 feet of Canal Street's 80-foot right-of-way, adjacent to Parcel I, will be improved as a publicly accessible sidewalk. The remainder of the right-of-way will be occupied by DC Water as a part of its campus and public vehicular travel will not be allowed. (Ex. 2, 19.)
31. On November 27, 2018, the Applicant filed a Comprehensive Transportation Review (“CTR”) for the Project. (Ex. 5.) The CTR concluded that the Project will not have a detrimental impact to the surrounding transportation network assuming the implementation of all planned site design elements, mitigation measures, and transportation demand management measures. (Ex. 5A.)
32. On March 22, 2019, the Applicant filed a supplemental statement with revised plans reflecting feedback from and discussions with the ANC, the federal agencies that reviewed the Project, OP, and DDOT. (Ex. 19.) The plan revisions included:
  - a) A reduction to the size of the bridge element and its amenity space;
  - b) Revision to the ground-level residential support space, allowing for retail uses in the southwest corner of the Project;
  - c) Changes to the building materials;
  - d) Enlargement of the window proportions to increase natural light in the residential units; and
  - e) Further development of the design of Canal Street, including moving street lighting and landscaping to the Applicant’s property.
33. The Applicant also filed signage plans for the Project. (Ex. 19F.)
34. Finally, the Applicant filed concept designs for the private street to be located along the western edge of the Project. (Ex. 19D.)

#### **Relief Requested**

35. The Applicant seeks design approval of the Project pursuant to the SEFC zone requirements of Subtitle K §§ 237.4, 241, and 242. The Commission has jurisdiction to 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-1B zone and that utilize bonus height or density.

36. The Applicant also requests special exception relief pursuant to Subtitle C § 1504.1 and the special exception general criteria of Subtitle X § 901 from the penthouse setback requirements of Subtitle C § 1502.1(c)(5) in order to allow the daylit stairwell near the northwest corner to project into the required setback.
37. The Applicant also requests a variance pursuant to Subtitle X § 1002 from the GAR requirements of Subtitle K § 209.1 in order to accommodate the proposed phased build-out of the record lot upon which the Project will be constructed.
38. The Applicant also seeks design flexibility from the requirement to develop the Property in accordance with the plans approved by the Commission. (Ex. 24B.)

#### **OP Report**

39. OP filed a report dated April 1, 2019 (the “OP Report”), recommending approval of the Project and testified accordingly at the public hearing. (Ex. 20; Transcript of April 11, 2019 Public Hearing of Zoning Commission, Z.C. Case No. 18-20 [“Tr.”] at 63-64.)
40. OP examined the Project against the general design review criteria as well as the SEFC-1B zone design review criteria 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.)
41. The OP Report also concluded 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.
42. The OP Report also supported the requested design and did not oppose the requested special exception from the penthouse setback or the variance from the GAR requirements. The OP Report also did not object to the request for design flexibility from the requirement to develop the Property in accordance with the plans approved by the Commission.
43. The OP Report included requests for additional information regarding the Project’s canopies, window details, brick dimensions and bridge materials, LEED certification, green roof, and solar panels, to which the Applicant responded in its April 11, 2019 filing with point-by-point explanations satisfactory to OP. (Ex. 24.)
44. The OP report also included 10 comments from DOEE. These comments included requests that the Applicant meet the higher stormwater requirement of capturing the 95<sup>th</sup> percentile rain event or the 1.7” rain event, include solar panels on the roof of the Project, explore a power purchase agreement, and maximize opportunities for energy efficiency, among others. (Ex. 20 at 17-18.)
45. DOEE did not comment on the request for variance relief from the GAR requirements.

46. The Applicant responded to each of DOEE’s comments and recommendations in its April 11, 2019 filing. (Ex. 24.)

#### **DDOT Report**

47. DDOT also filed a report dated April 1, 2019, stating that it had no objection to the approval of the Project (the “DDOT Report”). (Ex. 21.)
48. DDOT made a number of findings in its report including that the trip generation assumptions proposed by the Applicant were reasonable, that the Applicant’s analysis used sound methodology, and that the CTR did not identify any intersections that triggered the need for mitigation as a result of the Project. (*Id.*)
49. The DDOT Report also included recommendations for the Applicant’s Transportation Demand Management (“TDM”) plan, including:
- a) Providing an annual Capital Bikeshare membership to residents;
  - b) Providing the Project’s TDM Leaders’ contact information to DDOT and goDCgo; and
  - c) Providing annual TDM reports to goDCgo staff.

50. The Applicant responded to each of DDOT’s comments and recommendations in its April 11, 2019 filing. (Ex. 24.)
51. At the public hearing, an email from DDOT that was read into the record, indicated that the Applicant’s responses were sufficient to address DDOT’s recommendations. (Tr. at 10.)

#### **ANC Report**

52. ANC 6D filed a report (the “ANC Report”), stating that at its regularly scheduled and duly noticed public meeting on December 10, 2018, at which a quorum was present, it voted to support the application for design review and the requested relief. (Ex. 8.) The ANC Report noted that the Project “will be a catalyst for the emergence of the “Yards West” neighborhood.” The ANC Report did not identify any issues or concerns for the Commission’s consideration.

#### **NCPC Report**

53. On December 21, 2018, NCPC filed a memorandum with the Commission approving of the design of the Project (the “NCPC Report”). (Ex.10A.) The NCPC Report noted that the Project “appears to conform to the Urban Design Guidelines identified in the 2005 Memorandum of Understanding between NCPC and the GSA, including: appropriate building and landscape treatment in character with the street grid proposed for the SEFC; using shared, below-grade parking; and an amount of neighborhood retail at the ground level of a major street. In addition, the Parcel I, 35 percent exterior design submission 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.*)

#### **GSA-Related Reviews**

54. The Applicant’s March 22, 2019 filing included letters from the Commission of Fine Arts (“CFA”) and NCPC, setting forth the recommendations of each agency to GSA pursuant to agreements between those agencies and GSA. (Ex. 19A, 19B.) Both CFA and NCPC recommended approval of the Project.
55. The CFA provided recommendations regarding the design of the Project including:
  - a) Modifying the bridge design to relate more to the overall design;
  - b) Simplifying the materials and colors palette;
  - c) Better incorporation of the glass façade of the lobby into the overall building design;
  - d) Further development of daylit stair tower’s design to highlight its role as a building amenity; and
  - e) Incorporating more plantings into the lobby’s green roof.
56. At the public hearing, the Applicant’s architecture expert testified that the Applicant made design changes to the Project in response to CFA’s comments about materiality and the bridge design but not to other comments. (Tr. at 24-30.) GSA testified at the public hearing that it supported the Project as revised. (*Id.* at 28-30.)

#### **Public Hearing of April 11, 2019**

57. After proper notice, the Commission held a hearing on the application on April 11, 2019.
58. Expert witnesses appearing on behalf of the Applicant included Brett Swiatocha, of Perkins Eastman DC as an expert in architecture; Erwin Andres of Gorove/Slade Associates, as an expert in transportation planning engineering; Rick Parisi of M. Paul Friedberg and Partners, as an expert in landscape architecture; and Claire Bedat of AECOM, as an expert in landscaping architecture, urban planning, and urban design. Toby Millman and David Shirey of Brookfield Properties appeared on behalf of the Applicant and Brett Banks appeared on behalf of GSA.
59. Mr. Swiatocha and Mr. Banks testified as to the Applicant’s response to the CFA comments. (Tr. at 24-34.)
60. Mr. Andres provided a point-by-point response to the comments and concerns raised in the DDOT Report. (Tr. at 45-49.)
61. OP and DDOT confirmed at the hearing that the Applicant had responded to their questions to their satisfaction. (Tr. 2 at 10, 63-64.)

62. No other testimony was presented. (*Id.*)
63. At the conclusion of the hearing, the Commission requested the following supplemental information from the Applicant and its experts: (Tr. at 41-43, 58-59.)
  - a) Additional information regarding the Project's proposed signage; and
  - b) Additional details of the Project's mechanical penthouse design.

### **Post Hearing Submissions**

64. On April 29, 2019, the Applicant filed a post-hearing submission with responses to the issues raised by the Commission at the April 11, 2019 hearing. In the submission, the Applicant revised the Project's signage and provided additional information regarding the Project's mechanical penthouse design: (Ex. 27.)
  - a) **Signage:** The Applicant revised its signage plan to remove certain areas at the retail level from being eligible for wall-mounted signage. The Applicant also provided additional restrictions on the building-identifier signage at the upper levels in response to concerns raised by the Commission; and
  - b) **Penthouse Design:** In its post-hearing submission, the Applicant provided a further study of its rooftop mechanical space, showing that when fully built out with all mechanical equipment and emergency backup equipment, reducing the size of the penthouse level is not feasible.

## **CONCLUSIONS OF LAW**

### **Design Approval**

1. Section 8 of the Zoning Act of 1938 authorizes the Commission to undertake review and approval of the Project. (D.C. Official Code § 6-641.01 (2018 Repl.))
2. The Applicant seeks design approval of the Project pursuant to the SEFC zone requirements of Subtitle K §§ 237.4, 241, and 242. Pursuant to Subtitle K § 237.4(a), design review is required for buildings that are located in the SEFC-1B zone and that utilize bonus height or density. The Commission must consider an application for design review in the SEFC zones 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.

### **General Design Review Criteria (X § 604)**

3. Subtitle X § 604 requires that in order for the Commission to approve a design review application it must:
  - a) *Subtitle X § 604.5 - find that the proposed design review development is not inconsistent with the Comprehensive Plan [the “CP”] and with other adopted public policies and active programs related to the subject site;*

- b) *Subtitle X § 604.6 - 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;*
  - c) *Subtitle X § 604.7 - review the urban design of the site and the building according to certain enumerated criteria set forth below; and*
  - d) *Subtitle X § 604.8 - 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.*
- 4. The Commission concludes that the Application meets the general design review criteria as elaborated below.

#### **Not Inconsistent with the Comprehensive Plan (X § 604.5)**

- 5. The Commission concludes that the Project is not inconsistent with the Master Plan, nor is it inconsistent with relevant objectives of the CP and the 2003 Anacostia Waterfront Framework Plan (“AWF Plan”). The Applicant provided a detailed analysis of the Project’s consistency with the CP and the AWF Plan, which the Commission finds compelling and accordingly adopts by reference. (Ex. 2J.)
- 6. The Future Land Use Map of the CP designates the Property as appropriate for a mix of “High-Density Residential” and “High-Density Commercial” future uses. Such a designation supports mixed-use buildings of eight stories or more. Therefore, the Commission finds that the Project’s proposed high-density development, converting the Property to a mix of apartment and ground-floor commercial uses, is not inconsistent with the CP.
- 7. The Commission also notes that the Generalized Policy Map of the CP shows the Property as being located in a “Land Use Change Area (Federal)” where a change to a different land use is anticipated.
- 8. In addition, the Commission concludes that the Project is not inconsistent with relevant objectives of the 2013 Near Southeast Urban Design Framework Plan (“NSE Plan”), which prioritizes access to and linkages between existing parks and clustering retail uses to create a high-density urban environment in Southeast DC. The Project addresses a “critical linkage” between existing parks (The Yards Park and Diamond Teague Park) and retail uses (along Tingey Street, S.E. and in The Yards) identified in the NSE Plan and advances the retail cluster objective of the NSE Plan, which seeks to cluster retail uses in the vicinity of The Yards and the Navy Yard Metrorail station.

#### **General Special Exception Criteria (X § 604.6)**

- 9. The Commission concludes that the Project satisfies the two prongs of the general special exception criteria of Subtitle X § 901 for the following reasons.

10. *The Project satisfies Subtitle X § 901.2(a) because it is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps for the SEFC-1B zone.*

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-1B zone and complies with the Zoning Regulations in terms of development standards, including height, FAR, proposed uses, and parking, except for minor requests for relief from the penthouse setback and GAR standards.

11. *The Project satisfies Subtitle X § 901.2(b) because it will not tend to affect adversely the use of neighboring property.*

The Commission also concludes that the Project will not adversely affect the use of neighboring property, and instead the Project is designed to fit in and operate compatibly with neighboring properties and uses. The Project is also unlikely to adversely affect the neighboring DC Water operations due to agreements on the future use and design of Canal Street.

**Consistent with the Urban Design Criteria (X § 604.7)**

12. Subtitle X § 604.7 enumerates several general urban design criteria by which the Commission must review any SEFC-1B zone application pursuant to Subtitle K § 237.4. The Commission concludes that the Project is consistent with each of these general criteria:

- 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 proposed design of Parcel I is integrated into the public realm design in a way that achieves these principles. Driveway/garage access separated from pedestrian areas and located exclusively on N Place, S.E. The Project design prioritizes pedestrian access, activity, safety, and comfort, by providing ample sidewalk space along the primary pedestrian streets on N Street and 1½ Street. The Project also makes use of the ground level by providing multiple entrances and minimizes blank facades through large windows in the residential lobby and in the retail spaces along 1½ Street and N Street, S.E.;

- 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 overarching design of the Yards creates a network of formal and informal open spaces running from a transit station to an existing waterfront park. The Project reinforces these overall design goals by providing connections on 1½ Street between the building’s interior public spaces (such as the main lobby and courtyard) and outdoor public spaces along 1½ Street and to the Navy Yard Metrorail station stop. The Project’s retail presence along N Street will also enliven the connection between 1½ Street and Tingey Square;

- 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 axialviews of landmarks and important places.*

The Project reinforces the proposed urban form for Yards West, which utilizes high-density contemporary design and the re-established urban grid as a counterpoint to the historic design and guidelines of the “Historic Zone” to the east. The Project’s height, density, massing, orientation, and materials all embrace the contemporary setting. As a result, the Project will be compatible with future Yards West development that is planned for similar heights and densities. However, the Project also complements the nearby Historic Zone through the use of brick as a primary material and through its height, which was deliberately maintained at 110 feet so as not to overwhelm the nearby Main Pumping Station. The Project’s design reinforces the rectilinear urban grid along all four street frontages, both through the streetwall at its base and through the form of the upper stories, and it also maintains vistas to and from the waterfront along both 1½ Street and Canal Street, S.E.;

- 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’s massing and architectural design reinforces the pedestrian realm through a ground floor which helps define the streetwall along all street frontages. The Commission concludes that the Project’s materials are contextually appropriate and high quality based on its review of the physical material board and project imagery provided by the Applicant at the public hearing. The Applicant’s details of the fenestration show that the Project’s window assemblies will provide appropriate texture and depth;

e) *Sites are designed with sustainable landscaping:*

The east-west public streets utilize the existing planting zones along both N Street, S.E. and N Place, S.E. The private 1½ Street features additional bioretention zones and other features to retain and treat stormwater runoff at a level that exceeds the District's minimum requirements. Along Canal Street, the underground sewer infrastructure and the resulting limited area for public use precludes street trees within the right-of-way. However, the Applicant is seeking to provide similar benefits through a combination of trees and bioretention areas on the private property in front of the loft entrances, adjacent to the sidewalk. The Project's landscape design incorporates a variety of planted areas on multiple terraces, with soil depths on the ground-level courtyard capable of supporting trees as well as attractive groundcover; and

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.*

The Yards West Master Plan creates pedestrian-scale connectivity through a safe, multimodal network that will interconnect the Metro, the riverfront, and the adjacent development to the east and west. Parcel I will accommodate cyclists through a large at-grade indoor bicycle parking area that can be accessed from either the primary or secondary residential entrances as well as on-street bicycle racks. The Project also includes a shower and lockers for employees who choose to bike to work.

**Superior to Matter-of-Right Development Standards of Subtitle X § 604.7 (Subtitle X § 604.8)**

13. 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, materials selection, safe pedestrian access, connections to the N Street, S.E. and 1½ Street corridors and other features that are superior to typical matter-of-right development.

**SEFC Design Review Criteria**

14. The Commission concludes that the Project satisfies the SEFC design review criteria as set forth in Subtitle K § 241.1, which requires that a project:

- a) *Be 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*
- b) *Limit at- or above-grade parking so that any such parking is screened by other building uses, landscaping, or other architectural treatment.*

The Project helps achieve each of the relevant goals and objectives of the SEFC zone.<sup>2</sup> The Project's height and density are within the high-density parameters envisioned by the Comprehensive Plan. (Subtitle K § 200.2(a).) The proposed high-density residential apartment building use and ground-floor retail uses also provide the mix of uses desired by the Comprehensive Plan and related planning documents. (Subtitle K §§ 200.2(a) - 200.2(c); *see also id.* § 200.3 (emphasizing high-density residential use in the SEFC-1B zone).) The design also emphasizes a pedestrian-oriented streetscape and ground-floor preferred retail and service uses along N Street. (Subtitle K §§ 200.2(b), 200.2(e).) Finally, although the Project is not located within the SEFC Historic Zone, the building's architectural design nevertheless reflects sensitivity to the nearby historic context through its reduced height and use of brick materials. (Subtitle K § 200.2(g).)

15. *The Project 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:*

The Project's height, bulk, and siting do not impinge on the openness of view and vistas to and from the waterfront and monumental federal buildings. As described above, the overall Yards West Master Plan emphasizes these view corridors through the site to the waterfront, and the northeast edge also emphasizes the New Jersey Avenue corridor. The Project's massing along each of its four elevations begins to define these formal view corridors as well as the east-west N Street corridor.

16. *The Project limits at- or above-grade parking so that any such parking is screened by other building uses, landscaping, or other architectural treatment:*

All of the Project's parking is located underground.

17. The Project also satisfies the relevant SEFC-1B additional design review criteria set forth in Subtitle K § 241.2:

- a) *Compatibility with buildings in the surrounding area through overall massing, siting, details, and landscaping:*

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<sup>2</sup> Certain goals of the SEFC zones, such as reduced height and bulk at the riverfront and development of a riverfront park, are not directly relevant to the Project given its location. (*See* Subtitle K § 200.2(d) and (f).) However, the Project indirectly supports these provisions by accommodating desired density away from the riverfront and housing additional residents to support the District's investments in the riverfront and the park.

With respect to massing and siting, the Project's height, bulk, and siting do not impinge on the openness of view and vistas to and from the waterfront and monumental federal buildings and are compatible with the height and density of Yards West, which is intended to include taller and denser structures. The Project's architectural details are generally contemporary in nature, reflecting the nature of Yards West as a new neighborhood. Finally, the Project's landscaping is designed to address its context on all four façades and at various roof and penthouse levels; (*See Findings of Fact ("FF") ¶¶ 21, 28.*)

- b) *Use of high standards of environmental design that promote the achievement of sustainable development goals:*

The Project integrates into its design resiliency and sustainability measures that promote sustainable development goals. The Project is designed to be LEED Silver, includes solar panels, and incorporates other sustainable design elements as the Commission found above at FF ¶¶ 17-20;

- c) *Façade articulation that minimizes or eliminates the visibility of unarticulated blank walls from public spaces:*

The Project has no unarticulated façades at ground level, and all façades include entrances into the building;

- d) *Landscaping which complements the building:*

The Project provides a variety of landscaping throughout the building and in the adjacent public realm which complements the overall design of the building; and (*See FF ¶¶ 22.*)

- e) *Consideration of the balance and location of preferred uses:*

The Project's Preferred Uses are concentrated along the façades facing streets that are likely to have the greatest amount of pedestrian activity. (*See FF ¶ 16.*)

#### **Special Exception Relief for Penthouse Setback**

18. The Application also requests special exception relief from Subtitle C § 1502.1(c)(5) in order to allow the daylit stairwell near the northwest corner to project into the required setback. The Commission may grant a special exception for penthouse setback relief pursuant to Subtitle C § 1504.1 and the special exception general criteria of Subtitle X § 901.
19. The Project satisfies the standards for the requested penthouse setback special exception:
- a) *The strict application of the requirements of Subtitle C, Chapter 15 would result in construction that is unduly restrictive, prohibitively costly, or unreasonable, or is inconsistent with building codes:*

Typically, stairwells in residential buildings are “buried” in the interior of the building in order to not occupy valuable exterior-facing space. Here the Applicant has placed one stairwell partially beyond of the exterior wall and clad it primarily in glass in order to encourage circulation in the building via stairs rather than via elevators. This particular stairwell was selected because of its proximity to the ground-floor lobby entrance and its southern and western exposures, which will experience the best daylight in the building. The daylit stairwell projects into the required setback at the upper level to capture more natural light at the top of the stair and allow rising warm air to be collected and vented above the occupied zone to maintain the comfort of the stair users. Strict application of the setback requirements would defeat the purpose of having a fully daylit stairwell, since it would reduce the light and usability of the stairwell. In all likelihood, the practical impact of strict compliance would be to eliminate the feature altogether;

- b) *The relief requested results in a better design of the roof structure than a fully matter-of-right design and does not appear to be an extension of the building wall:*

The requested relief results in a superior design to the roof structure than a fully matter-of-right design because it converts the stairwell from a dark “emergency-only” piece of vertical circulation to a unique stairwell that encourages activity and movement in the Project and reinforces public health and wellness goals. The requested relief does not appear to be an extension of the building wall. Rather, the entire stairwell that results in the projection into the required setback is distinguished from the surrounding façade through materials and design;

- c) *The relief requested is no more visually intrusive than a matter-of-right design:*

The stair tower will not be visible from most vantage points. The stair tower will not be visible at all from N Street, S.E., N Place, S.E., or Canal Street adjacent to the Project. Along 1½ Street, any view of the projection from 1½ Street will likely be entirely obscured by the Project’s bridge element, given the height and scale of the bridge compared to the location and minimal size of the stair tower. While Parcel H remains a parking lot, the projection may be incidentally visible from the public realm along 1<sup>st</sup> Street, S.E. However, once Parcel H is constructed, the stair tower will not be visible from 1<sup>st</sup> Street, S.E. or other points west of Parcel I;

- d) *Operating difficulties such as meeting the D.C. Construction Code requirements make full compliance unduly restrictive or unreasonable:*

Typically, stairwells are a secondary form of vertical circulation to be used for egress in an emergency. Most stairwells are dark and confined to the building interior, and building occupants opt for using an elevator rather than stairs to travel between floors. Here, the Applicant creates a stairwell that will encourage resident activity. A daylit stairwell requires both an exterior location on the perimeter of the building and sufficient height to bring in light and allow air to circulate; these requirements could

not be met if the stairwell terminated in a location that complied with the setback requirements;

- e) *Every effort has been made for the housing for mechanical equipment, stairway, and elevator penthouses to be in compliance with the required setbacks:*

Apart from the stairwell, all mechanical equipment, other stairwells, and elevator penthouses are in compliance with the required setbacks. As noted above, there is no reasonable way to design the daylit stairwell in a manner that complies with the penthouse setback requirements, because the stairwell must by design be located on the exterior wall of the building;

- f) *The stairwell neither materially impairs the intent and purpose of Subtitle C, Chapter 15 nor materially impairs the light and air of adjacent buildings:*

As described above, the daylit stairwell will not be visible from most frontages and will therefore not impair the intent and purposes of the penthouse regulations. Moreover, the scope of the requested relief is minor. The stairwell is located within an interior courtyard, and accordingly the requested relief does not materially impair the light or air of adjacent buildings. The penthouse relief will not cast shadows onto adjacent buildings, obstruct views, or otherwise impair views or access to future nearby buildings;

- g) *The proposed setback is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and does not tend to affect adversely the use of neighboring property:*

The requested relief from the strict application of the penthouse setback requirements does not impair the general intent, purpose, and integrity of the Zoning Regulations or Zoning Maps. The majority of the Project's penthouse meets the setback requirements, the daylit stairwell extends into the setback zone only to the minimum extent necessary, the stairwell is generally not visible from the public realm, and it has no shadow impacts; and

- h) *The proposed setback does not violate the maximum height allowed by the Height Act:*

Under the Height Act, the Project could achieve a maximum height of 130 feet based on the width of 1<sup>st</sup> Street, S.E. Therefore, since the Project height is only 110 feet and the penthouse height is limited to 20 feet, the setback of the building's penthouse is governed only by the requirements of the Zoning Regulations.

### **Variance Relief for GAR**

20. The Applicant also requested a variance from the GAR requirements of Subtitle K § 209.1 in order to accommodate the proposed phased build-out of the record lot upon which the Project will be constructed. The Project will satisfy the GAR requirements as to Parcel I itself. However, the overall record lot (containing Parcel I and Parcel H as well as the

portion of 1½ Street between the two parcels), which is the relevant unit for the purposes of complying with the Zoning Regulations, will not comply with the GAR requirements until the completion of construction on Parcel H. Therefore, variance relief is sought to accommodate the interim condition while Parcel H is still improved as a parking lot.

21. The Commission may grant the Applicant's request for a variance pursuant to the standards for area variance relief as set forth in Subtitle X § 1002.1(a). As set forth below, the Commission concludes that the Application meets the three-part test for area variance relief for the requested GAR variance.

22. *The Property Is Affected by an Exceptional Situation or Condition:*

The Commission concludes that Parcel I satisfies the “exceptional situation or condition” element because it is uniquely impacted by a confluence of factors not affecting the neighborhood generally. Parcel I is part of the master-planned development of the SEFC, which anticipated the gradual, phase development of a large multi-acre site. Parcel I is the first phase of development of a larger site that will one day include the development of Parcel H. Moreover, Parcel H is currently improved as a temporary surface parking lot pursuant to Commission approval that predated the implementation of the GAR regulations.

23. *Strict Application of the Zoning Regulations Would Result in a Practical Difficulty:*

The Commission concludes that compliance with the strict application of the GAR requirements would result in practical difficulties given the phased nature of construction on the record lot of which the Property is a part. The temporary surface parking lots on Parcel I and Parcel H were constructed prior to the effectiveness of the GAR requirements. As a result, neither lot complies with the GAR regulations. Parcel H will eventually be redeveloped with a new building, and the GAR requirements will apply to that new construction. Parcel H will integrate its own green features, but the extent of those features cannot be known until the building is designed. Upon full build out of Parcel I and Parcel H (and the new private street between them), the entire record lot will overall satisfy the GAR requirements for the record lots. Likewise, at that point the individual Parcels will independently satisfy the GAR requirements for each tax lot. Until then, it would be unreasonable to require that Parcel I satisfy the GAR requirements for the entire record lot.

24. *Relief Can Be Granted without Substantial Detriment to the Public Good and Without Impairing the Intent, Purpose and Integrity of the Zone Plan:*

The Commission concludes that the requested relief from the strict application of the GAR requirements can be granted without substantial detriment to the public good and without impairing the intent, purpose, and integrity of the zone plan. The relief from the requirement is time-limited and purely technical in nature, since the requested relief will no longer be necessary upon construction of Parcel H. The Commission notes that if the Project were to be developed on the basis of Parcel I alone, this relief would not be required. This relief does not impair or circumvent the intent of the Zoning Regulations, which assess

GAR on a building-by-building basis. Accordingly, the regulations are not harmed by recognizing that the multi-phase nature of a large site build out may not achieve full GAR compliance for the record lot as a whole until all phases are complete.

#### **“Great Weight” to the Recommendations of OP**

25. Pursuant to § 13(d) of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001)) and Subtitle Z § 405.8, the Commission must give “great weight” to the recommendations of OP. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1086-87 (D.C. 2016).)
27. The Commission finds OP’s recommendation, in both the OP Report and testimony at the public hearing, that the Commission approve the Application persuasive and concurs in that judgment as elaborated above.

#### **“Great Weight” to the ANC Report**

28. Pursuant to § 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 Y § 406.2, the Commission must give “great weight” to the issues and concerns raised in a written report of the affected ANC that was approved by the full ANC at a properly noticed meeting that was open to the public. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) 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) (citation omitted).)
29. The Commission finds the ANC Report’s support of the Application, which did not identify any issues or concerns with the Project, persuasive and concurs in that judgement as elaborated above.

### **DECISION**

In consideration of the case record and the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia concludes that the Applicant has satisfied its burden of proof and orders **APPROVAL** of the Application for SEFC Design Review, including the special exception relief under Subtitle C § 1504 from the penthouse setback requirements of Subtitle C § 1502.1(c)(5), and variance relief from the GAR requirements of Subtitle K § 209.1, subject to the following conditions, standards, and flexibility

1. **Project Development.** The Project shall be built in accordance with the plans and elevations dated March 22, 2019, and marked as Exhibit 19F1-19F9 of the record, as amended and updated by plans and elevations dated April 11, 2019 and marked as Exhibits 24D, 25A1-25A4, and 27A of the record (collectively, the “Approved Plans”), except for flexibility from the Approved Plans in the following areas:

- 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 Approved 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 Approved Plans. Examples of exterior details would include, but are not limited to, doorways, canopies, railings, and skylights;
- d) To provide a range in the approved number of residential dwelling units of plus or minus 10%;
- e) To make refinements to the approved parking configuration, including layout and number of parking spaces plus or minus 10%, and to vary the allocation of residential and retail parking spaces, provided that the number of residential parking spaces shall not exceed a ratio of 0.6 spaces per unit;
- f) 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;
- g) To vary the final streetscaping and landscaping materials on private property as shown on the Approved Plans and as shown on the concept design for 1½ Street included as Exhibit 19D of the record 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;
- h) 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 0.2 based on the area of Parcel I and provides a minimum of 160 linear feet of solar panels;
- i) 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, and to tilt the solar panels up to 20% from vertical consistent with Subtitle C § 1500.10, so long as such changes do not substantially alter the exterior dimensions shown on the Approved Plans and remain compliant with all applicable penthouse setback requirements;

- j) To vary the final design and layout of the indoor and outdoor residential amenity spaces to reflect their final design and programming;
  - k) 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
  - l) To vary the design of the surface parking lot remaining on Parcel H in accordance with the plan submitted as Exhibit 19E of the record.
2. **Ground-Floor Uses.** The Applicant shall have flexibility to change the use of the spaces identified as “Retail” in the Approved Plans to any use allowed among the “Preferred Uses” in the SEFC-1B zone.
3. **Three-Bedroom Units. For the life of the Project,** the Applicant shall reserve a minimum of eight percent of the 1.0 FAR bonus based on the area of Parcel I, or approximately 4,403 square feet of gross floor area, for three-bedroom units in accordance with Subtitle K § 202.2(b)
4. **LEED.** The Project shall achieve certification from the U.S. Green Building Council at the level of LEED Silver 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.
5. **Green Area Ratio.** For so long as Parcel H remains improved with a surface parking lot, the Applicant shall have flexibility with respect to complying with the GAR requirements for the underlying record lot containing Parcels H and I pursuant to a variance from the GAR requirements for such record lot.
6. **EV Charging Stations. For the life of the Project,** the Applicant shall provide five electric vehicle charging stations in the Project’s below-grade garage.
7. **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 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 all residential move-ins and move-outs to be scheduled;

- d) 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;
- e) 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;
- f) Prohibit trucks using the loading dock from idling and direct compliance with all District guidelines for heavy vehicle operation including but not limited to air quality regulations (Chapter 9, Section 900 (Engine Idling) of Title 20 of the District of Columbia Municipal Regulations), 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
- g) 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.

**8. Transportation Demand Management Measures. For the life of the Project,** unless as otherwise noted, the Applicant shall adhere to the following TDM plan measures:

- a) Identify a TDM Leader for operations at the building, which leader will work with residents to distribute and market various transportation alternatives and options;
- b) Provide TDM materials to new residents in the Residential Welcome Package materials, which shall include, at a minimum, the Metrorail packet guide, brochures of local bus lines ("Circulator and Metrobus"), carpool and vanpool information, Capital Bikeshare coupon or rack card, Guaranteed Ride Home ("GRH") brochure, and the most recent DC Bike Map, all of which materials may be ordered from goDCgo;
- c) Provide the Project's TDM Leaders' contact information to DDOT and goDCgo ([info@godcgo.com](mailto: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) Post on tenant websites “getting here” information that includes information about how to travel to the Project via Metrorail, bike, walking, and where to park, if driving (a printable map should also be available);
- f) 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;
- g) Post all TDM plan commitments online, publicize availability, and allow the public to see what commitments the Applicant has promised with respect to the Project’s TDM;
- h) Host a transportation event for residents, employees, and members of the community **once per year for the first three years** after opening the Project;
- i) Install a Transportation Information Center Display (electronic screen) within the Project’s residential lobby, which Display shall contain information related to local transportation alternatives;
- j) Work with the Capital Riverfront BID’s marketing efforts targeting the S.E. and S.W. 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;
- k) Provide at least 10 collapsible shopping carts for resident use to run errands and for grocery shopping;
- l) Provide 118 long-term bicycle parking spaces in the Project with room to accommodate non-traditional-sized bikes including cargo, tandem, and kids’ bikes;
- m) Provide 22 short-term bicycle parking spaces along 1½ Street and/or N Street, S.E.;
- n) Provide a bicycle repair station in the secure long-term bicycle storage room;
- o) Price all parking in the Project at market rates, at minimum, where “market rates” are the average cost for parking at a quarter-mile radius from the site;
- p) Unbundle the cost of residential parking from the cost of lease of each unit;
- q) Provide an on-site business center to residents with access to copier and internet services;
- r) Offer an annual Capital Bikeshare membership to each residential unit in the Project **for the first three years** after the Project opens to residential tenants, provided the Applicant shall not be required to spend more than \$40,000.00 in the aggregate in satisfaction of this Condition 7(r);

- s) Provide car-sharing services a right of first refusal for up to two reserved parking spaces in the vehicle parking garage, provided that if the Applicant does not reach an agreement with a car-sharing service to occupy both dedicated spaces, the Applicant shall have no further obligations under this Condition 7(s)
9. 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 Subtitle Z § 702.2. Construction must begin within three years after the effective date of this Order. (Subtitle Z § 702.3.)

**VOTE (May 13, 2019): 4-0-1**

(Michael G. Turnbull, Peter A. Shapiro, Robert E. Miller, and Peter G. May to **APPROVE**; Anthony J. Hood, not present, not voting)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 18-20 shall become final and effective upon publication in the *D.C. Register*; that is on February 28, 2020.

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ANTHONY J. HOOD  
CHAIRMAN  
ZONING COMMISSION

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SARA A. BARDIN  
DIRECTOR  
OFFICE OF ZONING

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.