

**BEFORE THE DISTRICT OF COLUMBIA  
ZONING COMMISSION**

**Application of Forest City SEFC, LLC on behalf of the General Services Administration**

**APPLICATION FOR ZONING COMMISSION DESIGN REVIEW  
THE YARDS PARCEL I  
SOUTHEAST FEDERAL CENTER ZONE 1B**

**I. Nature of Relief Sought**

This is an application of Forest City SEFC, LLC (“**Forest City**” or “**Applicant**”) on behalf of the General Services Administration (“**GSA**”) pursuant to Subtitle K, Sections 237.4, 241, and 242 of the District of Columbia Zoning Regulations (“**Zoning Regulations**”) for Zoning Commission design review of a proposed development on a portion of the property commonly known as “Parcel I” of The Yards (a portion of Lot 807 in Square 744) (“**Parcel I**” or the “**Property**”). Parcel I is located in the “Redevelopment Zone” of The Yards.

The Applicant proposes to develop Parcel I with a mixed-use development containing approximately 348 residential units, approximately 13,600 square feet of retail space, and approximately 243 parking spaces. In connection with this application, the Applicant also requests special exception relief from the penthouse setback requirements, which is driven by the urban planning and wellness features of the building. Technical relief from the green area ratio (“**GAR**”) requirements is also requested, solely to accommodate the interim condition until the development of Parcel H (i.e., the balance of Lot 807, the record lot on which the building will be constructed). Architectural plans, elevations, tabulations, and drawings for the proposed building (the “**Plans**”) are attached as Exhibit K.

## **II. Description of the Property**

### **A. Overview of The Yards and “Yards West”**

Parcel I is located in the western portion of the 42-acre site in the southeast DC neighborhood known as The Yards. The Yards is a new mixed-use neighborhood created through the redevelopment of the former Southeast Federal Center (“SEFC”). Forest City, which was selected by GSA as the master developer for the SEFC, leads development efforts in The Yards. The SEFC consists of two large parcels of land: the first parcel is located between 1<sup>st</sup> Street and New Jersey Avenue and is identified as the “Redevelopment Zone”, and the second parcel is located between 2<sup>nd</sup> Street and the Navy Yard and is identified as the “Historic Zone.” In addition to the plans for the SEFC, Forest City secured approval through a Planned Unit Development (PUD) for the District-owned properties that are south of the SEFC Redevelopment Zone. For planning purposes, the SEFC Redevelopment Zone and the DC Water Sites PUD are together considered as “Yards West”.

Over the past two years, the Applicant has undertaken a master planning exercise focused on defining a comprehensive vision for Yards West, which is bounded by M Street and the Navy Yard Metrorail entrance on the north, the Anacostia River on the south, and Nationals Ballpark on the west. Briefly, the Yards West Concept Master Plan is organized around 1 ½ Street<sup>1</sup>, which serves as a central pedestrian-oriented spine leading from M St. SE and a potential additional entrance to the Navy Yard Metrorail station, south to Diamond Teague Park and the Anacostia River. As a result, the Applicant now proposes an increased amount of retail use as well as other ground-floor activating uses focused on the 1 ½ Street “spine”. Commercial office use continues to be a primary focus for the northern part of Yards West, and residential uses will be a primary

---

<sup>1</sup> This street name is a working name; the final street name is still to be determined.

focus for the southern part of Yards West. Excerpts from the Yards West Master Plan are included as pages 12-19 of the Plans.

## **B. Yards West Public Realm**

Within Yards West, 1 ½ Street is envisioned as a curbless shared street from Quander Street south to the River, creating a dynamic and pedestrian-oriented experience along this north-south spine connecting a new active plaza at the M St. / New Jersey intersection and Metrorail riders directly to the river. Along the length of 1 ½ Street, the curbless plan will create opportunities for formal and informal open space nodes focused at building entrances as well as at the Metro entrance and tie-in to Diamond Teague Park at the water's edge. Parking, loading and service entrances are focused on the east-west cross streets, with the bulk of entrances placed, when possible, on private streets such as Quander Street on the north and O Street on the south. Vehicular and service entrances will not be located on N Street SE, which serves as a major east-west through connection between the Ballpark and the rest of The Yards.

Forest City intends to begin construction of the first phase of the street network for the Redevelopment Zone, which will consist of the two-block segment of Quander Street between 1<sup>st</sup> Street and New Jersey Avenue and the two-block segment of 1 ½ Street between Quander Street and N Place, within the next year. Both of these streets will be private streets. As a part of this work, Forest City will also reconstruct the two-block segment of N Place SE, a public right-of-way. (The other public right-of-way in this area, N Street, was recently reconstructed and improved by Forest City in 2015.) This work will establish the street grid for Parcels F, G, H, and I.

### **C. The Property**

Parcel I is bounded by N Street, SE on the north, Canal Street, SE on the east, and N Place, SE on the south, as depicted on the plat attached as Exhibit G. Parcel I consists of approximately 55,041 square feet of land area. Parcel I will be located on a single lot of record with Parcel H. Parcel I will be bounded by the future 1 ½ Street on the west, which will divide Parcel I from Parcel H.<sup>2</sup> (Parcel H is currently improved with a surface parking lot, and the Master Plan calls for future development to contain a mix of office and residential use.)

The Property is currently improved as a surface parking lot and is in the heart of the Redevelopment Zone. 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 is the “F1 Parcel”, which has received approval for redevelopment as a 100-foot tall movie theater and parking structure pursuant to the DC Water Sites PUD. Further to the south is the DC Water Headquarters, which is being constructed pursuant to another PUD. Other parcels to the southwest, west, and north are slated for redevelopment by Forest City pursuant to the SEFC zoning and first-stage PUD approvals that have been granted by the Commission.

The DC Water Main Pumping Station is located immediately to the east, across Canal Street. DC Water has expressed concerns about the use of Canal Street for public vehicular traffic because of large and sensitive sewer infrastructure beneath the right-of-way and because of its proximity to the Main Pumping Station. Pursuant to discussions with representatives of DC Water, the District Department of Transportation (DDOT), and the Deputy Mayor for Planning and

---

<sup>2</sup> Pursuant to Subtitle B, Section 303.2, the land area associated with future 1 ½ Street is not included for FAR purposes.

Economic Development (DMPED), the parties have reached consensus 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 would be occupied by DC Water as a part of its campus.

### **III. Regulatory Framework**

#### **A. Overall Framework**

The regulatory framework for the redevelopment of SEFC into The Yards consists of multiple overlapping processes that include: regular design reviews by GSA; a complex development and infrastructure agreement with the District of Columbia; regular design reviews for each development by the State Historic Preservation Officer (“SHPO”), the National Capital Planning Commission (“NCPC”), the U.S. Commission of Fine Arts (“CFA”), the Advisory Council on Historic Preservation (“ACHP”) and other stakeholders; and zoning restrictions and design reviews established by the Zoning Regulations. Together this framework ensures that the development of The Yards delivers thoughtful site planning, exemplary urban design, historically-contextual development, and public benefits.

#### **B. Zoning**

The Property is subject to a customized set of zoning requirements. The Zoning Commission designated the zoning for The Yards as part of the Southeast Federal Center Overlay District, which became a series of special purpose “Southeast Federal Center” (“SEFC”) zones under the 2016 Zoning Regulations. The Commission recently adopted text and map amendments for the SEFC zones in Z.C. Case No. 17-12, and the Property is located in the SEFC-1B zone.

Broadly, 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.” (11-K DCMR § 200.1)  
The SEFC-1 zones generally provides 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. (11-K DCMR § 200.3.)

#### **IV. Description of the Proposed Project**

##### **A. The Proposed Project**

The Applicant proposes to construct an 11-story mixed-use building containing approximately 348 residential apartments, approximately 13,600 square feet of ground-floor retail use, and two levels of underground parking with approximately 243 parking spaces (“**Project**”).

Site Planning and Architectural Design. The Project’s massing is comprised of a ground-level podium that is built out to all street frontages, with a U-shaped building oriented on a double-loaded corridor above. This allows for the building to engage the pedestrian realm yet provide ample light and air for residents on the upper stories. A one-story, double-height bridge element at the eighth floor helps to further mark the primary building entrance, create a signature amenity space within the upper levels of the Project, and provide a visual connection to 1 ½ Street.

The building is oriented east-west, which enhances the Project’s sustainability and visual relationship to the riverfront. The east-west orientation places the primary building facades on the north and south, which reduces exposure to heat gain and solar glare from the east-west sun. It also maximizes desirable daylighting on the southern exposure of both wings. The east-west orientation also capitalizes on views, because it places the “base” of the U on the eastern façade, which has direct views to the water over the Main Pumping Station and Yards Park.

The primary façade design is composed of brick material with punched windows atop a precast concrete and predominantly glass base as well as painted metal panel within the glazing

systems. Laser-cut metal panels will be used for the proposed balconies as well as above the ground entrances to the loft units along Canal Street to add visual interest and variety. Other material design features include the incorporation of natural wood material for elements like the soffit of the bridge and the doors for the loft-style units.

Broadly, the Project's design integrates the sustainability, resiliency, and public health elements that are at the core of the Yards West Master Plan. Overall, 1 ½ Street has been designed as a strong green spine for the Yards West district, through extensive bioretention and other features that replicate natural processes and provide for an overflow strategy in times of extreme weather. The streetscape emphasizes a pedestrian-oriented and person-focused design character, which will enhance the appeal of both office and residential uses along the corridor. Each theme is discussed below, organized around the concepts of walking, water, and wellness.

Walking. The Project's primary pedestrian entrances are located on the two major spines of Yards West, 1 ½ Street and N Street. The primary residential lobby is centered on 1 ½ Street, which places the locus of activity on the planned new curbless shared street that will define the new neighborhood. Retail uses are focused along N Street, which serves as a critical link between the Ballpark District and the rest of the Yards. Along Canal Street, the Applicant has worked closely with DC Water and DDOT to reach a common understanding that balances the District's desire to maintain the urban grid with DC Water's operational and security needs. The proposed design incorporates a pedestrian sidewalk along the western portion of Canal Street, maintaining a direct pedestrian connection from the Navy Yard Metro station to DC Water's new headquarters and other facilities. The sidewalk is animated with the Project's ground-level loft-style units, each with separate walk-up entrances. Vehicular access is placed on N Place, a two-block street

segment that terminates at the DC Water Main Pumping Station and will feature significantly less pedestrian activity than other streets in Yards West.

Water. The Project both respects and capitalizes on its proximity to the Anacostia River. The future 1 ½ Street will be the only street in the District that provides a direct connection from a Metro entrance down to a riverfront, and this uniqueness helps to define the character and identify of Yards West. Mindful of this riverfront context, the Project integrates both sustainability and resiliency into its design. The entire building will be elevated not only out of the 100-year floodplain but also the 500-year floodplain, and the Project will be designed to a minimum of LEED Silver under the LEED v4 standard. Elements of the natural riverfront context are also integrated into the landscape design features of the Project itself, including most notably the curves and plantings within the central courtyard, which will feature native river birch and flowering dogwood trees, and the planted terrace on the second floor.

Wellness. Similar to its broader sustainability features, the Project integrates personal health and wellness features into its design. This is exemplified by the large fitness center integrated into the bridge element of the Project, which emphasizes the centrality of personal well-being by dedicating one of the largest and most prominent building spaces to such use.<sup>3</sup> The central courtyard also emphasizes passive recreation and wellness; it is surrounded by a glazed wall system that brings the landscaping into the building's lobby and public areas. Other building features also reflect wellness as a priority. For example, the northwest stair tower, which is located adjacent to the main lobby, is intentionally located outboard of the edge of the building so that it will be daylit by windows and serve as a meaningful alternative to the elevators for building

---

<sup>3</sup> The Applicant anticipates that the fitness center will also be made available to residents of the Applicant's other planned adjacent residential buildings on Parcel H.



residents. The Project also features a number of outdoor spaces for passive recreation, including not only the central courtyard and 10<sup>th</sup> floor terrace but also individual outdoor spaces such as terraces for the ground-level loft, 2<sup>nd</sup> floor courtyard, and penthouse units and balconies for 6-9 units per floor on the other floors.

Zoning Parameters. A zoning tabulation chart showing the Project's compliance with the Zoning Regulations is included in the Plans. The Project fulfills the overall intent for the SEFC-1B Zone, including the preference for residential use embodied in the FAR limits and the requirement for ground-floor preferred uses along N Street. The Project will be constructed to a maximum height of 110 feet, which is the maximum permitted height for Parcel I because of its proximity to the Main Pumping Station. (11-K DCMR § 203.1.) The Project proposes to utilize the 1.0 FAR bonus density for residential use that is permitted in the SEFC-1B Zone, for a maximum of 7.0 FAR based on the land area of Parcel I. (11-K DCMR § 202.2(a).) The utilization of the bonus density triggers the requirement for design review, and the Project otherwise satisfies the prerequisites for such review:

- The architecture is of a superior quality, as described in detail below.
- The design of the Project ensures the provision of 1 ½ Street and N Street as open and uncovered multimodal circulation routes.
- The Project provides the required 3-bedroom dwelling units.

(11-K DCMR § 237.4(a)(1) – (4).)

As required by its development agreement with the District of Columbia, 20% of the apartments will be set aside for households earning up to 50% of the area median income. Accordingly, the apartment units (including those in the penthouse) are exempt from the inclusionary zoning requirements. (11-C § 1001.5(a)(6); DCMR 11-K DCMR § 200.11.)

Moreover, the affordable units will include approximately 4 three-bedroom units (or 4,757 square feet), which meets the requirements of the Zoning Regulations. (11-K DCMR § 202.2(b); 11-K DCMR § 237.4(a)(4).)

Penthouse Setback Relief. The Project includes a one-story habitable penthouse containing both units and the upper portion of the 10<sup>th</sup> floor's double-height amenity space. In general, the penthouse is set back from the edge of the roof on which it sits from all exterior walls, including all street-adjacent walls on the north, east, and south sides. However, the daylit stair tower near the northwest corner of the building that faces south into the courtyard is not set back from the interior courtyard wall. Functionally, the bridge element obstructs the view of the elements that protrude into the required setback area, but the Applicant requests special exception approval for relief from the penthouse setback requirements to accommodate the lack of setback.

GAR Variance. As noted above, the Project will be located on a single lot of record with Parcel H. As set forth on the zoning tabulations, the Project is designed to comply with the applicable zoning standards based on this record lot, both by itself and upon the construction of its sister improvements across 1 ½ Street on Parcel H. This includes the Project's green area ratio ("GAR"), which is designed to ensure that, upon the completion of both Parcel H and Parcel I as well as the portion of 1 ½ Street within the record lot, the entirety of the improvements will achieve the minimum 0.2 GAR required by the Regulations. Indeed, when assessed just based on the area of Parcel I, the Project is anticipated to have at least a 0.2 GAR. However, during the interim period until Parcel H is constructed, the record lot as a whole will be below the minimum GAR, and the Applicant requests variance relief from the GAR requirements to accommodate this interim condition.

Design Flexibility. Finally, the Applicant requests flexibility to refine the final plans, consistent with the flexibility afforded to other design review applications. Among other areas, the Applicant seeks flexibility to vary the extent of retail and residential amenity space of the ground floor of the Project along 1 ½ Street, with areas that could be devoted to either use noted on the plans. A full list of the areas of flexibility will be included in a supplemental submission prior to the public hearing.

### **B. Summary of the Applicant’s Outreach to the Community and the District**

The Applicant has been engaged in discussions with federal and local stakeholders regarding the Yards West Master Plan for well over a year, and these discussions have guided the design of both the Yards West streetscape and the building design for Parcel I.

Yards West Public Realm. The Applicant presented the initial findings of the Yards West planning effort to the DC Office of Planning (“OP”) and District Department of Transportation (“DDOT”) in early 2017. The Applicant then commenced design of the Yards West public realm and presented the initial concept to OP and DDOT in late 2017. After further development of the concept, the Applicant presented the final design to OP and DDOT at a preliminary design review meeting (PDRM) in August 2018, and filed the application for Public Space Committee (“PSC”) review of the plan shortly thereafter. The PSC is expected to consider both the overall Yards West Public Realm and the Parcel I-specific public realm elements in October 2018.

The Applicant also presented the initial concept for the Yards West public realm to ANC 6D at a public meeting in April 2018. The ANC provided substantial feedback regarding the proposed concept, and the Applicant continued to engage with representatives of the ANC and other neighborhood stakeholders on the design of the public realm through an informal working

meeting over the summer. The Applicant plans to return to the full ANC in October 2018, prior to the PSC meeting and vote.

Parcel I. The Applicant met with DDOT in late 2017 and OP in early 2018 to review the concept design for Parcel I. The Applicant also presented the concept design to ANC 6D at a public meeting in April 2018. Since that time, the Applicant has continued to evolve the design of the Project in response to feedback from OP, DDOT, and the ANC. Specific changes include the following:

- Increasing the distance between the parking and loading curb cuts on N Place;
- Increasing the size of the loading area within the building to permit front-in, front-out maneuvers for 30-foot trucks; and
- Developing building details along Canal Street for the loft-style units.

The Applicant anticipates returning to ANC 6D for a final review and vote later this year, and the Applicant will continue to work with OP and DDOT staff to review the application after it is submitted.

Concurrent with initial discussions with District officials and ANC 6D, federal reviews of the Project began earlier this year. In March 2018, the Applicant presented the 15% design submission for Parcel I to SHPO. More recently, the Applicant presented the 35% design to the Consulting Parties as well as NCPC and CFA. The Applicant anticipates bringing the 35% design to CFA for review in mid-November and to NCPC for review in early December.

#### **V. Jurisdiction of the Zoning Commission**

The Zoning Commission has jurisdiction to conduct the requested design review of the Project pursuant to Subtitle K, Section 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. While

acting in its design review capacity, the Zoning Commission also has the authority pursuant to Subtitle X, Section 603 to grant the requested related dimensional relief from the penthouse setback and GAR regulations.

## **VI. Design Review**

### **A. Design Review Requirements**

Subtitle K, Section 237.4 requires Zoning Commission design review for the Project because it will utilize bonus density for additional residential use. Pursuant to Subtitle K, Section 241, the following requirements apply to this design review:

- (i) The application must satisfy the general design review standards in Subtitle X, Section 604;
- (ii) The application must also satisfy the SEFC-specific design review standards of Section 241.1;
- (iii) The Zoning Commission may consider additional SEFC-specific design review criteria of Section 241.2; and
- (iv) The application must prove that the architectural design, site plan, landscaping, and sidewalk treatment of the proposed building are of “superior quality”.

Each of the four components of design review in the SEFC-1B zone has separate constituent criteria, addressed in turn below.

### **B. General Design Review Standards**

The Project satisfies the general design review standards as set forth in Subtitle X, Section 604. In order for the Zoning Commission to approve an application for design review, the Zoning Commission must:

- find that the proposed design review development is not inconsistent with the Comprehensive Plan (the “**Comp. Plan**”) and with other adopted public policies and active programs related to the subject site;
- 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;
- review the urban design of the site and the building according to certain enumerated criteria set forth below; and
- 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.

As set forth more specifically below, the Project conforms to the four above-listed standards,<sup>4</sup> and accordingly, the Zoning Commission should approve the Project’s design.

1. The Project Is Not Inconsistent with the Comp. Plan and With Other Adopted Public Policies and Active Programs Related to the Property.

Subtitle K, Section 604.5 requires that the Project be not inconsistent with the Comp. Plan and other adopted public policies related to the subject site. In addition to being not inconsistent with the Comp. Plan, the Project is also not inconsistent with relevant objectives of the 2003 Anacostia Waterfront Framework Plan (“**AWF Plan**”) or the 2013 Near Southeast Urban Design Framework Plan (“**NSE Plan**”).

- *The Project is not inconsistent with the Comp. Plan or the AWF Plan.*

The Future Land Use Map of the Comp. Plan shows 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. 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. The Project’s proposed high density development, converting

---

<sup>4</sup> The requested penthouse relief use must separately comply with the special exception criteria of Subtitle X, Chapter 9. *See* Section VII below.

the Property to a mix of apartment and ground floor commercial uses, is not inconsistent with the Comp. Plan. The Project advances numerous specific objectives of the Comp. Plan and is not inconsistent with the Comp. Plan as a whole. Exhibit J sets forth a detailed analysis of the Project's consistency with the Comp. Plan and the AWF Plan.

- *The Project is not inconsistent with the NSE Plan, which among other things prioritizes (a) better linkages to existing parks (including The Yards Park and Tingey Square) and (b) clustering retail uses to achieve a high density urban environment.*

The Project is not inconsistent with relevant objectives of the NSE Plan including prioritizing access and linkage to existing parks and clustering retail uses to create a high density urban environment in Southeast DC. The Project addresses a critical linkage identified in the NSE Plan and begins to connect The Yards Park and Tingey Square to the Ballpark, M Street, SE, the Navy Yard Metrorail station, and other amenities and residences. By providing additional ground floor retail along N Street, SE and adding several hundred new residences to the neighborhood to support such retailers, the Project advances the retail cluster objective of the NSE Plan.

2. The Project Meets the General Special Exception Criteria of Subtitle X, Chapter 9.

Subtitle K, Section 604.6 requires compliance with the general special exception criteria of Subtitle X, Chapter 9. The general special exception criteria of Subtitle X, Section 901 include two prongs applicable in this instance, and the Project satisfies both prongs.

- *The Project will not tend to affect adversely the use of neighboring property.*

The Project has been carefully designed to fit into its context from a design and use perspective and to tend not to affect adversely the use of any neighboring property. The Project's mix of uses, overall high level of density, its allocation of such density around the perimeter of the Property, and the orientation of the Project will not adversely affect the neighboring undeveloped lots. Those 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 DC Water operations. The Applicant has worked closely with DC Water to address the relationship of the Project to DC Water's ongoing operations, with a particular focus on the future use and design of Canal Street.

- *The Project will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps.*

The Project is harmonious with the general purpose and intent of the Zoning Regulations and Zoning Maps for the SEFC-1B zone. As set forth in considerable detail in Section VI.C.1 below, the Project helps achieves goals and objectives for high-quality, sustainable, mixed-use development, with a focus on residential use. The Project requires only minor dimensional relief, which is minimal in light of the substantial ways the Project advances the goals and objectives of the SEFC zone.

3. The Project Advances the Urban Design Criteria of Subtitle X, Section 604.7.

Subtitle X, Section 604.7 enumerates several urban design criteria that guide Zoning Commission design review. (These criteria parallel the SEFC-specific criteria set forth in Subtitle K, Section 241.2. Corresponding provisions are noted below.) The Project is consistent with each of these criteria for the reasons set forth below.

- *Street frontages are designed to be safe, comfortable, and encourage pedestrian activity, including: (a) Multiple pedestrian entrances for large developments; (b) Direct driveway or garage access to the street is discouraged; (c) Commercial ground floors contain active uses with clear, inviting windows; (d) Blank facades are prevented or minimized;<sup>5</sup> and (e) Wide sidewalks are provided.*

Broadly, the Yards West Master Plan is organized around these core planning principles, and the proposed design of Parcel I demonstrates how these principles are integrated into not only

---

<sup>5</sup> Cf. 11 DCMR § 241.2(c): *Facade articulation that minimizes or eliminates the visibility of unarticulated blank walls from public spaces.*



the overall public realm but also individual building design. The Project design prioritizes pedestrian access, activity, safety, and comfort. The west, north, and east frontages all feature safe and comfortable pedestrian-focused design that responds to the immediate context (heavy resident-related and through-pedestrian activity on 1 ½ Street, retail activity on N Street, and a quieter pedestrian scale along Canal Street). Ample sidewalk width is also provided along all three frontages. Driveway/garage access is separated from these frontages and focused exclusively on the Project's south frontage, along N Place. The parcel lacks alley access, so all vehicular access has been located on the street with the anticipated lowest volume of pedestrian activity.

The Project also 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 and the building lobby along 1 ½ Street. The ground-floor design on these pedestrian-heavy streets also minimizes blank facades, provides multiple entrances, incorporates interesting architecture and design articulation at the ground level at a scale and with materials appropriate for pedestrians, and provides wide sidewalks with significant amounts of landscaping and pedestrian amenities. The retail/restaurant uses on the ground floor are designed to accommodate appropriate seasonal outdoor seating, further interconnecting the public and private realm at the ground level and creating a pedestrian-first experience. The Project satisfies the criteria of providing safe and comfortable pedestrian spaces.

- *Public gathering spaces and open spaces are encouraged, especially in the following situations: (a) Where neighborhood open space is lacking; (b) Near transit stations or hubs; and (c) When they can enhance existing parks and the waterfront.*<sup>6</sup>

Overall, the Yards West public realm design aims to create a network of formal and informal open spaces extending from an urban pedestrian plaza at the north end tied to an

---

<sup>6</sup> Cf. 11 DCMR § 241.2(e): *Consider the balance and location of preferred uses.*

anticipated third entrance to the Navy Yard Metrorail station to recreational open space at the south end connected to the Anacostia waterfront and a planned extension of Diamond Teague Park. The proposed design for 1 ½ 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 the vision for 1 ½ Street through strong connections between its interior spaces for public activity (such as the main lobby and courtyard beyond) and public outdoor spaces along 1 ½ Street. The Project’s residential lobby location will help reinforce 1 ½ Street as a primary north-south pedestrian corridor between M Street and the waterfront. Similarly, the Project’s retail presence along N Street will enliven the connection between 1 ½ Street and Tingey Square.

- *New development respects the historic character of Washington’s neighborhoods, including: (a) Developments near the District’s major boulevards and public spaces should reinforce the existing urban form; (b) Infill development should respect, though need not imitate, the continuity of neighborhood architectural character; and (c) Development should respect and protect key landscape vistas and axial views of landmarks and important places.*<sup>7</sup>

Yards West has been master-planned for over a decade as the “Redevelopment Zone” of The Yards, where high-density contemporary design within a re-established urban grid is envisioned as a counterpoint to the historic design and guidelines that shaped the “Historic Zone” to the east. To this end, the original SEFC Master Plan and the more recent Yards West Master Plan both emphasize the street network within the L’Enfant framework of New Jersey Avenue, M Street, N Street, 1<sup>st</sup> Street, and a reintroduced Potomac Avenue. Accordingly, key vistas and views along these streets are all maintained.

---

<sup>7</sup> Cf. 11 DCMR § 241.2(a): *Compatibility with buildings in the surrounding area through overall massing, siting, details, and landscaping.*

Again, the Project represents the application of the Redevelopment Zone and Yards West planning principles to building design. The Project's height, density, massing, orientation, and materials all embrace the contemporary setting through, among other features, its evocative elevated bridge element. As a result, the Project will be compatible with future Yards West development that is planned for similar heights and densities of 130 feet and 7.0 FAR. However, the Project also reflects its nearby historic content through the use of brick as a primary material and through its height itself, 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. To this end, the Project also maintains vistas to and from the waterfront along both 1 ½ Street and Canal Street.

- *Buildings strive for attractive and inspired façade design that: (a) Reinforces the pedestrian realm with elevated detailing and design of first and second stories; and (b) Incorporates contextual and quality building materials and fenestration.*<sup>8</sup>

As noted above, the Project's massing and architectural design reinforces the pedestrian realm through a ground-floor base that helps define the streetwall along all street frontages as well as architectural detail that marries the building uses to the public realm context on each front. This includes the public-oriented residential lobby on 1 ½ Street, the retail-oriented design and opportunities for outdoor seating along N Street, and the pedestrian-scaled loft entrances along Canal Street. Above the ground floor, the Project's material selection are all high quality and contextually appropriate for Parcel I given its location within the Redevelopment Zone yet proximate to DC Water's Main Pumping Station and Historic Zone of The Yards, for all the reasons set forth above.

---

<sup>8</sup> Cf. 11 DCMR § 241.2(c): *Façade articulation that minimizes or eliminates the visibility of unarticulated blank walls from public spaces.*

- *Sites are designed with sustainable landscaping.*<sup>9</sup>

As described above, the Yards West Master Plan is organized around sustainable design as a central planning feature. The east-west public streets utilized the existing Yards-standard LID planting zones along both N Street and N Place, while the private 1 ½ Street features additional bioretention zones and other features to detain and treat stormwater runoff. Along Canal Street, the limited area available for public use and the underground sewer infrastructure below precludes street trees within the right-of-way, but the Applicant has created the same benefits through a combination of street trees and bioretention areas on its 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. Native and appropriate adaptive species are used in all landscaping.

- *Sites are developed to promote connectivity both internally and with surrounding neighborhoods, including: (a) Pedestrian pathways through developments increase mobility and link neighborhoods to transit; (b) The development incorporates transit and bicycle facilities and amenities; (c) Streets, easements, and open spaces are designed to be safe and pedestrian friendly; (d) Large sites are integrated into the surrounding community through street and pedestrian connections; and (e) Waterfront development contains high quality trail and shoreline design as well as ensuring access and view corridors to the waterfront.*<sup>10</sup>

Overall, the Yards West Master Plan creates pedestrian-scale connectivity in an area where connections are currently limited. As discussed above, the overall Yards West public realm design is centered around creating a safe and friendly multimodal network that will interconnect this portion of The Yards to the Metro, the riverfront, and to the adjacent development to the east and west. At its core, 1 ½ Street provides a direct and comfortable pedestrian link through Yards West

---

<sup>9</sup> Cf. 11 DCMR § 241.2(d): *Landscaping which complements the building.*

<sup>10</sup> Cf. 11 DCMR § 241.2(a): *Compatibility with buildings in the surrounding area through overall massing, siting, details, and landscaping.*

from to the Metrorail station to the Anacostia River, which increases overall neighborhood pedestrian mobility and directly links the waterfront to transit.

The creation of the new grid minimizes the need to create public pathways and other connections through the various parcels, but 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. For example, on Parcel I, while the primary residential entrance is on 1 ½ Street, a secondary residential entrance is planned on Canal Street to facilitate direct access for residents to and from the east.

Bicycle infrastructure has been integrated thoughtfully into the Yards West public realm. Bicycle lanes are located on 1<sup>st</sup> Street and along the Riverwalk on the perimeter of Yards West, providing bicycle connectivity to and through the broader transportation network. Within Yards West, 1 ½ Street is planned as a shared street with low speed limits that will accommodate bicycles safely with other forms of transportation. Parcel I will accommodate its cyclists through a large at-grade indoor 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.

4. The Project Satisfies the Urban Design Criteria of Subtitle X, Section 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. A matter-of-right development of the Property would have the density and value to support the richness of character and design that the Project exhibits. Superior urban design attributes include the Project's rich detailing,

materials selection and other design features, its prominent relationship and attention to the N Street, SE and 1 ½ Street corridors, and its strong pedestrian accommodations.

### **C. SEFC Zone Design Review Criteria**

Subtitle K, Section 241.1 provides conformance to SEFC-specific standards in addition to the general design review standards set forth in Subtitle X, Chapter 6. These standards include:

- Achievement of the goals and objectives of the SEFC zone;
- Design 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
- Limited on or above-grade parking that is screened by other building uses, landscaping, or other architectural treatment.

As set forth below, the Project conforms to the above-listed standards.

#### **1. The Project Helps Achieve the Goals and Objectives of the SEFC Zone.**

The Project advances each of the goals and objectives of the SEFC Zone.<sup>11</sup> The proposed building's height and density is within the high-density parameters envisioned by the Comp. Plan. (11-K DCMR § 200.2(a).) The proposed residential apartment building use and ground-floor retail uses also provide the mix of uses desired by the Comp. Plan and related planning documents. (Id.) Within this framework, the Project emphasizes residential development and capitalizes on available residential bonus density to maximize the amount of residential development and it incorporates retail and service uses that will support not only immediate neighborhood residents but also anticipated office workers and visitors. (11-K DCMR § 200.2(b); § 200.2(c); see also § 200.3 (emphasizing high-density residential use in the SEFC-1B zone).) The design also

---

<sup>11</sup> Certain goals, such as reduced height and bulk at the riverfront and development of a riverfront park, are not directly relevant to the Project. 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.

emphasizes a pedestrian-oriented streetscape, particularly on 1 ½ Street, N Street, and Canal Street, and it provides ground-floor preferred retail and service uses along N Street, a key pedestrian connection between Yards West and districts to the east and west. (11-K DCMR § 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 as well as the orientation of the Project’s grand design gestures on the west elevation, away from the historic core. (11-K DCMR § 200.2(g).) The Project’s east elevation reads more conservatively, as is appropriate of its adjacency to the historic Main Pumping Station.

2. The Project Is Designed to Provide for Openness of Views and Vistas.

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 in Yards West, which do not exist today. For its part, the Project also helps frame the east-west N Street corridor, which terminates just to the east at Tingey Square.

3. The Project Provides No Above-Grade Parking.

The Project has located all of its parking underground.

**D. SEFC-2 Zone Design Review Additional Criteria**

Subtitle K, Section 241.2 sets forth additional criteria that the Zoning Commission may consider in evaluating this application for design review. These criteria include:

- Compatibility with buildings in the surrounding area through overall massing, siting, details, and landscaping;

- Façade articulation that minimizes or eliminates the visibility of unarticulated blank walls from public spaces;
- Landscaping which complements the building;
- The balance and location of preferred uses.

These criteria parallel the overall design review criteria in Subtitle X, and for the reasons already detailed on pages 16 - 22 above, the Project meets these standards. In addition to the foregoing, the Zoning Commission may also consider the ways in which the Project uses high standards of environmental design to promote the achievement of sustainable development goals. This is addressed in detail below.<sup>12</sup>

The Project is designed to a minimum of LEED Silver certification under the v4 standard, which exceeds minimum environmental design standards and reflects the overall commitment to sustainability within Yards West. Significant individual features of the Project’s environmental design include: green roof and bioretention areas to mitigate heat island effect, provide additional insulation, and contribute to stormwater management; use of high-performance glazing; use of VRF HVAC systems; use of efficient water fixtures; and use of energy efficient appliances.

## **VII. Special Exception Relief from the Penthouse Setback Requirements**

The Applicant also requests special exception relief from Subtitle C, Section 1502.1(c)(5) in order to allow the daylit stairwell near the northwest corner to project into the required setback. This projection will generally not be visible from the public realm.

The Zoning Commission may grant the Applicant’s request for a special exception for penthouse setback relief pursuant to Subtitle C, Section 1504.1 and the special exception general

---

<sup>12</sup> Other criteria listed in Sections 241.2(g) and (h) apply only to development adjacent to the SEFC-4 zone or on “Parcel E”.



criteria of Subtitle X, Section 901. In considering this request for special exception relief under the penthouse special exception relief requirements of Subtitle C, the Zoning Commission may consider, among other factors, whether:

- 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;
- the relief requested would result in a better design of the roof structure without appearing to be an extension of the building wall;
- the relief requested would result in a roof structure that is visually less intrusive;
- operating difficulties such as meeting the D.C. Construction Code requirements for roof access and stairwell separation or elevator stack location to achieve reasonable efficiencies in lower floors; size of building lot; or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly or unreasonable;
- every effort has been made for the housing for mechanical equipment, stairway, and elevator penthouses to be in compliance with the required setbacks; and
- the intent and purpose of Subtitle C, Chapter 15 shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.

In addition to the above considerations to be assessed in weighing this request, pursuant to Subtitle X, Section 901.2, the Zoning Commission must determine that the requested special exception 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; and the requested relief does not violate the maximum height allowed by the Height Act.

As set forth below, the Property satisfies the foregoing standards for special exception relief for the proposed penthouse setback. The attached Plans satisfy the application requirements of Subtitle 1504.4.

**A. Circumstances Affecting the Property Warrant Granting the Requested Special Exception Relief**

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 outboard 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 stairwell was selected because it is proximate to the ground-floor lobby entrance and it has southern and western exposures, so it experiences the best daylight in the building. The design and functional intent of this decision is to encourage wellness and active living by promoting stairs over elevators. 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. Here, the 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 celebrates 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. The stairwell reaches the penthouse as part of a

glassy column that is fully distinguishable from the façade on either side. Therefore the non-compliant portion of the penthouse is intentionally distinguished from the building wall.

**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, N Place, or Canal Street. Along 1 ½ Street, any view of the projection from 1 ½ 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. During the interim condition while Parcel H is a parking lot, the projection may be incidentally visible from the public realm along 1<sup>st</sup> Street, SE. However, once Parcel H is constructed, the stair tower will not be visible from 1<sup>st</sup> Street 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 that are intended to be used only as a means of egress in emergency situations. Given their relatively limited day-to-day function, most stairwells are dark, poorly lit, uninviting and architecturally uninspiring features confined to the building interior, and building occupants opt for the expedient path of using an elevator rather than stairs to travel between floors. Here, the Applicant seeks to upset that paradigm by creating a stairwell within an appealing form that will draw resident activity at all times. 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 for which the instant relief is required, 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. Such a small amount of projection, combined with its relative invisibility from the public realm proves that the requested relief does not materially impair the purpose and intent of the roof structure requirements in the Zoning Regulations.

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. First, the relief is truly minor. The majority of the Project's penthouse is setback appropriately, and the daylit stairwell extend into the setback zone only to the minimum extent necessary. Second,

the relief is generally not visible from the public realm. Third, because the portion of the penthouse requiring relief is on the south side of the building (and below the mechanical penthouse) it has no shadow impacts.

**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. 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. Even if the Project were at the Height Act limit, the Height Act setback requirement would not preclude setback relief here because the Height Act's penthouse setback requirement has been consistently interpreted as applying only to walls facing public streets.

**VIII. Variance Relief from the GAR Requirements**

The Applicant requests a variance from the GAR requirements of Subtitle K, Section 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; indeed Parcel I will satisfy the GAR minimum of 0.2. However, the overall record lot (containing Parcel I and Parcel H as well as the portion of 1 ½ 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.

The Zoning Commission may grant the Applicant's request for a variance from the GAR requirements pursuant to the standards for area variance relief as set forth in Subtitle X, Section 1002.1(a). Under those standards, the Applicant must demonstrate that (A) the property is affected by an exceptional or extraordinary situation or condition, (B) the strict application of the Zoning

Regulations results in practical difficulty to the Applicant, and (C) the granting of the variance does not cause substantial detriment to the public good nor substantially impair the intent, purpose or integrity of the zone plan. *See Palmer v. D.C. Bd. of Zoning Adj.*, 287 A.2d 535, 541 (D.C. 1972). As set forth below, the Property meets the three-part test for area variance relief for the requested GAR variance.

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

The Property is affected by an exceptional situation or condition arising from a confluence of factors uniquely related to the Property and not the neighborhood generally. The Court of Appeals has held that it is not necessary that the exceptional situation or condition arise from a single situation or condition on the property. *Gilmartin v. D.C. Board of Zoning Adjustment*, 579 A.2d 1164, 1167 (D.C. 1990). Rather, the situation or condition may arise from a “confluence of factors.” *Id.* Furthermore, this first prong of the variance test does not require that the property be unreservedly unique. Instead, a request for variance relief must prove only that a property is affected by a condition that is unique and not related to general conditions in the neighborhood.

The Property satisfies the “exceptional situation or condition” element for area variance relief because it is unique in a way arising from a confluence of factors not affecting the neighborhood generally. The Property is part of the master-planned development of the Southeast Federal Center, which anticipated the gradual, phase development of a large multi-acre site. Within the context, the SEFC has been broken down into a series of smaller segments within an established street grid. The Property is part of one such segment; it is part of a larger record lot that will be constructed as the first part of multiple phases, with a new private street bisecting the lot down the middle. Moreover, the portion of the record lot that is not the subject of this Application (i.e., Parcel H) is currently improved as a temporary surface parking lot pursuant to

Zoning Commission approval that predated the implementation of the GAR regulations. Moreover, the future Parcel H development will likely be subject to Zoning Commission design review in the future. The confluence of these conditions makes the Property unique, satisfying the exceptional situation or condition element necessary for area variance relief.

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

The strict application of the GAR requirements of the Zoning Regulations would result in a practical difficulty for the Project. The requested relief is for an area variance, and the appropriate test for such relief must consider whether the strict application of the zoning regulations results in a “practical difficulty.” The standard for practical difficulty generally requires the applicant for relief to show that compliance with the area restriction would be unnecessarily burdensome. *Palmer v. Board of Zoning Adjustment*, 287 A.2d 535, 542 (D.C. App. 1972). The nature and extent of the burden warranting an area variance is left to the facts and circumstances of each particular case. *Id.* It is not necessary for the applicant to prove that strict compliance is impossible. Finally, zoning relief-granting body may consider “a wide range of factors in determining whether there is an ‘unnecessary burden’ or ‘practical difficulty’ . . . . Increased expense and inconvenience to applicant for a variance are among the factors” that may be considered. *Gilmartin*, 579 A.2d at 1171 (citation omitted). Other factors that may be considered include: “the severity of the variance(s) requested;” “the weight of the burden of strict compliance;” and “the effect the proposed variance(s) would have on the overall zone plan.” *Id.*

Here, compliance with the strict application of the GAR requirements is practically difficult given the phased nature of construction on the record lot of which the Property is a part. Today the Property is a temporary surface parking lot that was constructed prior to the effectiveness of the GAR requirements. As a result, neither the surface parking lot on the Property nor the surface

parking lot on Parcel H (which are together functionally a single parking lot) were constructed in compliance with the GAR regulations. At the same time, Parcel H's status as a surface parking lot is a temporary condition; it will eventually be redeveloped with a new building just like Parcel I, and the GAR requirements will apply to that new construction. Parcel H will undoubtedly integrate its own green features, both because of applicable stormwater and green building code requirements as well as the Yards West sustainability and wellness goals, 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.

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

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. Note again that if the Project were to be developed on the basis of Parcel I alone, this relief would not be required and Parcel I would meet or exceed the GAR requirement for the parcel alone.

This relief does not impair or circumvent the intent of the Zoning Regulations, which is for each development to satisfy the GAR requirements on its own. The GAR regulations do not anticipate shifting compliance with the GAR regulations from one development to another; rather, they are assessed on a building-by-building basis. Accordingly, the regulations are not harmed by



recognizing the multi-phase nature buildout of a large site may not achieve full GAR compliance for the record lot as a whole until all phases are complete.

For the reasons given above, an area variance is appropriate for the requested deviation from the strict application of the Zoning Requirements with respect to GAR.

#### **IX. Exhibits**

The following exhibits are attached hereto in support of this application:

Exhibit A – Application Form

Exhibit B – Hearing Fee Calculation Form

Exhibit C – Authorization Letter

Exhibit D – Certificate of Notice

Exhibit E – Certificate of Compliance

Exhibit F – List of property owners within 200 feet of the Property

Exhibit G – Plat of the Property

Exhibit H – Map depicting the zoning of the Property

Exhibit I – Summary of the Status of Development of The Yards

Exhibit J – Comprehensive Plan Analysis

Exhibit K – Architectural Plans, Drawings and Photographs of the Property

#### **X. Conclusion**

For all of the above reasons, the Applicant asks that the Zoning Commission approve the design and use of the Project and grant the requested special exception and variance relief.

GOULSTON & STORRS PC

/s/ David M. Avitabile

/s/ David A. Lewis

Date: October 15, 2018