

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Zoning Commission**



**ZONING COMMISSION OF THE DISTRICT OF COLUMBIA**  
**Z.C. ORDER NO. 17-05**  
**Z.C. Case No. 17-05**  
**Capitol Gateway Design Review**  
**2100 2<sup>nd</sup> Street SW LLC**  
**July 13, 2017**

Pursuant to notice, the Zoning Commission of the District of Columbia (the “Commission”) held public hearings on June 5, 2017, and July 13, 2017, to consider an application by 2100 2<sup>nd</sup> Street, SW LLC (the “Applicant”) for design review approval to renovate an existing office building to create a new mixed-use residential building with ground-floor retail uses and below-grade parking (the “Project”) in the Capitol Gateway 5 (“CG-5”) zone at 2100 2<sup>nd</sup> Street SW (Square 613, Lot 10, or the “Property”). Because the Project is located in the CG-5 Zone District, design review for the Project is required pursuant to Subtitle K, Sections 512 of the CG zone provisions of the District of Columbia Zoning Regulations (“Zoning Regulations”), Title 11 of the District of Columbia Municipal Regulations (“DCMR”). In addition, as permitted under 11-X DCMR § 603.1, the Applicant also requested a variance from the drive aisle width requirements of 11-C DCMR § 712.5 and a variance from the penthouse height limit of 11-K DCMR § 505.5.

The Commission considered the application for the Project pursuant to Subtitles X and Z of the Zoning Regulations. The public hearing was conducted in accordance with the provisions of Subtitle Z, Chapter 4. For the reasons below, the Commission hereby approves the application.

**FINDINGS OF FACT**

**Application, Parties, and Hearing**

1. The Property consists of approximately 115,479 square feet of land and is located in the CG-5 zone. (Exhibit 2.)
2. The Property is located in the Buzzard Point neighborhood in Ward 6 of the southwest quadrant in the District. (Exhibit 2.)
3. On September 14, 2016, the Applicant delivered 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 the Property is located. (Exhibit 2D.)
4. On February 28, 2017, the Applicant filed an application for design review and approval of the Project pursuant to 11-K DCMR § 512 of the Zoning Regulations. In addition,

- pursuant to 11-X DCMR § 603.1, the Applicant requested a variance from the drive aisle width requirement of 11-C DCMR § 712.5 and a variance from penthouse height limit of 15 feet for mechanical space of 11-C DCMR § 1501 and 11-K DCMR § 505.5. (Exhibit 2.)
5. On April 13, 2017 the Applicant filed a Comprehensive Transportation Review for the Project. (Exhibit 10.)
  6. The ANC requested the Applicant present at its May 8, 2017, public meeting. At its regularly scheduled and duly noticed public meeting on May 8, 2017, ANC 6D voted 6-0-0 to support the application for design review, variance relief, and flexibility. In its May 9, 2017, report filed with the Commission, ANC 6D noted that the support was based on the Applicant's responses regarding affordable housing, pet relief areas, and retail space use at the Project. (Exhibit 15.)
  7. The public hearing was initially scheduled for May 15, 2017, but the Applicant requested a postponement of the hearing until June 5, 2017 to continue working with District agencies. (Exhibit 11.)
  8. On May 16, 2017, the Applicant filed a pre-hearing statement with revised plans reflecting feedback from and discussions with the government agencies and the ANC. (Exhibit 16.)
  9. The Office of Planning ("OP") filed a report dated May 26, 2017, requesting additional information regarding the Project. (Exhibit 19.) OP's report found that the Project was generally consistent with the Design Review parameters of the Zoning Regulations, with certain comments and requests for additional information. Specifically, OP made recommendations regarding LEED, right-of-way-improvements, and pervious surfaces, and asked for additional information regarding materials, views, treatment of the shoreline, and public space elements. OP also supported the request for the variances for drive aisle width and penthouse mechanical height relief. *Id.*
  10. The OP report included requests for additional information and further study of the concerns raised by DOEE regarding resiliency and flood proofing measures at the Project. (Exhibit 19.)
  11. The Department of Energy and the Environment ("DOEE") filed a report dated May 26, 2017, noting concerns about the Project, specifically related to resilience, design, and environmental performance concerns. DOEE raised concerns regarding the Property's location in the 100-year floodplain and that the proposed flood proofing methods were not sufficient to address the risks at the Project. DOEE also raised concerns regarding stormwater management, LEED, and solar energy, among others. (Exhibit 18.)
  12. The District Department of Transportation ("DDOT") initially filed a report on May 25, 2017, stating it would file a late report after the Public Space Committee ("PSC") took action on the Project's curb cuts. (Exhibit 17.) On May 31, 2017, DDOT filed a supplemental report recommending approval of the Project with conditions. (Exhibit 22.)

DDOT made a number of findings in its report including that the existing street network around the Property is in poor condition but that the Applicant would make improvements to certain areas in V Street, SW, 1<sup>st</sup> Street, SW, and 2<sup>nd</sup> Street, SW, that the trip generation assumptions proposed by the Applicant are reasonable, that the Applicant's analysis used sound methodology, and that the Project would increase travel in this area but with no adverse impacts provided there was a sufficient Transportation Demand Management Plan ("TDMP"). DDOT found the Applicant's TDMP sufficient for the Project subject to certain modifications the Applicant agreed to accept at the public hearing on June 5. (Exhibits 17, 22.)

13. The case was referred to the National Capital Planning Commission ("NCPC") on May 30, 2017, and NCPC did not provide any comments or objections prior to the Commission's final action on July 13, 2017, more than the required 30-day comment period pursuant to 11-Z DCMR § 604.2. (Exhibit 20.)
14. Doug Jacobs from the United States Department of the Interior submitted comments on June 1, 2017, simply noting that the Property abutted National Park Service Property, and therefore nothing should be approved on National Park Service land. The Commission notes that the Project does not include components on National Park Service land. (Exhibit 23.)
15. The Applicant made a motion to submit a late filing to respond to the concerns raised in the agency reports, which the Commission granted. The Applicant responded to agency concerns by clarifying public space elements of the project, providing additional affordable housing information, providing additional exhibits and information regarding agency questions, and revising the TDMP and Loading Management Plan ("LMP"). (Exhibit 26.)
16. After proper notice, the Commission held a hearing on the application on June 5, 2017. Parties to the case were the Applicant and the ANC. Expert witnesses appearing on behalf of the Applicant included Yulia Beltikova of Antunovich Associates, the project architect, and Claire Agre of West8, the landscape architect. Amelia Martin of Wells + Associates testified regarding the Project's transportation study and TDMP. David Orr of Orr Partners appeared on behalf of the Applicant. (Exhibit 27A.)
17. At the June 5 hearing, the Applicant introduced the Project generally and presented recent revisions to the Project based on agency comments. The Applicant and its experts satisfactorily addressed at the hearing questions and requests for information by OP, DDOT, and DOEE in their respective reports, including clarification of affordable units at the Project, certain public space improvements, information regarding plans for the Anacostia Riverwalk Trail, and updated TDMP and LMP. (Exhibit 27A.)
18. At the June 5 hearing, the Applicant provided additional information the flood proofing plans for the Project, including dry flood proofing up to 12.7 feet and providing an emergency plan for a flood event. (Exhibit 27A.)

19. At the June 5 hearing, a representative of the ANC testified in support of the Project, noting the ANC's agreement with the Project's affordable housing, pet relief areas, and retail uses. (Exhibit 28.)
20. At the June 5 hearing, a representative of Casey Trees also testified in support of the Project, commending the Applicant's efforts to increase the tree canopy at the Project and provide appropriate plantings on the waterfront. (Exhibit 24.)
21. At the June 5 hearing, DOEE raised concerns regarding the sufficiency of the flood proofing and resiliency plans for the Project, given the existing building's location below the 100-year floodplain. DOEE also noted other sustainability concerns for the Project. OP and DDOT also raised questions and concerns regarding the Project. At the close of the Public Hearing, the Commission scheduled a continued hearing on July 13 and asked the Applicant and DDOT, OP, and DOEE to continue working on the outstanding items prior to that time.
22. On June 23, 2017, the Applicant filed a post-hearing submission with responses to the issues raised by the Commission, DDOT, DOEE, and OP at the June 5 hearing. In the submission, the Applicant agreed to certify the Project to LEED Gold (v. 2009), agreed to provide additional pervious paving at the Project, shower and changing facilities for retail employees who ride bicycles to the Project, temporary sidewalk access to satellite parking, at least 7 electric charging stations in the garage, and a minimum of 8,000 square feet of solar panels. (Exhibit 30.)
23. In the posthearing submission, the Applicant also addressed DOEE's resiliency and flood proofing concerns. The Applicant submitted letters from a floodplain consultant and the architect regarding the flood proofing methods being used as well as the building design implications for additional flood proofing measures. (Exhibit 30.)
24. DDOT filed a supplemental report on June 29, 2017, noting that the Applicant had satisfied all of DDOT's concerns related to the Project and DDOT recommended the Commission approve the Project. (Exhibit 31.)
25. DOEE filed a supplemental report on June 30, 2017, which was subsequently corrected on July 10, 2017. In the report, DOEE noted that the Project had been modified after the post-hearing submission after continued coordination between DOEE and the Applicant, which update was presented at the July 13 public hearing. DOEE's report noted that the Applicant had satisfied the major concerns DOEE raised regarding resiliency at the Project, by committing to flood proof to the 14.2 foot elevation, which represents the current 500-year floodplain elevation (the "500-year floodplain"). DOEE also explained the Code Modification process and raised other notes regarding the Project, including notes on the LEED and solar panel commitments. (Exhibits 32.)
26. OP filed a supplemental report on July 3, 2017 noting the Applicant's responses to OP's previous comments and generally recommending approval of the Project, subject to DOEE's comments. (Exhibit 33.)

27. At the continued hearing on July 13, 2017, the Applicant presented a brief update to the Project, noting the commitment to dry flood proof the building up to the 500-year floodplain, per DOEE's comments. The Applicant also committed to provide a minimum of 8,000 square feet of solar panels at the Project. The Zoning Commission accepted Michael Marsala as an expert in water resources engineering. The Applicant presented testimony from expert witnesses Michael Marsala regarding flood proofing and Yulia Beltikova regarding the Project's architecture. David Orr of Orr Partners testified on behalf of the Applicant. (Exhibit 34A.)
28. At the continued hearing, DOEE testified that the Applicant had satisfied their concerns for the Design Review application and DOEE recommended approval of the Project. OP also testified that the Applicant had satisfied outstanding issues and recommended approval of the Project.
29. The Commission took action at the July 13, 2017, public meeting to approve unanimously the plans submitted into the record and the relief requested.

## **Project Overview**

### **Description of Surrounding Area**

30. The Property is located at the southernmost point of the Buzzard Point neighborhood in southwest Washington along the Anacostia River. The site is the location of the former United States Coast Guard headquarters. (Exhibit 2.)
31. The Property is bounded by V Street, SW to the north, 2<sup>nd</sup> Street, SW to the west, 1<sup>st</sup> Street, SW, to the east, and the Anacostia River to the south. (Exhibit 2.)
32. The Property is located approximately two blocks south of the site of the D.C. United Soccer Stadium and west of Capitol City's development located at 88 V Street (the subject of Zoning Commission Case No. 10-21A). The Navy Yard and Waterfront Metrorail stations are located approximately one mile north of the Property. (Exhibit 2.)

### **The Property**

33. The Property is 115,479 square feet in size and occupies the entirety of Square 613. (Exhibit 2F1.)
34. The Property is improved with a vacant commercial office building with a below-grade parking garage. The existing building occupies approximately 692,873 gross square feet with a Floor Area Ratio ("FAR") of 6.00 and has a height of 90 feet. The existing building occupies 78% of the lot. (Exhibit 2F1.)

## Project Description

35. Consistent with the purposes and objectives of the CG-5 zone, the Applicant proposed a mixed-used building containing residential units, ground floor retail, and below grade parking. (Exhibit 2.)
36. The Property is located in the CG-5 Zone. Generally, the CG zones were established to promote nine primary goals: (1) Assure development of the area with a mixture of residential and commercial uses, and a suitable height, bulk and design of buildings, as generally indicated in the Comprehensive Plan and recommended by planning studies of the area; (2) Encourage a variety of support and visitor-related uses, such as retail, service, entertainment, cultural and hotel uses; (3) Allow for continuation of existing industrial uses, which are important economic assets to the city, during the extended period projected for redevelopment; (4) Provide for a reduced height and bulk of buildings along the Anacostia riverfront in the interest of ensuring views over and around waterfront buildings, and provide for continuous public open space along the waterfront with frequent public access points; (5) Require suitable ground-level retail and service uses and adequate sidewalk width along M Street, S.E., near the Navy Yard Metrorail station; (6) Provide for development of Squares 702-706 and Reservation 247 as a ballpark for major league sport and entertainment and associated uses; (7) Provide for the establishment of South Capitol Street between M Street, S.E., and the Anacostia waterfront as a monumental civic boulevard; (8) Provide for the development of Half Street, S.E. as an active pedestrian oriented street with active ground floor uses and appropriate setbacks from the street facade to ensure adequate light and air, and a pedestrian scale; and (9) Provide for the development of First Street, S.E. as an active pedestrian oriented street with active ground floor uses, connecting M Street, the Metro Station, and existing residential neighborhoods to the Ballpark site and the Anacostia Waterfront. (11-K DCMR § 500.1.)
37. The purposes of the CG-5 zone specifically are to provide for medium-density mixed-use development near the waterfront and to encourage a variety of support and visitor-related uses, such as retail, service, entertainment, cultural and hotel uses, provide for a reduced height and bulk of buildings along the Anacostia River in the interest of ensuring views over and around waterfront buildings, and provide for continuous public open space along the waterfront with frequent public access points. (11-K DCMR § 505.1.)
38. The Project consists of approximately 71,120 square feet of gross floor area for retail uses on the ground floor and approximately 442,890 square feet of gross floor area for residential uses on the upper floors. The Project has a FAR of 4.45 and height of 90 feet. The Project will occupy 83 percent of the lot at the ground floor and 61 percent of the lot on the upper stories. (Exhibit 16A.)
39. The Project reduces the existing density by approximately 178,863 square feet. The Project's height is grandfathered as an existing condition. (Exhibit 16A.)
40. The rear yard is provided in the entire buffer between the building and the Anacostia Waterfront, well in excess of the required 12 feet. The Project's courts, which are all open

courts, comply with the dimensional requirements of the Zoning Regulations. All roof structures are set back from the edge of the roof at a ratio of at least one to one. The elevator overrides at the Project have a height of 18.5 feet and the Applicant has requested variance relief for this height. The Project's GAR satisfies the minimum requirements of the CG-5 zone. (Exhibit 16A.)

41. Inclusionary zoning under the Zoning Regulations does not apply to conversions of office buildings to residential uses, but does apply to new gross floor area ("GFA") if it creates at least 10 residential units. Habitable penthouse area may also trigger an Inclusionary Zoning requirement. (See 11-C DCMR §§ 1001.2 (b, d).) The Project includes 33,146 square feet of new residential GFA and 39,959 square feet of penthouse residential GFA. The Applicant is setting aside 8% of the new residential GFA, an amount equal to 2,650 square feet, at 60% of the Median Family Income ("MFI") and 8% of the penthouse GFA, an amount equal to 3,200 square feet, at 50% of the MFI. (Exhibit 16A.)
42. The Project's design, orientation and massing are based on the adaptive reuse of the existing building, which requires carving out some courtyard space to maximize articulation and views for residents and visitors. The Project includes ground floor retail, including potential neighborhood serving retail along V Street, SW, and restaurants, along the Anacostia Waterfront. In total, the retail will occupy approximately 71,120 square feet of space. Above the ground floor, the Project will include approximately 442,890 gross square feet of residential floor area. (Exhibit 16A.)
43. The Project incorporates high quality materials and a color palette that marks the Property as a location in a burgeoning neighborhood on the Anacostia River. Retail entrances will be located on V Street and on 1st and 2nd Street SW, the residential lobby will be accessed from 1<sup>st</sup> and 2<sup>nd</sup> Streets SW, and all loading and parking for the building will be accessed from 1st or 2nd Streets SW. There will also be restaurant entrances at the Project's riverside frontage. (Exhibit 16A.)
44. The Project's ground level will include retail uses as well as lobby entrances to the upper story residential uses. In total, the Project will have approximately 485 residential units (including the proposed occupiable penthouse). (Exhibit 16A.)
45. Two levels of parking will be provided below grade. The Project's parking garage includes a total of approximately 361 striped parking spaces accessible from an entrance on 2<sup>nd</sup> Street, SW. Also included in the Project's garage are approximately 168 long term bicycle parking spaces, as well as lockers and changing and shower facilities. An additional 41 short term bicycle parking spaces will be provided as part of the Project on the streets and sidewalks surrounding the Project. (Exhibits 16A, 30A.)
46. The Project will have three loading areas, including a total of one 30-foot berth and 20-foot delivery space for residential loading accessed off of 1<sup>st</sup> Street, SW; two 30-foot loading berths, two 55-foot loading berths, and one 20-foot delivery space for retail loading in two separate loading areas accessed off of 2<sup>nd</sup> Street, SW. (Exhibit 16A.)

47. The Project will be built in an environmentally sustainable fashion with the Applicant committing to certification to LEED v. 2009 Gold. (Exhibits 30, 30A.)
48. The Project also includes construction of a portion of the Anacostia Riverwalk Trail along the waterfront at the Property. The trail includes active and passive trails, plantings, and seating for public use. The trail will also include seating, public art, and educational signs that are incorporated into the public realm along the waterfront to provide interactive spaces for visitors. These components will be chosen and finalized consistent the Anacostia Riverwalk Trail Design Guidelines. (Exhibits 16A, 26A, 30A, and 34A.)
49. The Project includes high-quality materials appropriate for the Property's location along the waterfront. The materials will vary from the retail base to the residential upper floors to provide façade articulation, with some materials from the base repeating at higher levels to provide building uniformity. The materials include high-density fiber cement boards, which are interspersed with wood-textured panels and some stone to provide variation. (Exhibit 16A.)
50. The Property is located within the 100-year floodplain and the current building has an elevation of 9.95 feet. (Exhibit 16A.)
51. The initial application had included a proposal to raise the streets adjacent to the Property to lift the Property and the surrounding streets out of the 100-year floodplain. Based on feedback from government agencies, the Applicant revised the application in its pre-hearing submission to design the Project at its existing grade while incorporating flood proofing plans to encourage resiliency at the Project. (Exhibit 16.)
52. The Applicant initially proposed to dry flood proof the Project to 12.71 feet elevation, which is two feet above the 100-year floodplain, but ultimately revised its plans to dry flood proof to the 500-year floodplain, which is an elevation of 14.20 feet. (Exhibits 16, 16A, and 34A.)
53. All residential units at the Project are located at or above an elevation of 32.53 feet, well above the 14.20 elevation of the 500-year floodplain. (Exhibits 16A, 34A.)
54. The Project includes a back-up knee-wall around the perimeter of the building which will be constructed out of flood damage resistant materials. The knee-wall will rise to an elevation of 12.71 feet at storefronts and will exist around the building perimeter except at entrances. (Exhibits 16, 16A, 34A.)
55. The dry flood proofing method will be accomplished through the use of flood-damage resistant materials in the knee wall and the use of removable flood shields (active barriers) which are deployed in preparation for a flood event. These shields are in the form of planks which are mounted to the building by the property manager in preparation for a flood event. The dry flood proofing method does not impact the building design except to include a pre-bolted connection on the building where the planks are mounted during a flood event. (Exhibits 16, 16A, 34A.)



56. When not in use, the planks will be stored in such a way as to not intrude into public space. Those stored in public space will be flush with the sidewalk and will therefore not negatively impact the public space experience. (Exhibits 16, 16A, and 34A.)
57. The Applicant will prepare a Flood Emergency Plan in connection with the permitting process, which will include provisions for evacuation of all occupants of the building. The Flood Emergency Plan will include an egress plan to ensure safe egress of building occupants. Additionally, the Project includes two refuge areas for occupants who do not evacuate prior to the onset of flooding. One refuge area is located along V Street and can accommodate approximately 70 occupants (standing space). The other refuge area is along 1<sup>st</sup> Street and can accommodate approximately 81 occupants (standing space). (Exhibits 16, 16A, and 34A.)
58. The Project will be designed to protect the building and the residents from flood events. Specific details regarding the dry flood proofing will be finalized when the Applicant applies for a building permit. (Exhibits 16, 16A, and 34A.)

### **Design Approval**

59. The Applicant sought design approval of the Project pursuant to 11-K DCMR § 512 of the CG zone provisions of the Zoning Regulations. As an application for design review pursuant to 11-K DCMR § 512, the Commission must consider the Project against the general design review criteria of 11-X DCMR § 604 and the CG zone design review criteria in 11-K DCMR §§ 512.3 and 512.4.
60. The Project satisfies the general design review criteria of 11-X DCMR § 604 insofar as the Project:
  - a. is not inconsistent with the Comprehensive Plan, its Future Land Use Map and Generalized Policy Map, and with other adopted public policies and active programs related to the Property. The medium density commercial and residential designation applicable to the Property supports structures of the height and density at the level proposed, especially when surrounded by open spaces. The policies of the Comprehensive Plan further encourage the provision of housing and affordable housing, increased access to the waterfront, and creating commercial waterfront development, all as exemplified by the Project. Other adopted public policies encourage constructing and linking new development to the Anacostia Riverwalk Trail system as the Project does, and prioritizing access and retail that will draw individuals to the Trail. The Project also furthers the policies of improving environmental conditions along the Anacostia River and conserving the riverfront by creating a shoreline more resistant to erosion with high-quality waterfront landscapes. The Project also utilizes permeable surfaces, maximizes the green roof, and includes significant landscaping, furthering the Plan's policies regarding pervious surfaces and landscaping. The Comprehensive Plan also includes policies related to minimizing impact on air quality, promoting energy efficiency and alternative energy resources, which the Project advances through increased tree planting, additional landscaping,

certifying to a LEED Gold standard, and providing solar panels at the Project. The Project advances these objectives as well. (*See, generally*, Exhibits 2, 16, 26, and 30.)

- b. meets the general Special Exception criteria of Subtitle X, Chapter 9 because the Project will be harmonious with the general purpose and intent of the Zoning Regulations and Zoning Maps for the CG-5 district by providing needed residential and retail uses to revitalize the waterfront while providing interactive and environmentally friendly trails and access points for visitors to the Anacostia River and comply with the Zoning Regulations in terms of development standards, including proposed uses, and parking, except for a minor request for drive aisle width and penthouse mechanical height variance relief, and includes the adaptive reuse of an existing structure with an established height and reducing the building's density. In addition, the Project will not adversely affect the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps, and instead the Project is designed to fit in and operate compatibly with neighboring properties and uses. The proposed height, massing, and orientation of the Project are appropriate given the context, and are comparable to adjacent development. (*See, generally*, Exhibits 2, 16, 26, and 30.)
- c. satisfies the urban design criteria of 11-X DCMR § 604.7 because the Project:
  - 1. creates street frontages that will be safe, comfortable, and accommodating of pedestrian activity with multiple pedestrian entrances, including retail entrances along V, 1<sup>st</sup>, and 2<sup>nd</sup> Streets, as well as the Anacostia Riverfront, and residential lobby entrances on 1<sup>st</sup> and 2<sup>nd</sup> Streets, the well-designed and coordinated curb cut plan, and ground floor uses and design that activates the pedestrian realm;
  - 2. provides public gathering and open spaces, particularly along the riverfront with additional pedestrian and bicycle connections to the Anacostia Riverwalk Trail, including interactive ways for visitors to walk directly to the waterfront;
  - 3. preserves and enhances a visual connection to and the viewshed of the waterfront;
  - 4. provides an attractive façade that reinforces the pedestrian realm through the provision of tall ground floors and appropriate levels of transparency with interactive retail uses on the ground floors and high quality materials and finishes;
  - 5. includes a significant amount of high-quality, environmentally-sensitive landscaping, including along the streets and the Anacostia Riverwalk Trail;
  - 6. and promotes connectivity both internally and with surrounding neighborhoods and demonstrates connectivity through its provision of a bus stop along V Street to facilitate future public transit in the area, the extension of the cycle track on 2<sup>nd</sup> Street, and the active and passive trails in the Anacostia Riverwalk Trail. (*See, generally*, Exhibits 2, 16, 26, and 30.)

61. The Project satisfies the CG design review criteria as set forth in 11-K DCMR § 512.3 because the Project:
- a. advances the goals and objectives of the CG zone by establishing a mixed-use development that will include a significant residential component and neighborhood-serving retail uses with a height and density appropriate for this area, including through the reduction of the existing mass of a building along the waterfront. The Project is designed to highlight the Anacostia River waterfront as an active, pedestrian-oriented area, coupled with a mix of retail uses that will support and sustain the revitalization of Buzzard Point and serve residents of the community as well as visitors;
  - b. helps achieve the desired use mix with an entire development devoted to preferred uses. The Project includes a critical number of residential units of varying sizes to accommodate the needs of District residents and families. It also includes retail that will both serve the neighborhood and attract visitors;
  - c. is in context with the surrounding neighborhood and street patterns due to the Project's adjacency to similar proposed developments in the Buzzard Point area; encourages pedestrian activity along V Street and the Anacostia Riverfront and improves areas in public space on 1<sup>st</sup> and 2<sup>nd</sup> Streets to create continuity between projects in the Buzzard Point area; and appropriately situates the building along the Anacostia Riverfront covering an entire city block to become a focal point for a revitalized area;
  - d. minimizes conflicts between vehicles and pedestrians by providing a well-designed circulation plan, including limited curb cuts on 1<sup>st</sup> Street, as well as providing a robust TDMP and LMP, including provisions for a mountable curb along 2<sup>nd</sup> Street adjacent to the cycle track to protect cyclists and for a flagger to enhance pedestrian safety and minimize vehicular/pedestrian conflicts along 1<sup>st</sup> and 2<sup>nd</sup> Streets;
  - e. minimizes unarticulated blank walls on all sides by providing façade articulation accomplished through the use of high-quality building materials and display windows along the ground floor, with a floor-to-ceiling retail height of approximately 21 feet, and a unique building shape which presents multiple opportunities for highly differentiated façade designs; and
  - f. minimizes impacts on the environment by agreeing to achieve LEED v. 2009 Gold Certification, providing a minimum of 8,000 square feet of solar panels, and including "green" features include adaptive reuse of an existing structure, green roof for stormwater control, urban vegetation, and heat island reduction, sustainable construction materials and recycling of construction waste, green vehicle parking (carpool programs and electric vehicle charging stations), a Variable Refrigerant Flow mechanical system, and pervious paving in the public right-of-way in 1<sup>st</sup> and 2<sup>nd</sup> Streets. (*See, generally*, Exhibits 2, 16, 26, and 30.)
62. The Project also satisfies the CG-5 additional design review of 11-K DCMR § 512.4 because the Project:

- a. provides suitably designed public open space along the waterfront with a highly designed beginning to the Anacostia Riverwalk Trail, a floodable forest component at the river's edge, with multiple access points for the trail and the waterfront, and active and passive trails, all in coordination with the Buzzard Point Vision Framework;
- b. includes suitable open space treatment for the Anacostia Riverwalk Trail, including active and passive recreation paths, seating and plantings, a deck area, and an interactive path for direct access to the water, encouraging public access and use of the waterfront at the Property, which creates a functional and usable waterfront from an inaccessible portion of the waterfront now; and
- c. preserves and enhances the openness of the waterfront views and vistas from 1<sup>st</sup> and 2<sup>nd</sup> Streets, framing the views of the Anacostia River but enhancing the openness of these views, as well as from the Project's public spaces along the waterfront, and preserves the current open views from the river north to other focal points in the city. (*See, generally*, Exhibits 2, 16, 26, and 30.)

### **Variance Relief—Drive Aisle Width and Penthouse Mechanical Height Requirements**

63. The Applicant requested variance relief pursuant to 11-C DCMR § 712 from the drive-aisle width requirements, and 11-C DCMR § 1501 and 11-K DCMR § 505.5 from the penthouse height requirements and the Commission's authority to grant such relief under 11-X DCMR § 603.1.
64. Under the three-prong test for an area variance, the Applicant must demonstrate (1) that the Property is affected by an exceptional or extraordinary situation or condition, (2) that the strict application of the Zoning Regulations will result in a practical difficulty to the Applicant, and (3) that the granting of the variance will not cause substantial detriment to the public good nor substantially impair the intent, purpose or integrity of the zone plan. (*Palmer v. D.C. Bd. of Zoning Adj.*, 287 A.2d 535, 541 (D.C. 1972).) Under the "practical difficulty" prong, the Applicant must show that compliance with the drive aisle width and penthouse height requirements would be unnecessarily burdensome and that such practical difficulty is unique to this particular property.

### **Exceptional Condition**

65. The Property is subject to exceptional conditions that arise from the existing building on the Property, which is inherited in the land. (Exhibit 2.)
66. There are a number of unique conditions affecting the Property. Primarily, the Property, formerly an office building leased to the United States Coast Guard for its headquarters, will be adaptively reused. The existing building already has a specific height, structural, and internal column grid configuration. Specifically, the structural columns and elevator shafts at the Property already exist; therefore, the Applicant is limited in the ability to redesign certain elements of the Project. (Exhibit 2.)

67. Additionally, the existing building's redevelopment is complicated by the requirements imposed by the Capital Gateway zones. Given the building's location along the Anacostia River, there are numerous design implications that the Applicant has incorporated into its proposal. Therefore, based on the site location and the existing building, the Property is subject to an extraordinary situation. (Exhibit 2.)

#### Practical Difficulty

68. Regarding the drive aisle width, 11-C DCMR § 712.5 requires the Project to provide a drive aisle at least 20 feet wide for two-way traffic. However, the proposed Project will only have a drive aisle of 18.33 feet in the below-grade parking facility. Because the Applicant is reusing the existing building on the Property, the Project is limited to the existing structural columns in the parking facility. The columns restrict the drive aisle to a width of 18.33 feet, and therefore the Applicant is unable to provide a drive aisle in compliance with the minimum width. Given that the Project involves adaptive reuse of the existing structure, it would not be feasible to move the structural columns to provide a wider drive aisle. This is unique to the Project and not a common situation in the neighborhood given that much of the neighborhood is currently vacant. (Exhibits 2, 16, 16A.)
69. Regarding the penthouse mechanical height, 11-C DCMR § 1501.1 and 11-K DCMR § 505.5 requires that a penthouse for mechanical space in the CG-5 Zone District be no taller than 15 feet. The Applicant proposes elevator override penthouses on the roof of the building with a height of 18.5 feet. The Applicant presented significant evidence that, based on the analysis of several manufacturer's models, it is not possible to provide an elevator override within 15 feet of height. The elevator overrides are required to provide building-code compliance access to the penthouse. To require the lower height would prevent use of the penthouse at the Property. (Exhibits 2, 16, 16A.)

#### No Detriment to the Public Good or Impairment of the Intent of the Zoning Regulations

70. The requested variance relief does not create substantial detriment to the public good and indeed works in harmony with sound urban design principles and does not impair the intent, purpose, and integrity of the Zoning Regulations. The drive aisle width will not have a significant impact on the circulation within the parking facility at the site. The 18.3-foot drive aisles will provide sufficient maneuvering spaces for cars in the below-grade parking facility. Finally, the drive aisle width will not have an impact on the adjacent properties or streets. (Exhibits 2, 16, 16A.)
71. Additionally, the Applicant's request for relief from the penthouse height requirements will not be detrimental to the public good. The limited space the elevator overrides occupy will not create an overly large roof structure – rather, these spaces will be limited in size and set back at the required 1:1 ratio from the roof edge. Therefore, the penthouse mechanical heights will not affect views of the area. Finally, the elevator overrides serve the good of the Zoning Plan by providing an activated rooftop providing scenic views of the natural beauty and monumental views at the Property. (Exhibits 2, 16, 16A.)

72. Moreover, the magnitude of the requested relief significantly mitigates any adverse effect on the intent, purpose, or integrity of the Zoning Regulations, Therefore, the relief granted here will not impair the intent, purpose, or integrity of the Zoning Regulations. (Exhibits 2, 16, 16A.)

**Agency Reports**

**Office of Planning**

73. OP provided an initial report on the Project on May 26, 2017, and a supplemental report on July 3, 2017 outlining some comments and concerns regarding the Project and ultimately recommending approval of the Project, which comments and concerns the Applicant responded to and resolved as follows:

- a. OP indicated the Project should be compliant with the Buzzard Point Vision Framework Plan and continue working with the government agencies in finalizing the Framework Plan, and the Applicant’s response to OP’s report noted that its design is in compliance with the Plan and the Applicant committed to working with the government agencies to finalize the Plan. (Exhibits 19, 26.)
- b. OP asked the Applicant to confirm that all projections meet the public space regulations and the Buzzard Point streetscape guidelines, which the Applicant confirmed in its response to agency reports and at the June 5 public hearing. (Exhibits 19, 26.)
- c. OP encouraged the Applicant to consider a higher level of LEED when the Applicant initially included designing the Project to a LEED Silver standard, and the Applicant agreed to certify the building to a LEED v. 2009 Gold Standard. (Exhibits 19, 26, and 30). OP subsequently requested the Applicant certify the Project under LEED v. 4 as opposed to LEED v. 2009. (Exhibit 33.) At the July 13 public hearing, the Applicant testified that the project was registered under the 2009 program in mid-2016 and that it is still currently a valid version of the LEED program for projects already registered.
- d. OP requested clarification regarding the affordable housing being provided as part of the Project and its compliance with the Inclusionary Zoning regulations, which the Applicant provided. (Exhibits 19, 26, and 30.) OP confirmed in its supplemental report that the Project complies with the Inclusionary Zoning regulations and that the Applicant provided the requested information. (Exhibit 33.) This information is detailed in the charts below:

<b>2100 2<sup>nd</sup> Street SW</b>					
<b>Residential Unit Type</b>	<b>New Residential GFA / Percentage of Total</b>	<b>Income Type</b>	<b>Affordable Control Period</b>	<b>Affordable Unit Type*</b>	<b>Notes</b>

Total	33,146 sf/100%		Life of project	Rental	NA
Market Rate	30,496 sf/92%	Market	Life of project	Rental	NA
IZ	2,650 sf/8%	60% MFI	Life of project	Rental	NA

<b>2100 2<sup>nd</sup> Street SW</b>					
<b>Residential Unit Type</b>	<b>Penthouse Residential Square Footage / Percentage of Total</b>	<b>Income Type</b>	<b>Affordable Control Period</b>	<b>Affordable Unit Type*</b>	<b>Notes</b>
Total	39,959 sf/100%		Life of project	Rental	NA
Market Rate	36,759 sf/92%	Market	Life of project	Rental	NA
IZ	3,200 sf/8%	50% MFI	Life of project	Rental	NA

- e. OP requested rendered views of the waterfront showing the viewshed analysis from 1<sup>st</sup> and 2<sup>nd</sup> Streets to confirm the Project protected the waterfront views. (Exhibit 19.) The Applicant provided the requested views and compared them to existing views, confirming that the Project will in fact enhance the views of the water. (Exhibits 19, 26, and 30.)
- f. OP suggested revising the vehicular turnarounds at 1<sup>st</sup> and 2<sup>nd</sup> Streets to minimize paved areas, limit potential conflicts, and frame the water views, and the Applicant agreed to provide additional pervious surfaces subject to DDOT approval during the public space process when the design of the turnarounds are finalized. More specifically, the Applicant is adding approximately 7,161 square feet of pervious pavers in public space. (Exhibits 19, 26, and 30.)
- g. OP requested that the Applicant improve the area in the 2<sup>nd</sup> Street right-of-way south of the building, and the Applicant agreed to improve the area south of the roundabout at the end of the 2<sup>nd</sup> Street right of way up to the twenty-five (25) foot natural buffer from the riverfront. (Exhibits 19 and 26.)
- h. OP requested additional information regarding building materials, which the Applicant provided through a materials board and through testimony at the June 5 public hearing, demonstrating that the materials are appropriate for the waterfront context of the Project. (Exhibits 19, 26.)

- i. OP requested waterfront sections showing details of the building and the Anacostia Riverwalk trail, which the Applicant provided, which confirm the Project's appropriate design for stormwater and flood issues, including a floodable forest by the water's edge, active and passive trails on the Riverwalk Trail, the raised dining terrace adjacent to the building, and the knee wall that is part of the flood proofing program at the Project. (Exhibits 19, 26, and 30.)
- j. OP noted the Project should comply with the Buzzard Point Riverwalk Guidelines regarding the proposed plant palette and public access, and the Applicant provided additional exhibits illustrating compliance with the draft Guidelines with respect to materials, plant palette, and general design, and confirming ongoing participation with the agency regarding the Riverwalk Trail. (Exhibits 19, 26, and 30.) OP requested a condition for any approval that the Riverwalk Trail be designed and constructed in conformance with the Anacostia Riverwalk Trail Design Guidelines, and the Applicant agreed. (Exhibits 30D, 33.)
- k. OP's report noted that the Project must comply with the District Stormwater Management, Floodplain, and Building Code Regulations, which compliance will be required at the time of the Building Permit, and the Applicant acknowledged this requirement. (Exhibits 19, 26, and 30.)
- l. OP noted the Applicant's commitment to elevate the main electrical room and generator above the 500-year floodplain and requested specificity regarding these locations. (Exhibit 33.) The Applicant demonstrated the locations of these rooms during the July 13 public hearing. (Exhibit 34A.)

#### District Department of Transportation

74. DDOT provided an initial report on the Project on May 25, 2017, outlining some comments and concerns regarding the Project, which the Applicant responded to each comment as follows:
  - a. DDOT requested the Applicant provide a 19-dock Capital Bikeshare station and first year's operating costs as part of the Project. The Applicant agreed to this commitment. The location of the Capital Bikeshare station will be finalized with DDOT during the public space process. (Exhibits 17, 26.)
  - b. DDOT requested a two electronic displays at the Project showing real-time transportation information. The Applicant agreed to provide these and install one electronic display in the residential lobby and the other electronic display in another public location to be determined through the public space process. (Exhibits 17, 26.)
  - c. DDOT requested showers, changing facilities, and lockers for use by retail and restaurant employees to encourage bicycling. The Applicant agreed to provide these facilities in the first level of the garage. (Exhibits 17, 30.)



- d. DDOT requested the Applicant unbundle parking costs from the price of lease or purchase of residential units. The Applicant agreed. (Exhibits 17, 30.)
  - e. DDOT requested an updated Loading Management Plan to include flagger assistance for loading deliveries. The Applicant updated its LMP to include the requested commitment. (Exhibits 17, 26B.)
  - f. DDOT requested the Applicant modify the Anacostia Riverwalk treatment to replace rough paving with a visual cue for intersections and to install a narrow band of textured paving at the edge of the active trail where the passive trail intersects it. The Applicant updated its plans to include concrete asphalt at these intersections and a textured paving strip at the edge of the active trail where the passive trail intersects it. (Exhibits 17, 26.)
  - g. DDOT requested that the Applicant improve the area in the 2<sup>nd</sup> Street right-of-way south of the building, and the Applicant agreed to improve the area south of the roundabout at the end of the 2<sup>nd</sup> Street right of way up to the twenty-five (25) foot natural buffer from the riverfront. (Exhibits 17, 26.)
  - h. DDOT requested the Applicant provide sidewalk connections to satellite parking locations, and the Applicant agreed to provide 6-foot temporary asphalt sidewalks to access satellite parking facilities for which the Applicant enters into an agreement, if a sidewalk does not already exist. (Exhibits 17, 30.)
75. DDOT filed a supplemental report on June 29, 2017, noting that the Applicant had satisfied each of its concerns regarding the Project and recommended approval. (Exhibit 31.)

Department of Energy and the Environment

76. DOEE provided an initial report on the Project on May 26, 2017, and a supplemental report on June 30, 2017, which it supplemented with a corrected report on July 7, 2017, which the Zoning Commission accepted at the July 13 public hearing. The reports outlined some comments and concerns regarding the Project, and ultimately recommending approval of the Project, which comments and concerns the Applicant responded to and resolved as follows:
- a. DOEE acknowledged the difficulty for the Project to elevate the building to the 100-year floodplain or above, and agreed to continue working with the Applicant to evaluate opportunities to provide greater resilience during the permitting process. (Exhibit 32A.)
  - b. DOEE requested the Applicant provide greater resiliency due to the increased flood risks at the Property. (Exhibit 18.) The Applicant agreed to flood proof up to the 500-year floodplain, which DOEE agreed provided greater resiliency. (Exhibits 32A, 34A.) Additionally, all residential units at the Project are located at least twenty-one (21) feet above the 500-year floodplain, protecting the units and tenants from damage and harm. The Applicant provided detail regarding the revised flood proofing method at the July 13 public hearing, which the Commission finds addressed both the design and resiliency concerns regarding flood proofing. The Project provides two refuge areas in

- case of a flood event, one located on V Street and one on 1<sup>st</sup> Street, which can accommodate approximately 150 people. The V Street refuge area will accommodate approximately 70 occupants and is 44 feet in width when installed. It occupies approximately 8 feet of the public sidewalk, leaving approximately 8 feet of clear sidewalk space for pedestrians. The 1<sup>st</sup> Street refuge area accommodates approximately 81 occupants and is located entirely on the Property. The Project improves resiliency at the shoreline by removing eroded volunteer trees in poor health, providing appropriate waterfront landscapes and plantings that increase resiliency, and improving the surrounding streetscapes that greatly enhance pedestrian access to the waterfront. (Exhibits 26, 30, and 34A.)
- c. DOEE requested the Applicant capture a higher level of stormwater to benefit the environment. (Exhibit 18.) The Applicant meets the stormwater requirements and designed the area of the building to capture a 0.8” rain event, while the remainder of the site captures a 1.2” rain event. Additionally, the Project includes significant stormwater capture in public space through permeable paving and streetscape landscaping. The Applicant also agreed to provide an additional 7,161 square feet of permeable paving in public space. (Exhibit 26, Exhibit 32A.)
  - d. DOEE noted the Applicant should use lower-emitting technologies, efficient technologies, and should not use ground-level ventilation for the Project to minimize impacts on air quality and emissions. (Exhibit 18.) The Applicant utilizes VRF units and does not use traditional boilers, thereby providing a more efficient technology. Additionally, all vents at the Project are located above the ground level and are located above the 500-year flood plain. Finally, the Project includes compliance with Dust Control regulations and increases street trees and landscaping to improve air quality. (Exhibit 26.)
  - e. DOEE encouraged the Applicant to increase its energy efficiency and to explore alternative energy sources for the Project to create a more resilient and economically progressive Project. (Exhibit 18.) The Applicant agreed to certify the Project to a LEED Gold v. 2009 level, to provide a minimum of 8,000 square feet of solar panels, and to include a whole-building energy model to review and work to reduce energy consumption and energy expenditures for future residents and tenants of the Project when possible. (Exhibits 26, 30.) DOEE subsequently requested the Applicant certify the Project under LEED v. 4 as opposed to LEED v. 2009. (Exhibit 32A.) At the July 13 public hearing, the Applicant testified that the project was registered under the 2009 program in mid-2016 and that it is still currently a valid version of the LEED program for projects already registered. DOEE also encouraged the Applicant to consider additional amounts of solar panels. (Exhibit 32A.) The Applicant testified at the July 13 public hearing that its commitment is to provide a minimum of 8,000 square feet of solar panels at the Project.
  - f. DOEE noted the Applicant agreed to raise the electrical and mechanical equipment above the 500-year floodplain elevation. (Exhibit 32A.)

- g. DOEE acknowledged the Project complies with GAR requirements. (Exhibit 32A.)
- h. DOEE confirmed that because the building is in 100 year floodplain it would require a code modification from the requirements of Title 20 Chapter 72 to allow residential use. DOEE confirmed that the circumstances of this Project support such a code modification and DOEE will work with the Applicant during the permitting stage of this Project to finalize this waiver. (Exhibit 32A.)

### **CONCLUSIONS OF LAW**

1. The application was submitted, pursuant to 11-K DCMR § 512 for design review and approval by the Commission. Pursuant to 11-X DCMR § 603.1, the application also sought a variance from the drive aisle width requirement of 11-C DCMR § 712.5 and a variance from penthouse height limit of 15 feet for mechanical space of 11-C DCMR § 1501 and 11-K DCMR § 505.5.
2. The Commission provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to ANC 6D, OP, and to owners of property within 200 feet of the Property. The Commission properly and timely referred the matter to NCPC.
3. Pursuant to 11-K DCMR § 512 and 11-X DCMR § 604, the Applicant has satisfied the required burden of proof necessary for the Commission to approve the overall design of the Project.
4. The Commission reviewed the Project against the general design review criteria of 11-X DCMR § 604, and based on the findings set forth above concludes that the Project satisfies such criteria. The Project is not inconsistent with the Comprehensive Plan and other adopted public policies and active programs related to the subject site. It will not tend to adversely affect the use of neighboring property, it is harmonious with the general purpose and intent of the Zoning Regulations and Zoning Maps, and it satisfies the special exception criteria and urban design objectives in a manner superior to any matter-of-right development possible on the Property.
5. The Commission also reviewed the Project against the CG design review criteria of 11-K DCMR § 512.3 for general CG projects, and based on the findings set forth above concludes that the Project satisfies such criteria as well. Specifically, the Project helps achieve the goals and objectives of the CG zones. More specifically, the Project helps achieve the desired use mix, including residential and retail uses, in the CG zones; and it is in context with the surrounding neighborhood and street patterns. The Project also minimizes conflicts between vehicles and pedestrians. The Project's façade is highly articulated and the Project minimizes its impact on the environment, including through Gold certification under LEED v. 2009.
6. 11-K DCMR § 512.4 sets forth additional CG design review criteria for projects in the CG-5 Zone District. The Commission reviewed the Project against those additional CG-5 zone

design review criteria and concludes the Project satisfies such additional criteria as well. That is, the Project includes suitably designed public open space along the waterfront in the Anacostia Riverwalk Trail, which includes passive and active trails and connections to public space along the waterfront, private maintenance of such spaces, and the Project provides open views to the waterfront to the South and north to other areas of the city.

7. Pursuant to 11-X DCMR § 603.1, the Commission carefully considered the Applicant's request for variance relief from the drive aisle width requirement of 11-C DCMR § 712.5 and from the penthouse height limit of 15 feet for mechanical space of 11-C DCMR § 1501 and 11-K DCMR § 505.5 and concludes that the Applicant satisfied the elements necessary for variance relief. Under the three-prong test for an area variance, the Applicant demonstrated (1) that the Property is affected by an exceptional or extraordinary situation or condition arising from the existing building's adaptive reuse, including existing structural columns and elevator shafts already in place, (2) that the strict application of the Zoning Regulations will result in a practical difficulty to the applicant with respect to such structural columns dictating drive aisle width and the building's existing size and elevator shafts dictating the height of the elevator overrides to service the building, and (3) that the granting of the variances will not cause substantial detriment to the public good nor substantially impair the intent, purpose or integrity of the zone plan because such relief does not contravene the purposes of the drive aisle width or penthouse height requirements in this instance because the drive aisle width is still able to accommodate circulation at the site and the elevator overrides are all set back at the required 1:1 ratio and therefore will not impact views of neighboring properties.
8. The Commission concludes that the Applicant satisfied all the necessary elements for design review as well as for the relief requested.
9. The Commission concludes that the Applicant responded to the concerns raised by OP, DDOT, and DOEE regarding the Project, and notes that all three agencies recommend approval of the Project. The ANC was the only party to the case and it spoke in support of the Project. No party spoke or submitted materials in opposition to the Project. Accordingly, a decision by the Commission to grant this application would not be adverse to any party.
10. The Commission is required under D.C. Official Code § 1-309.10(d) to give "great weight" to the issues and concerns of the affected ANC expressed in its written report. As reflected in the Findings of Fact, at its duly noticed meeting held on May 8, 2017, ANC 6D, the ANC within which the Property is located, voted 6-0-0 to support the application for CG-5 zone design review and related variance relief. The Commission notes that the ANC raised affordable housing, pet relief areas, and retail space use as major factors for ANC support and the Applicant satisfactorily responded to these concerns, as laid out in the ANC report.
11. The Commission is also required to give great weight to the recommendations of OP. (D.C. Official Code § 6-623.04.) As reflected in the Findings of Fact, OP presented two reports and testimony at both public hearings in support of the application and the Applicant

responded to questions and items raised in OP's report. The Commission gives OP's recommendation to approve the application great weight, concurs with OP's report, and concludes that the Applicant's responses appropriately addressed OP's questions and concerns.

12. The Commission has considered DDOT's and DOEE's reports and recommendations. The Commission finds these agencies are subject matter experts in their respective disciplines. As such, it carefully considers the recommendations by each agency and acknowledges that both DDOT and DOEE recommended approval of the application. The Commission notes that a code modification from the requirements of Title 20, Chapter 72 will be required to effectuate the building design and this order does not imply approval of such a code waiver. The Commission further notes that additional details regarding the flood proof protections will be finalized during the permitting process and that the details submitted by the Applicant are sufficient for purposes of design review under the Zoning Regulations. The Commission concludes that the Applicant has appropriately addressed concerns raised in such reports and materials.
13. Accordingly, the Commission, having given great weight to the ANC's concerns and the OP report and having considered all relevant facts and materials in the record, concludes that the design of the Project satisfies the requirements of the Zoning Regulations applicable to the design review of the Project and the variance relief requested.
14. The Project will promote the continued development of CG into a vibrant mixed-use neighborhood, is sensitive to the site's location on the Anacostia Riverfront, and is in conformity with the entirety of the District of Columbia zone plan, as embodied in the Zoning Regulations and the Zoning Map of the District of Columbia.
15. The Commission's decision in this case does not imply conformance with the District Stormwater Management, Floodplain, and Building Code Regulations, which compliance will be required at the time of the Building Permit.

### **DECISION**

In consideration of the above Findings of Fact and Conclusions of Law, the Zoning Commission for the District of Columbia orders **APPROVAL** of Case Number 17-05 for design review, including **APPROVAL** of variance relief and flexibility requested. This approval is subject to the following conditions, standards, and flexibility:

1. **Project Development.** The Project shall be built in accordance with the plans, including flood proofing plans, and elevations dated May 16, 2017, and marked as Exhibit 16A of the record, as modified by the drawings submitted as Exhibit 26A, Exhibit 30A, and Exhibit 34A, and as modified by the guidelines, conditions, and standards herein.
2. The Project will have relief from the drive aisle width requirements and the penthouse mechanical height requirements for elevator overrides.
3. The Applicant will have the following areas of flexibility:

- a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the building;
  - b. To provide a range in the number of residential units and vehicular parking spaces plus or minus 10%;
  - c. To vary the final selection of the exterior materials within the color ranges of the material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and to make minor refinements to exterior details, locations, and dimensions, including: window mullions and spandrels, window frames, doorways, glass types, belt courses, sills, bases, cornices, railings, canopies and trim, such that the refinements do not substantially change the external configuration or appearance of the building;
  - d. To continue coordination of the streetscape design and areas in public space with DDOT during the public space process; and
  - e. To modify the number and location of retail entrances, based on the number of tenants ultimately secured for the retail space.
4. **Transportation Demand Management Measures.** Prior to the issuance of a Certificate of Occupancy for the Project, the Applicant shall demonstrate that it has or will adhere to the following Transportation Mitigation measures as set forth in the DDOT report:
- a. Install an eastbound right turn lane with a storage length of 150 feet at the intersection of 2<sup>nd</sup> Street & P Street;
  - b. Construct the 2<sup>nd</sup> Street cycle track from V Street to the Anacostia Riverwalk Trail. The cycle track requires a total of 10 feet and the total cart path cross section requires 38-40 feet;
  - c. As part of the public space reconstruction, construct a bus pad in V Street and other supportive elements to support a future bus stop at the corner of V Street and 1<sup>st</sup> Street;
  - d. Provide a 19-dock Capital Bikeshare station and first year's operating costs;
  - e. Provide a total of two electronic displays showing real-time transportation, to be located in the residential lobby and in another public location to be determined through the public space process.
  - f. Provide showers, changing facilities, and lockers for use by retail and restaurant employees;
  - g. Provide at least seven electric car charging stations within the parking garage; and

- h. Unbundle parking costs from the price of lease or purchase of residential units.
5. **Loading Demand Management Measures.** Prior to the issuance of a Certificate of Occupancy for the Project, the Applicant shall demonstrate that it has or will adhere to the following Loading Mitigation measures as set forth in the DDOT report:
- a. A loading dock manager will be designated by the building management (duties may be part of other duties assigned to the individual). He or she will coordinate with vendors and tenants to schedule deliveries and will be on duty from 9:00 AM to 5:00 PM and will coordinate with the community and neighbors to resolve any conflicts should they arrive;
  - b. All tenants will be required to schedule deliveries that utilize the loading dock (any loading operation conducted using a truck 20' in length or larger) and all loading activities are required to occur at the loading docks;
  - c. The dock manager will schedule deliveries such that the dock's capacity is not exceeded. In the event that an unscheduled delivery vehicles arrives while the dock is full, that driver will be directed to return at a later time when a berth will be available so as not to compromise safety or impede street or intersection function;
  - d. The dock manager will monitor inbound and outbound truck maneuvers and will ensure that trucks accessing the loading dock do not block vehicular, bike, or pedestrian traffic along 2<sup>nd</sup> Street and 1<sup>st</sup> Street except during those times when a truck is actively entering or exiting a loading berth;
  - e. Trucks larger than WB-40 will not be permitted in any loading berths except for the northern most loading berth on 2<sup>nd</sup> Street;
  - f. Non-certified flaggers will be provided to assist with inbound and outbound truck maneuvers in each of the loading docks to ensure vehicular, bike, and pedestrian traffic is not impeded;
  - g. Trucks using the loading dock will not be allowed to idle and must follow all District guidelines for heavy vehicle operation including but not limited to DCMR 20 – Chapter 9, Section 900 (Engine Idling), the regulations set forth in DDOT's Freight Management and Commercial Vehicle Operations document, and the primary access routes listed in the DDOT Truck and Bus Route Map; and
  - h. The dock manager will be responsible for disseminating suggested truck routing maps to the building's tenants and to drivers from delivery services that frequently utilize the development's loading dock as well as notifying all drivers of any access or egress restrictions. The dock manager will also distribute materials as DDOT's Freight Management and Commercial Vehicle Operations document to drivers as needed to encourage compliance with idling laws. The dock manager will also post these documents and notices in a prominent location within the service area.

6. **Affordable Housing**. The Project shall provide affordable housing as follows:
- a. New Residential GFA: For the life of the Project, the Applicant shall set aside no less than eight percent of the New Residential GFA as affordable housing. The Applicant shall:
    - i. Devote approximately 33,146 square feet of New Residential GFA to housing;
    - ii. Set aside no less than eight percent of the New Residential GFA, currently equaling approximately 2,650 square feet, as inclusionary units pursuant to 11-C DCMR Chapter 10; and
    - iii. Set aside no less than eight percent of the New Residential GFA, currently equaling 2,650 square feet, as inclusionary units for households earning no more than 60% of the MFI.
  - b. Penthouse Residential GFA: For the life of the Project, the Applicant shall set aside no less than eight percent of the penthouse residential GFA as affordable housing. The Applicant shall:
    - i. Devote approximately 39,959 square feet of penthouse residential GFA to housing;
    - ii. Set aside no less than eight percent of the penthouse residential GFA, currently equaling approximately 3,200 square feet, as inclusionary units pursuant to 11-C DCMR Chapter 10; and
    - iii. Set aside no less than eight percent of the penthouse residential GFA, currently equaling 3,200 square feet, as inclusionary units for households earning no more than 50% of the MFI.
  - c. The set-aside requirements are set forth in the following charts:

<b>2100 2<sup>nd</sup> Street SW</b>					
<b>Residential Unit Type</b>	<b>New Residential GFA / Percentage of Total</b>	<b>Income Type</b>	<b>Affordable Control Period</b>	<b>Affordable Unit Type*</b>	<b>Notes</b>
Total	33,146 sf/100%		Life of project	Rental	NA
Market Rate	30,496 sf/92%	Market	Life of project	Rental	NA
IZ	2,650 sf/8%	60% MFI	Life of project	Rental	NA



<b>2100 2<sup>nd</sup> Street SW</b>					
<b>Residential Unit Type</b>	<b>Penthouse Residential Square Footage / Percentage of Total</b>	<b>Income Type</b>	<b>Affordable Control Period</b>	<b>Affordable Unit Type*</b>	<b>Notes</b>
Total	39,959 sf/100%		Life of project	Rental	NA
Market Rate	36,759 sf/92%	Market	Life of project	Rental	NA
IZ	3,200 sf/8%	50% MFI	Life of project	Rental	NA

7. **LEED.** The Applicant shall submit with its building permit application a LEED checklist indicating that the Project includes sustainable design features such that the building achieves LEED Gold Status. Within 12 months after the issuance of the Certificate of Occupancy for the building, the Applicant shall provide evidence that it has secured Gold Certification or higher from the U.S. Green Building Council under the LEED-v.2009 rating system.
8. **Solar.** The Applicant shall dedicate at least 8,000 square feet of rooftop space for solar panels.
9. **Satellite Parking Sidewalks.** Prior to the issuance of a Certificate of Occupancy, the Applicant shall construct a temporary, asphalt, 6-foot wide sidewalk to any satellite parking site with which it has a contract for services.
10. **Riverwalk Trail Design.** The Riverwalk Trail shall be designed and constructed in conformance with the Anacostia Riverwalk Trail Design Guidelines.
11. The application approved by this Commission shall be valid for a period of two years from the effective date of this Order. Within such time, an application for building permit must be filed as specified in 11-Z DCMR § 702.2. Construction must begin within three years after the effective date of this Order. 11-Z DCMR § 702.3.
12. 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.

On July 13, 2017, upon the motion of Vice-Chair Robert Miller, as seconded by Michael Turnbull, the Zoning Commission took FINAL ACTION to APPROVE the application at its public meeting by a vote of 5-0-0 (Anthony J. Hood, Robert E. Miller, Peter G. May, Peter A. Shapiro, and Michael G. Turnbull to approve).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *DC Register*; that is on \_\_\_\_\_.