

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
Z.C. ORDER NO. 19-23
Z.C. Case No. 19-23
Wells REIT II 80 M Street, LLC
(Square 699, Lot 28 [80 M Street, S.E.]
February 10, 2020

At its properly noticed public meeting on January 9, 2020, the Zoning Commission for the District of Columbia (the “Commission”) considered the application of Wells REIT II 80 M Street, LLC (the “Applicant”) for a mandatory Design Review for the proposed renovation of and addition to the existing building (the “Project”) located at 80 M Street, S.E. (Square 699, Lot 28) (the “Property”) in the D-5 zone and M and South Capitol Streets Sub-Area (“Application”). The Applicant requested Design Review pursuant to Subtitle I §§ 616.6, 616.8, and 701 of Title 11 of the District of Columbia Municipal Regulations (“DCMR”) (the “Zoning Regulations,” to which all references are made unless otherwise specified). The Commission considered the Application for the Project pursuant to Subtitles X and Z. For the reasons below, the Commission hereby **APPROVES** the Application.

FINDINGS OF FACT

Notice

1. Pursuant to Subtitle Z § 301.6, on August 20, 2019, the Applicant mailed a Notice of Intent to file a Design Review application to all property owners within 200 feet of the Property and to Advisory Neighborhood Commission (“ANC”) 6D, the “affected ANC” per Subtitle Z § 101.8.
2. By letter dated November 5, 2019, the Office of Zoning (“OZ”) sent notice of the January 9, 2020 public hearing to:
 - The Applicant;
 - ANC 6D;
 - ANC Single Member District (“SMD”) 6D02;
 - Office of ANCs;
 - The Office of Planning (“OP”);
 - The District Department of Transportation (“DDOT”);
 - The District of Columbia Housing Authority (“DCHA”);
 - The Office of the Attorney General;
 - The Department of Energy and Environment (“DOEE”);
 - The Ward 6 Councilmember; Chair of the Council, and the At-Large Councilmembers;
 - and
 - Owners of property within 200 feet of the Property.

(Exhibit [“Ex.”] 5, 6.)

3. Pursuant to Subtitle Z § 402, on November 4, 2019, OZ also published the Notice of Public Hearing in the *D.C. Register*. (Ex. 4.)

Parties

4. Apart from the Applicant and ANC 6D, there were no parties to the proceeding.
5. One of the residents of the neighboring condominium building located at 1025 First Street, S.E. (the “Velocity Building”), Jordan Cox, filed a request for party status on January 7, 2020, two days before the hearing, as well as a request to waive the 14-day filing deadline for party status requests. (Ex. 13, 13A.)
6. At the public hearing, the Commission voted to deny the request to waive the filing deadline, finding that Mr. Cox had sufficient notice of the Application to submit a timely party status request and had not demonstrated good cause for the requested waiver. Further, the Commission determined that, even if it were to reach the merits of Mr. Cox’s party status request, his request did not meet the standard for party status because he had failed to demonstrate that he would be uniquely affected by the Project in a manner different from other residents of the Velocity Building with units on the south side facing the Project. (January 9, 2020 Public Hearing Transcript [“Jan. 9 Tr.”] at 6-9.)

The Property

7. The Property contains approximately 45,117 square feet (or 1.03 acres) of land area and comprises half of the north side of M Street between Half and First Streets, S.E. (Ex. 2.)
8. The Property is bound to the east by First Street, S.E., to the south by M Street, S.E., to the west by Cushing Place, S.E., and to the north by L Street, S.E. The Property is located one block north of Nationals Park and one block west of the Navy Yard-Ballpark Metrorail Station. (Ex. 2, 9A.)
9. The Property is improved with a seven-story building with a height of 89 feet, 9 inches and approximately 292,100 square feet of gross floor area (“GFA”).
10. The surrounding area consists primarily of a mix of high-density uses, including office buildings, hotels, and multifamily residential buildings, all with a variety of ground-floor retail, service, and eating and drinking establishment uses. The vicinity includes areas zoned D-5, CG, SEFC-1A, and MU-10, with areas zoned RA-2 further east and areas zoned RF-1 further southwest of the Property. (Ex. 2, 9A.)
11. The Property is located in the D-5 zone and the M and South Capitol Streets Sub-Area. The purpose of the D-5 zone is to promote high-density development of commercial and mixed uses. (Subtitle I § 538.1.) The objectives of the M and South Capitol Streets Sub-Area are to ensure the preservation of this historically important axial view of the Capitol Dome and further the development of a high-density mixed-use corridor north of the Capitol Gateway neighborhood. (Subtitle I § 616.1.)

12. The Generalized Policy Map (“GPM”) of the Comprehensive Plan (Title 10A of the DCMR, the “CP”) designates the Property as a Land Use Change Area. The primary purpose of the Land Use Change Areas is “to encourage and facilitate new development and promote the adaptive reuse of existing structures.” The CP also notes that redevelopment in these areas should:

[C]reate high quality environments that include exemplary site and architectural design and that are compatible with and do not negatively impact nearby neighborhoods. Programs to avoid and mitigate any undesirable impacts of development of the Land Use Change Areas upon adjacent neighborhoods should be required as necessary. (CP § 223.9-223.12.)

13. The CP’s Future Land Use Map (“FLUM”) designates the Property as High-Density Commercial, defined by the CP as appropriate for the major office employment centers in and near the downtown characterized by office and mixed office/retail buildings greater than eight stories in height, although interspersed with many lower-scale buildings (including historic buildings). The CP specifically identified the High-Density Commercial as applicable to the C-3-C zones that include the D-5 zone in which the Property is located. (CP § 225.11.)

The Project

14. The Applicant proposes to renovate the existing seven-story office building and construct a two-story addition with a height of 128 feet, 9 inches, including a habitable penthouse of approximately 24,516 square feet of GFA for a total of approximately 87,506 additional square feet of GFA (the “Project”). The Project would have a total of approximately 378,266 square feet of GFA, a floor area ratio (“FAR”) of 8.38.¹ (Ex. 2, 9A.)
15. The Project will be devoted to office use, with a portion of the penthouse also being devoted to shared amenity space for office tenants. (Ex. 2, 9, 9A.)
16. The Project is designed to strengthen the building’s presence at the corner of M and First Streets, S.E., and improve the overall streetscape with the following aspects:
- (a) A vertical addition consisting primarily of new glass curtainwall with metal trim on all façades. The vertical expansion will have metal panel and terracotta accents that will complement the glass façade and will include a new canopy of roof structures consisting of metal panel and wood soffit and supported by “Y”-shaped steel columns;

¹ The proposed GFA includes approximately 4,458 square feet (or approximately 0.1 FAR) of penthouse habitable space that exceeds the maximum 0.4 FAR of habitable space excludible from FAR under Subtitle C § 1501.3(c). The above-referenced total of 24,516 square feet of habitable penthouse space includes the space that counts towards the building’s FAR. (Ex. 2, 9A.) The Applicant is utilizing density credits in order to construct nonresidential FAR in excess of the maximum 6.5 FAR permitted in the D-5 zone.

- (b) Maintain the existing curtainwall glass façade at the south portion of the building and the existing brick façades along the east, west, and north sides of the building. The columns at the ground level will receive new metal panel column covers with accents, and a new metal panel apron will highlight a new wood soffit at the existing recessed entry. The proposed wood soffit will have a three-dimensional gradient design that mimics the geographical convergence of the Potomac and Anacostia Rivers. The building entry will be relocated one column bay to the east in order to better highlight the corner of the building at First and M Streets, S.E. and coordinate with the new wood soffit feature;
- (c) Interior renovations that will include updates to the lobby and expansion of the existing fitness center on the ground floor;
- (d) A lighting plan to ensure that the proposed renovations and addition do not result in any adverse impact on nearby residences, as well as a signage plan; and
- (e) Use of mass timber to construct the proposed addition, which provides environmental benefits as this type of construction is capable of achieving a total carbon footprint equal to only a third of that of similarly sized steel and concrete buildings. Timber will be incorporated in both the internal support systems and interior design of the upper-story addition, and it will also be communicated at the street level by way of the wood soffit feature and reiterated in the soffits proposed for the 8th floor and penthouse terraces.

(Ex. 2, 9A, 19B.)

Relief Requested

17. The Application requests Design Review approval as required by Subtitle I §§ 616.6 and 616.8, and pursuant to the criteria of Subtitle I, Chapter 7, for an addition to a building with “frontage on a designated street segment within the M and South Capitol Streets Sub-Area.” The Application did not request any additional zoning relief.

Applicant’s Justification

18. In addition to the testimony at the public hearing, the Applicant made a total of seven submissions to the record in support of the Application:
- (a) Initial Application dated October 22, 2019 requesting design review approval (the “Initial Application”); (Ex. 2-2E3.)
 - (b) A transportation statement dated December 10, 2019 (the “Transportation Study”); (Ex. 8.)
 - (c) A prehearing submission dated December 20, 2019 (the “Pre-Hearing Statement”); (Ex. 9-9E.)

- (d) Presentation materials for the January 9, 2020 public hearing (the “Hearing Presentation”); (Ex. 19A1-19B2.)
- (e) A post-hearing submission dated January 20, 2020 (the “Post-Hearing Statement”); (Ex. 21.)
- (f) A second post-hearing submission dated February 3, 2020, responding to the Commission’s requests at the January 27, 2020 public meeting (the “Second Post-Hearing Statement”); and (Ex. 25-25D.)
- (g) A statement in opposition to ANC 6D’s motion to postpone dated February 7, 2020. (Ex. 27.)

Initial Application

19. The Initial Application included a complete set of plans as well as the Applicant’s justification for design review approval. The Application asserted that the Project’s height of 128 feet, 9 inches is within the maximum 130 feet permitted in the D-5 zone,² and that the Project’s height and 8.38 FAR is consistent with the FLUM’s high-density commercial designation, and that the office use will provide a daytime presence in the community and complements the existing uses in the neighborhood.

Transportation Study

20. The Applicant’s Traffic Study concluded that:

- (a) The Project will maintain the existing single parking and loading entrance on L Street, S.E.;
- (b) The existing office building currently enjoys a 71% non-auto split during the AM peak hour and 63% non-auto split during the PM peak hour;
- (c) The Vehicular parking supply will be reduced from 295 spaces to 288 spaces to accommodate long-term bicycle parking in the garage;
- (d) The non-auto mode split was expected to increase with the implementation of a TDM Plan and the proposed reduction in parking; and
- (e) The Project was not expected to have an adverse impact on the transportation facilities and services surrounding the Property.

Pre-Hearing Statement

21. The Applicant’s Prehearing Statement included:

² A maximum height of 130 feet is permitted in the D-5 zone for properties fronting a street right-of-way with a width of 110 feet or greater such as First Street, S.E. (Subtitle I § 540.1.)

- (a) An updated Transportation Statement, including the Applicant's proposed Transportation Demand Management ("TDM") Plan and Loading Management Plan ("LMP") for the Project. The conclusions of the Traffic Study were otherwise unchanged; (Ex. 9C at 7-10.)
- (b) Updated architectural plans;
- (c) A shadow study prepared for the ANC showing the impact of the proposed addition on the Velocity Building to the north; and
- (d) A summary of witness testimony and the resumes of the proffered expert witnesses.

Public Hearing Presentation

- 22. At the January 9, 2020, public hearing, the Applicant presented the Project and responded to questions from the Commission, including discussing the Applicant's outreach efforts with the ANC and Velocity residents. David Cheikin testified on behalf of the Applicant, as did Tom Corrado of Hickock Cole Architects, the designer of the Project.
- 23. The Applicant's presentation materials responded to questions and issues raised in the OP Report by including a revised set of plans that contained details on the green roof, planting details, signage details, and the LEED scorecard for the Project. (Ex. 19A1 at 15-19; 19B1 at 47-49.)
- 24. The Applicant testified about its community outreach about the Project, including:
 - Three presentations to ANC 6D that were made on October 15, 2019, October 21, 2019, and December 9, 2019; and
 - A meeting with the residents of the Velocity Building on November 12, 2019. (Ex. 2.)

Post-Hearing Statement

- 25. The Applicant's Post-Hearing Statement responded to the Commission's requests for additional information at the end of the public hearing as follows:
 - (a) An update regarding the Applicant's meeting with the Velocity Building residents on January 15, 2020;
 - (b) Information regarding the challenges associated with installing solar panels on the penthouse roof; and
 - (c) The projected Affordable Housing Trust Fund payment for the proposed penthouse habitable space.

Second Post-Hearing Statement

- 26. The Applicant responded to the requests of the Commission at the January 27, 2020, public meeting in the Second Post-Hearing Submission as follows:

- (a) A light study of the Project and additional information regarding the potential impacts from the Project’s interior office lighting and from potential “peekaboo” views into the Velocity Building;
- (b) Commitments to install programmable mechanical blinds on the north side of the proposed addition, which can be programmed to adjust in order to minimize visibility between the Project and the Velocity Building;
- (c) Commitments to conduct a review of offices in the existing building to ensure that all light switches on the north side of the building operate on motion sensors and replace any lights that are not motion-triggered; and
- (d) A commitment to install the solar panels that were shown in the updated penthouse plan attached to the submission.

Opposition to the ANC’s Motion to Postpone

27. The Applicant’s opposition to ANC 6C’s motion to postpone detailed its communications with the ANC and with the other stakeholders potentially affected by the Project, including the residents of the Velocity Building. The Applicant also noted that it had provided the information requested by the Commission at the January 9, 2020, public hearing and the January 27, 2020, public meeting.

Responses to the Application

OP Report

28. OP filed a report, dated December 30, 2019 (the “OP Report”), recommending approval of the Application and it testified in support at the public hearing. (Ex. 11.) OP examined the Project against the design review criteria and found that the Project satisfied each relevant condition of Subtitle I, Chapter 7, and the general special exception standards of Subtitle X, Chapter 9. (Subtitle I § 701.2(a).)
29. OP also found that the Project is not inconsistent with the designations for the Property on the CP’s GPM and FLUM. Similarly, OP concluded that the Project conforms to and furthers policies in the CP’s Land Use, Transportation, Environmental Protection, Economic Development, and Urban Design Elements.
30. The OP Report requested that the Applicant provide:
- (a) A LEED checklist for the Project;
 - (b) A calculation of green roof area;
 - (c) A plant material palette for the ground level and roof terrace; and
 - (d) A signage plan.

31. At the January 9, 2020, public hearing, OP stated that the Applicant had satisfactorily addressed OP's requests in the Applicant's Public Hearing Presentation. (Jan. 9 Tr. at 38-39.)

DDOT Report

32. DDOT filed a report dated December 27, 2019 ("DDOT Report"), stating that it had no objection to the approval of the Project, conditioned on the Applicant implementing the TDM and LMP measures included in the updated Transportation Statement, based on the DDOT Report's conclusion that the Property's proximity to public transit, reduced vehicle parking, and robust TDM and Loading Plans would result in the Project having a minimal impact on the surrounding transportation network.

ANC Report

33. ANC 6D submitted a report (the "ANC Report"), stating that at its regularly scheduled and duly noticed public meeting on December 9, 2019, ANC 6D voted not to oppose the Application, contingent upon the Applicant's commitment to make available the public meeting area in the lobby of the Project for monthly community meetings. (Ex. 15.) The ANC Report noted that:

- The ANC had held a November 12, 2019, meeting to provide Velocity Building residents an opportunity to discuss the Project with the Applicant, that it had received letters in opposition to the Project from Velocity Building residents, and that it urged the Commission to take those concerns into account in reaching its decision;
- The Applicant prepared a sun/shadow study at the ANC's request, which shows shadows cast on three additional floors of the Velocity Building during the winter months; (Ex. 9B as updated in Ex. 19A.)
- The ANC is actively working with DDOT to improve pedestrian safety at the intersection of First and L Streets, S.E. in response to neighborhood concerns about additional construction; and
- The ANC supports the Project's use of sustainable materials and the incorporation of local geography, specifically the confluence of the Anacostia and Potomac rivers, into the design.

34. On February 7, 2020, ANC 6C filed a motion requesting the Commission postpone its scheduled February 10, 2020, decision meeting because the ANC had not yet had a chance review the light study with the Applicant and wanted further clarification from the Applicant, including the potential of installing sensors and shades in the Project to further mitigate light impacts. (Ex. 26.)

35. At the February 10, 2020, decision meeting, the Commission voted to deny the ANC's motion, noting that the Commission believed that the Applicant had provided comprehensive responses to the main concerns raised by the ANC Report, the residents of

the Velocity Building, and the Commission. (February 10, 2020 [“Feb. 10”] Public Meeting Tr. at 10-12.)

Other Responses

36. Several residents of the Velocity Building submitted letters in opposition to the Project. (Ex. 14, 16, 17, 18.) Their concerns regarding the Project were:
 - Impacts to views available from south-facing units and from the Velocity Building’s rooftop amenities;
 - Impacts to light from the proposed addition;
 - Questions regarding the Applicant’s shadow study;
 - Potential impact to pedestrian and bicycle safety created by additional shadows being cast on the intersection of First and L Streets, S.E.;
 - Construction impacts;
 - Increased development in the surrounding area; and
 - Potential environmental impacts from the proposed addition.
37. Three Velocity Building residents – Jordan Cox, Bob Jacobs, and Caroline Ash – testified in opposition to the Project at the January 9, 2020, public hearing.
38. The Velocity Building residents who testified at the hearing, reported on their January 15, 2020, meeting with the Applicant through letters submitted on January 20, 2020, in which they stated their concerns with the Project’s light pollution and construction. (Ex. 22-24.)

CONCLUSIONS OF LAW

1. Section 8 of the Zoning Act of 1938 authorizes the Commission to review and approval of the Application. (D.C. Official Code § 6-641.01 (2019 Repl).)
2. The Commission concludes that the Application has satisfied the Design Review requirements of Subtitle I §§ 616.6 and 616.8, which require the Application meet the criteria of Subtitle I § 701.1, as detailed below.

M and South Capitol Streets Sub-Area Design Review Criteria (Subtitle I § 701.2.)

Satisfaction of the General Special Exception Criteria (Subtitle I § 701.2(a).)

3. The Commission concludes that Project satisfies the general special exception criteria of Subtitle X, Chapter 9:
 - (a) *Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;*
 - (b) *Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and*
 - (c) *Will meet such special conditions as may be specified in this title.*
4. The Commission concludes that the Project will:

- Be harmonious with the general purpose and intent of the Zoning Regulations and Zoning Maps for the D-5 zone;
 - Comply with the development standards, particularly the height and density are consistent with that envisioned for the D-5 zone;
 - Introduce an attractive and interesting design to the area that strengthens the building's corner presence and contributes to the pedestrian streetscape; and
 - Create more office space in the Central Employment Area and enable the building to accommodate a new single tenant in furtherance of the District's economic development goals.
5. The Commission also concludes that the Project will not adversely affect the use of neighboring property because the Project:
- Keeps with the scale of density and height of the surrounding buildings, which consist largely of 10-12-story commercial and residential buildings, and fits appropriately into that context;
 - Renovates and expands an existing office use, which will complement the mix of uses in Navy Yard and continue to generate daytime commercial activity in the area;
 - Is thoughtfully designed to minimize any impacts on adjacent properties, including the Velocity Building to the north; and
 - Will maintain the current site vehicular circulation that serves to mitigate any transportation impacts associated with the building as confirmed by the Applicant's Traffic Study and the DDOT Report.
6. As regards the potential adverse effects raised by the Velocity Building residents, the Commission concludes that the Applicant has adequately responded in its submissions and testimony, to the extent the potential adverse impacts are relevant to the design review criteria applicable to the Application, as follows:
- (a) Potential shadow impacts – the Commission credits the shadow study submitted by the Applicant, which shows very little impact to the light available the Velocity Building during the majority of the year, with a relatively minor impact during the winter months. The Commission notes that there is no impact shown at any point in the year to the upper-story units occupied by Mr. Cox and Mr. Jacobs. Although questions were raised at the public hearing regarding the accuracy of the shadow study because the Applicant's initial study (Ex. 9B) did not show the Velocity Building's partially below-grade level visible on the south facing façade along L Street, S.E., the Commission notes that the Applicant updated the shadow study to show this below-grade level (Ex. 19A), and concludes that this minor discrepancy does not undercut the otherwise accurate depiction in the studies of shadows cast by the Project across the year;
- (b) Potential light pollution impacts – the Commission credits the Applicant's light study that shows the light traveling to the Velocity Building will be minimal. (Ex. 25B.) The Commission also notes that the Applicant has offered to install programmable mechanical blinds on the north side of the proposed addition, which

can be programmed to adjust in order to minimize visibility between the Project and the Velocity Building; and to conduct a review of offices in the existing building to ensure that all light switches on the north side of the building operate on a motion sensor, and will replace any lights that are not motion-triggered;

- (c) Potential construction impacts – the Commission notes that construction impacts are not within the Commission’s jurisdiction in considering a design review application. As regards the concerns raised at the public hearing about potential asbestos removal and hazardous material abatement, the Commission credits the Applicant’s testimony that the existing building was constructed in 2001, well after asbestos had been banned by the federal government in the 1980s. Further, the Property is already developed with a commercial use and does not require any treatment for hazardous materials; and
- (d) Potential loss of neighbors’ views – the Commission notes that there is no entitlement to a view across another’s property in the District of Columbia. (*See Hefazi v. Stiglitz*, 862 A.2d 901, 911 (D.C. 2004); *Ash v. Tate*, 73 F.2d 518, 519 (D.C. Cir. 1934).)

Satisfaction of the M and South Capitol Streets Sub-Area Design Review Criteria

- 7. The Commission also concludes that the Application meets the M and South Capitol Streets Sub-Area design review criteria as detailed below.

Subtitle I § 701.2(a)(1) - The Project will help achieve the objectives of the sub-area, as set forth in Subtitle I, Chapter 6.

- 8. The Project achieves the objectives of the M and South Capitol Streets Sub-Area that are set forth above and outlined in Subtitle I § 616.1, because the Property will:
 - Have no impact on the axial views of the Capitol Dome due to the Property’s location between Half and First Streets, S.E., which does not abut any of the axial thoroughfares running from the Capitol, such as South Capitol Street or New Jersey Avenue; and
 - Further the development of a high-density mixed-use corridor north of the Capitol Gateway neighborhood by updating the existing building and strengthening the stock of commercial office buildings in the area, which will help to continue generating an appropriate level of daytime activity in the neighborhood.

Subtitle I § 701.2(a)(2) - The Project will be in context with the surrounding neighborhood and street patterns.

- 9. The Project is consistent with the other development and uses in the surrounding area, which consist primarily of a mix of high-density office buildings, hotels, and multifamily residential buildings, as well as National Park, one block south of the Property. The surrounding buildings are generally 10-12 stories in height and, like the existing building on the Property, focus pedestrian entrances along M and First Streets, S.E., with service access more frequently accommodated along L Street. In addition, the Project will contribute to the streetscape and pedestrian environment, shifting the building entrance slightly east to reemphasize the corner at M and First Streets, S.E., and strengthen the building’s presence at this intersection. The corner emphasis in the design will better

animate the streetscape with the wood soffit features and steel Y-shape supports and columns.

Subtitle I § 701.2(a)(3) - The Project will minimize conflict between vehicles and pedestrians.

10. The Project will minimize any potential conflicts between vehicular and pedestrian traffic by maintaining the existing vehicular access to the Project on L Street, S.E., and so keep the Project's loading facilities and garage entrance off the primary designated segment of M Street, S.E., where pedestrian traffic is largely concentrated.

Subtitle I § 701.2(a)(4) - The Project will minimize unarticulated blank walls adjacent to public spaces through façade articulation.

11. The proposed building façades are highly articulated and defined and incorporate high-quality building materials. The proposed vertical addition will consist of glass curtainwall with metal trim on all façades and metal panel and terracotta accents to complement the glass façade. The building columns at the ground level will receive new metal panel column covers with accents, and a new metal panel apron will highlight a new wood soffit at the existing recessed entry. The design will elevate the building's street presence by strengthening focus at the corner of M and First Streets, S.E., through the textural contrast between the timber and steel features and the artful expression of the wood soffits will help to elevate this portion of M Street, S.E.

Subtitle I § 701.2(a)(5) - The proposed building will minimize impact on the environment, as demonstrated through the provision of an evaluation of the proposal against LEED certification standards.

12. The Project is pursuing LEED certification for new construction. Some of the key "green" features being pursued include low flow plumbing fixtures, green roof, mass timber structure, a VRF mechanical system, and energy efficient destination dispatch elevators. The Project also utilizes the new mass timber construction method that offers environmental benefits and a reduced carbon footprint. These features will minimize the impact of the Project on the environment and will further the District's environmental and sustainability policy objectives.

"Great Weight" to the Recommendations of OP

13. The Commission must give "great weight" to the recommendation of OP, pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl)) and Subtitle Z § 405.8. (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1086-87 (D.C. 2016).)
14. The Commission finds OP's analysis of the Project and recommendation to approve the Application persuasive and concurs with that judgment.

"Great Weight" to the Written Report of the ANC

15. The Commission must give great weight to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl))

and Subtitle Z § 406.2. To satisfy this great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted).)

16. The Commission concludes that the ANC Report’s issues and concerns about potential impacts on the surrounding properties by increased shade and by traffic and pedestrian safety have been satisfactorily addressed by the Applicant’s responses to the ANC Report.
17. The Commission also notes that the ANC Report was mindful of concerns raised by the Velocity Building residents. The Commission continued its decision on this case twice to allow the Velocity Building residents additional time to communicate their concerns directly to the Applicant. The Commission notes that the Applicant made several commitments to mitigate these potential concerns, including commitments to install programmable mechanical blinds on the north side of the proposed addition to minimize visibility between the Project and the Velocity Building; and to conduct a review of offices in the existing building to ensure that all light switches on the north side of the building operate on a motion sensors, and replace any lights that are not motion-triggered. Therefore, the Commission concludes that the concerns of the Velocity Building residents, as referenced by the ANC Report, have been addressed.

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia concludes that the Applicant has satisfied its burden of proof and therefore orders **APPROVAL** of the Application for Design Review approval under Subtitle I §§ 616.6, 616.8, and 701, subject to the following conditions, standards, and flexibility:

1. **Project Development.** The Project shall be built in accordance with the plans and elevations dated December 20, 2019, and marked as Exhibit 9A1-9A3 and supplemented by Exhibit 19A1-19A2 and Exhibit 19B1-19B2, and by Exhibits 25B, 25C, and 25D of the record (the “Approved Plans”), subject to the following design flexibility from the Approved Plans:
 - (a) Interior Components: To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atria, and mechanical rooms, provided that the variations do not change the exterior configuration of the building as shown on the plans approved by the Order;
 - (b) Exterior Materials – Color: To vary the final selection of the colors of the exterior materials based on availability at the time of construction, provided such colors are within the color ranges shown on the plans approved by the Order;

- (c) Exterior Details – Location and Dimension: To make minor refinements to the locations and dimensions of exterior details that do not substantially alter the exterior configuration of the building or design shown on the plans approved by the order. Examples of exterior details would include, but are not limited to, doorways, canopies, railings, and skylights;
- (d) Parking Layout: To make refinements to the approved vehicular and bicycle parking configuration, including layout and number of parking space plus or minus 10%, so long as the number of parking spaces is at least the minimum number of spaces required by the Zoning Regulations;
- (e) Streetscape Design: To vary the location, attributes, and general design of the approved streetscape to comply with the requirements of, and the approval by, the DDOT Public Space Division; and
- (f) Signage: To vary the final design of the signage for the Project, subject to full compliance with applicable signage restrictions under the D.C. Building Code and consistent with the indicated dimensions shown on sheet 29, Exhibit 19A2, of the Final Plans.

2. **Prior to the issuance of a Certificate of Occupancy**, the Applicant shall demonstrate that it has:

- (a) Installed the solar panels shown in the updated penthouse plan submitted as Exhibit 25C;
- (b) Installed programmable mechanical blinds on the north side of the proposed addition, which can be programmed to adjust in order to minimize visibility between the Project and the Velocity Building; and
- (c) Conducted a review of offices in the existing building to ensure that all light switches on the north side of the building operate on a motion sensor, and has replaced any lights that are not motion-triggered.

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

- (a) Transportation Management Coordinators (“TMC”) will be designated for the planning, construction, and operations phases of the development. Contact information for the TMC will be provided to goDCgo. The TMC will receive TDM training from goDCgo to learn about the TDM conditions for this project and available options for implementing the TDM Plan. The TMC will act as a liaison with DDOT, goDCgo, and Zoning Enforcement. The position may be part of other duties assigned to the individual;

- (b) The TMC will develop, distribute, and market information regarding transportation options to tenants of the building and will promote transportation events, such as Bike to Work Day, National Walking Day, and Car Free Day;
- (c) The TMC will notify goDCgo each time a new tenant moves into the building and will provide TDM information to each tenant when they move in;
- (d) **Following the issuance of a certificate of occupancy**, the TMC will conduct an annual commuter survey of employees on-site, and report TDM activities and data collection efforts to goDCgo once per year. All employer tenants must survey their employees and report back to the TMC;
- (e) The TMC will demonstrate to goDCgo that tenants with 20 or more employees are in compliance with the DC Commuter Benefits Law by participating in at least one of the three transportation benefits outlined in the law (employee-paid pre-tax benefit, employer-paid direct benefit, or shuttle service), as well as any other commuter benefits related laws that may be implemented in the future;
- (f) The property management website will include information on and/or links to current transportation programs and services, such as:
- Capital Bikeshare;
 - Car-sharing services;
 - Ride-hailing services (e.g. Lyft or Uber);
 - Transportation Apps (e.g. Metro, Citymapper, Spotcycle, Transit), goDCgo.com;
 - Commuter Connections Rideshare Program, which provides complimentary information on a variety of commuter programs to assist in determining which commuting options work best for commuters;
 - Commuter Connections Guaranteed Ride Home, which provides commuters who regularly (twice a week) carpool, vanpool, bike, walk or take transit to work with a free and reliable ride home in an emergency; and
 - Commuter Connections Pools Program, which incentivizes commuters who currently drive alone to carpool. Participants can earn money for carpooling to work and must complete surveys and log information about their experience;
- (g) The TMC will provide employees who wish to carpool with detailed carpooling information and will be referred to other carpool matching services sponsored by the Metropolitan Washington Council of Governments (“MWCOG”) or other comparable service if MWCOG does not offer this in the future;
- (h) Forty-three long-term secure bicycle spaces will be provided on the P1 level of the garage. Six additional short-term bicycle spaces (in addition to the six existing spaces) will be provided in public space on First Street, S.E;
- (i) A bicycle repair facility will be provided on the P1 level of the garage;

- (j) Shower and changing facilities will be provided in the building for employees who bike, walk, or jog to work. In accordance with ZR16, four showers and 25 lockers will be provided;
- (k) Two electric vehicle charging stations will be provided in the garage;
- (l) A minimum of two parking spaces located in convenient locations in the garage near the elevator lobby will be designated for carpools and/or vanpools;
- (m) The cost of parking spaces for tenants will be unbundled from leases;
- (n) A free SmarTrip card and one complimentary Capital Bikeshare coupon good for a free ride to each new employee;
- (o) Applicant will not lease unused parking spaces to anyone aside from tenants of the building (e.g., will not lease to other nearby office employees, single-family home residents, or sporting events). Hourly and daily public parking is still permitted;
- (p) **Prior to the issuance of a Certificate of Occupancy** for the Project, the Applicant shall install missing street trees along the property's First Street, S.E. frontage. The Applicant shall be excused from this requirement if it submits a letter from DDOT confirming that utilities conflict with the installation of three- or four-foot tree boxes;
- (q) **Prior to the issuance of a Certificate of Occupancy** for the Project, the Applicant shall include a CaBi expansion plate for the adjacent Capital Bikeshare station up to an amount of \$8,100;
- (r) **Following the issuance of a certificate of occupancy** for the Project, the TMC shall submit documentation used to summarize compliance with the transportation and TDM conditions of the Order (including, if made available, any written confirmation from the Office of the Zoning Administrator) to the Office of Zoning for inclusion in the IZIS case record of the case; and
- (s) **Following the issuance of a certificate of occupancy** for the Project, the Transportation Coordinator will submit a letter to the Zoning Administrator, DDOT, and goDCgo every five years (as measured from the final certificate of occupancy for the Project) summarizing compliance with the transportation and TDM conditions in the Order.

4. **Loading Management Plan Measures. For the life of the Project,** the Applicant shall adhere to the following LMP measures:

- (a) A loading dock manager will be designated by the building management who will be on duty during delivery hours. The dock manager will be responsible for

coordinating with vendors and tenants to schedule deliveries and will work with the community and neighbors to resolve any conflicts should they arise;


- (b) A lease provision will require all tenants to use only the loading area for all deliveries and move-in and moveout activities;
- (c) All tenants will be required to schedule deliveries that utilize the loading area (any loading operation conducted using a truck 20 feet in length or larger);
- (d) The dock manager will schedule deliveries using the berths such that the dock's capacity is not exceeded. In the event that an unscheduled delivery vehicle 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 to not compromise safety or impede [drive aisle, street, alley, intersection] functionality;
- (e) 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 L Street, S.E., except during those times when a truck is actively entering or exiting a loading berth;
- (f) Service vehicle/truck traffic interfacing with L Street, S.E., will be monitored during peak periods and management measures will be taken, if necessary, to reduce conflicts between truck and vehicular movements;
- (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 goDCgo Motorcoach Operators Guide, and the primary access routes shown on the DDOT Truck and Bus Route Map (godcgo.com/freight); 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 flyer materials, such as the MWCOG Turn Your Engine Off brochure, to drivers as needed to encourage compliance with idling laws. The dock manager will also post these materials and other relevant notices in a prominent location within the loading area.

5. This Application approval shall be valid for a period of two years from the effective date of this Order. Within such time, an application for building permit must be filed as specified in Subtitle Z § 702.2. Construction must begin within three years after the effective date of this Order as specified by Subtitle Z § 702.3.

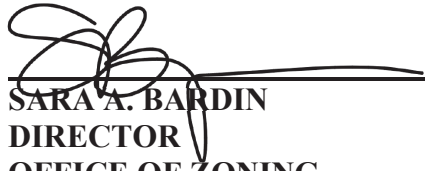
VOTE (Feb. 10, 2020): 5-0-0

(Peter A. Shapiro, Robert E. Miller, Anthony J. Hood, Peter G. May, and Michael G. Turnbull to **APPROVE**)

In accordance with the provisions of Subtitle Z § 604.9, this Z.C. Order No. 19-23 shall become final and effective upon publication in the *D.C. Register*; that is on May 1, 2020.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE §§ 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.