

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 21-13
Z.C. Case No. 21-13
The Douglass, LLC
(NHR Zone Design Review @ Square 5860, Lot 97
[632 Howard Road, S.E.]
November 18, 2021

Pursuant to notice, the Zoning Commission of the District of Columbia (the “Commission”) held a public hearing on November 1, 2021, to consider the application of The Douglass, LLC (the “Applicant”) for Design Review approval for new construction (the “Project”) located on Howard Road, S.E. (Square 5860, Lot 97) (the “Property”) in the Northern Howard Road (“NHR”) Zone District (“Application”). The Applicant requested Design Review approval pursuant to Subtitle K, Section 1005 of Title 11 of the District of Columbia Municipal Regulations (“DCMR”) (Zoning Regulations of 2016, the “Zoning Regulations,” to which all section references are made unless otherwise specified).

The Commission reviewed the Application pursuant to the Commission’s Rules of Practice and Procedures, which are codified in Subtitle Z of the Zoning Regulations. For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

The Application

Notice

1. Pursuant to Subtitle Z § 301.6, on June 4, 2021, 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 Commissions (“ANC”) 8A and 8C, both an “affected ANC” per Subtitle Z § 101.8. The Applicant thereafter presented the Project to ANCs 8A and 8C. (Exhibit [“Ex.”] 3C.)
2. On August 5, 2021, the Applicant filed the Application with required and supportive documentation and plans. (Ex. 1-3E.)
3. Pursuant to Subtitle Z § 402, the Office of Zoning (“OZ”) sent notice of the November 1, 2021 virtual public hearing, to the following on August 16 and 17, 2021:
 - The Applicant;
 - ANC 8A;
 - ANC Single Member District (“SMD”) 8A06;
 - ANC 8C;

- Office of ANCs;
 - The Office of Planning (“OP”);
 - The District Department of Transportation (“DDOT”);
 - The Office of the Attorney General;
 - The Department of Consumer and Regulatory Affairs (“DCRA”);
 - The Department of Energy and Environment (“DOEE”);
 - The Ward 8 Councilmember; Chair of the Council; and the At-Large Councilmembers; and
 - Owners of property within 200 feet of the Property. (Ex. 5, 6.)
4. Pursuant to Subtitle Z § 402, on August 16, 2021, OZ published the Notice of Public Hearing in the August 27, 2021 edition of the *D.C. Register*. (Ex. 4.)
 5. The Applicant posted notice of the hearing on the Property on September 21, 2021, and maintained such notice in accordance with Subtitle Z §§ 402.3; 402.10. (Ex. 8, 13.) The Applicant requested a waiver of the notarization requirement for the posting affirmation, which the Commission granted. (Ex. 7.)

Parties

6. Apart from the Applicant, ANC 8A, and ANC 8C, there were no parties to the proceeding and no requests for party status.

The Property

7. The Property comprises 92,303 square feet of land area on the north side of Howard Road, S.E. and is located in the NHR zone. (Ex. 3.)
8. The Property is located west of the Anacostia Metrorail Station and within view of the Anacostia River. (Ex. 3.)
9. The Property is part of a larger area the Applicant is referring to as The Bridge District, which is intended to be the area on either side of Howard Road in between South Capitol Street, S.E. on the west and the Anacostia Freeway on the east. (Ex. 3.)
10. The Future Land Use Map (“FLUM”) of the Comprehensive Plan (Title 10A of the DCMR, the “Comp Plan” or “Plan”) designates the Property as Mixed Use: High Density Residential; High Density Commercial; and Institutional. The Comp Plan defines this designation as neighborhoods with high rise apartment buildings and commercial areas with the greatest scale and intensity of use in the District. (10-A DCMR §§ 227.8; 227.13.)
11. The Generalized Policy Map (“GPM”) of the Plan designates the Property as a Land Use Change Area. The purpose of Land Use Change Areas is to “encourage and facilitate new development.” (*Id.* § 225.11.)
12. The Property is also subject to the Citywide and Lower Anacostia Waterfront/Near Southwest Area elements of the Comp Plan. (Ex. 3.)

The Project

13. The Applicant proposes to construct a mixed-use building with approximately 734,979 square feet of gross floor area, including approximately 758 residential units and approximately 44,464 square feet of retail use. The Project will provide 359 vehicular parking spaces in a below-grade garage, five loading berths and two delivery spaces, 215 long-term bicycle parking spaces, and 53 short-term bicycle parking spaces. (Ex. 3, 10, 18, 18A1, 18A2, 18C.)
14. The Applicant proposes to construct the Project in a 12-story, 130-foot tall building with an approximate floor area ratio (“FAR”) of 7.96 which will occupy 90% of the Property. (Ex. 3, 10, 18A1.)
15. The ground floor of the Project is approximately 24 feet in height comprised of retail space and residential lobby space. There is a partial mezzanine for two of the retail tenants and some residential amenity space. The residential units begin on the second floor and continue through the penthouse. The penthouse also includes a rooftop pool and residential amenity space. (Ex. 3.)
16. The Applicant indicated two expected retail tenants of the Project. The Applicant intends for the west retail component to be a grocery store and the east retail component of the Project to be occupied by a local brewery and restaurant. The brewery would potentially locate a grain silo on the Property as a visual marker of the tenant and Project. (Ex. 3, 10, 18, 18A1, 18A2.)
17. The 758 residential units would include a mix of studios, one-bedroom, two-bedroom, and three-bedroom apartment units. In accordance with the NHR zoning requirements, the Project will provide 12% of the residential gross floor area and 8% of the penthouse habitable space for Inclusionary Zoning (“IZ”) units, affordable at both the 60% and 50% Median Family Income (“MFI”) levels. Approximately 51.68% of the IZ square footage will be three-bedroom units. Overall, the Project is expected to provide approximately 81,494 square feet of affordable housing, with approximately 42,240 square feet of three-bedroom IZ units. This is expected to equate to approximately 77 affordable units, 28 of which are three bedrooms. Additionally, based on comments from OP and the Commission, the Applicant updated the proposed IZ plan to locate 10 of the three-bedroom IZ units on an outside corner of the south façade along Howard Road, S.E. with balconies. The other three-bedroom IZ units are located at the interior corners of the north façade with views of the Anacostia River. The other IZ units are scattered throughout the building. (Ex. 3, 10, 18, 18A1.)
18. The Project’s massing is broken into three sections over the retail base, each with a distinct façade type. The unifying form of the Project includes the framing of each façade, with each including natural-toned cementitious cladding, significant glazing, and exposed architectural concrete. The Project is further broken up by five terraces beginning at the second floor. Approximately 85% of the residential units have access to private balconies. (Ex. 3, 10, 18, 18A1, 18A2.)

19. The Project’s design includes a planned 360-degree pedestrian circulation. Howard Road serves as a primary pedestrian area with multiple retail and residential access points along the streetscape. The ground floor has high floor-to-ceiling clearance and large windows. The north side of the Project is designed to include a promenade, either on the Property alone or extending onto the Property to the north, which will provide pedestrian and bicycle facilities. The Project also provides two through-points between the south and north. First, a 45-foot public access easement separates the building and provides access to the below-grade garage and loading facilities, while also providing through access and a potential connection to future development to the north. Second, the east side of the Project provides a 30-foot side area that will serve as the break between the Project and the Applicant’s planned future development on the site to the east, which will be pedestrian-focused. (Ex. 3, 10, 18, 18A2.)
20. In accordance with the NHR Zoning requirements, the Project is designed to meet a minimum LEED v.4.1 Gold certification. The Project also includes approximately 14,000 square feet of solar panels designed to generate at least 1% of the Project’s energy needs. (Ex. 3, 10.)

Flexibility Requested

21. The Application requests Design Review approval as required by Subtitle K § 1005 of the Zoning Regulations for a proposed building in the NHR Zone. The Applicant also requested elements of design and implementation flexibility in its pre-hearing letter to the Commission, supplemented by its post-hearing letter to the Commission. (Ex. 10, 18.)

Applicant’s Submissions

22. In addition to the testimony at the public hearing, the Applicant made the following submissions to the record in support of the Application:
 - a. Initial Application and related package dated August 5, 2021, requesting Design Review approval (the “Initial Application”); (Ex. 1-3E11.)
 - b. A Comprehensive Transportation Review (“CTR”) dated September 27, 2021, which included a Transportation Demand Management Plan (“TDM Plan”); (Ex. 9-9B.)
 - c. A prehearing submission dated October 12, 2021 (the “Pre-Hearing Statement”); (Ex. 10-10C.)
 - d. Presentation materials for the November 1, 2021, virtual public hearing (the “Hearing Presentation”); and (Ex. 14A1-14A8.)
 - e. A post-hearing submission dated November 8, 2021 (the “Post-Hearing Statement”). (Ex. 18-18D.)

Responses to the Application

OP Report

23. OP filed a report on October 22, 2021 recommending approval of the Project (“OP Report”), subject to resolution of one issue. OP’s one outstanding concern was that too many of the three-bedroom IZ units were located in interior corners and did not have balconies. The OP Report found that the Application satisfied the Design Review criteria under Subtitle K § 1005 and Subtitle X, Chapter 6. The OP Report further found that the Application would not be inconsistent with the Comprehensive Plan. (Ex. 11.)

DDOT Report

24. DDOT filed a report dated October 19, 2021 (“DDOT Report”), stating that it had no objection to approval of the Project subject to two conditions. (Ex. 12.) The first condition requested revisions to the TDM Plan included in the DDOT Report. The second condition requested ongoing design coordination on the public access easement area. The Applicant agreed to these conditions with further refinements to the TDM Plan components at the November 1, 2021 hearing and in its post-hearing submission. (11/1/21 Transcript [“Tr.”] at 27, 83, 84; Ex. 18, 18C.)

ANC Report

25. ANC 8A submitted a report (“ANC 8A Report”) stating that at its regularly scheduled and duly noticed public meeting on September 7, 2021, ANC 8A voted unanimously to support the Application. (Ex. 15.)
26. ANC 8C submitted a report (“ANC 8C Report” and together with the ANC 8A Report, “ANC Reports”) stating that at a duly noticed public meeting on October 22, 2021, ANC 8C voted unanimously to support the Application because of the enhanced affordability and sustainability measures included in the Project, the attractive building design, the infrastructure improvements along Howard Road and the easement areas that will be made along with the Project, and the design’s focus on the residential experience. (Ex. 16.)

Public Hearing

27. After proper notice, the Commission held a virtual hearing on the Application on November 1, 2021. Britt Snider testified on behalf of the Applicant. Brian Earle of ZGF Architects testified as the Project architect. Rob Schiesel of Gorove Slade testified as the Applicant’s transportation consultant. (Ex. 17.) The Commission qualified both Mr. Earle and Mr. Schiesel as experts in their respective fields at the public hearing.
28. At the hearing, the Applicant presented the Project and responded to questions from the Commission.
29. OP testified at the public hearing in support of the Application. (11/1/21 Tr. at 82.)
30. At the public hearing, DDOT testified that:
- DDOT and the Applicant had agreed on a revised TDM Plan, which the Applicant submitted; and (Ex. 18C.)
 - DDOT supported the Application, but requested the Commission allow flexibility on the design of the private roadway from Howard Road, S.E. to the northern promenade to allow for a more detailed review of the design elements of the public access easement. (11/1/21 Tr. at 83-84.)
31. At the conclusion of the hearing, the Commission asked the Applicant to submit additional information regarding (1) revisions to the three-bedroom IZ unit locations; (2) reconsideration of the southeast corner’s architectural embellishment; (3) the light-colored materials durability; (4) the design of the potential grain silo; (5) the proposed grocery parking facilities; (6) the ability of the promenade to proceed on the Property; and (7) a stand-alone racial equity analysis of the Project.

Post-Hearing Submissions

32. On November 8, 2021, the Applicant filed a post-hearing submission with the following responses to each of the issues raised by the Commission at the November 1, 2021 hearing:
- *Revisions to the three-bedroom IZ unit locations:* The Applicant agreed to shift 10 three-bedroom units from an inside corner on the north side of the Project to an outside corner along Howard Road, N.E., resulting in 10 of the 28 three-bedroom units being on the outside corner along Howard Road, N.E. with balconies. The Applicant submitted updated plans reflecting this change; (Ex. 18, 18A1.)
 - *Reconsideration of the southeast corner's architectural embellishment:* The Applicant submitted updated plans removing the embellishment and replacing it with an eyebrow aligned with the roof edge; (Ex. 18, 18A1.)
 - *The light-colored materials durability:* The Applicant explained in its post-hearing statement that the light-colored cement panels proposed for the building's tower façade are a non-porous, through-body material which prevents water and dirt from seeping in and causing discoloration. The Applicant agreed to change the lightest material from a pearl white frame to a metal panel, with an even smoother surface that will reduce dirt build up, as shown in the updated plans; (Ex. 18, 18A2.)
 - *The design of the potential grain silo:* The Applicant's updated plans provide the relative size and scale of the potential grain silo at the southern end of the pedestrian promenade; (Ex. 18, 18A2.)
 - *The proposed grocery parking facilities:* The Applicant's post-hearing statement explains that residential and retail parking will be separated with clear wayfinding signage and environmental graphic elements. The updated plans include an access and circulation diagram of the parking garage showing where wayfinding elements and overhead signage will be located as well as the ingress and egress paths for retail and residential parkers; (Ex. 18, 18A2.)
 - *The ability of the promenade to proceed on the Property:* The Applicant states in its post-hearing statement that a pedestrian and bicycle-friendly promenade can be constructed on the Property even if use of the adjacent National Park Service land is not possible, as detailed in the updated plans; and (Ex. 18, 18A2.)
 - *A stand-alone racial equity analysis of the Project:* The Applicant provided a racial equity analysis memorandum as Exhibit B in its post-hearing submission summarizing the Application's commitments to the racial equity goals of the Comprehensive Plan. (Ex. 18B.)
33. The Applicant's post-hearing submission also included a technical memorandum in response to the DDOT Report with an updated TDM Plan addressing DDOT's comments and Draft Findings of Fact and Conclusions of Law. (Ex. 18C-18D.)
34. No other post-hearing submissions were submitted into the record of this case.

CONCLUSIONS OF LAW

Design Approval

1. Section 8 of the Zoning Act of 1938 (D.C. Official Code § 6-641.01 (2019 Repl.)) authorizes the Commission to undertake review and approval of the Project.

2. Pursuant to Subtitle X § 600.1, the purpose of the Design Review process is to:
 - (a) *Allow for special projects to be approved by the Zoning Commission after a public hearing and a finding of no adverse impact;*
 - (b) *Recognize that some areas of the District of Columbia warrant special attention due to particular or unique characteristics of an area or project;*
 - (c) *Permit some projects to voluntarily submit themselves for design review under this chapter in exchange for flexibility because the project is superior in design but does not need extra density, provided that FAR is measured as the aggregate of all buildings within a Voluntary Design Review boundary;*
 - (d) *Promote high-quality, contextual design; and*
 - (e) *Provide for flexibility in building bulk control, design, and site placement without an increase in density or FAR beyond that allowed within the overall Voluntary Design Review application boundary or a map amendment.*
3. The Commission has jurisdiction to grant Design Review approval for the Project pursuant to Subtitle K § 1005 of the Zoning Regulations.
4. The Commission makes the following conclusions of law based on the information provided in the record, including testimony provided at the hearing, the Applicant's statements, the OP Report, the DDOT Report, and the ANC Reports.

Satisfaction of the NHR Design Review Criteria (Subtitle K § 1005)

5. The Commission concludes that the Application meets the NHR Design Review criteria as detailed below.

Subtitle K § 1005.2(a) – The Project will help achieve the objectives of the NHR zone defined in Subtitle K § 1000.1.

6. The Project helps achieve the NHR zoning objectives through providing the preferred residential use with a variety of unit types in a high-density building constructed with high quality materials in a superior design and significant pedestrian and bicycle infrastructure improvements.

Subtitle K § 1005.2(b) – The Project will help achieve the desired use mix, with the identified preferred uses specifically being residential, office, entertainment, retail, or service uses.

7. The Project helps achieve the desired use mix with a focus on primarily residential use and neighborhood serving retail, including a grocer and eating and drinking establishments.

Subtitle K § 1005.2(c) – The Project will provide streetscape connections for future development on adjacent lots and parcels, and be in context with an urban street grid.

8. The Project includes a 45-foot wide public access easement that will provide access for future development. Additionally, the public access easement divides the Property into segments, with approximately 264 linear feet of building to the west and approximately 140 feet to the east, mimicking an urban street grid.

Subtitle K § 1005.2(d) – The Project will minimize conflict between vehicles, bicycles, and pedestrians.

9. The Project minimizes conflicts by only providing one curb cut for vehicular access, creating pedestrian- and bicycle-only areas including the 30-foot access on the east side of the Property and the promenade on the north, as well as streetscape improvements along Howard Road, S.E.

Subtitle K § 1005.2(e) – The Project will minimize unarticulated blank walls adjacent to public spaces through facade articulation.

10. The Project does not include any unarticulated blank walls, instead providing high articulation on each façade. The façade articulation includes a variety of building materials, terraces, and balconies.

Subtitle K § 1005.2(f) – The Project will minimize impact on the environment, as demonstrated through the provision of an evaluation of the proposal against LEED certification standards.

11. The Project is designed to achieve LEED v.4.1 Gold certification standards for New Construction. Some of the key “green” features include approximately 14,000 square feet of solar panels, green roof cover, stormwater collection and healthy, low-embodied carbon material selection.

Subtitle K § 1005.2(g) – The Project will promote safe and active streetscapes through building articulation, landscaping, and the provision of active ground level uses.

12. The Project will activate the Howard Road, S.E. and the northern park-facing sides of the Project and the east side meant to connect to future development. The ground floor has a minimum clear height of 14 feet with glass windows and multiple pedestrian entrances. These active, ground floor uses create a vibrant streetscape.

Subtitle K § 1005.3(a) – The Applicant provided a report on coordination by the applicant with the Department of Employment Services (DOES) regarding apprenticeship and training opportunities during construction and operation at the subject site, and the provision of any internship or training opportunities during construction and operation at the subject site, either with the applicant or with contractors working on the project independent of DOES.

13. The Applicant included information on its ongoing apprenticeship and training program, through which it has employed eight local students, thus far, in the Initial Application. Once construction on the Project begins, the Applicant has stated it will also provide internship opportunities specific to construction for students.

Subtitle K § 1005.3(b) – The Applicant provided a report on efforts by the applicant to include local businesses, especially Wards 7 and 8 businesses, in contracts for the construction or operation of the proposed project.

14. The Applicant reported in the Initial Application that it was working with a temporary retailer and a local construction company, both Ward 8 businesses, on the Project and continues to work with the Anacostia BID regarding local contractors to work with for site cleanup.

Subtitle K § 1005.3(c) – The Applicant provided a report on efforts by the applicant to provide retail or commercial leasing opportunities to small and local businesses, especially Ward 8 businesses, and efforts to otherwise encourage local entrepreneurship and innovation.

15. The Applicant committed to providing a 10% discount on rent for local retailers at the Project.

Subtitle K § 1005.3(d) – The Applicant provided a report on coordination by the applicant with the State Archaeologist and any plans to study potential archeological resources at the subject site, and otherwise recognize local Anacostia history.

16. In the Initial Application, the Applicant reported that it was working with the State Historic Preservation Office regarding the Phase I and Phase I-B studies undertaken at the Property already and the planned Phase I-B/II study in the future.

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

17. The Commission concludes that the Application meets the first prong of the general Design Review criteria – to not be inconsistent with the Comp Plan – because the Application does not contradict any relevant provisions of the Comp Plan and in fact furthers several principles and elements of the Comp Plan as detailed below.

18. The FLUM designates the Property as appropriate for Mixed Use: High Density Residential, High Density Commercial, and Institutional uses. The NHR Zone is intended to provide for high-density, mixed-use development. Accordingly, the Commission finds that the Project is not inconsistent with the Property’s FLUM designation.

19. The GPM designates the Property a Land Use Change Area. These areas represent vacant or underutilized land where the District envisions a change from the land use currently in existence. The Property will replace currently vacant land with substantial new housing, retail uses, and quality architectural design adjacent to the Anacostia River. Accordingly, the Commission finds that the Project is not inconsistent with the GPM.

20. The Project will provide a new mixed-use development in a currently vacant area envisioned for future high-density development under the Plan. The Project furthers a number of policies of the Comp Plan’s Citywide elements as described below:

- a. Land Use Element. *Policy LU-1.2.2.: CEA; Policy LU-1.2.4: Urban Mixed-Use Neighborhoods; Policy LU-1.4.1: Station Areas as Neighborhood Centers; Policy LU-1.4.2: Development Around Metrorail Stations; Policy LU-1.4.3: Housing Around Metrorail Stations; Policy LU-1.4.3: Affordable Rental and For-Sale Multi-family Housing Near Metrorail Stations.* The Project will begin the development of The Bridge District, a mostly vacant Metro-adjacent large site. The Project provides significant housing and retail use in an area designated for high-density use in a highly designed building. Additionally, as part of the NHR Zone, the Project provides high levels of affordable housing at deeper levels of affordability than typically required in the District;
- b. Transportation Element. *Policy T-1.1.4: Transit-Oriented Development; Policy T-1.2.3: Discouraging Auto-Oriented Uses; Policy T-2.3.1: Better Integration of Bicycle and Pedestrian Planning; Policy T-2.3.2: Bicycle Network; Action T-2.3.B: Bicycle Facilities; Policy T-2.4.1: Pedestrian Network; Policy T-2.4.2: Pedestrian Safety.* The Property is adjacent to the Anacostia Metrorail Station and is designed to encourage bicycling and walking, as it includes streetscape improvements and bicycle infrastructure. Altogether, the Project encourages the employment of diverse

- modes of transportation by providing the infrastructure for, or being designed for, the use of walking, biking, and using public transportation;
- c. Housing Element. *Policy H-1.1.1: Private Sector Support; Policy H-1.1.4: Mixed-Use Development; Policy H-1.1.7: Large Sites; Policy H-1.2.3: Affordable and Mixed-Income Housing; Policy H-1.2.11: Inclusive Mixed-Income Neighborhoods; Policy H-1.3.1: Housing for Larger Households*. The Project will provide approximately 758 new residential units where none are currently located. This will include a high percentage of affordable housing, including three-bedroom affordable units. Finally, this new housing will be provided in close proximity to a Metrorail station;
 - d. Environmental Protection Element. *Policy E-1.1.5: Resilient Infrastructure; Policy E-1.1.6: Floodplains, Waterfronts, and Other Low-Lying Areas; Policy E-2.1.2: Tree Requirements in New Development; Policy E-3.2.7: Energy-Efficient Building and Site Planning; Policy E-4.1.2: Using Landscaping and Green Roofs to Reduce Runoff*. The Project is designed to achieve LEED v. 4 Gold certification for new construction, incorporating several sustainable measures, including significant solar panels. Additionally, the Project incorporates trees, landscaping, and other green space as part of the Project. Finally, the Project will be elevated out of the 500-year flood plain to increase the resiliency of the Project;
 - e. Economic Development Element. *Policy ED-2.2.1: Expanding the Retail Sector; Policy ED-2.2.4: Support Local Entrepreneurs; Policy ED-2.2.6: Grocery Stores and Supermarkets; Policy ED-2.2.9: Clustered Retail at Transit*. The Project provides approximately 44,464 square feet of retail and restaurant use, including space for a grocery store. This provision of retail creates Howard Road, S.E. as a retail corridor coming from the Anacostia Metrorail station. Additionally, the Applicant has agreed to provide incentives for small, local businesses to occupy space at the Project by offering local retailers a 10% discount on retail space at the Project; and
 - f. Urban Design Element. *Policy UD-1.3.3: Innovative and Resilient Waterfront Development; Policy UD-2.1.1: Streetscapes That Prioritize the Human Experience; Policy UD-2.1.7: Streetscapes That Encourage Activation; Policy UD-4.2.1: Scale and Massing of Large Buildings; Policy UD-4.2.2: Engaging Ground Floors*. The Project is highly designed and has been raised out of the 500-year floodplain. Additionally, the Project's design creates an activated ground floor with an enhanced pedestrian experience. Finally, the Building includes façade variations, courtyards, and balconies to provide significant articulation and avoid repetitiveness in the design.
21. The Project furthers the themes and principles of the Framework Element. The Project furthers the Element's themes relating to resilience, inclusivity, and equity by elevating the Property out of the 500-year flood plain, creating new market-rate and affordable housing where none exists, and a focus on sustainability, job creation, and economic access to the Project.
 22. The Project is not inconsistent with the Lower Anacostia Waterfront/Near Southwest Area Element and promotes the following policies: *Policy AW-1.1.2: New Waterfront Neighborhoods; Policy AW-1.1.3: Lower Anacostia Waterfront Infrastructure for Flood Mitigation; Policy AW-2.4.3: Poplar Point Mixed-Use Neighborhood; Policy AW-2.4.5:*

Scale of Development at Poplar Point. The Project provides a highly-designed building on a vacant property with significant housing, including family-sized units and affordable housing, all outside of the 500-year floodplain. Additionally, the Project emphasizes pedestrian interactivity with ground-floor retail and restaurant use, all proximate to the Anacostia waterfront.

23. The Plan requires the Commission to apply a racial equity lens to all decisions. (10-A DCMR §§ 213.6, 213.7, 2501.7.) The Commission concludes that, when examined through a lens of racial equity, the Project is consistent with the Plan’s goals around improving racial equity in the District. The Project’s substantial housing and affordable housing, while not displacing any existing residents, the job training and long-term job creation, business opportunities, sustainability measures furthering goals of environmental justice, and components helping create a healthy community, all directly further the racial equity goals outlined in the Plan.

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

Subtitle X § 604.6 – The Zoning Commission shall find that the proposed design review development will not tend to affect adversely the use of neighboring property and meets the general special exception criteria of Subtitle X, Chapter 9.

24. The Commission concludes that the 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.*
25. The Project will not affect neighboring properties adversely. While the Project’s scale will generate new shadow, there are very few buildings nearby. The two buildings that are nearby are south of the Project, so they should not see shadow impact. The Project would be visible from some portions of the Anacostia neighborhood, but that change in views should not have an unacceptable negative impact on residents. The scale of the Project is also consistent with the intent of the Regulations, which permit the proposed height and FAR.

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

26. The Commission concludes that the Project is consistent with the urban design criteria pursuant to Subtitle X § 604.7, as described below, and in such a way that the Project is superior to a matter-of-right development.

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

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

27. The Property fronts on Howard Road and provides multiple pedestrian entrances along this frontage. Additionally, the ground floor is almost entirely devoted to active retail and restaurant use and provides floor-to-ceiling heights in excess of 14 feet and majority glass walls to create an interactive pedestrian environment. The Project also provides no direct access off of Howard Road to parking or loading, instead only providing access through the public access easement area.

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

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

28. The Project includes public open space through the public access easement area, the pedestrian access area on the east, and the planned promenade connecting to the Property on the north side. Additionally, the Project includes significant open space through the terraces in the Building, providing gathering spaces for the new residents.

Subtitle X § 604.7(c) – New development respects the historic character of Washington’s neighborhoods, including:

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

29. The Project does not affect the historic character of Washington’s neighborhoods. The Project is being developed in a largely undeveloped area. However, the Project is designed to respect the visual connection to the Anacostia River and the new Frederick Douglass Memorial Bridge.

Subtitle X § 604.7(d) – Buildings strive for attractive and inspired façade design, including:

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

30. The Project provides pedestrian-oriented street-frontage designs, including high ceiling clearance and glass windows at the ground floor creating pedestrian interactivity. Additionally, the Project’s east access area, planned promenade, and public access easement area focuses on pedestrians. The Project’s materiality also focuses on the pedestrian experience through the use of a diverse mix of natural and biophilic materials.

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

31. The Project seeks to integrate vegetation into spaces throughout, utilizing spaces at ground-level, green walls, multiple rooftop terraces, and green roof plantings.

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

- (1) *Pedestrian pathways through developments increase mobility and link neighborhoods to transit;*
 - (2) *The development incorporates transit and bicycle facilities and amenities;*
 - (3) *Streets, easements, and open spaces are designed to be safe and pedestrian friendly;*
 - (4) *Large sites are integrated into the surrounding community through street and pedestrian connections; and*
 - (5) *Waterfront development contains high quality trail and shoreline design as well as ensuring access and view corridors to the waterfront.*
32. The Project open space design is coordinated with other current and proposed local improvements to both pedestrian and bicycle circulation. Future adjacent shared and dedicated bike/pedestrian facilities connect to the Anacostia Metro station, the new Frederick Douglass Memorial Bridge, and existing recreational trails along the Anacostia River. Both short and long-term bicycle parking are provided, and the future promenade is expected to draw the majority of bicycle traffic off of Howard Road, leaving room to maximize sidewalk width for pedestrians and limiting bicycle/vehicular conflicts.

“Great Weight” to the Written Report of the ANC

33. The Commission is required to give “great weight” to the issues and concerns of the affected ANC expressed in its written report. (§ 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1.309.10(d) (2012 Repl.)) and Subtitle Z § 406.2.) To satisfy this great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978).)
34. Both ANC 8A and ANC 8C recommended approval of the Application. The Commission concurs with both ANCs that the Project should be approved and has given the requisite great weight to the ANC Reports and their recommendations.

“Great Weight” to the Recommendation of OP

35. The Commission is required to give great weight to the recommendations of OP. (D.C. Official Code § 6-623.04 and Subtitle Z § 405.8.) The Commission gives OP’s recommendation to approve the application great weight, concurs with OP, and concludes that the Applicant has appropriately addressed OP’s concern. Accordingly, the Commission has given the requisite great weight to OP’s report and recommendation.

DECISION

In consideration of the above Findings of Fact and Conclusions of Law, the Zoning Commission for the District of Columbia orders **APPROVAL** of the application for Design Review. This approval is subject to the following conditions, standards, and flexibility:

Project Development

1. The Project shall be built in accordance with the plans and elevations dated July 30, 2021, and marked as Exhibits 3E1-3E11 of the record and supplemented by Exhibits 10A1-10A4 dated October 12, 2021, and Exhibits 18A1-18A2 dated November 8, 2021 (collectively, the “Final Plans”), and with the following design flexibility relating to the Final Plans:
 - a. To vary the location and design of all interior components, including but not limited to partitions, structural slabs, doors, hallways, columns, signage, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration or appearance of the building;
 - b. 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;
 - c. 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, balconies, canopies, and trim, such that the refinements do not substantially change the external configuration or appearance of the building;
 - d. To make refinements or revisions, including modifying the projections, required by District agencies, including DDOT or the Public Space Committee, to receive building permits and Certificates of Occupancy for the Project;
 - e. To vary the number of residential units and the residential unit types by plus or minus 10%;
 - f. To vary the number of parking spaces by plus or minus 10% provided that no relief is required;
 - g. To reconfigure the garage layout provided that no relief is required;
 - h. To vary the roof plan as it relates to the green roof areas, solar panels, planters, terraces, pool, equipment, and outdoor amenity areas, provided that no relief is required;
 - i. To vary the signage of the building pursuant to market or tenant demands, subject to D.C. signage regulations;
 - j. To modify the public access easement area, streetscape design, and areas in public space in response to DDOT and the public space permitting process; and
 - k. To modify the location and design of the grain silo, if provided, in coordination with the brewery tenant, if it remains a similar size and scale.

Transportation Demand Management Measures

2. **For the life of the Project**, the Applicant shall adhere to the following TDM plan measures:
 - a. The following Transportation Demand Management (TDM) strategies are proposed for the Project site as a whole:

- (1) Unbundle the cost of vehicle parking from the lease or purchase agreement for each residential unit, and charge a minimum rate based on the average market rate within a quarter mile;
- (2) Identify Transportation Coordinators for the planning, construction, and operations phases of development. There will be a Transportation Coordinator for each tenant and the entire site. The Transportation Coordinators will act as points of contact with DDOT, goDCgo, and Zoning Enforcement;
- (3) Will provide Transportation Coordinators' contact information to goDCgo, conduct an annual commuter survey of employees on-site, and report TDM activities and data collection efforts to goDCgo once per year;
- (4) Transportation Coordinators will develop, distribute, and market various transportation alternatives and options to the residents and customers, including promoting transportation events (i.e., Bike to Work Day, National Walking Day, Car Free Day) on property website and in any internal building newsletters or communications;
- (5) Transportation Coordinators will receive TDM training from goDCgo to learn about the TDM conditions for this project and available options for implementing the TDM Plan;
- (6) Will post "getting here" information in a visible and prominent location on the website with a focus on non-automotive travel modes. Also, links will be provided to goDCgo.com, CommuterConnections.com, transit agencies around the metropolitan area, and instructions for customers discouraging parking on-street in Residential Permit Parking (RPP) zones;
- (7) Provide employees and residents 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;
- (8) Transportation Coordinator will subscribe to goDCgo's residential newsletter;
- (9) Post all TDM commitments on website, publicize availability, and allow the public to see what commitments have been promised;
- (10) Provide a free SmarTrip card to every new employee and resident and a complimentary Capital Bikeshare coupon good for one ride.;
- (11) Will exceed ZR16 short- and long-term bicycle parking requirements by providing 215 long-term spaces and 53 short-term spaces;
- (12) Long-term bicycle storage rooms will accommodate non-traditional sized bikes including cargo, tandem, and kids bikes;
- (13) Following the issuance of a certificate of occupancy for the Project, the Transportation Coordinator shall submit documentation from DCRA summarizing 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;
- (14) Install a Transportation Information Center Display (electronic screen) within the lobby containing information related to local transportation alternatives. At a minimum the display should include information about nearby Metrorail stations and schedules, Metrobus stops and schedules, car-sharing locations (as

- allowed by private companies), and nearby Capital Bikeshare locations indicating the availability of bicycles;
- (15) Provide one (1) electric vehicle charging station per 50 vehicle parking spaces for a total of seven (7) stations;
 - (16) Provide a bicycle repair station in each long-term bicycle parking storage room, for a total of three (3) repair stations;
 - (17) Designate 10 parking spaces in the vehicle parking garage for car-sharing and micromobility services to use with right of first refusal. If an agreement has not been reached with one or more of these services to occupy all of the dedicated spaces, the Applicant will offer one (1) additional year of membership to Capital Bikeshare for each unit (up to 2 memberships per unit) after the building has opened (Additional to those mentioned in the Residential TDM plan listed below);
 - (18) Will identify a location in public space or on private property for a Capital Bikeshare station, subject to DDOT approval, and will fund and construct a concrete pad for DDOT to install a station at a later date; and
 - (19) 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 (5) years (as measured from the final certificate of occupancy for the Project) summarizing continued substantial compliance with the transportation and TDM conditions in the Order, unless no longer applicable as confirmed by DDOT;
- b. The following Transportation Demand Management (TDM) strategies are proposed for the residential portion of the project:
- (1) Provide welcome packets to all new residents that at a minimum, will include the Metrorail pocket guide, brochures of local bus lines (Circulator and Metrobus), carpool and vanpool information, CaBi coupon or rack card, Guaranteed Ride Home (GRH) brochure, and the most recent DC Bike Map;
 - (2) Designate two (2) parking spaces for vans to be used by District residents who vanpool to work;
 - (3) Provide 10 collapsible shopping carts (utility carts) to encourage residents to walk to the grocery store and run errands;
 - (4) The Applicant agrees to not lease unused residential parking spaces to anyone other than tenants of buildings within the Northern Howard Road Zone; and
 - (5) Offer an annual CaBi membership to each unit (up to 2 memberships per unit) for the first year after the building opens; and
- c. The following Transportation Demand Management (TDM) strategies are proposed for the retail portion of the project:
- (1) Transportation Coordinator will demonstrate to goDCgo that tenants with 20 or more employees are in compliance with the DC Commuter Benefits Law and participate in one of the three transportation benefits outlined in the law (employee-paid pre-tax benefit, employer-paid direct benefit, or shuttle service), as well as any other commuter benefits related laws that may be implemented in the future;
 - (2) Will meet ZR16 requirements for showers and lockers for use by employees by providing at least two (2) showers and three (3) lockers; and


- (3) Coordinate a wayfinding plan along walking routes to the property from the Anacostia Metrorail station.

General


3. 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. (Subtitle Z § 702.3.)
4. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §§ 2-1401.01 *et seq.* (Act), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

VOTE (November 18, 2021): **5-0-0** (Robert E. Miller, Peter G. May, Anthony J. Hood, Peter A. Shapiro, and Joseph S. Imamura to **APPROVE**).

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 21-13 shall become final and effective upon publication in the *DC Register*; that is, on January 28, 2022.



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.