

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 22-39**

**Z.C. Case No. 22-39
BD Parcel 2, LLC**

(NHR Design Review at Square 5861, Lot 991 [633 Howard Road S.E.])

March 20, 2023

Pursuant to notice, the Zoning Commission of the District of Columbia (the “Commission”) held a public hearing on March 20, 2023, to consider the application (“Application”) of BD Parcel 2, LLC (the “Applicant”) requesting:

- i. Design Review approval for construction of two mixed-use buildings (the “Project”) located at 633 Howard Road, S.E. (Square 5861, Lot 991) (the “Property”) in the Northern Howard Road (“NHR”) Zone District pursuant to Subtitle K §§ 1004, 1005 and Subtitle X § 604 of Title 11 of the District of Columbia Municipal Regulations (“DCMR”) (the “2016 Zoning Regulations,” to which all section references are made unless otherwise specified);
- ii. Special exception relief from the open court requirements of Subtitle K § 1001.11; the rear yard requirements of Subtitle K § 1001.9; the short-term bicycle parking location requirements of Subtitle C § 804.2; and the long-term bicycle parking shower and locker facilities requirements of Subtitle C §§ 806.4, 806.5; and
- iii. Such other design flexibility as are set forth in the Conditions hereof.

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 September 9, 2022, 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 ANC 8C, both an “affected ANC”¹ per Subtitle Z § 101.8. The Applicant thereafter engaged with ANCs 8A and 8C prior to filing the Application. (Exhibit [“Ex.”] 3E.)

¹ The Property lies within the boundaries of ANC 8A and is directly across the street from ANC 8C.

2. On December 27, 2022, the Applicant filed the Application with required and supportive documentation and plans. (Ex. 1-3F.)
3. By letter dated January 11, 2023, the Office of Zoning (“OZ”) sent notice of the March 20, 2023 virtual public hearing to:
 - The Applicant;
 - ANC 8A;
 - ANC Single Member District (“SMD”) 8A06;
 - ANC 8C;
 - ANC SMD 8C01;
 - Office of ANCs;
 - The D.C. Office of Planning (“OP”);
 - The District Department of Transportation (“DDOT”);
 - The D.C. Department of Buildings Affairs (“DOB”) General Counsel;
 - The D.C. 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. 6, 7.)
4. Pursuant to Subtitle Z § 402, OZ published the Notice of Public Hearing in the January 20, 2023, issue of the *District of Columbia Register* (70 DCR 000699 *et seq.*). (Ex. 5, 6.)
5. The Applicant posted notice of the hearing on the Property on January 25, 2023, and maintained such notice in accordance with Subtitle Z §§ 402.3, 402.10. (Ex. 8, 19.)

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 approximately 116,998 square feet of land area on the south side of Howard Road, S.E. The Property is currently unimproved with permanent structures, but has a temporary food and drink venue which the Applicant states will be relocated to a permanent location within the Bridge District. (Ex. 3.)
8. The Property is located west of the Anacostia Metrorail Station. To the north is Anacostia Park; to the east along Howard Road is a charter school and a D.C. Department of Health facility; to the south and west are South Capitol Street and Suitland Parkway. (Ex. 3.)
9. The Property is part of the area referred to by the Applicant as the “Bridge District,” a collection of several adjacent parcels that are owned by the Applicant on both sides of Howard Road in between South Capitol Street SE on the west and the Anacostia Freeway on the east. The Project is the next phase in the build out of the Bridge District, a new multi-building mixed-use neighborhood that will contain residential, office, neighborhood-serving amenities, and public and publicly-accessible open space. (Ex. 3.)

Zoning

10. The Property is located in the NHR zone. Subtitle K § 1000.2 states that the purposes of the NHR zone are to:

- Assure development of the area with a mixture of residential and commercial uses, and a suitable height, bulk, and design of buildings, as generally indicated in the Comprehensive Plan;
- Encourage a variety of visitor-related uses, such as retail, service, and entertainment;
- Provide for increased height and density associated with increased affordable housing;
- Encourage superior architecture and design in all buildings and publicly accessible outdoor spaces;
- Require preferred ground-level retail and service uses along Howard Road, S.E.;
- Provide for the development of Howard Road, S.E. as a pedestrian- and bicycle-friendly street, with street-activating uses, and connections to metro and the broader neighborhood; and
- Encourage the inclusion of a bicycle track along Howard Road.

11. The NHR zone is intended to permit high-density mixed-use development generally in the vicinity of the Anacostia Metrorail Station along Howard Road. (Subtitle K § 1001.1.) The NHR zone permits a maximum floor area ratio (“FAR”) of 9.0, and requires a minimum residential FAR of 2.5². (Subtitle K §§ 1001.2, 1001.3.) The NHR zone permits a maximum building height of 130 feet. (Subtitle K § 1001.4.) The NHR zone requires development fronting on Howard Road, S.E., such as the Property, to adhere to the preferred use and design requirements of Subtitle K § 1004. The NHR zone also requires development on this Property to comply with the requirements of Subtitle K § 1010.1 regarding rooftop solar panels, Inclusionary Zoning (“IZ”) units set-aside, and stormwater capacity, and not to be constructed within the five-hundred (500)-year flood plain. Further, with respect to IZ, the NHR zone requires residential development to comply with the set-aside, Median Family Income (“MFI”), and three-bedroom units requirements as set forth in Subtitle K § 1002.

Comprehensive Plan (Title 10-A DCMR, the “CP”)

12. The Property is located within an area designated on the Future Land Use Map (“FLUM”) of the CP as Mixed Use (High Density Commercial / High Density Residential / Institutional). The CP describes the Mixed Use FLUM designation as “areas where the mixing of two or more land uses is especially encouraged.” (CP § 227.20.) The general density and intensity of development in Mixed Use areas is determined by the specific mix of uses shown on the FLUM. (*Id.* § 227.21.) In this case, the Mixed Use area on the FLUM within which the Property is located is planned for high density mixed-use development containing commercial, residential, and institutional uses. The CP Framework Element describes the High Density Commercial, High Density Residential, and Institutional FLUM categories as follows:

- The High Density Residential designation is used to define neighborhoods and corridors generally, but not exclusively, suited for high-rise apartment buildings.

² With respect to both, except as allowed/modified based on the provisions in Subtitle K § 1009.

Pockets of less dense housing may exist within these areas. Density is typically greater than a FAR of 4.0, and greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The RA-4 and RA-5 Zone Districts are consistent with the High-Density Residential category, and other zones may also apply; (*Id.* § 227.8.)

- The High Density Commercial designation is used to define the central employment district, other major office centers, and other commercial areas with the greatest scale and intensity of use in the District. Office and mixed office/retail buildings with densities greater than a FAR of 6.0 are the predominant use, although high-rise residential and many lower scale buildings (including historic buildings) are interspersed. The MU-9, D-3, and D-6 Zone Districts are consistent with the High-Density Commercial category, and other zones may also apply; and (*Id.* § 227.13.)
- The Institutional Use designation includes land and facilities occupied and used by colleges and universities, large private schools, hospitals, religious organizations, and similar institutions. While included in this category, smaller institutional uses such as churches are generally not mapped, unless they are located on sites that are several acres in size. Zoning designations vary depending on surrounding uses. Institutional uses are also permitted in other land use categories. (*Id.* § 227.18.)

13. The Generalized Policy Map (“GPM”) of the CP designates the Property as a Land Use Change Area. The purpose of Land Use Change Areas is to “encourage and facilitate new development and promote the adaptive reuse of existing structures.” (*Id.* § 225.11.) The GPM also shows the Property is located within a Future Planning Analysis Area and a Resilience Focus Area. Future Planning Analysis Areas are described in the CP Implementation Element as “large tracts or corridors where future analysis is anticipated to ensure adequate planning for equitable development...” (*Id.* § 2503.2.) It is intended that the planning analysis “shall precede any zoning changes in the area.” (*Id.*) Resilience Focus Areas are described in the CP Land Use Element as areas where future planning efforts are anticipated to ensure resilience to flooding for new development and infrastructure projects, including capital projects, especially in areas within the 100- and 500- floodplains. (*Id.* § 304.8.) In Resilience Focus Areas, the implementation of neighborhood-scale and site-specific solutions, design guidelines, and policies for a climate-adaptive and resilient city are encouraged and expected. (*Id.*)

14. The Property is located within the Lower Anacostia Waterfront/Near Southwest Area Element of the CP. (Ex. 3, 12B.)

The Project

15. The Project entails construction of two mixed-use buildings (“Building 1” and “Building 2”) that will contain approximately 818 residential dwelling units, approximately 151 lodging units, and approximately 24,666 square feet of gross floor area (“GFA”) devoted to ground-floor commercial uses. The Project will contain approximately 529 at-grade and below-grade vehicle parking spaces, four loading berths and one delivery space, approximately 288 long-term bicycle parking spaces, and 52 short-term bicycle parking spaces. (Ex. 3-3B8, 12-12A12, 25-25B.)

16. The Project will be constructed to a maximum height of 130 feet, as measured from the elevation of the curb at the midpoint of the Project along Howard Road, and will have a maximum overall density of approximately 7.9 FAR. Both Building 1 and Building 2 will each have a 20-foot penthouse containing habitable and mechanical space and screened mechanical equipment. (Ex. 3-3B8, 12-12A12, 25-25B.)
17. The approximately 818 residential units will include a mix of studios, one-bedroom, two-bedroom, and three-bedroom apartment units. In accordance with the requirements of the NHR zone (see Subtitle K §§ 1002, 1010.1), the Project will set aside 12% of the residential GFA and 8% of the penthouse habitable space for IZ units, affordable at the 60% and 50% MFI levels. Approximately 50% or more of the IZ square footage will be three-bedroom units. Overall, the Project is expected to provide approximately 91,316 square feet of affordable housing, of which approximately 46,606 square feet will be devoted to three-bedroom IZ units. This is anticipated to equate to approximately 85 affordable units, of which approximately 32 will be three bedrooms. (Ex. 3-3B8, 12-12A12, 25-25B.)
18. Howard Road serves as the Project's primary pedestrian frontage with multiple retail and residential access points along the streetscape. In accordance with the designated streets requirements of the NHR zone (see Subtitle K § 1004), the ground floor of the Project has a minimum clear height of 14 feet and highly transparent storefront. Additional open space is provided along Howard Road with three open-air plazas that will provide outdoor seating and gathering for the public, residential tenants, and retail patrons. In response to comments from OP, the Applicant committed to limiting the extent of the plazas that will be allocated to outdoor retail seating to only the areas identified on the Outdoor Retail Seating and Dining Diagram, as further discussed below. (Ex. 3-3B8, 12-12A12, 25-25B, 26A2.)
19. Vehicular and loading access to the Project will be provided via a single curb cut at the east end of the Property. Utilization of a single curb cut for all vehicular and loading access allows for an uninterrupted streetscape and pedestrian realm along the entire frontage of the Project (approximately 520 feet). (Ex. 3-3B8, 12-12A12, 25-25B.)
20. In accordance with NHR zone requirements, the Project is designed to meet a minimum LEED v.4.1 Gold certification. The Project also includes solar panels arrays designed to generate a minimum of 178 kWh of energy per 1,000 gross square feet of building area annually, which totals approximately 168,696 kWh. (Ex. 3-3B8, 12-12A12, 25-25B.)
21. In accordance with Subtitle C § 302.4, the Project will be constructed in two phases as multiple buildings on a single record lot. Within the single record lot, Building 1 and Building 2 will be located on separate theoretical building sites that will be used for purposes of measuring zoning compliance. (Ex. 3-3B8, 12-12A12, 25-25B.)

Building 1

22. Building 1 contains approximately 356,532 square feet of GFA, of which approximately 333,164 square feet of GFA is devoted to residential use, and approximately 15,200 square feet of GFA is devoted to ground floor retail use. The building contains two-levels of below grade parking with approximately 170 vehicle parking spaces. (Ex. 3-3B8, 12-12A12, 25-25B.)

- 23. Building 1 will contain 11 stories of residential use constructed of mass timber over a 2-story concrete podium that contains residential lobby and amenity spaces; retail; and a recessed plaza for outdoor dining and gathering. Building 1 will also contain a 20-foot penthouse with residential, amenity, and mechanical uses. On the ground-floor, the primary residential lobby and retail uses define the Howard Road street frontage. A second residential lobby, loading facilities, long-term bicycle parking, and a shared drop-off area / porte-cochere are located towards the rear portion of the building. Above the ground-level is resident amenity space and shared outdoor resident terrace that connects to Building 2. The 11 stories of residential use above the podium will contain approximately 337 dwelling units that are organized around an open-air closed court extending through the center of Building 1, providing light and air to interior dwelling units and down to the amenity terrace. (Ex. 3-3B8, 12-12A12, 25-25B.)
- 24. The exterior expression of Building 1 focuses on its mass-timber structure. The façade is composed of a mix of glass and metal panels that offer transparency and depth to the building and highlights the mass timber structure within. The building's southern façade has a stepped, "sawtooth" articulation along Suitland Parkway. The southern façade is further articulated by an organized arrangement of balcony projections that visually enhance the façade, provide private outdoor space for residents, provide passive shading on the southern exposure. Overall, over half of the units within Building 1 have exterior balconies. (Ex. 3-3B8, 12-12A12, 25-25B.)
- 25. Along Howard Road, a vertical recess contains a glass enclosed bridge that connects two sides of the building, creating a visual connection between the street and the building's open spaces, and views to the resident amenity terrace and courtyard. The vertical recess also allows for additional natural light to filter into the building's closed courtyard. Within the vertical recess, a 10-story vertical garden extends through several large balconies that provide shared outdoor space for residents, additional greenery, and visual interest when viewed from Howard Road. (Ex. 3-3B8, 12-12A12, 25-25B.)
- 26. The elevated resident amenity courtyard within Building 1 is accessible both via a staircase in the Building 1 lobby and a monumental stair at the east plaza of Building 2. The landscape design introduces curvilinear features that contrast with the angular expression of the architectural façade design and mass timber construction of Building 1. Finally, an outdoor rooftop terrace is located on the western portion of the building's roof with an elevated pool and adjacent indoor/outdoor lounge area in the building's penthouse. (Ex. 3-3B8, 12-12A12, 25-25B.)

Building 2

- 27. Building 2 contains approximately 561,214 square feet of GFA, of which approximately 408,365 square feet of GFA is devoted to residential use, approximately 99,258 square feet of GFA is devoted to lodging use, approximately 9,466 square feet of GFA is devoted to retail use, and approximately 45,307 square feet of GFA is devoted to structured parking, vehicular access drives, and circulation. The building contains two-levels of below grade parking with approximately 359 vehicle parking spaces. (Ex. 3-3B8, 12-12A12, 25-25B.)

28. Building 2 will be Type I (steel and concrete) construction with a total of 13 stories, plus a 20-foot penthouse. Along Howard Road, the ground floor contains residential and lodging lobby space, retail use, and open-air plaza areas. Long-term bicycle parking, loading facilities, and a second residential lobby and shared drop-off area / porte-cochere are located towards the rear portions of the building. Additionally, screened parking located at grade and on a partial mezzanine provides retail parking for the Project and the broader Bridge District. The second level contains resident amenity space and the shared outdoor resident terrace that connects to Building 1. Rising above the second-level are 11 stories of residential and lodging use with approximately 481 residential dwelling units and approximately 151 lodging units. The dwelling and lodging units are organized around a large, closed court that extends through the center of Building 2, providing light and air to the interior dwelling and lodging units and down to the resident amenity terrace. (Ex. 3-3B8, 12-12A12, 25-25B.)
29. Building 2 is characterized by pronounced clean lines, simple horizontal balcony expression, and masonry façade. The massing and scale of the building is softened by rounded corners, inset vertical glass sections, and large openings in the northern and western façades. The uniformity of the masonry exterior is contrasted by the metallic painted undersides of the balconies which also provide visual interest when viewed from the street. Like Building 1, over half of the dwelling units in Building 2 will have access to private balconies. (Ex. 3-3B8, 12-12A12, 25-25B.)
30. The elevated resident amenity courtyard has a landscape design that extends from the monumental stair that connects to Howard Road. An outdoor rooftop terrace is located on the northern portion of the building's roof with an elevated pool and adjacent indoor/outdoor lounge areas in the building's penthouse. (Ex. 3-3B8, 12-12A12, 25-25B.)

Zoning Relief Requested

31. The Application requests Design Review approval as required by Subtitle K § 1005 of the Zoning Regulations for a proposed building in the NHR zone. As part of the Application, the Applicant requested special exception relief from the open court requirements of Subtitle K § 1001.11, the rear yard requirement of Subtitle K § 1001.9, the short-term bicycle parking location requirements of Subtitle C § 804.2, and the long-term bicycle parking shower and locker facilities requirements of Subtitle C §§ 806.4 and 806.5. The Applicant also requested variance relief from the floodplain requirement of Subtitle K § 1010.1(e), but withdrew this request as further discussed below. (Ex. 3, 12, 25.)
32. Under the NHR zone, no building shall be constructed within the 500-year floodplain (Subtitle K § 1010.1(e).). In its initial application, the Applicant stated that almost the entire Project was located within the 500-year floodplain. While the Property will be elevated out of the 500-year floodplain as part of the Project, the Applicant nonetheless requested a variance from the NHR zone floodplain requirement as a precautionary measure. (Ex. 3.) In its report, OP stated that it did not believe relief from the 500-year floodplain requirement was necessary since the design calls for raising the Property out of the 500-year floodplain. (Ex. 16.) OP further advised that DOEE also agreed that the NHR floodplain requirement is satisfied by raising the Property out of the 500-year floodplain.

In its prehearing statement, the Applicant withdrew its request for variance relief from the NHR zone floodplain requirement set forth in Subtitle K § 1010.1(e). (Ex. 25.) The Commission agrees with the comments from OP and DOEE that the NHR zone 500-year floodplain requirement is satisfied by virtue of the Property being raised out of the 500-year floodplain as part of the Project. Thus, the Applicant need not seek variance relief from the requirement, and the Commission need not address further the Applicant's request for the relief in this Order.

Design Flexibility Requested

33. The Applicant also requested areas of minor design flexibility in its prehearing submissions to the Commission, which are set forth in the Conditions hereof. (Ex. 12, 25.)

Applicant's Submissions

34. The Applicant submitted the initial Application and supporting exhibits on December 27, 2022 (Ex. 2, 3-3F.), which included the following:

- The Applicant's initial set of architectural plans; (Ex. 3B1-3B8.)
- A CP consistency evaluation through a racial equity lens that was guided by the Commission's initial Racial Equity Tool.³ (Ex. 3C.) The Applicant's evaluation summarized its community outreach efforts, which included engagement with ANC 8A, ANC 8C, and the broader community over several years. The evaluation stated that the Project will provide market-rate and affordable housing and would not lead to the physical displacement of any existing residents. In addition, the Applicant indicated it has entered into a Community Benefits Agreement ("CBA") with the ANCs for the Bridge District development, which will create significant employment opportunities for Ward 8 residents as well as provide job opportunities and incentives for local, minority-owned retailers and businesses. The Applicant concluded that the Project would have a positive overall impact on advancing the District's racial equity goals; and
- The following requests for special exception relief:
 - i. Open court requirements: The Applicant explained that Subtitle K § 1001.11 requires an open court width of 43.33 feet for a court height of 130 feet, but Building 1 only provides an open court width of approximately 33 feet, and Building 2 only provides an open court width of approximately 36'-11". The Applicant stated that the relief requested is relatively minor given that the courts open onto Howard Road, which has a width of approximately 60 feet. As such, the proposed width of the courts combined with the openness of Howard Road will ensure that the dwelling units on the courts will have adequate light and air. In addition, the dwelling units on the courts also have direct frontage on Howard Road;
 - ii. Rear yard requirements: The Applicant explained that Subtitle K § 1001.9 requires a minimum rear yard of 27'-1" for Buildings 1 and 2, but the Project provides no rear yard. The Property abuts District-owned properties along South Capitol Street / Suitland Parkway that, had they been dedicated as public right-of-way, would

³ The Commission released a revised Racial Equity Analysis Tool on February 3, 2023. The Applicant submitted a revised CP consistency evaluation guided by the Commission's revised Racial Equity Analysis Tool with its Prehearing Statement (Ex. 12B.), as further discussed below.

serve as the Project's required rear yard. Since the District-owned properties are not part of the city's dedicated system of rights-of-way, the Applicant is requesting rear yard relief out of an abundance of caution to avoid a potential issue during permitting. The Applicant stated that the Project meets the specific criteria of Subtitle K § 1006.3 for granting special exception relief from rear yard requirements and that its request is essentially a technical issue since the District-owned properties at the rear of the Property are encumbered by significant transportation infrastructure and are highly unlikely to be redeveloped; and

- iii. Short-term bicycle parking location requirements: The Applicant explained that Subtitle C § 804.2 requires short-term bicycle parking spaces to be located within 120 feet of the primary entrance of the building they serve, but 8⁴ spaces will not be located within 120 feet of the Project's primary entrance. The Applicant stated that the Property is configured such that the busy Suitland Parkway borders the entirety of the rear of both Buildings, making it impractical to locate primary entrances on those sides of the Buildings. Consequently, it is infeasible to fit all of the required short-term bicycle parking spaces in close proximity to primary entrances along the available Howard Road frontage.

35. The Applicant submitted a Comprehensive Transportation Review Report dated February 3, 2023, (the "CTR"), which concluded that the Project would not have a detrimental impact to the surrounding transportation network assuming the proposed site design elements and Transportation Demand Management ("TDM") plan measures included in the CTR are implemented. (Ex. 10-10B.)

36. The Applicant submitted a Prehearing Statement dated February 28, 2023 (the "Prehearing Statement"), which included the following information and materials: (Ex. 12-12C.)

- A revised set of architectural plans (Ex. 12A1-12A12.) reflecting various refinements to the Project, including the relocation of two IZ units in Building 1; the addition of overhead architectural shade structure; adjustments to the penthouse footprint and penthouse mechanical screen footprint; and the addition of courtyard elevations and renderings, proposed signage area diagrams, and short-term bike parking diagram;
- An updated CP consistency evaluation through a racial equity lens guided by the Commission's revised Racial Equity Analysis Tool. (Ex. 12B.) The Applicant stated it engaged with the following entities to gain input on existing conditions within the community and the Project: ANC 8A, ANC 8C, the Anacostia Business Improvement District ("BID"), the Anacostia Coordinating Council, the Poplar Point Citizens Listening Group, and Ward 8 Community Economic Development ("CED"). In response to community input, the Applicant moved the loading facilities within the envelope of the Project to minimize traffic and noise impacts to Cedar Tree Academy and along Howard Road. The Applicant reiterated that the site is vacant so development will not result in the direct displacement of any residents. Indirect displacement caused by new amenities (retail, services, entertainment, parks) is unlikely given the distance between the Project and established neighborhoods to the east such as historic Anacostia, Barry Farm, Fairlawn, and Randall Heights;

⁴ Initially the Applicant requested relief for eight spaces but later modified the request to 30 spaces. (Ex. 12.)

- A resilient design evaluation which identified numerous strategies from DOEE’s Resilient Design Guidelines (the “Resiliency Guidelines”) that have been incorporated into the Project; (Ex. 12C.)
- A revised list of requested design flexibility;
- The Applicant modified its request for special exception relief from the short-term bicycle parking location requirements to increase the number of spaces located outside the required area from eight to 30. The Applicant explained that the Zoning Regulations do not provide any guidance on what constitutes a “primary entrance” and so it is possible the residential convenience lobbies are not considered “primary entrances” as previously assumed, thus increasing the number of bicycle parking spaces that would be located outside the required area; and
- The Applicant made an additional request for special exception relief from the long-term bicycle parking shower and locker facilities requirements of Subtitle C §§ 806.4 and 806.5. The Applicant explained that a non-residential use that requires long-term bicycle parking and occupies more than 25,000 square feet must provide shower and changing facilities and clothing lockers for long-term occupants of the non-residential use. Thus, the proposed lodging use in Building 2 triggers a requirement for four showers and six lockers, but the Project instead provides two showers and four lockers.⁵ The Applicant stated that the proposed lodging use will be largely automated, where guests reserve, check-in, and check-out of their lodging units online or by an app on their mobile phone. As a result, the proposed lodging use will have minimal staff onsite, likely not to exceed one fulltime employee.

37. The Applicant submitted a Supplemental Prehearing Statement dated March 17, 2023, (Ex. 25-25E.) (the “Supplemental Prehearing Statement”),⁶ which included the following information and materials:

- A set of revised architectural plan sheets (Ex. 25B.) reflecting adjustments to the ground-floor level of Building 2 to add two long-term bike parking showers and four changing (locker) facilities in response to OP and DDOT comments and resulting adjustments to the allocation of ground-floor area to commercial and residential uses;
- The Applicant’s written responses (Ex. 25A.) to the comments provided by the D.C. Department of Housing and Community Development (“DHCD”), DOEE, the D.C. Department of Parks and Recreation (“DPR”), and the OP Urban Design Division in the OP Hearing Report, as further discussed below;
- The Applicant’s written responses to DDOT’s requested conditions (Ex. 25C.);
- A revised list of requested design flexibility. The Applicant noted it made changes in response to comments from OP to the “Retail/Commercial Use Types” flexibility language to include other uses (medical care, education) expressly identified as preferred ground floor uses in the NHR zone; and

⁵ The Applicant initially requested relief to provide no bicycle parking showers or lockers, but later amended its request (see Supplemental Prehearing Statement, Ex. 25.) to provide two showers and four lockers in response to input from OP. At the March 20, 2023 public hearing, OP recommended approval of the Applicant’s revised request for partial relief from the bicycle parking shower and locker facilities requirements.

⁶ The Applicant requested a waiver from Subtitle Z § 401.5 to submit the Supplemental Prehearing Statement less than 20 days before the March 20, 2023 public hearing, which was granted by the Commission at the start of the public hearing.

- In response to comments from OP requesting a portion of the plazas on Howard Road to be open to the public, the Applicant proposed alternative condition language limiting where outdoor seating and dining areas could be located. At the March 20, 2023 public hearing, OP confirmed that it supports the Applicant's proposed condition language, as further discussed below.

38. On March 19, 2023, the Applicant submitted presentation materials for the March 20, 2023, virtual public hearing. (Ex. 26A1-26A3.)

Applicant's Justification for Design Review Approval

NHR Zone Design Review Standards (Subtitle K, Chapter 10)

39. The Application stated that the Project met the Designated Streets requirements of Subtitle K § 1004 as follows:

- Pursuant to Subtitle K § 1004.2, the Applicant stated that the Project will devote 100% of its ground floor street frontage on Howard Road to preferred uses enumerated in Subtitle K § 1004.2(a)-(h), except for space devoted to building entrances or required for fire control; and (Ex. 3, 26A2.)
- Pursuant to Subtitle K § 1004.3, the Applicant stated that the Project's ground floor will have a minimum clear height of 14 feet, for a continuous depth of at least 36 feet from the building line on Howard Road. The Project will devote at least 50% of the surface area facing Howard Road to display windows or pedestrian entrances having clear low-emissivity glass and ensure the view through the display windows and pedestrian entrances is not blocked for at least 10 feet in from the building face. Ground-floor pedestrian entrances, or areas where a future ground-floor entrance could be installed without structural changes, will be located no more than 40 feet apart on average along Howard Road. In addition, there will be no direct vehicular garage or loading entrance or exit. (Ex. 3, 26A2.)

40. The Application stated that the Project met the provisions of Subtitle K § 1005.2 as follows:

- Pursuant to Subtitle K § 1005.2(a), the Application asserted that the Project will achieve the objectives of the NHR zone because it would provide residential use with a significant amount of affordable housing as well as supporting ground floor retail uses which will encourage visitors to the Bridge District. In addition, the Project is not inconsistent with the CP's FLUM designation for the Property and utilizes superior architecture and design that incorporates balconies, a varied material palette, and an elevated private amenity terrace that connects the two Buildings. Also, the Project will incorporate a dedicated bike path along the Suitland Parkway perimeter which will connect residents to Anacostia Park, the Anacostia Metrorail station, the Anacostia bike trail, and Downtown DC; (Ex. 3.)
- Pursuant to Subtitle K § 1005.2(b), the Application asserted that the Project will help achieve the desired use mix of residential and retail and service uses that will help activate a long-underdeveloped area, assist in achieving District housing goals, and bring new retail and service uses to an area of the city where such uses have long been lacking; (Ex. 3.)

- Pursuant to Subtitle K § 1005.2(c), the Application asserted that the Project will provide streetscape connections for future development and be in the context with the urban grid of the Bridge District. The streetscape surrounding the Project will be coordinated with DDOT to ensure connectivity with existing pedestrian and bicycle connections to the east toward historic Anacostia, and with all new connections being established as part of the Bridge construction to the north; (Ex. 3.)
- Pursuant to Subtitle K § 1005.2(d), the Application asserted that the Project will minimize conflict between vehicles, bicycles, and pedestrians since all vehicular and loading access will be through a private right-of-way along the east side of Building 2. Moreover, vehicular and loading circulation will be efficiently designed to occur entirely onsite, with head-in and head-out access from a single curb cut. Additionally, bike parking, both long- and short-term, will be located at grade for easy access; (Ex. 3.)
- Pursuant to Subtitle K § 1005.2(e), the Application asserted that the Project will minimize unarticulated blank walls adjacent to public space through façade articulation. The proposed façades will be differentiated on each elevation, thus eliminating unarticulated blank walls, and will be accomplished through stepped massing and façade recesses, high-quality building materials, and balconies and terraces; (Ex. 3.)
- Pursuant to Subtitle K § 1005.2(f), the Application asserted that the Project will minimize impact on the environment and will be designed to achieve LEED v.4.1 Gold certification standards for New Construction. Green features will include the use of mass timber in Building 1, complete building electrification (excluding retail), rooftop solar panels, energy efficient building enclosures and mechanical systems, passive solar shading, and onsite stormwater collection; and (Ex. 3.)
- Pursuant to Subtitle K § 1005.2(g), the Application asserted that the Project will promote safe and active streetscapes through building articulation, landscaping, and the provision of active ground level uses. The ground floors of the proposed Buildings are designed with a minimum clear height of 14 feet and high-visibility glass storefront. The recessed open spaces along Howard Road will spur additional activity and would incorporate landscaping and movable tables and chairs to help activate the adjacent retail and provide outdoor dining and gathering spaces. The single curb cut included in the Project will be located on the eastern end of the Property, enhancing safety and prioritizing safe pedestrian circulation. (Ex. 3.)

41. The Application stated that the Applicant provided a report on the items in Subtitle K § 1005.3 as follows:

- Pursuant to Subtitle K § 1005.3(a), the Applicant will coordinate with the Department of Employment Services (DOES) regarding apprenticeship and training opportunities during construction and operation at the site. The Applicant stated that it has been operating an internal apprenticeship and training program for local high school and college students for over six years. The Applicant has thus far employed 8 students in paid internships to learn about real estate development. Additionally, the Applicant will have internship opportunities specific to construction for students once construction of the Project begins; (Ex. 3.)

- Pursuant to Subtitle K § 1005.3(b), will make efforts to include local businesses, especially Wards 7 and 8 businesses, in contracts for the construction or operation of the Project. The Applicant stated that it has undertaken efforts to attract local businesses to the Project and has been working with Ward 8 businesses within the Bridge District and intends to continue doing so. The Applicant has also been working with the Anacostia BID to contract with a local cleaning, landscaping, and trash removal organization for site cleanup; (Ex. 3.)
- Pursuant to Subtitle K § 1005.3(c), the Applicant will make efforts to provide commercial leasing opportunities to small and local business, especially Ward 8 businesses. The Applicant stated it will provide a 10% discount on rent for local retailers to lease space within the Bridge District, including at the Project. Additionally, the Applicant has encouraged Ward 8 residents and other community stakeholders refer qualified small and local businesses, and the Applicant has had several meetings with interested local entrepreneurs; and (Ex. 3.)
- Pursuant to Subtitle K § 1005.3(d), the Applicant will coordinate with the State Archaeologist and any plans to study potential archeological resources at the site and recognize local Anacostia history. The Applicant stated it has completed a Phase I, Phase I-B, and Phase I-B/II study for geological resources at the Property and has identified no archaeologically significant finds on Parcel 2. The Applicant has and will continue to coordinate with the State Historic Preservation Officer. (Ex. 3.)

General Design Review Standards (Subtitle X, Chapter 6)

42. The Application stated that the Project met the general design review standards of Subtitle X § 604 as follows:

- Pursuant to Subtitle X § 604.5, the Application asserted that the Project is not inconsistent with the CP based on the following:
 - i. GPM – The Project is not inconsistent with the GPM’s Land Use Change Area designation. The Project will redevelop an underutilized site with a mix of residential, lodging, and retail and service uses. Together with The Douglass development (approved in Z.C. Order No. 21-13) across Howard Road, the Project will further advance the build-out of the Bridge District, a new, mixed-use community east of the Anacostia River that will bring new housing, affordable housing, neighborhood amenities, improved access to open space, and access to employment opportunities and other community improvements. The Project is also not inconsistent with the GPM’s recommendations for developments within Resilience Focus Areas. The Project employs a site-specific resilient design and actively anticipates future flood risk by raising the Project above the 500-year floodplain. In addition, critical points of entry to the buildings have been elevated to have thresholds above the Design Flood Elevation. The Project design also incorporates several of the resilient design strategies included in the DOEE’s Resiliency Guidelines. Such strategies include, stormwater infiltration, keeping occupied spaces above the sea level rise adjusted flood elevation, green roofs, complete building electrification (except for the retail), rooftop solar panels that will generate a minimum of 168,696 KWh of energy annually, and use of drought tolerant landscaping;

- ii. FLUM – The proposed density of the Project is not inconsistent with the FLUM, and the scale of development envisioned near Poplar Point in the Lower Anacostia Waterfront / Near Southwest Area Element. Specifically, the Framework Element states that sites with a High Density Commercial FLUM designation have typical densities that are greater than 6.0 FAR. The Project has a proposed density of approximately 7.9 FAR, and thus is not inconsistent with this description. Furthermore, the CP supports a larger scale of development near Poplar Point given its proximity to Metrorail, major transportation infrastructure, and separation from lower-scale neighborhoods to the east and south;
- iii. Lower Anacostia Waterfront / Near Southwest Area Element – The Project is not inconsistent with the policies set forth in the Lower Anacostia Waterfront / Near Southwest Area Element. The Project will redevelop an underutilized site near transit, the waterfront, and historic Anacostia with a new mixed-use development containing approximately 818 new (market rate and affordable) dwelling units, approximately 151 lodging units, and approximately 24,666 GFA of new retail and service uses. Consistent with the GPM, FLUM, and Area Element policies, the Project will bring greater residential and retail development to Poplar Point and the underserved neighborhoods east of the Anacostia River; (AW-1.1.2, AW-1.1.7, AW-1.1.8, AW-2.4.3, AW-2.4.7.)
- iv. Citywide Elements – The Project is not inconsistent with and furthers various Citywide Element policies and actions that promote the creation of new multi-family market-rate and affordable housing and retail uses with equitable access to transit and access to employment opportunities. Specifically: Land Use (LU-1.1.2: Resilience and Land Use, LU-1.4.2: Development Around Metrorail Stations; LU-1.4.3: Housing Around Metrorail Stations; Policy LU-1.4.5: Design to Encourage Transit Use, LU-2.1.1: Variety of Neighborhood Types, LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods); Transportation (T-1.1.2: Land Use Impact Assessment, T-1.1.4: Transit-Oriented Development, T-1.1.5: Joint Development, T-1.1.7: Equitable Transportation Access, T-1.1.B: Transportation Improvements, T-1.4.1: Street Design for Placemaking, T-2.3.B: Bicycle Facilities, T-2.4.1: Pedestrian Network, T-2.4.2: Pedestrian Safety, T-3.1.1: TDM Programs, T-5.2.2: Charging Infrastructure); Housing (H-1.1.1: Private Sector Support, H-1.1.3: Balanced Growth, H-1.1.4: Mixed-Use Development, H-1.1.5: Housing Quality, H-1.1.7: Large Sites, H-1.1.9: Housing for Families, H-1.2.1: Low- and Moderate-Income Housing Production as a Civic Priority, H-1.2.11: Inclusive Mixed-Income Neighborhoods, H-1.3.1: Housing for Larger Households, H-1.6.1: Resilient and Climate-Adaptive Housing); Environmental Protection (E-1.1.2: Urban Heat Island Mitigation, E-2.1.2: Tree Requirements in New Developments, E-2.1.3: Sustainable Landscaping Practices, E-3.2.3: Renewable Energy, E-3.2.6: Alternative Sustainable and Innovative Energy Sources, E-4.1.2: Using Landscaping and Green Roofs to Reduce Runoff, E-4.2.1: Support for Green Building); Economic Development (ED-1.1.4: Promote Local Entrepreneurship, ED-1.1.5: Build Capacity and Opportunity, ED-2.2.3: Neighborhood Shopping, ED-2.2.4: Support Local Entrepreneurs, ED-3.2.2: Small Business Enterprise Programs Incubators, ED-3.2.8: Certified Business Enterprise Programs, ED-4.1.5: Learning Outside the Classroom, ED-4.2.2: Linking Job Training to Growth

Occupations, ED-4.2.3: Focus on Economically Disadvantaged Populations); and Urban Design (UD-1.1.1: National Image, UD-2.1.5: Intersection Placemaking, UD-2.1.7: Streetscapes that Encourage Activation, UD-2.2.9: Resilient and Sustainable Large Site Development, UD-3.2.1: Buildings that Enable Social Interaction, UD-3.3.1: Neighborhood Meeting Places, UD-4.2.1: Scale and Massing of Large Buildings, UD-4.2.2: Engaging Ground Floors, UD-4.2.4: Creating Engaging Façades, UD-4.2.6: Active Façades, UD-4.3.5: Building Projections that Promote Interaction); and

- v. Potential Inconsistencies – The Applicant identified potential inconsistencies with specific CP policies relating to the Property’s location within the 500-year floodplain (E-1.1.6) and the amount of proposed parking (T-1.1.8) exceeding Zoning Regulation requirements. With respect to the floodplain, the Applicant noted that the Project will be elevated above the 500-year floodplain and will incorporate various sustainability measures. With respect to vehicle parking, in deriving the amount of proposed parking the Applicant sought to balance transit accessibility, expected residential parking demand, and retail parking demand by visitors to the Bridge District. The Applicant believes the amount of proposed parking strikes the right balance given these factors and does not believe the additional parking will have an adverse impact given the Property’s proximity to major aerial roads and its substantial distance from nearby neighborhoods in historic Anacostia. In addition, the amount of parking only slightly exceeds the amount permitted under the Zoning Regulations before triggering the excess parking mitigation requirement. As a result, the Applicant will fund the acquisition and installation of a Capital Bikeshare station which will serve to mitigate the additional vehicle parking provided, as set forth in the Conditions hereof. The Applicant concluded that any such inconsistencies with the CP are outweighed by the Project’s consistency with other competing CP policies, in particular those pertaining to land use, housing, affordable housing, economic development, and environmental protection;
(Ex. 3, 3C, 12B.)
- Pursuant to Subtitle X § 604.7(a), the Application asserted that the Project’s street frontages are designed to be safe, comfortable, and encourage pedestrian activity. The Howard Street frontage is almost entirely devoted to lobbies, and active retail use that contain multiple entrances that will satisfy the design requirements of the NHR zone, including the provision of 14-foot (minimum) clear ground floor height and an average distance of 40 feet between ground floor pedestrian entrances. Moreover, the active ground-floor uses within the Project will be accessible via well-designed streetscapes and recessed open spaces that break down the street wall and blur public and private. Both Buildings contain a substantial number of balconies on all sides, including along Howard Road, which contribute to the articulation of the overall façades and animate the street. Collectively, the active ground floor uses, well-designed streetscape and pocket parks, and use of the balconies will create a safe and inviting pedestrian environment; (Ex. 3.)
- Pursuant to Subtitle X § 604.7(b), the Application asserted that the Project will encourage public gathering spaces and open spaces. The Project will include gathering spaces along Howard Road that knit together the streetscape and connect to other open

spaces within the Bridge District and to nearby parks. The three courtyards along Howard Road will provide nodes of seating and outdoor dining space for the proposed retail. A public area on the west side of the Property will provide bicycle parking directly off of the adjacent bike path along Suitland Parkway. The Project also features an expansive shared amenity terrace and other rooftop amenities for use by Project residents; (Ex. 3.)

- Pursuant to Subtitle X § 604.7(c), the Application asserted that the Project respects the historic character of Washington's neighborhoods and will not affect it. As noted above, the Project is being developed in a largely undeveloped area. In addition, the area is in large part surrounded by transportation infrastructure and parkland, and thus lacks any strong urban form to which the Project might relate to. The Project is approximately 0.40 miles from the historic Anacostia neighborhood, between which runs the I-295 freeway. As such, the Project's height and scale is not expected to have any adverse impact on historic Anacostia. In addition, the newly constructed South Capitol Street ovals on the east and west sides of the Bridge have potential to become truly active public spaces that connect both sides of the Anacostia River. Furthermore, the eastern oval can serve as a gateway into Poplar Point and Anacostia Park. To that end, the Project, and the overall Bridge District can help activate and provide a backdrop to the eastern oval of the Bridge; (Ex. 3.)
- Pursuant to Subtitle X § 604.7(d), the Application asserted that the Project strives for attractive and inspired façade design. The Project will provide pedestrian-oriented street-frontage designs, including high ceiling clearance and glass windows at the ground floor creating pedestrian interactivity. The recessed plazas along Howard Road provide ground level seating, gathering, and dining opportunities for residents and visitors. In addition, the second floor will offer a shared amenity terrace for Building residents; (Ex. 3.)
- Pursuant to Subtitle X § 604.7(e), the Application asserted that the Project is designed with sustainable landscaping. The Project seeks to integrate landscape into spaces throughout the Property and Buildings. Landscaping has been integrated into spaces at the ground-level, second floor amenity terrace, at the roof level, and within adjacent public space. Building 1 also incorporates a unique, ten-story vertical garden into the frontage of the Building along Howard Road. Plantings, soil and drainage systems, and irrigation will be designed using current best practices to maximize successful plant growth and longevity to yield an attractive, mature landscape. Planting design seeks to provide vigorous, year-round appeal while minimizing the need for excessive water usage or high-intensity maintenance activities like frequent fertilization, spraying, or seasonal re-planting. Native species will be incorporated in the planting designs where possible. In addition, the Project will comply with all Green Area Ratio and DOEE Stormwater Management requirements; and (Ex. 3.)
- Pursuant to Subtitle X § 604.7(f), the Application asserted that the Project promotes connectivity both internally and with surrounding neighborhoods. The Project is designed to complement The Douglass and the larger Bridge District neighborhood, which will have a complete pedestrian and bicycle network that improves connectivity both to the Park, the Anacostia Metrorail station, and Downtown DC. The bicycle network will enhance bicycle safety along Suitland Parkway and provide an interior

path from the Metrorail to the Bridge. The Project provides both short- and long-term bicycle parking for various users. (Ex. 3.)

General Special Exception Standards (Subtitle X § 901.2)

43. The Application asserted that the Project satisfies the special exception criteria of Subtitle X § 901.2(a) and (b), as required by Subtitle X § 604.6. Specifically, the Project will be in harmony with the general purpose and intent of the Zoning Regulations and CP Maps and will not tend to affect adversely the use of neighboring property because:

- The Project will meet all applicable NHR development standards. Most notably, the Project is within the maximum permitted height and density of 130 feet and 9.0 FAR, respectively. Further, the Project complies with all penthouse and roof structure requirements, including setbacks, heights, and enclosures. In addition, the Project is in harmony with the purpose and intent of the Zoning Regulations as it offers a significant level of affordable housing and mixed unit types on a currently vacant parcel of land. With an emphasis on open space and an extensive pedestrian and bicycle network, the Project offers residents in Ward 8 an accessible community with high quality design. The Project will reinvigorate this underdeveloped area of the District and provide superior architecture on the east side of the Anacostia River; and
- The Property is surrounded by parkland, the Anacostia Metrorail station, and transportation infrastructure. Most of the property immediately adjacent to the Project is owned by affiliates of the Applicant and will be part of the overall Bridge District development. The Project will not adversely affect the use of neighboring property, but rather will support the community by offering housing and retail and service uses where needed. The Applicant has coordinated with the ANCs and surrounding community and will continue to do so throughout construction of the Project, and the overall Bridge District. The Applicant has also coordinated with the neighboring school to the immediate east, Cedar Tree Academy, and moved the Project's loading facilities within the envelope of the Project in response to community input.

(Ex. 3, 12B.)

Responses to the Application

OP

44. OP filed a report on March 10, 2023, recommending approval of the Project (“OP Report”). 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, on balance, the Application would not be inconsistent with the CP or the CP maps, would further CP policies of the Land Use, Transportation, Housing, Urban Design, and Environmental Protection Elements and the Lower Anacostia Waterfront / Near Southwest Area Element, and would advance CP racial equity goals when evaluated through a racial equity lens. OP’s recommendation of approval was subject to the following three conditions to ensure that the criteria of the NHR zone and the design review are met:

- A minimum of one third of the “West Pocket Park”, one third of the “Central Courtyard”, and one third of the “East Pocket Park”, as those spaces are identified on Sheet L0.01 of Ex. 12A, shall be reserved for free public access, including free-to-sit

areas for members of the public. The remaining space may be used for dedicated uses such as restaurant seating;

- Materials shall be consistent with the materials shown on Sheets A5.02 through A5.05 of Ex. 12A, including, but not limited to the “Grey Metallic Finish” on the Building 2 balcony edges, shown and denoted on Sheet A5.04, which could be either an applied metallic paint or similar finish, or metal panel; and
- The design of the balconies on Building B2 shall be consistent with the design shown in Ex. 12A, including the rounded corners of each balcony, and the rounded overall shape of balconies at building corners.

(Ex. 16.)

45. OP noted in its report that it had discussed the recommended conditions with the Applicant, and that the Applicant did not favor placing guidelines on the use of the plazas, but had no objection to the two conditions regarding the Project’s materials and design of the Building 2 balconies. (Ex. 16.)

46. The OP Report also recommended approval of the Applicant’s requests for relief or flexibility from the open court, rear yard, and short-term bike parking location / number requirements. (Ex. 16.)

47. The OP Report recommended denial of the Applicant’s request for full relief from the long-term bicycle parking shower and changing facility requirements to provide four showers and six lockers. In addressing this area of relief, OP stated that it was open to evaluating some degree partial relief from the long-term bicycle parking shower and changing facility requirements if the Applicant revised its proposal. OP stated that the Applicant should also evaluate options where showers could be shared between the lodging use and the retail uses, since the floor area of the retail uses falls just below the threshold for triggering a shower and locker requirement. (Ex. 16.)

48. The OP Report stated no objection to most of the Applicant’s requested design flexibility, but suggested clarifying the flexibility regarding “Retail/Commercial Use Types” to include all uses from the list in Subtitle K § 1004.2, with the addition that the Applicant also be permitted to locate Animal Sales, Care, and Boarding uses along Howard Road. (Ex. 16.)

49. The OP Report provided disaggregated race and ethnicity data for the District as a whole and the Lower Anacostia Waterfront / Near Southwest Planning Area, where the Property is located, in response to the Commission’s revised Racial Equity Analysis Tool. The data showed that while home rental rates are similar for white and Black populations, the homeownership rate is slightly higher for whites than for Blacks, and there is a starker contrast with regards to the poverty levels, disability status, educational attainment, and unemployment. OP stated that the Project can help to make progress toward alleviating these discrepancies by providing affordable units, including family-sized units, in close proximity to several transportation modes, which can help populations of any skill or educational level reach employment opportunities. OP also noted that the Applicant has committed to provide lower rent for minority-owned businesses, which could be an avenue

toward long-term wealth generation and higher employment levels. Providing a healthier environment could also lead to better health outcomes for nearby populations. (Ex. 16.)

50. The OP Report also include several comments on the Application that were provided by DHCD, DOEE, DPR, and the OP Urban Design Division. (Ex. 16.)
51. In its Supplemental Prehearing Statement, the Applicant responded to OP's recommended condition regarding the use and delineation of the three open-air plazas along Howard Road. The Applicant stated that it agreed with OP that a portion of the open-air plazas should remain active and open to all public users. However, the Applicant did not believe reserving one-third of each plaza as "free-to-sit" areas was the best way to achieve OP's goal for the plazas as it does not necessarily locate "free-to-sit" areas where it makes the most sense from planning and circulation perspectives. Rather, the Applicant believes the areas utilized for open public access should be located in the areas where residents and visitors are most likely to congregate based upon the design of the Project, expected circulation patterns, and relationship to other open spaces planned and proposed in the Bridge District. As such, rather than prescribe a specific percentage of each open-air plaza that must be reserved for open public access, the Applicant proposed the following modified condition language that limits where outdoor retail seating and dining areas could be located within the proposed plazas:

"Outdoor retail seating and dining areas within the three plazas located along Howard Road shall be limited to only those areas depicted on Sheet L0.10 (Outdoor Retail Seating and Dining Areas) of the approved plans. Gates, fences, stanchions, or similar elements used to define the outdoor retail seating and dining areas shall not impede or block pedestrian access to any other portion of the plazas."

(Ex. 25.)

52. In its Supplemental Prehearing Statement, the Applicant also responded to OP's recommendation against the request for full relief from the long-term bicycle parking shower and changing facilities requirements. Specifically, the Applicant modified its request to seek only partial relief and submitted a revised ground-level plan for Building 2 that included two showers and changing (locker) facilities that would be available to both lodging and retail employees of the Project. (Ex. 25, 25B.)
53. In its Supplemental Prehearing Statement, the Applicant responded to OP's comment about the proposed design flexibility language for "Retail/Commercial Use Types" and revised its proposed language to include other uses expressly identified as preferred ground floor uses in the NHR zone under Subtitle K § 1004.2. (Ex. 25.) The Applicant's proposed design flexibility language at Ex. 12 already included Animal Sales, Care, and Boarding uses consistent with OP's comment requesting the same in its report.
54. In its Supplemental Prehearing Statement, the Applicant also provided responses to the comments submitted by DHCD, DOEE, DPR, and OP Urban Design. (Ex. 25A.)

55. At the March 20, 2023 public hearing, OP testified that it supported the Applicant's modified condition language related to the use and delineation of the three open-air plazas along Howard Road. OP also testified that it supported the Applicant's revised request for partial relief from the long-term bicycle parking shower and changing facilities requirements. OP recommended approval of the Application.

DDOT

56. DDOT filed a report dated March 10, 2023, stating that it had no objection to the Project ("DDOT Report") (Ex. 15.), subject to the following four conditions:

- Implement the TDM Plan as proposed in the Applicant's February 3, 2023, CTR, for the life of the project, unless otherwise noted, with the revisions and additions requested in the TDM Section of the DDOT Report;
- Prior to issuance of a Certificate of Occupancy, the Applicant will record a private easement or shared access agreement, subject to DDOT approval, for the driveway along the eastern property line granting full access rights to the adjacent property owner for a future shared driveway;
- The Applicant should build a connection to access the Suitland Parkway Trail from the project; and
- Prior to approval by the Zoning Commission, DDOT requests the Applicant update the plans to include the proposed showers and lockers.

57. The Applicant responded to the DDOT Report in its Supplemental Prehearing Statement as follows: (Ex. 25, 25B, 25C.)

- The Applicant agreed with DDOT's first condition concerning implementation of the TDM Plan included in the Applicant's CTR, as well as all seven of DDOT's revisions and additions to the TDM Plan on Page 11 of the DDOT Report with slight modifications made to two of the TDM strategies revised / added by DDOT; (Ex. 25C.)
- The Applicant agreed to designing and constructing the Project to incorporate a driveway that could be utilized by the adjacent property owner to the east but stated it was not able to record a prospective easement over this area prior to issuance of a Certificate of Occupancy for the Project due to the unknown use or need for such easement by the adjacent property and the cloud it would introduce on the Property's title. The Applicant provided the following revised condition language to address DDOT's interest in a shared access easement:

"Prior to the issuance of the first permanent certificate of occupancy for the Project, a 22- foot wide north/south driveway with a minimum vertical clearance of 18 feet shall be constructed on the eastern portion of the Applicant's property ("Driveway"), as shown on Sheet [C0.03] of the Approved Plans. The Driveway shall be constructed in a manner that allows the owner ("Owner") of Lot 89 in Square 5861 ("Lot 89") to connect to the Driveway for vehicular access to and from Howard Road, SE in the event Lot 89 is redeveloped in the future for residential, office, hotel, retail, or other similar use at an intensity and building scale that would likely result in a separate curb cut for Lot 89. If such access is desired by the Owner as part of such future redevelopment of Lot 89, the Applicant shall work

cooperatively with the Owner to enter into an agreement on terms reasonably acceptable to the Applicant, and subject to DDOT's approval, to provide Lot 89 with access via the Driveway to and from Howard Road, it being understood that: (i) the Owner's access and use of the Driveway is consistent with the manner in which it is used by the Applicant; (ii) the Owner's access to Lot 89 shall be subject to a separate DDOT public space review and approval process; (iii) any such agreement includes terms providing for, without limitation, commercially reasonable insurance, indemnity, and cost-sharing obligations from the Owner, and; (iv) a copy of the agreement shall be recorded and provided to the DDOT Planning Sustainability Division. ”;

(Ex. 25C.)

- The Applicant agreed to work with DDOT during the public space approval process on the items noted on Page 6 of the DDOT Report, which includes the potential construction of a connection to the Suitland Trail from the north-south private driveway on the east side of the Property. As such, the Applicant recommended updating its request for minor design flexibility related to streetscape / site design to state the following:

“Streetscape / Site Design: To vary the location, attributes, and general design of the approved streetscape and site design elements to comply with the requirements of, and the approval by, the DDOT Public Space Division or the Public Space Committee and to accommodate a potential pedestrian connection to Suitland Parkway Trail if deemed feasible after further consultation with DDOT during the public space review process. ”; and (Ex. 25C.)
- Regarding DDOT's request for the Applicant to update the Project plans to include long-term bicycle parking showers and lockers, as previously discussed, the Applicant revised the ground-level plan for Building 2 that included two (2) showers and (4) changing (locker) facilities that would be available to both lodging and retail employees of the Project. (Ex. 25, 25B.)

58. At the March 20, 2023, public hearing, DDOT reiterated its support for the Project, and testified that it agreed with the Applicant's recommended revisions to the conditions contained within the DDOT Report.

ANC

59. ANC 8C submitted a report dated February 14, 2023 (“ANC 8C Report”), stating that at its regularly scheduled and duly noticed public meeting on February 8, 2023, with a quorum present, ANC 8C voted 4-1-2 to support the Application. (Ex. 11.) The ANC 8C Report states that ANC 8C appreciates the Project's enhanced affordability and sustainability measures. ANC 8C also finds the design of the building attractive and appropriate for its location. ANC 8C is particularly appreciative of the infrastructure improvements that will be made as part of the project along Howard Road and the viewshed and access areas bisecting the project. Also, ANC 8C agrees with the design's focus on the residential and visitor experience, including the significant balconies, open space, significant accessibility, and much-desired retail activation. The ANC 8C Report did not

state any issues and concerns; and ANC 8C did not appear or provide testimony at the public hearing.

60. ANC 8A did not submit a report to the case record,⁷ nor did ANC 8A appear or provide testimony at the public hearing.

Public Hearing

61. After proper notice, the Commission held a virtual hearing on the Application on March 20, 2023. Sohael Chowfla and Lindsay Morton testified on behalf of the Applicant. Eran Chen of ODA-Architecture P.C. testified as the Project architect. Brooke Whiting Cash of Lemon Brooke testified as the Project landscape architect. Rob Schiesel of Gorove Slade testified as the Applicant's transportation consultant. Shane Dettman of Goulston & Storrs testified as the Applicant's land use planner. William Lattanzio of Wiles Mensch appeared at the hearing as the Applicant's civil engineer. The Commission qualified Mr. Chen, Ms. Whiting Cash, Mr. Schiesel, Mr. Dettman, and Mr. Lattanzio as experts in their respective fields at the public hearing.
62. At the March 20, 2023 public hearing, the Applicant presented the Project and responded to questions from the Commission.
63. Four witnesses testified in support of the Application: Ian Callender of Suite Nation / Sand Lot, Sandra S. S. Seegars of Concerned Residents Against Violence ("CRAV"), Pastor Ricardo Payne of The Light House Baptist Church, and Kristina Noell of the Anacostia BID.
64. No individuals or organizations in opposition to the Project appeared or testified at the public hearing.
65. Ten letters or testimony in support were submitted to the case record. (Ex. 13, 14, 17, 18, 20-24, 27.)
66. No letters in opposition to the Project were submitted to the case record.

CONCLUSIONS OF LAW

Design Review Approval; Authority

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 a NHR zone design review application consistent with the requirements of Subtitle K, Chapter 10, and Subtitle X, Chapter 6.
2. Pursuant to Subtitle X § 600.1, the purpose of the Design Review process is to:

⁷ At the March 20, 2023 public hearing, the Applicant testified that it presented the Application at ANC 8A's public meeting and met with the ANC requesting support. Ultimately, ANC 8A voted down a resolution to submit a letter in support of the Application, but did not vote to oppose the Application. (March 20, 2023 Hearing Transcript, p. 42.)

- 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;
- 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 a map amendment.

3. Because the Project is located in the NHR zone and has frontage on Howard Road, the Applicant is required to comply the designated streets criteria of Subtitle K § 1004 and the NHR zone-specific criteria of Subtitle K § 1005. In addition, pursuant to Subtitle K § 1005.2, the Project is required to meet the Design Review standards set forth under Subtitle X, Chapter 6. Subtitle X § 604.6 also provides that the Applicant must meet the special exception standards of Subtitle X, Chapter 9.

4. Section 8 of the Zoning Act of 1938 (D.C. Official Code § 6-641.07(g)(2) (2018 Repl.); *see also* Subtitle X § 901.2) authorizes the Commission to grant special exceptions, as provided in the Zoning Regulations, where, in the judgement of the Commission, the special exceptions:

- a. Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map;
- b. Will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map; and
- c. Complies with the special conditions specified in the Zoning Regulations.

5. 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 8C Report.

Satisfaction of the NHR Designated Streets Requirements (Subtitle K § 1004)

6. The Commission concludes that the Application meets the NHR Designated Streets requirements as detailed below.

Subtitle K § 1004.2 – The Project devotes one hundred percent (100%) of its ground floor street frontage along Howard Road, except for space devoted to building entrances or required for fire control, to the preferred use categories set forth in Subtitle K § 1004.2(a)-(h).

7. The ground floor plans for Building 1 and Building 2 show that 100% of the street frontage along Howard Road is devoted to retail use with the exception of the residential lobby entrance in Building 1 and the lodging and residential lobby entrances in Building 2. The minor design flexibility requested by the Applicant to vary the types of uses designated as “retail” or “commercial” on the ground floor of Building 1 and Building 2 includes use

categories that are all identified as “preferred use categories” in Subtitle K § 1004.2. (Findings of Fact (“FF”) Nos. 39, 53.)

Subtitle K § 1004.3 – The Project complies with the design requirements set forth in Subtitle K § 1004.3(a)-(d).

8. The Project plans, sections, and elevations show that the ground floors of Building 1 and Building 2 have a minimum clear height of 14 feet for a continuous depth of at least 36 feet from the building line on Howard Road. The percentage of the Project’s ground floor surface area containing display windows and pedestrian entrances with clear low-emissivity glass exceeds the 50% that is required, and the ground floor is designed to allow installation of pedestrian entrances that are, on average, no more than 40 feet apart without requiring structural changes. Finally, the Project does not provide any direct vehicular garage or loading access along Howard Road. (FF No. 39.)

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

9. 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.

10. The Project helps achieve the NHR zoning objectives through providing preferred ground floor retail use and residential use with a variety of unit types in two, high-density buildings constructed with high quality materials in a superior design and with significant pedestrian and bicycle infrastructure improvements. (FF No. 40.)

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.

11. The Project helps achieve the desired use mix with a focus on primarily residential use and neighborhood serving retail and service uses. (FF No. 40.)

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.

12. The Project’s streetscape complements the streetscape of The Douglass (approved in Z.C. Order No. 21-13), which is located directly across Howard Road from the Project and being developed by the Applicant, and The Bridge District as a whole. The streetscape surrounding the Project will provide connectivity with existing pedestrian and bicycle connections to the east toward historic Anacostia, and with new connections to the north and west being constructed as part of the Frederick Douglass Memorial Bridge project. (FF No. 40.)

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

13. The Project promotes a safe and efficient pedestrian experience. All vehicular and loading access to the Project will be provided through a single curb cut that leads to a driveway along the east side of Building 2. Vehicular and loading circulation have been designed to occur entirely within the Property, with head-in and head-out access. As a result, the entire

sidewalk along Howard Road in front of the Project is unbroken, which will ensure a safe pedestrian environment. Additionally, bike parking, both long- and short-term, is located at grade for easy access. The at-grade bike parking has been located to provide easy access to the existing and planned bicycle lanes in and around the Bridge District. (FF No. 40.)

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

14. The Project does not include any unarticulated blank walls. The Project has been designed on all sides with detailed articulation and high-quality materials. The façade articulation is accomplished through stepped massing and façade recesses, high-quality building materials, and balconies and terraces. Landscaping around the perimeter of the Project and on elevated terraces adds additional visual interest and texture to the Project. (FF No. 40.)

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.

15. The Project is designed to achieve LEED v.4.1 Gold certification standards for New Construction. Some of the key “green” features include the use of mass timber construction for Building 1, complete building electrification (excluding retail) for Building 1 and Building 2, rooftop solar panels that will generate a minimum of 168,696 KWh of energy per year, energy efficient building enclosures and mechanical systems, passive solar shading, and onsite stormwater collection. (FF Nos. 20, 40.)

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.

16. The Project is designed to activate Howard Road with consistent streetscape design and active ground floor uses that encourage pedestrian traffic. The ground floors of Building 1 and Building 2 are designed with a minimum clear height of 14 feet and high-visibility glass storefront. The recessed open spaces along Howard Road will spur additional activity and will incorporate landscaping, seating for informal gathering, and designated outdoor retail seating and dining areas that will activate adjacent spaces. The single curb cut included in the Project is located on the eastern end of the Property, enhancing safety and prioritizing safe pedestrian circulation. (FF No. 40.)

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

17. The Applicant states it has operated an internal apprenticeship and training program for local high school and college students for over 6 years. To date, the Applicant has employed 8 students (3 college and 5 high school) in paid internships to learn the real estate development industry. Additionally, once construction on the Project begins, the Applicant will have internship opportunities specific to construction for students as well. (FF No. 41.)

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

18. The Applicant reported that it has undertaken efforts to attract local businesses to the Project and is working with local Ward 8 businesses within the Bridge District. The Applicant has also been working with the Anacostia BID to contract with a local cleaning, landscaping, and trash removal organization for site cleanup. (FF No. 41.)

Subtitle K § 1005.3(c) – The Applicant provided a report on its efforts 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.

19. The Applicant has committed to provide a 10% discount on rent for local retailers to lease space within the Bridge District, including at the Project. In addition, the Applicant's placemaking strategy emphasizes small and local businesses as part of the retail mix for the Bridge District. The Applicant also routinely encourages Ward 8 residents and other community stakeholders to refer qualified small and local businesses and has had several direct meetings with interested local entrepreneurs. (FF No. 41.)

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

20. The Applicant has studied the potential for geological resources at the Property. To date, the Applicant has completed a Phase I, Phase I-B, and Phase I-B/II study. Thus far, there have been no significant archaeological finds. In April 2022, the Applicant completed an archaeological study for the Bridge District, including Parcels 1 and 2. The study included a field survey that was completed and accepted by the District of Columbia State Historic Preservation Office ("SHPO"). The results of that survey showed that there were no significant archaeological sites extending south of Howard Road. The Applicant stated that it will continue to coordinate with SHPO on the Project and overall development throughout the Bridge District. (FF No. 41.)

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

21. Pursuant to CP §§ 2501.4-2501.6 and 2501.8, the Commission is tasked with evaluating the Application's consistency with the CP through a racial equity lens. Consideration of equity is intended to be based on the policies of the CP and is a part of the Commission's consideration of whether the Application is "not inconsistent" with the CP, rather than a separate determination about the Project's equitable impact. The CP Framework Element states that equity is achieved by targeted actions and investments to meet residents where they are, to create equitable opportunities, but is not the same as equality. (CP § 213.6.) Further, "[e]quitable development is a participatory approach for meeting the needs of underserved communities through policies, programs and/or practices [and] holistically considers land use, transportation, housing, environmental, and cultural conditions, and creates access to education, services, health care, technology, workforce development, and employment opportunities." (CP § 213.7.) The District applies a racial equity lens by targeting support to communities of color through policies and programs focusing on their

needs and eliminating barriers to participate and make informed decisions. (CP § 213.9.) The CP Implementation Element provides guidance to help the Commission in applying a racial equity lens to its decision making. Specifically, the Implementation Element states that “[a]long with consideration of the defining language on equity and racial equity in the Framework Element, guidance in the Citywide Elements on District-wide equity objectives, and the Area Elements should be used as a tool to help guide equity interests and needs of different areas in the District.” (CP § 2501.6.) In addition, the Implementation Element suggests to prepare and implement tools to use as a part of the Commission’s evaluation process. (CP § 2501.8.) The Commission released a revised Racial Equity Analysis Tool on February 3, 2023, with new components requiring applicants to include information about their community outreach and engagement efforts and OP to include disaggregated race and ethnicity data for the affected Planning Area in their respective CP consistency submissions regarding racial equity.

22. As part of the initial Application, the Applicant submitted a CP evaluation. (Ex. 3C.) In accordance with the CP Implementation Element, the Applicant employed a racial equity lens as it prepared its CP evaluation, which was guided by the initial version of the Commission’s Racial Equity Tool.
23. As part of the Prehearing Statement, the Applicant submitted an updated CP evaluation which was guided by the Commission’s revised Racial Equity Analysis Tool. (Ex. 12B.) The Applicant’s updated CP evaluation provided a detailed discussion of the Project’s consistency with applicable CP Citywide and Area Element policies, including several policies that are identified in OP’s Racial Equity Crosswalk as explicitly focused on advancing racial equity. In addressing the Commission’s revised Racial Equity Tool, the Applicant also detailed its substantial community outreach and engagement efforts for the Project, and for the larger Bridge District. Finally, the Applicant evaluated the Project against several equitable development indicators to determine whether the Project helped to advance CP policies relating to, among other things, preventing displacement, housing, environmental protection, and access to opportunity.
24. The Commission concludes that, when examined through a racial equity lens, the Project is consistent with CP goals around advancing racial equity in the District. The Project will help advance CP racial equity goals by providing substantial housing and affordable housing, not directly displacing any existing residents, spurring job training and long-term job opportunities, creating local business opportunities, furthering environmental justice goals through numerous sustainability measures, and improving access to neighborhood-serving amenities. The Commission has considered the Applicant’s updated CP consistency evaluation through a racial equity lens which was guided by the Commission’s revised Racial Equity Analysis Tool released on February 3, 2023. The Applicant’s evaluation indicates it conducted outreach with several community groups in addition to the affected ANCs. Through this outreach, the Applicant was informed by the affected community about challenges with projects in Ward 8 historically under-delivering on public benefits, proceeding without community engagement, and utilizing hiring and subcontracting practices that do not emphasize Black people. However, the Applicant states that its Application was informed by community outreach, as evidenced by its

decision to move the Buildings' loading facilities within the envelope of the Project to minimize traffic and noise impacts to the surrounding neighborhood. In addition, the Applicant committed to working with the Anacostia BID on contracting with local businesses and providing a discounted rent for local retailers within the Bridge District. Therefore, the Commission believes that the Project will address challenges that have been informed and identified by the affected community. The Commission also notes that the disaggregated race and ethnicity data provided by OP reveals disparities in poverty, employment, rental, and homeownership rates between Black and white populations in the Planning Area and that OP believes the Project has the potential to make progress toward alleviating these discrepancies by providing housing, affordable housing, and neighborhood-serving retail uses in close proximity to transit. Thus, the Commission finds that the Application responds to the District's racial equity goals as the Applicant utilized community outreach and engagement guidance, considered the Project's potential impact on existing racial disparities as informed by OP's disaggregated race and ethnicity data for the Planning Area, and developed the Project so that it will advance many desired CP policies/themes identified in the Commission's revised Racial Equity Analysis Tool. (FF Nos. 34, 36, 44, 49.)

25. Based upon the Applicant's CP evaluation, including the information provided in response to the Commission's Racial Equity Analysis Tool, the Commission concludes that, when read as a whole, the Project is not inconsistent with the CP. The Commission's overall conclusion that the Project is not inconsistent with the CP is based upon the following set of conclusions:
 - a. FLUM: The Property is located within an area designated on the FLUM as being appropriate for mixed-use development containing high-density commercial, high-density residential, and institutional uses. The NHR zone is intended to provide for high-density, mixed-use development, and the Project itself is a high-density development containing residential, lodging, and commercial uses. Accordingly, the Commission finds that the Project is not inconsistent with the Property's FLUM designation; (FF Nos. 12, 42.)
 - b. GPM: The GPM designates the Property as within 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 Project will replace currently vacant land with substantial new housing, lodging, and retail uses, and high-quality architectural design near the new Frederick Douglass Memorial Bridge and the Anacostia River. The Commission also believes that the Project is not inconsistent with the Property's location within a Resilience Focus Area, since the Project will incorporate several sustainable features, will be designed to achieve a LEED Gold certification, and will be raised above the 500-year floodplain. Additionally, the Commission notes that, while the Property is located in a Future Planning Analysis Area, the Application is not requesting any rezoning, and OP has indicated in its Future Planning Analysis Area analysis that the Project would be in conformance with already-adopted CP policies and maps. Accordingly, the Commission finds that the Project is not inconsistent with the GPM; (FF Nos. 13, 42.)
 - c. Citywide and Area Element Policies: The Project provides a new mixed-use development on a site that is vacant and located in an area envisioned for high-

density development under the CP. The Project furthers numerous policies of the CP’s Citywide Elements, including Land Use, Transportation, Housing, Environmental Protection, Economic Development, and Urban Design as well as the Lower Anacostia Waterfront/Near Southwest Area Element. (FF No. 42.) The Project provides approximately 818 new residential units of market rate and affordable housing, including three-bedroom affordable units, and approximately 24,666 square feet of ground-floor retail use adjacent to Metrorail which will promote equitable access to transit and access to employment and opportunities as well as help catalyze new economic activity and opportunity to east of the Anacostia River neighborhoods. The Project will also strengthen the District’s hotel economy through the approximately 151-unit lodging use proposed within Building 2. The Project’s proximity to transit and sustainable design strategies, including rooftop solar, building electrification (excluding retail), and mass timber construction for Building 1, will also promote general climate resilience and environmental sustainability. Building 1 and Building 2 each possess unique façade variations, courtyards, and balconies to provide significant articulation and avoid repetitiveness. The Project’s design emphasizes social interaction through active ground floor uses; and the streetscape along Howard Road is designed to encourage safe pedestrian and bicycle travel, as well as provide placemaking opportunities through open-air plazas that provide informal gathering space and outdoor seating and dining areas. Substantial terraces and balconies connect building residents with street-level activity. Additionally, the Project incorporates trees, landscaping, and other green space. Finally, the Project’s height, density, and use of numerous resilient design strategies are consistent with CP policy guidance and the vision for development within the Poplar Point policy focus area; and (FF No. 42.)

- d. Potential CP Inconsistencies: As stated above, the Commission has determined that the Project is not inconsistent with the CP when read as a whole. In assessing the Project’s CP consistency, the Commission must acknowledge instances where the Project may be inconsistent with CP policies and explain why such inconsistencies are outweighed by other competing CP policies and considerations. (*See D.C. Library Renaissance Project/West End Library Advisory Grp. v. District of Columbia Zoning Comm’n*, 73 A.3d 107, 126 (D.C. 2013); *Friends of McMillan Park v. District of Columbia Zoning Comm’n*, 149 A.3d 1027, 1035 (D.C. 2016); and CP § 2504.6 “[r]ecognize the overlapping nature of the [CP] elements as they are interpreted and applied. An element may be tempered by one or more of the other elements.”) According to the Applicant’s CP evaluation, there is potential that the Project is inconsistent with the Transportation Element policy related to minimization of off-street parking (T-1.1.8) and the Environmental Protection Element policy regarding development within floodplains (E-1.1.6). (Ex. 12B.) The Commission concludes that these two potential inconsistencies are outweighed by the Project’s consistency with numerous other CP policies, particularly those within the Land Use, Transportation, Housing, Environmental Protection, and Economic Development Elements. These potential inconsistencies are further outweighed by the Project’s advancement of the District’s overall and affordable housing goals set forth in the 2019 Housing Equity Report, the Project’s proposed amount of affordable housing and levels of affordability, the environmental improvements

that will be made to the Property, and the Project's overall consistency with the Property's FLUM designation. (FF No. 42.)

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.

26. 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.*
27. The Project is in harmony with the general purpose and intent of the Zoning Regulations and the Zoning Map applicable to the Property. Broadly, the NHR zone permits and encourages a broad mix of residential, commercial, and other uses, and the Project provides an appropriate mix of these uses, focusing on residential, including affordable units and larger-sized units, with supporting retail and service uses. The Project is within the maximum height and density permitted in the NHR zone. (FF No. 43.)
28. The Project will not tend to adversely affect the use of neighboring property, but rather will support the community by offering housing and retail and service uses where it is needed. The Applicant has coordinated with the neighboring school to the east, Cedar Tree Academy, and has modified the Project in response to the Academy's comments. Specifically, all the Project's loading facilities have been located on the west side of the Project to avoid noise impacts during the Academy's operating hours. Other than the Academy, the properties immediately adjacent to the Project are owned by affiliates of the Applicant and will be part of the overall Bridge District development. Rather than adversely impacting neighboring properties, the Project will enhance its surroundings and the Anacostia community. (FF No. 43.)

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

29. 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 in accordance with Subtitle X § 604.8.

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 façades are prevented or minimized; and*
- (5) *Wide sidewalks are provided.*

30. The Project's primary pedestrian frontage is along Howard Road, where the ground floors of Building 1 and Building 2 will have active retail uses with display windows and outdoor plaza space for seating and dining. In addition, due to the relatively narrow width of Howard Road, the entire Project has been set back approximately four feet from the building line to provide additional sidewalk width for pedestrians. The Project also provides no direct access off of Howard Road to parking or loading, instead only providing a single point of access for all vehicular entry at the east end of the Property. While the northern Howard Road frontage of the Project is the primary pedestrian frontage, the west, south, east sides of the Project are also designed for safe, comfortable pedestrian activity through designated circulation routes and active, articulated façades. (FF No. 42.)

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.*

31. The Project includes gathering spaces along Howard Road that knit together the streetscape and connect to other open spaces within the Bridge District and to nearby parks. The three open-air plazas along Howard Road will provide nodes for informal gathering and designated spaces for outdoor retail seating and dining space. An open space on the west side of the Property will provide a focal point to the Bridge District and bicycle parking directly off of the adjacent bike path along Suitland Parkway. (FF No. 42.)

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.*

32. The Project will not affect the historic character of Washington's neighborhoods as it is being developed in a largely undeveloped area that is substantially separated from the established historic Anacostia neighborhood and other nearby neighborhoods. The Property is surrounded by transportation infrastructure and parkland, and thus lacks any strong urban form to which the Project might relate. Indeed, the Project, and the overall Bridge District, will help activate and provide a backdrop to the South Capitol Street oval on the east side of the Frederick Douglass Memorial Bridge, which will become an active public space that connects both sides of the Anacostia River and can serve as a gateway into Poplar Point and Anacostia Park. (FF No. 42.)

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.*

33. The Project provides pedestrian-oriented street-frontage designs, including high ceiling clearance and glass windows at the ground floor creating streetscape interactivity. The plazas along Howard Road provide ground level seating, gathering, and dining opportunities for residents and visitors. In addition, the second floor will offer a shared amenity terrace for Building residents. Building 1 and Building 2 will be constructed of high-quality building materials. Specifically, Building 1 will be constructed of mass timber structure with metal panel and glass façades that will allow the internal mass timber structure to be visible from the exterior. In contrast, Building 2 will have a grey brick exterior. The prominent curvaceous balconies on Building 2 will have metallic painted undersides with metallic gray painted profiles. (FF No. 42.)

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

34. The Project integrates landscape into spaces throughout the Property and the two proposed buildings at the ground-level, second floor amenity terrace, and the roof level. Building 1 also incorporates a ten-story vertical garden along the Howard Road frontage. The planting design utilizes native species that provide vigorous, year-round appeal while minimizing excessive water usage or high-intensity maintenance. The Project will comply with all Green Area Ratio and DOEE Stormwater Management requirements. (FF No. 42.)

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.*

35. The Project will complement The Douglass development across Howard Road as well as the larger Bridge District, which will have a complete pedestrian and bicycle network that improves connectivity to Anacostia Park, the Anacostia Metrorail station, historic Anacostia and other nearby neighborhoods, and Downtown D.C. The Project will include bicycle facilities and amenities for residents and visitors. The Project's publicly accessible open spaces and wider sidewalk width along Howard Road will promote safe and accessible pedestrian circulation. (FF No. 42.)

Special Exception from Open Court Requirements

36. Pursuant to Subtitle K § 1001.11, a court in the NHR zone must measure a minimum of four inches per foot of the height of the court for residential structures. Building 1 and Building 2 each provide an open court along Howard Road, S.E., which are each required to have a minimum width of 43.33 feet based on their height. The open court on Building 1 has a width of approximately 33 feet, and the open court on Building 2 has a width of approximately 36'-11".

37. The Commission concludes that the Applicant has satisfied the burden of proof for special exception relief from the open court requirements pursuant to Subtitle K § 1006.1 and Subtitle X, Chapter 9. The requested relief from the open court width requirements is in harmony with the intent and purpose of the Zoning Regulations. Generally, open court requirements exist to ensure adequate light and air into buildings. In this case, the relief requested is relatively minor given the location of the open courts along Howard Road, which is approximately 60 feet wide. As such, the proposed width of the courts combined with the openness of Howard Road will ensure that the dwelling units within Building 1 and Building 2 that face the courts will have adequate light and air. These dwelling units also have direct frontage on Howard Road. In addition, the courts result from a building design that increases articulation and includes enhanced open-air plazas along Howard Road. (FF No. 34.)
38. The requested relief will also not adversely affect neighboring properties as the closest neighboring property to the two open courts is The Douglass project across Howard Road, approximately 60 feet away. (FF No. 34.)

Special Exception from Rear Yard Requirements

39. Pursuant to Subtitle K § 1001.9, a minimum rear yard of 2.5 inches per foot of vertical distance must be provided in the NHR zone. For both Building 1 and Building 2, a minimum rear yard of 27'-1" is required. However, no rear yard is provided for either Building. The Applicant explained that the majority of South Capitol Street / Suitland Parkway along the south side of the Project is not a public right-of-way, but instead is a series of District-owned properties that, had they been dedicated as a public right-of-way, would serve as the Project's required rear yard and the Applicant requested rear yard relief out of an abundance of caution to avoid a potential issue during permitting.
40. The Commission concludes that the Applicant has satisfied the burden of proof for special exception relief from the rear yard requirements pursuant to Subtitle K §§ 1006.1, 1006.3 and Subtitle X, Chapter 9. With respect to the criteria of Subtitle K § 1006.3, there are no buildings directly adjacent to the rear of Building 1 or Building 2; thus there will be no sightlines into habitable rooms of adjacent buildings. In addition, the service and access functions of the Project are fully satisfied via the driveway along the east side of the Property which provides access to parking and loading facilities. (FF No. 34.)
41. The rear yard relief is in harmony with the intent and purpose of the Zoning Regulations. Minimum rear yard requirements exist to ensure adequate light and air into buildings. While the significant transportation infrastructure at the rear of the property is not actually dedicated public right-of-way, it is part of the District's street and highway network and therefore highly unlikely to be redeveloped. As such, the requested rear yard relief is in harmony with the intent and purpose of the Zoning Regulations because the rear of the Project will receive the same amount light and air than it would if South Capitol / Suitland Parkway were dedicated right-of-way. Furthermore, there are no structures abutting the Property at the rear. Therefore, the lack of a rear yard will have no effect on any windows

of adjacent buildings and, accordingly, will not adversely affect neighboring properties. (FF No. 34.)

Special Exception from Short-term Bicycle Parking Location Requirements

42. Pursuant to Subtitle C § 804.2, required short-term bicycle parking spaces shall be located within 120 feet of a primary entrance to the building they serve. A special exception from this requirement is permitted pursuant to Subtitle C § 807.1 when providing the number of bicycle spaces would be impractical due to the shape or configuration of the site. The Property is configured such that the busy Suitland Parkway borders the entirety of the rear of Building 1 and Building 2, making it impractical to locate primary entrances along this frontage. Similarly, entrances are not feasible on the west or east façades of the Project. Consequently, it is infeasible to locate all required short-term bicycle parking spaces within 120 feet of the building entrances along Howard Road given other competing streetscape elements.
43. The Commission concludes that the Applicant has satisfied the burden of proof for special exception relief from the short-term bicycle parking location requirements pursuant to Subtitle C §§ 807.2, 807.3 and Subtitle X, Chapter 9. The physical constraints of the Property prevent full compliance with the short-term bicycle parking space location requirements. The Property is bounded by highway infrastructure on the west and south sides and is adjacent to the Cedar Tree Academy on the east, and thus the primary entrances to the Project are concentrated along Howard Road. Given the number of required short-term spaces, there is not enough linear frontage of public space along Howard Road to accommodate all of the required short-term spaces such that they are all within 120 feet of a primary building entrance, while also complying with all other streetscape design requirements and standards. (FF Nos. 34, 36.)
44. The relief would be minor and limited only to the amount necessary. Indeed, the required number of bicycle spaces will actually be provided, but some will not be located within 120 feet of a primary entrance. As such, the requested relief is in harmony with the intent and purpose of the Zoning Regulations and will not adversely affect neighboring properties. (FF Nos. 34, 36.)

Special Exception from Long-term Bicycle Parking Shower and Changing Facility Requirements

45. Pursuant to Subtitle C § 807.4, full or partial relief may be granted from the requirements for showers and changing facilities pursuant to the general special exception criteria of Subtitle X, Chapter 9, provided the intent of long-term bicycle parking shower and changing facility requirements Subtitle C § 806 are met and either: (i) the use will not generate the demand for the full number of showers and changing facilities required; or (ii) the property owner has an arrangement to make use of showers and changing facilities off-site, and that the showers and changing facilities will be reasonably available to long-term occupants of the use requiring the facilities.

46. The Commission concludes that the Applicant has satisfied the burden of proof for special exception relief from the long-term bicycle parking shower and changing facility requirements. The stated intent for the shower and changing facilities requirement is to “ensure that long-term bicycle parking spaces are usable by the long-term occupants, especially employees, of non-residential uses.” Subtitle C § 806.1. According to the Applicant, the proposed lodging use in Building 2 will have minimal staff onsite, likely not exceeding one (1) full time employee, and thus demand for the full number of required shower and changing facilities is unlikely. As such, rather than the 4 showers and 6 changing facilities that are required for the lodging use, the Applicant will provide 2 showers and 4 changing facilities. At the request of OP and DDOT, the shower and changing facilities that will be provided will also be made available to retail employees of the Project. (FF No. 36.)
47. The request will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map. The intent of the shower and changing facility requirements is to ensure that long-term bicycle parking spaces are usable by long-term occupants of non-residential uses within a development. Given the very low expected number of lodging employees, the two showers and four lockers provided in the Project should meet expected demand, even with being made available to retail employees of the Project. Finally, the requested relief from the long-term bicycle parking shower and changing facility requirements will not have any effect on the use of neighboring property. (FF No. 36.)

“Great Weight” to the Written Report of the ANC

48. 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).)
49. The ANC 8C Report recommended approval of the Application. The Commission concurs with ANC 8C that the Project should be approved and has given the requisite great weight to the ANC 8C Report and their recommendation. The Commission notes ANC 8C’s appreciation of the Project’s commitments, including enhanced affordability and sustainability measures, as well as its infrastructure improvements and overall design. (FF No. 59.)
50. Since ANC 8A did not submit a report to the record, there is nothing from ANC 8A to which the Commission can give great weight.

“Great Weight” to the Recommendation of OP

51. The Commission is required to give great weight to the recommendations 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, 1087 (D.C. 2016).)
52. The Commission gives OP's recommendation and testimony to approve the application great weight, concurs with OP's recommendation, and concludes that the conditions proposed by OP, as modified following further discussions between OP and Applicant concerning the delineation of outdoor retail seating and dining areas within the three open-air plazas on the Property along Howard Road, are appropriate to ensure that the criteria of the NHR zone and the design review are met and maintained. Accordingly, the Commission has given the requisite great weight to OP's report and recommendation. (FF Nos. 44-55.)

DECISION

In consideration of the above Findings of Fact and Conclusions of Law, the Zoning Commission for the District of Columbia concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application for:

- Design review approval pursuant to the applicable standards and criteria of the NHR zone of Subtitle K §§ 1004, 1005, the general design review criteria of Subtitle X § 604, and the special exception standards of Subtitle X § 901.2;
- Special exception relief from the open court requirements of Subtitle K § 1001.11, the rear yard requirements of Subtitle K § 1001.9, the short-term bicycle parking location requirements of Subtitle C § 804.2, and the long-term bicycle parking shower and changing facilities requirements of Subtitle C §§ 806.4 and 806.5; and
- Such other design flexibility as are set forth in the Conditions hereof.

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 February 28, 2023, and marked as Ex. 12A1-12A12 of the record, as modified by Ex. 25B dated March 16, 2023, and Ex. 26A1-26A3 (the "Final Plans"), and with the following design flexibility relating to the Final Plans:
 - a. **Building 1 - Construction Type:** To vary the specific mass timber/CLT structural system utilized for Building 1, and to have the ability to utilize either mass timber/CLT or structural steel only at the Building 1 penthouse level, provided the selected mass timber/CLT structural system and, if utilized, structural steel at the penthouse level, do not substantially alter the exterior configuration of the building or design shown on the Final Plans;

- b. Building 1 - Balconies / Building Projections: To vary the number, configuration, and general design and structural details of the balconies and projections on Building 1 to ensure compliance with applicable requirements of the 2017 District of Columbia Construction Codes (Title 12 of the District of Columbia Municipal Regulations) and to address any unforeseen structural issues related to the mass timber/CLT construction type utilized for Building 1, so long as the design of the balconies and façades remains substantially in conformance with the Final Plans;
- 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 Final Plans. Examples of exterior details would include, but are not limited to, doorways, canopies, railings, and skylights;
- d. 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 Final Plans;
- e. 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 Final Plans;
- f. Number of Units: To provide a range in the approved number of residential dwelling units of plus or minus 10%;
- g. Affordable Units: To vary the number and mix of inclusionary units if the total number of dwelling units changes within the range of flexibility granted, provided that the Project complies with all applicable Inclusionary Zoning requirements under Subtitle C, Chapter 10, as modified by Subtitle K §§ 1002 and 1010, as applicable;
- h. Roof Elements: 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. Retail Frontages: To vary the final design of retail frontages of the building, including the location and design of entrances, show windows, signage, and size of retail units, in accordance with the needs of the retail tenants;
- j. Signage: To vary the font, message, logo, and color of signage, provided that the maximum overall dimensions and signage materials are consistent with the signage shown on the Final Plans and are compliant with the DC signage regulations;
- k. Retail/Commercial Use Types: To vary the types of uses designated as “retail” or “commercial” on the Final Plans to any use that is permitted as a matter-of-right in the following use categories, and to allow any such use to also satisfy the NHR zone designated streets requirement of Subtitle K § 1004.2: Retail (11-B DCMR

§ 200.2(bb)); Services, General (11-B DCMR § 200.2(cc)); (Services, Financial (11-B DCMR § 200.2(dd)); Eating and Drinking Establishments (11- B DCMR § 200.2(i)); Animal Sales, Care, and Boarding (11-B DCMR § 200.2(c)); Daytime Care (11-B DCMR § 200.2(h)); Entertainment, Assembly, and Performing Arts (11-B DCMR § 200.2(m)); Medical Care (11-B DCMR § 200.2(o)); Education, Private (11-B DCMR § 200.2(k)); Education, Public (11-B DCMR § 200.2(l)); and Arts, Design, and Creation (11-B DCMR § 200.2(e));

1. Parking Layout: To make refinements to the approved 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;
2. Streetscape / Site Design: To vary the location, attributes, and general design of the approved streetscape and site design elements to comply with the requirements of, and the approval by, the DDOT Public Space Division or the Public Space Committee and to accommodate a potential pedestrian connection to Suitland Parkway Trail if deemed feasible after further consultation with DDOT during the public space review process.
3. Sustainable Features: To vary the approved sustainable features of the Project, provided the total number of LEED points achievable for the Project does not decrease below the minimum required for the LEED standard specified in Subtitle K § 1008.1 of the NHR zone; and
4. Landscape Materials: To vary the final selection of landscaping materials utilized based on availability at the time of construction.
5. Materials shall be consistent with the materials shown on Sheets A5.02 through A5.05 of Exhibit 12A, including, but not limited to the “Grey Metallic Finish” on the Building 2 balcony edges, shown and denoted on Sheet A5.04, which could be either an applied metallic paint or similar finish, or metal panel.
6. The design of the balconies on Building B2 shall be consistent with the design shown in Exhibit 12A, including the rounded corners of each balcony, and the rounded overall shape of balconies at building corners.
7. Outdoor retail seating and dining areas within the three open-air plazas located along Howard Road shall be limited to only those areas depicted on Sheet L0.10 (Outdoor Retail Seating and Dining Areas) of the approved plans. Gates, fences, stanchions, or similar elements used to define the outdoor retail seating and dining areas shall not impede or block pedestrian access to any other portion of the open-air plazas.
8. **Prior to the issuance of the first permanent Certificate of Occupancy for the Project**, a 22- foot wide north/south driveway with a minimum vertical clearance of 18 feet shall be constructed on the eastern portion of the Applicant’s property (“Driveway”), as shown on Sheet C0.03 of the Approved Plans. The Driveway shall be constructed in a manner that allows the owner (“Owner”) of Lot 89 in Square 5861 (“Lot 89”) to connect to the

Driveway for vehicular access to and from Howard Road, S.E. in the event Lot 89 is redeveloped in the future for residential, office, hotel, retail, or other similar use at an intensity and building scale that would likely result in a separate curb cut for Lot 89. If such access is desired by the Owner as part of such future redevelopment of Lot 89, the Applicant shall work cooperatively with the Owner to enter into an agreement on terms reasonably acceptable to the Applicant, and subject to DDOT's approval, to provide Lot 89 with access via the Driveway to and from Howard Road, it being understood that: (i) the Owner's access and use of the Driveway is consistent with the manner in which it is used by the Applicant; (ii) the Owner's access to Lot 89 shall be subject to a separate DDOT public space review and approval process; (iii) any such agreement includes terms providing for, without limitation, commercially reasonable insurance, indemnity, and cost-sharing obligations from the Owner, and; (iv) a copy of the agreement shall be recorded and provided to the DDOT Planning Sustainability Division.

Transportation Demand Management Measures

6. **For the life of the Project**, the Applicant shall adhere to the following TDM Plan:

- a. The following TDM strategies are proposed for the Project site as a whole:
 - i. 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 and will provide their contact information to goDCgo;
 - ii. Transportation Coordinator will conduct an annual commuter survey of employees and residents on-site, and report TDM activities and data collection efforts to goDCgo once per year;
 - iii. 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 the property website and in any internal building newsletters or communications;
 - iv. 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;
 - v. 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;

- vi. Post all TDM commitments on website, publicize availability, and allow the public to see what commitments have been promised;
- vii. Offer a free SmarTrip card to every new employee and resident and a complimentary Capital Bikeshare coupon good for one ride for the first year after opening;
- viii. Additional short- and long-term bicycle parking spaces above ZR16 requirements, providing (at a minimum) 288 long-term spaces and 52 short-term spaces;
- ix. Long-term bicycle storage rooms will accommodate nontraditional sized bikes including cargo, tandem, and kids bikes, with a minimum of 14 spaces (5%) designed for longer cargo/tandem bikes (10 feet by 3 feet), a minimum of 29 spaces (10%) designed with electrical outlets for the charging of electric bikes and scooters, and a minimum of 144 spaces (50%) will be located horizontally on the floor. There will be no fee to residents and employees for usage of the bicycle storage room;
- x. Following the issuance of a certificate of occupancy for the Project, the Transportation Coordinator shall submit documentation from DOB summarizing compliance with the transportation and TDM conditions of this 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
- xi. Install a minimum of 11 electric vehicle (EV) charging stations;
- xii. Install a Transportation Information Center Display (electronic screen) within the main lobbies of Building 1 and Building 2 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;
- xiii. Provide a bicycle repair station in each long-term bicycle parking storage room;
- xiv. Coordinate a way finding plan along walking routes and biking routes to the property from the Anacostia Metrorail station and nearby bike paths;
- xv. Fund and install a 23-dock Capital Bikeshare (“CaBi”) station with 12 bikes in a mutually agreed location coordinated with DDOT, preferably the location selected as part of Bridge District Parcels 3 and 4 TDM Plan and Z.C. Order No. 21-13, otherwise within the NHR zone, and fund one-year of maintenance and operations costs;

- xvi. Designate up to two parking spaces in the vehicle parking garage for car-sharing services to use with right of first refusal;
- xvii. Hold a transportation event for residents, employees, and members of the community once per year for a total of two years. Examples include resident social, walking tour of local transportation options, goDCgo lobby event, transportation fair, WABA Everyday Bicycling seminar, bicycle safety/information class, bicycle repair event, etc.);
- xviii. Will not lease unused parking spaces to anyone aside from tenants of buildings within the NHR zone unless the other building(s) have no on-site parking;
- xix. Provide a minimum of two showers and four lockers within Building 2 and extend access to the showers and locker facilities to employees of the Project's retail space;
- xx. Fund and install one micro-mobility charging station and one micro-mobility corral with appropriate racks and a vertical wayfinding element. They will be installed in an easily accessible location near other bicycle facilities in adjacent public space, in an on-street parking space, or on the property, subject to DDOT approval; and
- xxi. Following the issuance of the final 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 continued substantial compliance with the transportation and TDM conditions of this Order, unless no longer applicable as confirmed by DDOT. If such letter is not submitted on a timely basis, the building shall have 60 days from date of notice from the Zoning Administrator, DDOT, or goDCgo to prepare and submit such letter;

b. The following TDM strategies are proposed for the residential portion of the Project:

- i. 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;
- ii. Transportation Coordinators will subscribe to goDCgo's residential newsletter;
- iii. Provide welcome packets to all new residents that should, at a minimum, 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;

- iv. Offer an annual CaBi membership to each residential unit for the first three years after the building opens;
- v. Designate two parking spaces for vehicles to be used by residents who carpool to work; and
- vi. Provide one collapsible shopping cart (utility cart) for every 50 residential units, for a total of 17 to encourage residents to walk to the grocery store and run errands.

c. The following TDM strategies are proposed for the retail portion of the Project:

- i. Unbundle the cost of parking from the cost to lease the building or unit and only hourly, daily, or weekly rates will be charged. Free parking, validation, or discounted rates will not be offered;
- ii. 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;
- iii. Will post “getting here” information in a visible and prominent location on the website with a focus on nonautomotive 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; and
- iv. Employers will offer a telework program to eligible employees, contribute to health savings accounts, free gym memberships, bike tune-ups, or other programs to encourage walking or bicycling; and

d. The following TDM strategies are proposed for the lodging portion of the Project:

- i. Unbundle the cost of parking from the cost to lease the building or unit and only hourly, daily, or weekly rates will be charged. Free parking, validation, or discounted rates will not be offered;
- ii. Transportation Coordinator will subscribe to goDCgo’s hospitality newsletter and receive TDM training from goDCgo to learn about the transportation conditions for this project and available options for implementing the TDM Plan;

- iii. Provide guests with goDCgo's Get Around Guide by making it available on the property website and in printed format for front office or customer-facing staff;
- iv. 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 guests and employees discouraging use of on-street parking in Residential Permit Parking (RPP) zones;
- v. Provide comprehensive transportation information and directions on hotel website, including promoting the use of non-automotive modes of transportation and links to website for goDCgo, Capital Bikeshare, DC Circulator, and the Washington Metropolitan Area Transit Authority (WMATA);
- vi. Provide brochures with information on non-automotive options for traveling to the property available at all times in a visible location in the lobby;
- vii. Transportation Coordinator will demonstrate to goDCgo that the hotel and any tenants with 20 or more employees are in compliance with the DC Commuter Benefits Law to 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 such as the Parking Cash-Out Law; and
- viii. Purchase Capital Bikeshare one-day passes in bulk to have on hand for guests.

General

- 7. 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.)

FINAL ACTION

Vote (March 20, 2023): 4-0-1 (Robert E. Miller, Joseph S. Imamura, Anthony J. Hood, and Peter G. May to **APPROVE**; 3rd Mayoral appointee seat vacant, not voting)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 22-39 shall become final and effective upon publication in the *DC Register*; that is, on August 25, 2023.



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.