

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
Z.C. ORDER NO. 20-28

Z.C. Case No. 20-28

FC 110 N ST, LLC on behalf of the United States General Services Administration  
(Southeast Federal Center Zone Design Review @ Square 743, Lot 856)  
February 8, 2021

Pursuant to notice, at its February 8, 2021 public hearing, the Zoning Commission of the District of Columbia (the “Commission”) considered the application (the “Application”) of FC 110 N ST, LLC (the “Applicant”) requesting the following relief under the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations (“DCMR”), Zoning Regulations of 2016, to which all references are made unless otherwise specified):

- Design review approval pursuant to Subtitle K, Chapter 2, and Subtitle Z, Chapter 6, with flexibility for use of FAR and clarification that the lot used to calculate the affordable housing contribution required for the penthouse habitable space; and
- Flexibility or a special exception pursuant to Subtitle C § 1504, Subtitle K § 242.1, and Subtitle X § 603 from the one-to-one penthouse setback required by Subtitle C § 1502.1 for the terrace guardrails;

for Lot 856 in Square 743 (“Parcel F”) to construct a new mixed-use office building with ground-floor retail uses, a habitable penthouse, and below-grade parking (the “Project”) in The Yards development in the SEFC-1A zone. The Commission conducted the public hearing in accordance with Subtitle Z. For the reasons below, the Commission hereby **APPROVES** the application.

**FINDINGS OF FACT**

**I. BACKGROUND**

**PARTIES**

1. The following were automatically parties to this proceeding pursuant to Subtitle Z § 403.5:
  - The Applicant; and
  - Advisory Neighborhood Commission (“ANC”) 6D, in which district Parcel F is located and so an “affected ANC” per Subtitle Z §101.8.
2. The Commission received no requests for party status.

**NOTICE**

3. Pursuant to Subtitle Z § 301.6, the Applicant mailed a Notice of Intent to file the Application (Exhibit [“Ex.”] 3D) on July 20, 2020 to:
  - ANC 6D; and
  - Owners of property within 200 feet of Parcel F.

4. Pursuant to Subtitle Z § 402, the Office of Zoning (“OZ”) sent on December 1, 2020 notice of the February 8, 2021 public hearing to:
  - The Applicant;
  - ANC 6D;
  - ANC 6D07 Single Member District Commissioner, whose district includes Parcel F;
  - The Office of the ANCs;
  - Ward 6 Councilmember, whose district includes Parcel F;
  - The Chair and At-Large members of the D.C. Council;
  - The Office of Planning (“OP”);
  - The District Department of Transportation (“DDOT”);
  - The Department of Consumer and Regulatory Affairs (“DCRA”),
  - The Office of the Attorney General;
  - The Department of Energy and the Environment (“DOEE”);
  - The District of Columbia Housing Authority; and
  - Owners of property within 200 feet of Parcel F. (Ex. 6-7, 9.)
5. Pursuant to Subtitle Z § 402, OZ also published the public hearing notice in the December 11, 2020, *D.C. Register* as well as on the calendar on OZ’s website. (Ex. 5.)
6. Pursuant to Subtitle Z § 405, OZ referred the Application on December 1, 2020, to the National Capital Planning Commission (“NCPC”).

#### **THE PROPERTY**

5. Parcel F is located in the western portion of the 42-acre site in the southeast DC neighborhood known as The Yards, a mixed-use neighborhood created through the General Services Administration’s (“GSA”) redevelopment of the former Southeast Federal Center (“SEFC”). GSA selected the Forest City SEFC, LLC (the “Master Developer”), to implement the development plan (the “Master Plan”) for The Yards, and Brookfield Properties, through the Master Developer, leads development efforts in The Yards via an agreement with GSA. (Ex. 3.)
6. The Master Plan divides the SEFC into two large parcels:
  - The “Historic Zone” located between 2nd Street, S.E., and the Washington Navy Yard; and
  - The “Redevelopment Zone,” located between First Street, S.E., and New Jersey Avenue, S.E.The Redevelopment Zone and the Planned Unit Development (“PUD”) approved by Z.C. Order No. 15-14 for the D.C. Water headquarters and pumping station are together known as “Yards West.” The Master Plan for Yards West is organized around a central pedestrian-oriented spine leading from M Street, S.E., south to Diamond Teague Park and the Anacostia River. Along this spine, Yards Place, S.E., (formerly known as “1½ Street”) is planned as a curbless street that will run from Quander Street, S.E., on the north to Potomac Avenue, S.E., on the south. (Ex. 3.)

7. Parcel F is in the heart of the Redevelopment Zone. An entrance to the Navy Yard Metrorail station is located along M Street, S.E., approximately one block north of Parcel F, and the Washington Nationals Baseball Park is located across First Street, S.E., to the southwest of Parcel F. To the south of Parcel F across N Street, S.E., are Parcels H and I, which pursuant to the Master Plan are intended to include multifamily residential above ground floor nonresidential uses. (Ex. 3.)
8. The Master Plan calls for Parcel F to contain a mix of office and ground level nonresidential uses. The Commission approved the design for the mixed-use office and retail building on Parcel G in June 2019 pursuant to Z.C. Order No. 18-22, and construction of the building is now underway. Parcel A, the remainder of Record Lot 94, is currently undeveloped but is also intended for development with high-density office and retail use. (Ex. 3.)
9. Parcel F contains approximately 44,720 square feet of land area. (Ex. 3.)
10. Parcel F is located on Record Lot 94 in Square 743, which also includes:
  - Parcel A;
  - Parcel G;
  - The new private Quander Street, S.E., which runs east-west and divides Parcel A from Parcels F and G; and
  - The new private Yards Place, S.E., which runs north-south and divides Parcel F from Parcel G. (Ex. 3.)
11. Parcel F is bounded:
  - To the north, by the new private Quander Street, S.E.;
  - To the east, by the new private Yards Place, S.E.;
  - To the south, by N Street, S.E.; and
  - To the west, by First Street, S.E. (Ex. 3.)
12. Parcel F is currently used as a surface parking lot. (Ex. 3.)

### **ZONING**

13. Parcel F is located in the SEFC-1A zone, which is intended to “provide for the development of a vibrant, urban, mixed-use, waterfront neighborhood, offering a combination of uses that is attractive to residents, office workers, and visitors from across the District of Columbia and beyond.” (Subtitle K § 200.1.) The SEFC-1 zones generally provide for high-density mixed-use development with ground-floor retail, with bonus height and density for properties in the Redevelopment Zone. (Subtitle K § 200.1.)

### **COMPREHENSIVE PLAN (Title 10A of the DCMR, the “CP”)**

14. The CP’s Generalized Policy Map (“GPM”) designates Parcel F as a “Land Use Change Area (Federal),” for property anticipated to transfer from Federal to private ownership with redevelopment to follow the CP’s Framework Element principles:  
*to encourage and facilitate new development ... to become mixed-use communities containing housing, retail shops, services, workplaces, [and] parks ... [and] to*

*create high quality neighborhoods that demonstrate exemplary site and architectural design and innovative environmental features, compatible with nearby neighborhoods.* (CP §§ 225.11, 225.12.)

15. The CP's Future Land Use Map ("FLUM") designates Parcel F for a mix of "High Density Residential" and "High Density Commercial" uses, which the CP's Framework Element defines as follows:
  - High-Density Residential – for "*neighborhoods and corridors generally, but not exclusively suited for high-rise apartment buildings,*" with density typically above 4.0 FAR, and greater density for Inclusionary Zoning ("IZ") developments and Planned Unit Developments ("PUD"); (CP § 227.8)
  - High-Density Commercial – for "*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 buildings with densities greater than 6.0 FAR are the predominant use*" (CP §227.13.)
16. The CP's Lower Anacostia/Near Southwest Area Element covers Parcel F, which is also subject to the Anacostia Waterfront Framework Plan ("AWF Plan") and the Near Southeast Urban Design Framework Plan ("NSE Plan"). (Ex. 3, 3J.)

## II. THE APPLICATION

### THE PROJECT

17. The Application proposed the Project to have:
  - A 130-foot maximum height with nine stories;
  - Approximately 290,261 square feet of gross floor area ("GFA"), as well as a habitable penthouse of approximately 7,210 square feet, with an effective floor area ratio ("FAR") of 6.49 based on the lot area of Parcel F;
  - A mix of uses, with upper-floor office uses and ground floor retail and other uses;
  - An approximately 100% lot occupancy (of Parcel F) at ground level;
  - Approximately 175 underground vehicle parking spaces; and
  - Eighty-four long-term bicycle parking spaces and 18 short term bicycle parking spaces around the perimeter of Parcel F.

### RELIEF REQUESTED

18. The Application requested:
  - Design Review approval of the Project to allow an increased density of 1.0 FAR over the maximum 6.0 (notwithstanding the Project's effective 6.49 FAR based on Parcel F alone) and the increased height of 20 feet over the maximum 110 foot height pursuant to Subtitle K §§ 202.1, 203.1, 237.4(a), 241, and 242; and
  - Flexibility or a special exception pursuant to Subtitle C § 1504, Subtitle K § 242.1, and Subtitle X § 603 from the one-to-one penthouse setback requirement of Subtitle C § 1502.1 for the terrace guardrails. (Ex. 3, 15G.)
19. The Application also requested:

- The following design flexibility from Subtitle Z § 702.8’s requirement to build according to the plans approved by the Commission:
  - To refine plans consistent with the design flexibility granted by the Commission in other design review cases;
  - To allow specified “preferred uses” of the SEFC-1A zone for the spaces identified on the plans for “retail” or “retail/office” uses; and
  - To vary the sustainable features of the Project provided that it achieves LEED Gold v4 certification; and
- Clarification that the calculation of the penthouse habitable space affordable housing contribution to a housing trust fund required by Subtitle C § 1505 be based on Parcel F as the “lot” and not Record Lot 94 that also includes Parcels A and G. (Ex. 15G.)

**APPLICANT’S JUSTIFICATION**

**General Design Review (Subtitle X § 604) & SEFC Specific Design Review (Subtitle K § 242)**

20. ***Ground Floor Design.*** At the ground level, the Project provides retail and office-related uses with entrances from First and N Streets, S.E., and from Yards Place, S.E. Ample sidewalks (i.e., 16 feet to 21 feet) are provided along all three pedestrian-oriented frontages. The Project has a mixed-use presence on Yards Place, S.E, to help reinforce the pedestrian and cycling nature of that private street as a multimodal circulation route between the waterfront Diamond Teague Park to the south and the Metrorail station to the north. With office lobby entrances and retail spaces along Yards Place, S.E., the Project enhances pedestrian activity on that corridor. (Ex. 3, 15G.) The entirety of the Project’s ground floor frontage along N Street, S.E. is reserved for “preferred uses” with multiple bays accommodating a range of tenants of potentially different sizes and types. The office lobby at the northeastern corner of the building is slightly recessed and covered by a canopy that differentiates that elevation from N Street, S.E. and identifies the building’s primary office entrance for pedestrians. (Ex. 3, 15, 15G.) Vehicular parking and loading entrances to the Project are accessible only from Quander Street, S.E. The Project’s loading will be managed to avoid interfering with surrounding street activities. (Ex. 3, 10A.)
21. ***Urban Design and Massing.*** The Project’s massing is comprised of a ground-level, two story retail-and-office podium that is built out to all street frontages, with a seven-story tower above. Landscaped terraces and extruded volumes on the third through ninth stories promote sustainable design goals and provide the type of sculptured design achievable in the SEFC-1 zone. The design provides ample light and air to create unique opportunities for outdoor rooms, green terraces, and courtyards, as well as adjacent parcels and allows for a greater amount of space, light, and air between the tower and the residential buildings planned for Parcels H and I to the south. The Project’s reduced height along one third of its frontage also allows more sunlight to penetrate to the pedestrian-oriented Yards Place, S.E. The south building elevation is exposed to the afternoon sun which allows ample daylight but also requires movable structures such as umbrellas and shades, which provide for a more human scale to its overall design and which will be further detailed in future landscape diagrams. The northern elevation of the building is the simplest though still richly detailed and articulated. The Project’s northern façade faces the future building on

Parcel A opposite Quander Street, S.E., which is intended as a vehicular service corridor for Yards West. (Ex. 3, 15, 15G.)

22. **Floor plan.** The Project's floor plan and vertical circulation accommodates either a single tenant for the whole building or a mix of tenants each occupying portions of the upper stories. The varying sizes of the office floors also provide flexibility to accommodate either a single tenant or multiple tenants of varying sizes. (Ex. 3, 15G.)
23. **Architecture and Lighting.** The Project's façade is composed primarily of terracotta and spandrel glass with bronze-colored and granite accents. At the ground-level, shaped terracotta panels are introduced between and above the bronze-colored framed storefronts. A terracotta "cornice" is introduced as a datum at the second floor articulating the podium top. Moving up, the building's horizontality is articulated and defined with the terracotta spandrels at each floor. The Project will be subtly lit in order to avoid any adverse impacts on nearby residential buildings and the Project will not include any neon lighting or digital signage on the building. Exterior lighting will be limited to the ground-level entrances, the terraces (to fulfill construction code requirements), and the penthouse. Light sources will be recessed and hidden where possible. (Ex. 3, 15G.)
24. **Signage.** The Applicant proposed signage plans which authorized up to four total tenant signs above the ground floor, with no more than two on any façade, and ground level tenant signage for the retail tenants. (Ex. 15G.)
25. **Landscape Design.** The Project's landscape focus is primarily on its terraces and on the rooftop. Plantings on each terrace provide shade, building insulation and stormwater retention benefits for the Project. Planted tree boxes and vegetated stormwater management facilities line the streets around the Project. (Ex. 3, 15, 15G.)
26. **Sustainable Design.** A minimum of approximately 3,300 square feet of the Project's roof area will be devoted to solar panels to generate some of the Project's electricity. Other sustainable strategies such as providing for electric vehicle charging, encouraging bicycle use, limiting indoor and outdoor water use, and integrating high-efficiency mechanical systems ensure that the Project will achieve a LEED Gold v4 level of certification. (Ex. 3, 15G.)
27. **Density Flexibility Justification.** The Application requested flexibility to obtain the maximum 7.0 FAR permitted for Parcel F, even though the Project will only use 6.49 FAR based on Parcel F alone, in order to permit the shifting of density within Record Lot 94 that includes Parcels A and G, as well as Parcel F, and to accommodate the proposed private streets that are excluded from the lot area used to calculate the record lot's FAR. This flexibility would allow the other parcels in the record lot to have a density exceeding 7.0 FAR provided that the record lot remains within the maximum 7.0 aggregate FAR limit. (Ex. 3, 15G.)

28. ***Penthouse Setback Justification.*** The Project requested design review flexibility pursuant to Subtitle X § 603 for the guardrails around the lower-level terraces that do not comply with Subtitle C § 1502.1's minimum one-to-one setback from the outside face of the building enclosing wall above which such guardrails are located. The extensive lower terraces have been designed to be active, useable spaces for building tenants, as well as provide a landscaped edge that contrasts markedly from typical commercial office building design. To this end, the planted areas have been located at the perimeter of the terrace levels, which increases the amount of occupiable space at each terrace level and provides a more visible green edge from the street below. The design necessitates locating the guardrails closer to the edge of each terrace, rather than set back one-to-one from the point where the façade meets the floor slab. The proposed location of the railings expands the usable area of the terraces by approximately ten percent and provides larger and less fragmented planting areas than would be achieved by a strict compliance with Subtitle C § 1502.1. (Ex. 15.)
29. ***Penthouse Habitable Space Affordable Housing Fee Justification.*** The Application requested that the affordable housing contribution required by Subtitle C § 1505 for the habitable penthouse, to be used for the commercial tenants of the building, be calculated on Parcel F alone and not the entire Record Lot 94, because:
- The current assessed value of the land is a “placeholder” number established by the Office of Tax and Revenue (“OTR”) due to the current Federal ownership of Parcel F;
  - OTR does not assess federal land until after its transfer to a private entity to ensure that the assessment reflects the development potential and market value of the property based on applicable zoning, covenants, easements, and other factors;
  - Parcel F is part of the same record lot with Parcels A and G, which are subject to separate development approvals; and
  - The Commission had approved this same flexibility for Parcel G in Z.C. Order No. 18-22. (Ex. 15.)

#### **APPLICANT’S SUBMISSIONS**

30. In addition to the testimony at the public hearing, the Applicant made the following submissions to the record in support of the Application:
- The initial November 18, 2020 application and related materials requesting design review approval and related relief (Ex. 1-3K, the “Initial Application”);
  - A December 8, 2020, Comprehensive Transportation Review (Ex. 10, the “CTR”) that included a draft Transportation Demand Management Plan (Ex. 10A, the “TDM Plan”);
  - A January 18, 2021, submission (Ex. 15-15G, the “Pre-Hearing Statement”);
  - A February 5, 2021, update on the TDM Plan (Ex. 20, the “Revised TDM Plan”); and
  - Presentation materials for the February 8, 2021 virtual public hearing. (Ex. 19A.)
31. On February 22, 2021, the Applicant filed draft findings of fact and conclusions of law. (Ex. 21.) No other post-hearing submissions were submitted into the record of this case.

### III. RESPONSES TO APPLICATION

#### FEDERAL AGENCIES

32. In July 2020, the Applicant presented the 15% design submission for the Project to GSA. In addition, in August 2020, the Applicant provided the 15% design to staff at the State Historic Preservation Officer, NCPC, the U.S. Commission of Fine Arts (“CFA”), the Advisory Council on Historic Preservation and other stakeholders (the “Consulting Parties”) to obtain additional feedback early in the design process. The Applicant also submitted the 35% design to GSA and the Consulting Parties for review and comment in October 2020. (Ex. 3, 15.) The Consulting Parties provided the following comments:
- **NCPC.** In connection with the GSA-led review process, the NCPC’s executive director noted that multiple federal and local agencies generally agree that the Project is consistent with the approved SEFC Master Plan and related urban design guidelines and standards. (Ex. 15A.)
  - **CFA.** In connection with the GSA-led review process, CFA commended the design of the Project, including its terraces, setbacks, and materials. (Ex. 15B.) CFA had three recommendations, which the Applicant has addressed in the following ways:
    - ***Two-story base*** - CFA suggested setting the third level further back on the south elevation. The Applicant presented images showing that the third level is set back from the two levels below and includes a well-defined cornice line above the second level. (Ex. 15.)
    - ***Landscaping*** - CFA “recommended developing the planting palette so that it would achieve the tall and dense character shown in the renderings and would be appropriate for the various outdoor microclimates.” The Project’s landscaping achieves the tall and dense concepts depicted in the plans and account for the shade and other conditions created by the Project’s various microclimates; and
    - ***Bird-Friendly Glazing*** - CFA advised taking bird-friendly steps given the presence of the plantings. The Applicant submitted evidence demonstrating elements of the Project’s design and operational measures that together achieve bird-friendly design objectives; and (Ex. 15, 15C.)
  - **GSA.** Following the completion of the Consulting Parties’ review process, GSA issued a letter approving the 35% design. (Ex. 15D.)

#### OP

33. OP filed a January 29, 2021, report (Ex. 17, the “OP Report”) that recommending approval of the Application, including:
- The design review approval, including for the maximum 7.0 FAR allowed for the record lot, even though the Project will have an effective 6.49 FAR based on Parcel F alone;
  - The special exception relief to allow the terrace guardrails to not provide the required one-to-one penthouse setback;
  - The design flexibility; and
  - The clarification that the “lot” used for the Housing Production Trust Fund contribution calculation may be Parcel F alone, not Record Lot 94, provided that the contribution complies with the Zoning Regulations.

34. OP testified at the February 8, 2021 public hearing, in support of the Application. (Feb. 8 Transcript [“Tr.”] at 46.)

### DDOT

35. DDOT filed a January 29, 2021 report (Ex. 16, the “DDOT Report”), subject to the conditions imposed herein and subject to ongoing DDOT review. (Ex. 16.) The report stated that to offset minor impacts to seven intersections and the high parking ratio, which could induce additional demand for driving, the Applicant proposed a Baseline Tier TDM Plan in the December 8, 2020 CTR. DDOT found that the TDM Plan is not sufficiently robust to mitigate the site’s impacts to the transportation network and that, to encourage a reduction of vehicle traffic through the impacted intersections and support use of non-automotive travel to the site, the TDM Plan should be strengthened to an Enhanced Tier Plan. The report listed the specific revisions and additions to the TDM Plan requested by DDOT.
36. At the February 8, 2021, public hearing, DDOT testified that:
- DDOT and the Applicant had agreed on a revised TDM Plan, which the Applicant submitted; and (Ex. 20)
  - DDOT had no objection to the approval of the Application, provided that the agreed upon provisions are included as conditions in the Commission’s approval. (Feb. 8 Tr. at 46-47.)

### ANC

37. ANC 6D submitted a December 18, 2020, report (Ex. 11, the “ANC Report”) stating that at its regularly scheduled and duly noticed December 14, 2020 public meeting, with a quorum present, ANC 6D voted to support the Application for design review for the Project because:

*the design of the building, which has its southern half carved away at the upper stories to allow for greater amount of space, light and air between the tower and the residential building planned for Parcels H and I to the south was instrumental in ANC 6D’s support of the project. To the credit of the applicant, this is one of the prettiest designed buildings ANC 6D has seen in quite a while.*

## CONCLUSIONS OF LAW

### AUTHORITY

1. Pursuant to the authority granted by the Zoning Act, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2018 Repl.)), the Commission may approve a design review application consistent with the requirements of Subtitle K, Chapter 2; Subtitle X, Chapter 6; and Subtitle Z § 301.
2. Pursuant to Subtitle K § 237.4(a), the Project requires design review approval under Subtitle K §§ 241 and 242 and under Subtitle X § 604 because it requests bonus height and density in the SEFC-1A zone under Subtitle K §§ 202 and 203.

3. Subtitle K §§ 202.1, 203.1, 237.4(a), 241, and 242 provide specific SEFC design review criteria, in addition to the general design review criteria of Subtitle X § 604.
4. Pursuant to Subtitle X § 600.1, the purpose of the design review process is to:
  - (a) Allow for special projects to be approved by the Zoning Commission after a public hearing and a finding of no adverse impact;
  - (b) Recognize that some areas of the District of Columbia warrant special attention due to particular or unique characteristics of an area or project;
  - (c) Permit some projects to voluntarily submit themselves for design review under this chapter in exchange for flexibility because the project is superior in design but does not need extra density;
  - (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.
5. Subtitle X § 603 authorizes the Commission to grant relief from development standards for height, setbacks, lot occupancy, courts, and building transitions and other zone-specific design standards, as well as to hear simultaneously an application for special exception or variance relief.
6. 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 exception:
  - Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map;
  - Will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map; and
  - Complies with the special conditions specified in the Zoning Regulations.
7. For the relief requested by the Application, the “specific conditions” are those of Subtitle C § 1504.
8. Relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the relief requested are met. In reviewing an application for special exception relief, the Commission’s discretion is limited to determining whether the proposed exception satisfies the requirements of the regulations and “if the applicant meets its burden, the Commission ordinarily must grant the application.” (*First Washington Baptist Church v. D.C. Bd. of Zoning Adjustment*, 423 A.2d 695, 701 (D.C. 1981) (quoting *Stewart v. D.C. Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)).)

#### **DESIGN REVIEW**

9. Based on the case record and the Findings of Fact above, the Commission concludes that the Application satisfied both the specific SEFC design review criteria of Subtitle K

§§ 202, 237, 241, and 242, as well as the general design review criteria of Subtitle X § 604, for the reasons stated below.

**Specific SEFC Design Review Criteria (Subtitle K §§ 202, 237, 241 & 242)**

10. Based on the case record and the Findings of Fact above, the Commission concludes that the Application satisfies the specific SEFC design review criteria as detailed below.
11. The Commission concludes that the Application satisfies the requirement of Subtitle K § 202.1(a) for the additional 1.0 FAR requested above 6.0 FAR does not apply to the Application because it does not propose to use the extra 1.0 FAR for residential uses.
12. The Commission concludes that the Application satisfies the requirements of Subtitle K § 237.4(a) because:
  - The Project is of superior quality as discussed below in the discussion of Subtitle X §§ 604.7 and 604.8 (Subtitle K § 237.4(a));
  - The Project supports the creation of Yards Place, S.E. (formerly 1½ Street, S.E.) and N Street, S.E., as open and uncovered multimodal circulation routes (Subtitle K § 237.4(b)); and
  - The Project is not subject to the affordable housing requirement of Subtitle K § 202.1(a) (Subtitle K § 237.4(c).)
13. The Commission concludes that the Application satisfies the requirements of Subtitle K § 241 because:
  - **Subtitle K § 241.1(a)** - The Project will help achieve the applicable goals and objectives of the SEFC zones as established by Subtitle K §§ 200.2-200.7 as follows:
    - Subtitle K § 200.2(a) - The Project's office and other commercial uses, building height, and density are all within the high-density parameters envisioned by the CP, AWF Plan, and NSE Plan;
    - Subtitle K § 200.2(b) The Project prioritizes a pedestrian-oriented streetscape, particularly on Yards Place, S.E., N Street, S.E., and First Street, S.E., with ground-floor preferred uses. (FF 20.) Although the Project does not contain high-density residential development, it helps support the construction of such development by providing job opportunities and daytime users for retail uses;
    - Subtitle K § 200.2(c) - The Project emphasizes economic development and incorporates retail and service uses that will support neighborhood residents, anticipated office workers, and visitors;
    - Subtitle K § 200.2(d) - The Project's height and density away from the riverfront allows for reduced height at the riverfront. The Project does not interfere with riverfront views;
    - Subtitle K § 200.2(e) - The Project provides the required preferred uses and other appropriate ground floor uses at ground level;
    - Subtitle K § 200.2(f) - The Project is not located within the SEFC Historic Zone and appropriately accommodates a shift of height and density away from such zone. (*Id.*)

- Subtitle K § 200.2(g) - The density and development value achieved by the Project helped the Master Developer prioritize the construction of park and open space along the Anacostia River;
- Subtitle K § 200.3 - The Project is a high-density, mixed-use development with ground floor retail, taking advantage of the zoning-enabled bonus height and density in the area around the Navy Yard Metrorail Station, Yards Place, M. Street, S.E., and the Washington Navy Yard; and
- Subtitle K §§ 200.4 through 200.7 – These provisions do not apply to the Application as they cover the other SEFC zones;
- **Subtitle K § 241.1(b)** - The Project has been designed for height, bulk, and siting to provide open views and vistas to and from the waterfront, monumental federal buildings, and along key corridors; and
- **Subtitle K § 241.1(c)** - All the Project’s parking is located underground. (FF 20-29, 33.)

14. The Commission concludes that the Application also satisfied the non-required criteria of Subtitle K § 241.2 as follows:

- **Subtitle K § 242.1(a)** - The Project’s uses and density are compatible with the surrounding area and the Project’s siting, details and landscaping are all coordinated with those in Yards West and beyond as part of the Master Plan;
- **Subtitle K § 242.1(b)** - The Project promotes sustainable development goals because it will achieve LEED Gold v4 certification, a high standard of environmental design, and includes significant individual features of the Project’s environmental design such as:
  - A green roof to mitigate heat island effect, provide additional insulation, and contribute to stormwater management;
  - Use of high-performance glazing; use of VRF HVAC systems;
  - Use of efficient water fixtures; and
  - Roof-mounted solar panels;
- **Subtitle K § 242.1(c)** - There are no long stretches of unarticulated blank walls along any of the Project’s four façades;
- **Subtitle K § 242.1(d)** - The Project’s landscape design includes public space plantings and landscaping of the terrace and rooftop that are integral to and complement the Project;
- **Subtitle K § 242.1(e)** - The Project’s ground level uses, particularly the “preferred uses,” reinforce and enhance Yards Place as a primary north-south pedestrian corridor between the M Street, S.E. Metrorail station and the waterfront; and
- **Subtitle K §§ 241.2(f)-(h)** – These provisions do not apply to the Application because they address the other SEFC zones. (FF 20-29, 33.)

#### **General Design Review Criteria (Subtitle X § 604)**

15. Based on the case record and the Findings of Fact above, the Commission concludes that the Application satisfied the general design review criteria as detailed below.
16. The Commission concludes that the Application satisfies the requirements of Subtitle X §§ 604.1 and 604.2 because the Application satisfied the specific design review requirements of Subtitle K §§ 202, 237, 241, and 242 as discussed above.

17. The Commission concludes that the Application satisfies the requirement of Subtitle X § 604.5 to not be inconsistent with the CP because the Project:
- Is consistent with the Master Plan for the overall redevelopment of the former Federal SEFC into The Yards as a new mixed-use community containing housing, retail, services, office uses, outdoor areas and other civic facilities that corresponds to the GPM’s designation of Parcel F in a “Land Use Change Area (Federal)” where a change from Federal to a different land use is anticipated; (FF 14)
  - Proposes a high-density development, converting Parcel F to a mix of office and other commercial uses with more than a 6.0 FAR, which is not inconsistent with the FLUM’s designation of Parcel F for both “High-Density Commercial” and “High-Density Residential” uses; (FF 15)
  - Contributes to a high-quality environment with exemplary site and architectural design that is compatible with and does not negatively impact nearby neighborhoods; and
  - Is consistent with the AWF Plan’s vision for “Near Southeast” and advances the principle of developing mixed use projects with neighborhood-focused uses; and
  - Is not inconsistent with relevant objectives of the CP, AWF Plan, and NSE Plan. (FF 20-29, 33.)
18. The Commission concludes that the Application satisfies requirement of Subtitle X § 604.6 to not tend to adversely affect the use of neighboring property and the general special exception criteria of Subtitle X, Chapter 9, because:
- **Subtitle X § 901.2(a)** - The Project will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps for the SEFC-1A zone and comply with the Zoning Regulations in terms of development standards, including height, FAR, proposed uses, and parking, except for the requested zoning flexibility from the one-to-one penthouse setback requirement of Subtitle C § 1502.1 for the terrace guardrails, and the clarification that the penthouse habitable space affordable housing fee required by Subtitle C § 1505 be calculated based on Parcel F alone (FF 28-29); and
  - **Subtitle X § 901.2(b)** - The Project will not adversely affect the use of neighboring property because the Project is designed to fit in and operate compatibly with neighboring properties and uses. The immediately neighboring lots are all controlled by the Applicant and have been master-planned with the current design of the Project in mind. The high-density, mixed-use Project is essential for helping Yards West become thriving mixed-use, transit-oriented neighborhood. The Project’s height, massing, orientation, and uses are also unlikely to adversely affect the use of any surrounding properties, all of which currently either serve office tenants or infrastructure uses or are vacant. (FF 20-29, 33.)
19. The Commission concludes that the Application satisfies the requirements of Subtitle X §§ 604.7 and 604.8 to be superior to matter-of-right construction, with respect to the urban design of the Project’s site and building (specifically the Project’s creative massing, detailing, materials selection, and other design features, its prominent relationship and attention to the surrounding public and Yards Place corridors, and its pedestrian accommodation), based on the following criteria:

- **Subtitle X § 604.7(a)** – The Project has designed street frontages to be safe, comfortable, and encouraging of pedestrian activity because the Yards West Master Plan advances the urban design principles in Subtitle X § 604.7(a), and the Project integrates these principles into both the public realm around the Project and the Project’s building design. Each frontage of the Project features multiple pedestrian entrances, with clear and inviting windows at the ground level and no unarticulated blank façades. The proposed pedestrian-focused design responds to the immediate context. Ample sidewalks are provided. The ground floor uses accommodate appropriate seasonal indoor-outdoor activity (such as outdoor seating), further interconnecting the public and private realm at the ground level and creating a pedestrian-first experience. The Project lacks alley access, so all vehicular access has been located on the street with the anticipated lowest volume of pedestrian activity. The Project’s Quander Street, S.E., frontage design softens any vehicular impacts: pedestrian access points into the Project are located at the corners and the vehicular access is at the center of that frontage. The Project provides safe pedestrian spaces;
- **Subtitle X § 604.7(b)** – The Project provides public gathering and open spaces because it is integrated into the Yards West, a neighborhood scale plan that supports the public space planning concepts in Subtitle X § 604.7(b). The Yards West public realm design creates a network of formal and informal open spaces extending from an urban pedestrian plaza at the north end to recreational open space at the south end, connected to the Anacostia waterfront and a planned extension of Diamond Teague Park. Yards Place, S.E., facilitates this purpose along its entire length through wide sidewalks and a flexible, curbsless design. The Project reinforces the public gathering space vision and purpose of Yards Place. The Project enhances connections between its spaces for public activity and ground floor programming along Yards Place, S.E. Similarly, the Project’s retail presence and requirement to provide “preferred uses” at grade along N Street, S.E., enlivens the connection between the Ballpark, First Street, S.E., Yards Place, S.E., and Tingey Square;
- **Subtitle X § 604.7(c)** – The Project respects that historic character of Washington’s neighborhoods because the Master Plan and the Project respect the three urban design principles of Subtitle X §604.7(c). Yards West has been master-planned for over a decade as the “Redevelopment Zone” of The Yards, where high-density contemporary design within a re-established urban grid is envisioned as a counterpoint to the historic design and guidelines that shaped the “Historic Zone” to the east. To this end, the original SEFC Master Plan and the more recent Yards West Master Plan both emphasize the street network within the L’Enfant framework. The Project reinforces and helps create the urban form encouraged by the L’Enfant plan and the CP by enhancing vistas and views along these streets and by being built out to the lot line on all four frontages. The Project creates a deliberate contrast between the Redevelopment Zone and the Historic Zone to the east. As a result, the Project is respectful toward, without being imitative of, future Yards West development. The openness of the upper stories is compatible with nearby buildings and creates an orientation toward the river and the new Frederick Douglass Bridge. The Project reinforces the urban grid along all four street frontages and creates an interesting experience for pedestrians;

- **Subtitle X § 604.7(d)** – The Project’s massing and architectural design reinforce the pedestrian realm through a ground floor base that defines the streetwall along all street frontages, as well as architectural detail that connects the proposed uses to the public realm context on each frontage. At and above the ground floor, the Project’s material palette reflects high quality and contextually appropriate choices for Parcel F given its location within the Redevelopment Zone and near the Ballpark. The ground level materials in particular include quality and contextual materials and a high percentage of glazing in furtherance of pedestrian-experiential goals.
- **Subtitle X § 604.7(e)** - The Project’s landscaping includes sustainable design. The east-west public streets utilize low impact development (“LID”) planting zones with bioretention zones and other features to detain and treat stormwater runoff. The Project incorporates a variety of planted areas on multiple terraces, with soil depths capable of supporting trees as well as vegetation. Native and appropriate adaptive species are used in all landscaping, which is designed to complement the Project and its material selections; and
- **Subtitle X § 604.7(g)** – The Project’s site design promotes internal and external connectivity because it is part of the redevelopment of The Yards, which creates porosity at the ground level to break up blocks into a pedestrian-friendly scale, allow public access into the Project’s courtyard and retail spaces, and increase mobility through The Yards. The Master Plan creates pedestrian-scale connectivity within and to The Yards. Yards Place provides a direct and comfortable pedestrian link through Yards West from to the Metrorail station to the Anacostia River, which increases overall neighborhood pedestrian mobility and directly links the waterfront to transit. The block containing the Project is integrated into the surrounding pedestrian fabric. The result is that the Project is weaves into Yards West and The Yards generally through pedestrian connections, and those pedestrian connections create further connections to nearby neighborhoods, creating an interconnected fabric of pedestrian-oriented development. Bicycle infrastructure has been integrated into the Yards West public realm and the Project. Parcel F accommodates cyclists via on-street bicycle racks plus a large ground-level indoor parking area. The Project includes a shower and lockers for employees.

**SPECIAL EXCEPTION – PENTHOUSE SETBACK (SUBTITLE C § 1502 AND SUBTITLE X § 603)**

20. Based on the case record and the Findings of Fact above, the Commission concludes that the Application’s request for the penthouse setback relief to allow the lower-level terrace guardrails:
- Is appropriate as design review flexibility under Subtitle X §§ 603.1 and 603.2 because the flexibility is modest and would allow a greater of the terrace space for landscape and occupiable space that meets the design review goals and criteria of Subtitle X § 604.7; and
  - Also satisfies the special exception criteria if analyzed as separate relief pursuant to Subtitle X § 603.3, as the OP Report did and as discussed below.

**Specific Special Exception Requirements (Subtitle C § 1504)**

21. The Commission concludes that the proposed penthouse setback relief for the glass terrace guardrails satisfies the requirements of Subtitle C § 1504 because the modest non-compliant

setback enables the landscaped green edge of the terraces that is a prominent design feature of the Project, as well as the occupiable space behind, and results in a better design that does not materially impair the building or negatively impact the light and air available to the adjacent buildings due to its modest nature.

#### **General Special Exception Requirements (Subtitle X § 901)**

22. The Commission concludes that the Application’s request for the penthouse setback relief meets the general special exception requirements because:
- The relief would be in harmony with the Zoning Regulations and Maps because it is an integral and prominent feature of the Project’s design and enables the landscaped green edge; and
  - The small amount of relief requested, and the use of glass for the railings, make the relief unlikely to adversely affect the use of neighboring property.

#### **PENTHOUSE HABITABLE SPACE AFFORDABLE HOUSING CONTRIBUTION CALCULATION**

23. The Commission concludes that the Application’s request to clarify that the “lot” used to calculate the affordable housing contribution for the Project’s habitable penthouse per Subtitle C § 1505.15 shall be Parcel F is reasonable because Record Lot 94 also includes Parcels A and G, which are subject to their own development approvals, and the Commission believes that the regulation was written with the assumption that the record lot would include only one principal building.

#### **“GREAT WEIGHT” TO THE RECOMMENDATIONS OF OP**

24. The Commission must give “great weight” to the recommendations of OP pursuant to § 13(d) 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 (2001)) and Subtitle Z § 405.8. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)
25. The Commission gives OP’s recommendation to approve the Application great weight, concurs with and incorporates herein OP’s findings, and concludes that the Applicant’s responses appropriately addressed OP’s questions and concerns.

#### **“GREAT WEIGHT” TO THE ANC REPORT**

26. The Commission must give “great weight” to the issues and concerns raised in a written report of the affected ANC that was approved by the full ANC at a properly noticed meeting that was open to the public pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl )) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted).)

27. ANC 6D voted to support the application for SEFC zone design review and related zoning relief and expressed no issues or concerns about the Project.

### **DECISION**

Based on the case record, the testimony at the public hearing, and the above Findings of Fact and Conclusions of Law, the Commission concludes that the Applicant has satisfied its burden of proof for the requested relief and therefore **APPROVES**, subject to the following conditions, standards, and flexibility, the Application's request for the following relief for Lot 856 in Square 743:

- Design review approval pursuant to Subtitle K, Chapter 2, and Subtitle Z, Chapter 6, with flexibility for use of FAR and clarification that Parcel F is the lot used to calculate the affordable housing contribution required for the penthouse habitable space; and
- A special exception pursuant to Subtitle C § 1504, Subtitle K § 242.1, and Subtitle X § 603 from the one-to-one penthouse setback required by Subtitle C § 1502.1 for the terrace guardrails.

#### **A. PROJECT DEVELOPMENT**

1. The Project shall be built in accordance with the plans and elevations dated January 18, 2021, (Ex. 15G1-15G6) (collectively, the "Final Plans"), subject to the following areas of flexibility from the Final Plans:
  - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, and toilet rooms, provided that the variations do not change the exterior configuration or appearance of the structure;
  - b. To vary the colors of the exterior materials based on availability at the time of construction, provided such colors are within the color ranges proposed in the Final Plans;
  - c. To make minor refinements to the locations and dimensions of exterior details that do not substantially alter the exterior design shown on the Final Plans. Examples of exterior details would include, but are not limited to, doorways, canopies, railings, and skylights;
  - d. To make refinements to the approved parking configuration, including layout and number of parking spaces plus or minus 10%;
  - e. To vary the location, attributes, and general design of the approved streetscape to comply with the requirements of, and approval by, the DDOT Public Space Division;
  - f. To vary the final streetscaping and landscaping materials on private property as shown on the Final Plans based on availability and suitability at the time of construction, to incorporate materials consistent with adjacent public space (including both DDOT

standard and DDOT-approved “Yards Standard” materials, furnishings, and fixtures), or otherwise in order to satisfy any permitting requirements of DC Water, DDOT, DOEE, DCRA, or other applicable regulatory bodies;

- g. To vary the amount, location/orientation and type of green roof, solar panels, and paver areas to meet stormwater requirements and sustainability goals or otherwise satisfy permitting requirements, so long as the Project achieves a minimum GAR of 0.2, based on the area of Parcel F, and provides a minimum of 3,300 square feet of roof area containing solar panels and related equipment;
- h. To vary the final design and layout of the mechanical penthouse to accommodate changes to comply with Construction Codes or address the structural, mechanical, or operational needs of the building uses or systems, so long as such changes do not substantially alter the exterior dimensions shown on the Final Plans and remain compliant with all applicable penthouse setback requirements;
- i. To vary the final design and layout of the indoor and outdoor amenity spaces (including the location of guardrails on lower terraces) to reflect their final design and programming;
- j. To vary the final design of the ground floor frontage, including the number, size, design, and location of windows and entrances, signage, awnings, canopies, and similar storefront design features, to accommodate the needs of the specific tenants within the parameters set forth in the Storefront and Signage Plans;
- k. To locate signage identifying the Project’s primary office tenants above the ground level of the Project within the parameters set forth in the Storefront and Signage Plans, provided that such signage shall be limited to no more than two signs per façade and no more than four signs in total; and
- l. To change the use of the space identified as “Retail” or “Retail/Office” in the Final Plans to any use allowed among (i) the “Preferred Uses” in the SEFC-1A zone with respect to the space(s) fronting along N Street, S.E., and (ii) either “Preferred Uses” or office uses in the SEFC-1A zone with respect to the space(s) along First Street, S.E., Yards Place, S.E., and/or Quander Street, S.E.

## **B. REQUIREMENTS - BUILDING PERMIT**

1. ***Penthouse Affordable Housing Contribution*** – **Prior to the issuance of a building permit**, the Applicant shall contribute to the Housing Production Trust Fund no less than one-half of the total contribution required by Subtitle C § 1505, which total shall be one-half the assessed value of the proposed penthouse habitable space associated with the Project, based on the assessed value of Parcel F only.
2. ***LEED*** – **Prior to the issuance of a building permit**, the Applicant shall provide the Zoning Administrator with:

- a. Evidence that the Applicant has registered the Project with the U.S. Green Building Council for certification at the LEED Gold v4 level; and
- b. The scorecard demonstrating that the Project is on track to achieve certification at the LEED Gold v4 level, provided that the Applicant shall have the flexibility to vary the approved sustainable features of the Project as long as the total number of LEED points achievable for the Project does not decrease below the minimum required for the foregoing LEED standard.

### C. REQUIREMENTS - CERTIFICATE OF OCCUPANCY

1. ***Penthouse Affordable Housing Contribution*** – **Prior to the issuance of a certificate of occupancy**, the Applicant shall pay the balance of the contribution to the Housing Production Trust Fund required by Condition No. B.1 and Subtitle C § 1505.
2. ***LEED*** – **Prior to the issuance of the final certificate of occupancy for the Project**, the Applicant shall provide the Zoning Administrator with evidence that the Project is on track to achieve certification from the U.S. Green Building Council at the level of LEED Gold v4, provided that the Applicant shall have the flexibility to vary the approved sustainable features of the Project as long as the total number of LEED points achievable for the Project does not decrease below the minimum required for the foregoing LEED standard.
3. ***Transportation Demand Management***
  - a. **Prior to the issuance of a certificate of occupancy for the Project**, the Applicant shall fund and install a 19-dock Capital Bikeshare station along the west side of New Jersey Avenue, S.E. in front of Parcel G and fund one year of maintenance and operations costs, subject to DDOT approval.
  - b. **Following the issuance of a certificate of occupancy for the Project**, the Project's TDM Coordinator shall submit to the Office of Zoning for inclusion in the IZIS case record documentation summarizing compliance with the transportation and following TDM conditions of this Order.
  - c. **Five years after the issuance of the final certificate of occupancy for the Project**, if the TDM Coordinator has not established a relationship with DDOT or goDCgo, the TDM Coordinator will submit a letter to the Zoning Administrator, DDOT, and goDCgo summarizing continued substantial compliance with the transportation and following TDM conditions in the Order, unless no longer applicable as confirmed by DDOT; provided, that if such letter is not submitted on a timely basis, the Applicant shall have sixty (60) days from date of notice from the Zoning Administrator, DDOT, or goDCgo to prepare and submit such letter.

### D. REQUIREMENTS - LIFE OF THE PROJECT

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

- a. Unbundle the cost of parking from the cost to lease an office unit, with retail and office parking to be priced at market rates;
- b. Refrain from leasing unused parking spaces to anyone aside from users of the building, except that the Applicant may lease parking spaces within the Project to users of other buildings (1) for which no parking is provided at the other buildings; and/or (2) within The Yards;
- c. Identify and share with DDOT and goDCgo (info@godcgo.com) the full contact information for the Project's TDM Coordinator (for planning, construction, and operations) who will distribute and market to tenants of the building various transportation alternatives and options, to act as a point of contact with DDOT/Zoning Enforcement with annual updates;
- d. Conduct an annual commuter survey of employees on-site and report TDM activities and data collection efforts to goDCgo once per year and obligate all tenants with more than 20 employees to survey their employees and report the results to the Project's TDM Coordinator;
- e. Require the Project's TDM Coordinator to develop, distribute, and market various transportation alternatives and options to the employees, including promoting transportation events (i.e., Bike to Work Day, National Walking Day, Car Free Day) on the Project's website and in any internal building newsletters or communications;
- f. Provide for the Project's TDM Coordinator to receive TDM training from goDCgo to learn about the TDM conditions for the Project and available options for implementing the TDM plan;
- g. Require the Project's TDM Coordinator to subscribe to the applicable goDCgo newsletters;
- h. Require tenants with 20 or more employees to comply 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;
- i. Install a Transportation Information Center Display (electronic screen) or provide comparable information by other digital or electronic means (such as an app, subject to DDOT approval), 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, and nearby Capital Bikeshare locations indicating the availability of bicycles;
- j. Notify goDCgo each time a new office tenant occupying a full floor or more of the Project moves into the Project and provide TDM information to each such new tenant;

- k. Provide links to [CommuterConnections.com](http://CommuterConnections.com) and [goDCgo.com](http://goDCgo.com) on property websites;
- l. Implement or require office tenants within the building to implement a carpooling system such that individuals working in the building who wish to carpool can easily locate other employees who live nearby;
- m. Require the TDM Coordinator to distribute information on the “Commuter Connections Guaranteed Ride Home” program, which provides commuters who regularly carpool, vanpool, bike, walk, or take transit to work with a free and reliable ride home in an emergency;
- n. Provide employees who wish to carpool with detailed carpooling information and/or referrals 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;
- o. Provide, at no charge to and for use by any tenant of the building or employee thereof, no fewer than 84 long-term bicycle parking spaces in the Project with room to accommodate non-traditional sized bikes including cargo and tandem bikes;
- p. Provide no fewer than eight showers and 48 lockers for tenants of the building and employees thereof;
- q. Provide no fewer than 18 short-term bicycle parking spaces around the perimeter of Parcel F;
- r. Provide no fewer than eight electric vehicle charging stations in the Project’s below-grade parking garage.
- s. Designate a minimum of two preferential carpooling spaces and two preferential vanpooling spaces in a convenient location within the parking garage for employee use;
- t. Offer a free SmarTrip card and one complimentary Capital Bikeshare coupon good for a free ride to each new employee;
- u. Offer a one-year Capital Bikeshare membership or SmarTrip card pre-loaded with \$85 to all employees of tenants of the Project for the first year after the Project receives its Certificate of Occupancy;
- v. Require any office tenant occupying 75% or more of the office space in the Project to participate in the Capital Bikeshare corporate membership program and offer discounted annual memberships to employees;
- w. Provide a bicycle repair station in the Project’s long-term bicycle parking storage room;

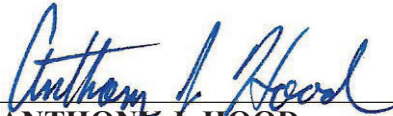
- x. Coordinate with the Capitol Riverfront’s BID marketing efforts, and those of WMATA and the local ANC, on a way finding plan along walking routes to the property from the Navy Yard-Ballpark and Waterfront Metrorail stations and special transit maps in Navy Yard area, which marketing efforts shall include installing posters in bus shelter map cases, transit oriented promotional materials, and special transit maps in Navy Yard area; and
- y. Hold a transportation event for employees and members of the community once per year for a total of five (5) years (examples include: employee social, walking tour of local transportation options, goDCgo lobby event, transportation fair, WABA Everyday Bicycling seminar, bicycle safety/information class, bicycle repair event, and the like).


**E. VALIDITY**

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

**VOTE (February 8, 2021): 5-0-0** (Robert E. Miller, Michael G. Turnbull, Anthony J. Hood, Peter A. Shapiro, and Peter G. May to **APPROVE**)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 20-28 shall become final and effective upon publication in the *DC Register*; that is on May 21, 2021.

  
 ANTHONY J. HOOD  
 CHAIRMAN  
 ZONING COMMISSION

  
 SARA A. FARDIN  
 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.