

Government of the District of Columbia
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 23-10

Z.C. Case No. 23-10

Georgetown University

(Design Review @ Square 569, Lot 865 & portion of Lot 864
(120 F Street, N.W.))

July 17, 2023

Pursuant to notice, at its public hearing on July 17, 2023, the Zoning Commission for the District of Columbia (the “Commission”) considered the application (the “Application”) of Georgetown University (the “Applicant” or “University”) for Design Review approval pursuant to Subtitle I §§ 517.1(b) and 701.1 of the Zoning Regulations of the District of Columbia (Title 11 of the District of Columbia Municipal Regulations (“DCMR”), Zoning Regulations of 2016, to which all references are made unless otherwise specified) for Lot 865 and a portion of Lot 864 in Square 569¹ (the “Property”) in the D-3 zone to construct a 130-foot tall academic with academic, office, clinic, and convening space building (the “Project”) for the Georgetown University Law Center (the “Law Center”). The Commission conducted the public hearing in accordance with the Commission’s Rules of Practice and Procedure in 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”) 6E, the ANC in which the Property is located and so the “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.”] 4D.) to ANC 6E and the owners of all property within 200 feet of the Property on February 15, 2023.

¹ The Property is also part of Record Lot 83, described further below.

4. Pursuant to Subtitle Z § 402, OZ sent notice of the July 17, 2023 public hearing, to the following on May 4, 2023: (Ex. 8, 9.)
 - The Applicant;
 - ANC 6E;
 - ANC Single Member District Commissioners 6E07 and 6E08;
 - The Office of the ANCs;
 - The Ward 6 Councilmember, whose ward includes the Property;
 - The Office of Planning (“OP”);
 - The District Department of Transportation (“DDOT”);
 - The Department of Buildings (“DOB”);
 - The Office of Zoning Legal Division (“OZLD”) lead attorney;
 - The Department of Energy and Environment (“DOEE”);
 - The Chair and At-Large Members of the Council of the District of Columbia; and
 - The owners of property within 200 feet of the Property.
5. OZ also published notice of the July 17, 2023 virtual public hearing in the May 19, 2023 *District of Columbia Register* (70 DCR 007104, *et seq.*) as well as on the calendar on OZ’s website. (Ex. 7.)
6. Pursuant to Subtitle Z § 402.3, the Applicant posted notice of the hearing on the Property on June 6, 2023, and maintained such notice in accordance with Subtitle Z § 402.10. (Ex. 12, 17.)

THE PROPERTY

7. The Property is part of Record Lot 83 (the “Record Lot”), which also includes:
 - The Scott K. Ginsburg Sports and Fitness Center (“Ginsburg”); and
 - The Eric E. Hotung International Law Building (“Hotung”). (Ex 4.)
8. The Property, part of the University’s Law Center Campus, is bounded by 2nd Street to the west, the former F Street right-of-way to the north,² Ginsburg to the east and a 20-foot-wide alley known as Chews Court to the south. To the south of Chews Court is the McCourt School of Public Policy, currently under construction. To the west of 2nd Street, N.W. is the partially constructed mixed-use Capitol Crossing development. The first phase, in the northernmost block, is complete. The remaining phases, to be constructed, have been approved for a mix of uses and a maximum height of 130 feet. (Ex. 4.)
9. The Project will connect Ginsburg and Hotung such that all three buildings constitute a single building for zoning purposes. (Ex. 4.)
10. The Record Lot includes approximately 76,224 square feet of land area. (Ex. 4D, 14A1.)

² The portion of F Street, N.W. abutting the Property to the north is subject to a street closing covenant, which allows use of the above grade portion of the easement by the University for 25 years with a 25-year extension option. The District may with notice terminate the above grade portion of the easement if it is deemed necessary for transportation purposes. The former F Street (Lot 866) is currently improved with open space and constitutes part of the Eleanor Holmes Norton Green. (Ex. 4, 14, 16.)

11. The Property is currently improved with The Sarah and Bernard Gewirz Student Center, which serves as a residence hall. (Ex. 4.)
12. The Property shares loading with Ginsburg and Hotung, as well as properties south of Chews Court, per a Shared Loading Covenant recorded in the land records as Instrument No. 2021129082 (“Shared Loading Covenant”). (Ex. 4.)

ZONING

13. The Property is located in the D-3 zone, which is “appropriate for a high-density mix of office, retail, service, residential, entertainment, lodging, institutional, and other uses, often grouped into neighborhoods with distinctive personalities” (Subtitle I § 100.1.) (Ex. 4.)
14. Pursuant to Z.C. Order No. 22-27, the Zoning Commission amended Subtitle I §§ 517.1 and 701.1 to allow a height of 130 feet on squares 567 and 569, subject to design review.

II. THE APPLICATION

THE PROJECT

15. The Application proposed to construct the Project with: (Ex. 4, 14A1, 18B.)
 - Approximately 164,478 square feet of gross floor area (“GFA”);
 - Approximately 21 below-grade parking spaces;
 - Approximately 26 long-term and 68 short-term bicycle parking spaces;
 - A maximum building height of 130 feet; and
 - A penthouse comprised of habitable convening space and mechanical equipment, with heights and setbacks in compliance with Subtitle C, Chapter 15.³
16. Building Uses. The Project’s program includes classroom space, office space for faculty and the Law Center’s clinics, and convening space for hosting events. The northeast corner of the ground floor features space for publicly accessible retail or café space.⁴ (Ex. 4, 14.)
17. Site Plan. The primary pedestrian entrances are located on the north side of the Project. The Applicant requested flexibility to include an eastern entrance to the café in addition to the north entrance. The Project will also connect directly to Ginsburg, and a pedestrian walkway will be constructed over Chews Court alley to connect with the new McCourt building, to the south of the Property. (Ex. 4, 14.)
18. Parking. A below-grade parking garage will provide approximately 21 vehicle parking spaces, with access from the Chews Court alley. The garage will connect to the garage beneath Ginsburg and Hotung. The Project includes 26 long-term bicycle spaces, to be located in the portion of the garage underneath Ginsburg, and 68 short-term bicycle spaces

³ The habitable penthouse will generate a contribution requirement to the Housing Production Trust Fund under Subtitle C § 1507, with an amount to be determined at the time of permit application.

⁴ The revised plans at Ex. 14 relocated the retail space from the northwest to the northeast corner of the building so that it aligns with the adjacent sidewalk elevation.

to be located on portions of the campus and public space surrounding the Project. (Ex. 4, 14.)

19. Building Façade Design. The Project's façade is composed primarily of glass, punctuated by metal vertical mullions and spandrels with a series of interlocking curves that create a series of outdoor terraces. The main entrance on the northern elevation features a projecting marquee element designed to echo the curve of the façade and draw activity to the main entrance. After consultation with OP, DDOT, and Historic Preservation Office ("HPO"), the Applicant revised the marquee element and reduced its projection, such that it projects no more than five feet from the property line. (Ex. 4, 14.)
20. Sustainable Design. The Project is designed to meet a minimum of LEED Gold certification and will provide a minimum of approximately 4,000 square feet of roof area for solar panels and related equipment. (Ex. 4.)

RELIEF REQUESTED

21. The Application requested design review approval of the Project pursuant to Subtitle I § 701.2 and Subtitle I § 517.1(b) to allow an increased height of 130 feet in Square 569 over the maximum 110 permitted by Subtitle I § 517.1(a). (Ex. 4.)
22. The Applicant requested zoning flexibility to locate short-term bicycle parking outside of the strict parameters of Subtitle C § 804.1, which requires short-term bicycle parking to be located either on the same lot or on public spaced within 20 feet of the lot, and Subtitle C § 804.2, which requires short-term bicycle parking spaces to be located within 120 feet of a primary entrance to the building they serve. (Ex. 14.)
23. The Applicant also requested design flexibility from the plans submitted with the Application. (Ex. 14B, 18C.)

APPLICANT'S JUSTIFICATION

24. The Application asserted that it met the applicable requirements for design review pursuant to Subtitle I § 701.2 for the following reasons⁵: (Ex. 4.)
 - The Property is not within a sub-area; (*Subtitle I § 701.2(a)(1).*);
 - The Project's modern design fits into the context of downtown. The glass-and-metal façade provides a transparent expression that complements the adjacent Ginsburg and under-construction McCourt building as well as the approved design of the Capitol Crossing development across 2nd Street, N.W. The Project reinforces the historic L'Enfant grid; (*Subtitle I §701.2(a)(2).*);
 - The Project minimizes conflict between vehicles and pedestrians by locating all pedestrian entrances to the north and east elevations, away from public streets or alleys. Vehicular traffic is directed to the below-grade garage entrances on Chews Court alley, on the other side of the building from the pedestrian entrances. The Project also reduces the amount of vehicular parking within the Project. The pedestrian bridge over Chews Court between McCourt and the Law Center campus

⁵ The requirements of Subtitle I § 701.2(b) do not apply to the Application.

will further minimize potential pedestrian-vehicle conflicts; (*Subtitle I §701.2(a)(3).*);

- The Project’s façade minimizes unarticulated blank walls and instead provides swooping horizontal lines through the interlocking curved terraces, creating a sense of movement. The transparent glass material provides a view into the multi-story atrium and activates the pedestrian realm along 2nd Street, N.W.; and (*Subtitle I § 701.2(a)(4).*); and
- The Project minimizes its impact on the environment by pursuing a minimum LEED Gold certification as well as approximately 4,000 square feet of roof space dedicated to solar panels. The parking garage reduces the existing parking by approximately 63 spaces and will include approximately five (5) electronic vehicle (“EV”) charging stations. Ex. 4.) (*Subtitle I § 701.2(a)(5).*)

25. The Application asserted that it met the special exception standards set forth in Subtitle X, Chapter 9 for the following reasons: (Ex.4.)

- The Project is in harmony with the general purpose and intent of the Zoning Regulations because it meets all applicable development standards in the D-3 zone and its 130-foot height is permitted pursuant to Subtitle I § 517.1(b). (*Subtitle X § 901.2(a).*); and
- The Project will not affect adversely the use of neighboring property because it fits within the context of the Law Center Campus and the Capitol Crossing development across 2nd Street, N.W.; the glass façade creates visual interest and activates the public realm; the University responded to agency and community feedback by integrating street-activating uses to the ground-floor design; and the Project will include space for the University’s law clinics, which provide legal services to underserved populations in the District. (*Subtitle X § 901.2(b).*)

APPLICANT’S SUBMISSIONS

26. 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 April 21, 2023 application and related materials requesting design review approval (the “Initial Application”); (Ex. 3, 4-5.)
- A June 2, 2023 Transportation Statement (the “Transportation Statement”) that included a draft Transportation Demand Management Plan (the “TDM Plan”); (Ex. 11-11B.)
- A June 27, 2023 submission (the “Pre-Hearing Statement”), which included revised plans and proposed conditions of approval; (Ex. 14-14D.)
- Presentation materials for the July 17, 2023 virtual public hearing, including:
 - An updated long-term bicycle parking plan, as requested by DDOT;
 - An updated ground-floor plan with revised entrances to the retail space, as requested by OP; and
 - Updated proposed conditions of approval; and (Ex. 18-18D7.)
- A July 14, 2023 update to the TDM Plan. (Ex. 19-19A.)

27. On July 31, 2023, the Applicant filed draft findings of fact and conclusions of law. (Ex. 20-20A.) No other post-hearing submissions were submitted into the record of this case.

III. RESPONSES TO THE APPLICATION

OP

28. OP filed a July 7, 2023 report (the “OP Report”.) that recommended approval of the Application, with two recommendations: (Ex. 16.)
- The entrance to the retail space be moved to the north elevation so that it would be more visible from 2nd Street and a future F Street, N.W., while remaining visible and convenient to uses of the Law Center; and
 - Should F Street, N.W. be reopened in the future, any short-term bicycle parking spaces located on the F Street right-of-way (Lot 866) per the flexibility granted in this Order, would be expected to be incorporated into the public design for the street.
29. OP testified at the July 17, 2023 public hearing in support of the Application (Transcript [“Tr.”] at p. 32.); the Applicant agreed to OP’s recommendations. (Tr. at pp. 17-20.)

DDOT

30. DDOT filed a July 6, 2023 report (the “DDOT Report”.) concluding it had no objection to the Application provided the University clarify its bike parking requirement and supplement its TDM plan. (Ex. 15.)
31. At the July 17, 2023 public hearing, DDOT testified that:
- DDOT and the Applicant had agreed on a revised TDM Plan, including working together to identify a potential Capital Bikeshare station location in or around campus, which the Applicant submitted into the record; and (Ex. 19A.)
 - DDOT had no objection to the approval of the Application. (Tr. at pp. 30-32.)

ANC

32. ANC 6E submitted a June 13, 2023 report (Ex. 13, the “ANC Report”.) stating that at its regularly scheduled and duly noticed June 6, 2023 public meeting, with a quorum present, ANC 6D voted unanimously to support the Application for design review for the Project because:

The building is consistent with the use of other buildings in the immediate area and makes use of an attractive design that opens the campus to the surrounding community.

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 § 6-651.01 (2018 Repl.)), the Commission may approve a design review application consistent with the requirements of Subtitle I, §§ 517.1(b) and 701.2.

2. Pursuant to Subtitle I § 517.1(b), the Project requires design review approval under Subtitle I § 701.2 because it requests a building height of 130 feet in Square 569.

DESIGN REVIEW CRITERIA

3. Based on the case record, the Commission concludes that the Application satisfies the applicable design review requirements set forth in Subtitle I § 701.2.
4. The Commission concludes that the Application satisfies the requirement of Subtitle I § 701.2(a) to meet the special exception standards set forth in Subtitle X, Chapter 9.
5. The Commission concludes that the requested zoning flexibility from the short-term bicycle parking space location requirements of Subtitle C §§ 804.1 and 804.2, and the requested design flexibility are acceptable.

“GREAT WEIGHT” TO THE RECOMMENDATIONS OF OP

6. The Commission must give “great weight” to the recommendation of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.)) and Subtitle Z § 405.8. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)
7. 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 appropriately addressed OP’s concerns and agreed to its recommendations.

“GREAT WEIGHT” TO THE ANC REPORT

8. 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 Bd. of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978).)
9. ANC 6E voted to support the application and expressed no issues or concerns about the Application.

SUMMARY ORDER

10. Since no persons or parties appeared in opposition to the Application and the affected ANC supported the Application, a decision by the Commission to grant this Application would not be adverse to any party. Therefore, pursuant to Subtitle Z § 604.7, the Commission authorized a summary order in this case and determined it may waive the requirement that

findings of fact and conclusions of law accompany the Order because such waiver will not prejudice the rights of any party.

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof for the requested relief and therefore **APPROVES** the Application's request for design review approval. Such 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 June 27, 2023 (Ex. 14A1-14A13.) as updated by the plans dated July 17, 2023 (Ex. 18D1-18D7.) (the "Final Plans"), and with zoning flexibility to accommodate the location of short-term bicycle parking spaces, subject to the following areas of design flexibility:
 - 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 as well as the marquee element at the corner of 2nd and F Street (provided that the final design of this element shall not project further than five feet from the property line);
 - d. To vary the location, attributes, configuration, and other design features of the streetscape along 2nd Street, subject to approval by public space officials;
 - e. 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 or otherwise in order to satisfy any permitting requirements of DC Water, DDOT, DOEE, DOB, HPO, or other applicable regulatory bodies;
 - f. To vary the amount, location and type of green roof, solar panels, bioretention areas, paved areas, and affected amenity spaces to meet stormwater requirements and sustainability goals or otherwise satisfy permitting requirements, so long as the Project achieves a minimum GAR of 0.2 and provides a minimum of 4,000 square feet of roof area containing solar panels and related equipment;

- g. 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;
 - h. To vary the final design and layout of amenity spaces to reflect their final design and programming;
 - i. To vary the final location of short-term bike parking, which may be located on the Property, on Lot 866 (i.e. the former F Street right of way), or on the public space adjacent to the Project, provided that (i) a minimum of 68 bike parking spaces are provided and (ii) should the F Street right-of-way reopen as a public street in the future, allow for short-term bike parking spaces to be relocated into the public space design for the street;
 - j. To vary the font, message, logo, and color of the approved signage, provided that the maximum overall dimensions and signage materials are consistent with the signage guidelines shown on the Final Plans and comply with the requirements of the Construction Codes; and
 - k. To adjust or eliminate the retail space's east entrance and otherwise vary the final design of the ground floor frontage's design features to accommodate the needs of its specific tenants and users.
2. The Applicant shall pursue a minimum of LEED Gold v4 certification. To demonstrate compliance with this condition, the Applicant shall (a) **prior to the issuance of a building permit**, submit evidence of registration with the U.S. Green Building Council as well as a copy of the current LEED scorecard; and (b) **prior to the issuance of a certificate of occupancy**, submit an updated scorecard to demonstrate the Project is on track to secure such certification.

Transportation Management Measures

3. **For the life of the Project**, the Applicant shall adhere to the following Transportation Demand Management plan measures:
- a. The Applicant shall identify Transportation Coordinator(s) for the planning, construction, and operations phases of development. The Transportation Coordinators will act as points of contact with DDOT, goDCgo, and Zoning Enforcement and will provide their contact information to goDCgo;
 - b. The Transportation Coordinator(s) will develop, distribute, and market various transportation alternatives and options to users of the building, including promoting transportation events (i.e., Bike to Work Day, National Walking Day, Car Free Day);
 - c. A minimum of 26 long-term bicycle parking spaces will be provided for the Project as shown on the Final Plans. At least two of the long-term spaces will be sized to accommodate cargo or tandem bicycles. At least three of the long-term spaces will be

equipped with electrical outlets to charge electric bikes and scooters. At least 50% of the spaces will be located horizontally on the floor. There will be no fee for usage of the bicycle storage room;

- d. A minimum of 68 short-term bicycle parking spaces will be provided for the Project;
- e. A minimum of six showers and 14 lockers will be provided for users of the Project as shown on the Final Plans; and
- f. **Prior to the issuance of a certificate of occupancy**, the Applicant shall provide evidence that it has: (1) identified a location on the University's downtown campus, which includes the Law Center Campus and other adjacent and nearby properties, or in nearby public space for a new Capital Bikeshare station, with the final location to be coordinated with the District Department of Transportation and other relevant agencies; and (2) if a concrete pad is needed to accommodate the station, installed the concrete pad.

General

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

VOTE (July 17, 2023): 4-0-1

(Joseph Imamura, Robert E. Miller, Anthony J. Hood and Peter G. May to **APPROVE**; 3rd Mayoral Appointee seat vacant)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 23-10 shall become final and effective upon publication in the *District of Columbia Register*; that is, on April 5, 2024.



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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 23-10A
Z.C. Case No. 23-10A
Georgetown University
(Modification with Hearing of Approved Design Review
@ Square 569, Lot 865 and a portion of Lot 864 [120 F Street, N.W.]
October 28, 2024

Pursuant to notice, at a public hearing held on October 28, 2024, the Zoning Commission for the District of Columbia (“Commission”) considered the application (“Application”) of Georgetown University (“Applicant” or “University”) for a Modification with Hearing¹ to an approved design review granted in Z.C. Order No. 23-10 (the “Order”) for Lot 865 and a portion of Lot 864 in Square 569 (“Property”). The Commission reviewed the Application pursuant to the Commission’s Rules of Practice and Procedure, which are codified in Subtitle Z of Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016, the “Zoning Regulations”, to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

*** SUMMARY ORDER ***

I. BACKGROUND AND PRIOR APPROVAL

1. The Property, which is part of the University’s Law Center, is bounded by 2nd Street, N.W. to the west, a public alley to the south, and property controlled by the University to the north and east.
2. Pursuant to the Order, the Commission approved the construction of a new academic and administrative building on the Property containing approximately 164,478 square feet of gross floor area and measuring approximately 130 feet in height (“Project”).
3. The Order granted design review approval to allow a height of 130 feet pursuant to Subtitle I §§ 517.1(b) and 701.2. The Order also granted zoning flexibility for the location of the 68 short-term bicycle parking spaces required for the Project, allowing such parking to be located on the Property, on Lot 866, the lot to the north of the Property, or in the public space beyond 120 feet of the primary entrance to the Project.

¹ The Application was filed as a “Modification of Significance,” but, pursuant to Z.C. Order No. 22-25, which became effective on August 2, 2024, during the pendency of the Application, the modification of significance process was renamed the “Modification with Hearing” process and certain citations were updated consistent with this change. All references in this Order are to the regulations in effect on October 28, 2024, the date of the Commission’s decision on the Application.

PARTIES

4. The only parties to the case were the Applicant and Advisory Neighborhood Commission (“ANC”) 6E, which includes the Property and is therefore an “Affected ANC”; therefore, both the Applicant and ANC 6E were automatically parties to the Application pursuant to Subtitle Z § 403.5. There were no other parties to the original proceeding.
5. The Commission received no additional requests for party status.

NOTICE

6. On June 14, 2024, the Applicant mailed a Notice of Intent to file the Application to:
 - ANC 6E; and
 - All property owners within 200 feet of the Property. (Exhibit [“Ex.”] 2D)
7. On August 9, 2024, the Applicant served the Application on ANC 6E, the sole party to the original proceeding other than the Applicant as well as the Office of Planning (“OP”) and the District Department of Transportation (“DDOT”), as attested to by the Certificate of Service submitted with the Application and in satisfaction of Subtitle Z § 704.6. (Ex. 2.)
8. On August 28, 2024, the Office of Zoning (“OZ”) sent the notice of the October 28, 2024, virtual public hearing to:
 - Applicant;
 - ANC 6E;
 - ANC Single Member Districts (“SMD”) 6E07, whose district includes the Property;
 - ANC SMD Commissioner 6E08;
 - Councilmember Charles Allen, the Ward 6 Councilmember, in whose Ward the Property is located;
 - Office of ANC;
 - OP;
 - DDOT;
 - Department of Buildings (“DOB”);
 - Department of Energy and the Environment (“DOEE”);
 - OZ Legal Division (“OZLD”);
 - Chairman and At-Large Members of the D.C. Council; and
 - Owners of all lots within 200 feet of the Property. (Ex. 3A, 3B)
9. OZ also published notice of the October 28, 2024 virtual public hearing, in the September 6, 2024, issue of the *District of Columbia Register* (71 DCR 010713 *et seq.*) as well as on the calendar on OZ’s website. (Ex. 3)
10. The Applicant provided evidence that it had posted and maintained notice of the public hearing on the Property in compliance with Subtitle Z § 402. (Ex. 5, 10)

II. THE APPLICATION AND RELIEF REQUESTED

11. On August 9, 2024, the Applicant filed the Application requesting modifications to the Order to (1) replace short-term bicycle parking for the Project with a Law Center-wide bicycle parking plan and (2) update the approved plans to add upper-story building identification signage (together, the “Modifications”). (Ex. 2A)

12. Bicycle Parking. The Modifications adjust how short-term bicycle parking is treated; instead of just providing new bicycle parking in the area immediately surrounding the Project, the University instead studied and proposed a holistic approach to increase and enhance short-term bicycle parking for the entire Law Center. As shown on the proposed bicycle parking plan submitted by the Applicant, the University will:
 - Replace existing serpentine bicycle racks on two open spaces at the Law Center, the Dean Green and the Eleanor Holmes Norton Green, with inverted U-shaped bicycle racks;
 - Increase the number of bicycle spaces from 64 spaces to 90 spaces at the Dean Green;
 - Redesign the Dean Green with reconfigured landscaping and enhanced security measures; and
 - Maintain 64 spaces at the Eleanor Holmes Norton Green, but utilize U-shaped racks that are actually able to accommodate 64 bicycles. (Ex. 2A, 11)

13. Signage. The Modifications add building identification signage to the upper portion of the Project, as shown on the updated plans submitted by the Applicant. (Ex. 2A, 11)

RELIEF REQUESTED

14. As a part of the Modifications, the Application requested special exception approval, pursuant to Subtitle C § 807, from the minimum short-term bicycle parking requirements of Subtitle C § 802.1 to eliminate short-term bicycle parking associated with the Project. (Ex. 2A)

APPLICANT’S JUSTIFICATION

15. The Applicant asserted that the Modifications met the requirements for modification of an approved design review pursuant to Subtitle I § 701.2 for the following reasons: (Ex. 2A)
 - The Property is not within a sub-area; (Subtitle I § 701.2(a)(1))
 - The Modifications are in context with the surrounding neighborhood and street patterns because they orient bicycle parking along the Greens (which are located along former east-west rights of way through the Law Center), they promote a more efficient use of the two Greens, and they add signage that is reflective of the urban downtown context of the Law Center; (Subtitle I §701.2(a)(2))
 - The Modifications minimize conflict between vehicles and pedestrians through better-defined locations for bicycle parking and improved pedestrian experiences on the Greens; (Subtitle I §701.2(a)(3))
 - The Modifications add further articulation to the Project’s 2nd Street façade through the proposed signage; and (Subtitle I § 701.2(a)(4))

- The Modifications do not change the proposed sustainable features of the Project, which continue to include the measures set forth in the Order. (Subtitle I § 701.2(a)(5))
16. The Applicant asserted that the Modifications met the special exception standards set forth in Subtitle X, Chapter 9 for the following reasons: (Ex. 2A)
- The Modifications are in harmony with the general purpose and intent of the Zoning Regulations because the signage maintains the high-quality architectural design of the Project and the Law Center-wide approach to bicycle parking is similar to the way bicycle parking is addressed for campuses that are subject to the formal campus plan process under Subtitle X, Chapter 1; and (Subtitle X § 901.2(a))
 - The Modifications will not affect adversely the use of neighboring property because the signage is oriented to the commercial development to the west and the adjustments to bicycle parking at the Law Center will, together with other short-term bicycle parking provided at other Capitol Campus buildings, ensure that demand for bicycle parking is met on and near the campus. (Subtitle X § 901.2(b))
17. The Applicant asserted the special exception standards for relief from the short-term bicycle parking requirements set forth in Subtitle C § 807 and Subtitle X, Chapter 9 were met for the following reasons: (Ex. 2A)
- Providing the required number of short-term bicycle parking spaces at the Project is impractical and inefficient given the overall bicycle parking demand and needs for the Law Center as a whole; (Subtitle C § 807.1)
 - The Project will not generate demand for additional bicycle parking because it does not increase enrollment or otherwise add new uses to the Law Center, and the most effective way to address bicycle parking demand for the Law Center is on a holistic basis that improves the quality of bicycle parking and focuses on the highest-demand locations for the overall population; (Subtitle C § 807.2)
 - The relief is proportionate to bicycle parking demand, as evidenced by the fact that there is already ample existing capacity to meet bicycle parking demand for the existing Law Center population, which is unchanged by the Project. (C § 807.3)
 - The relief is in harmony with the Zoning Regulations because it allows the University to provide bicycle parking on a campus-wide basis, consistent with how other university campuses manage bicycle parking; and (Subtitle X § 901.2(a))
 - The relief will not adversely affect neighboring property because bicycle parking will continue to be more than sufficient to meet demand. (Subtitle X § 901.2(b))

APPLICANT’S SUBMISSIONS

18. 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 August 9, 2024, application and related materials requesting the Modifications; (Ex. 2, 2A-2I)
 - A September 27, 2024, submission (Ex. 6, 6A-6B), which included a revised bicycle parking plan; and
 - Presentation materials for the October 28, 2024, virtual public hearing. (Ex. 11)

19. On October 31, 2024, the Applicant filed draft findings of fact and conclusions of law. (Ex. 13) No other post-hearing submissions were submitted into the record of this case.

III. RESPONSES TO THE APPLICATION

OP

20. OP filed an October 17, 2024, report that recommended approval of the Application. OP found that the proposed bicycle plan for the Law Center was more practical and useful to students, faculty, and visitors, and OP was not opposed to the addition of signage, as proposed. OP noted that it concurred with the Applicant's analysis to justify the requested modification relief. (Ex. 8)
21. OP testified at the October 28, 2024 public hearing, in support of the Application.

DDOT

22. DDOT filed an October 18, 2024 report, concluding it had no objection to the Application. DDOT supported relief from the bicycle parking requirements provided that the University add a small number of bicycle parking spaces and upgrade all bicycle racks to the inverted U-racks, and the University agreed to these changes. (Ex. 9)
23. At the October 28, 2024 public hearing, DDOT testified in support of the Application.

ANC

24. ANC 6E submitted a September 30, 2024, report stating that at its regularly scheduled and duly noticed September 24, 2024, public meeting, with a quorum present, ANC 6D voted unanimously to support the Application, including both the proposed signage and the revised bicycle parking plan. (Ex. 7)

CONCLUSIONS

1. Pursuant to the authority granted by the Zoning Act, approved June 20, 1938 (D.C. Code § 6-641.01), the Commission may approve a Downtown design review application as well as modifications thereto consistent with the requirements of Subtitle I § 701, and Subtitle Z, §§ 301 and 704. Pursuant to Subtitle Z § 704.4, the Commission's evaluation of a modification with hearing is limited to the impact of the modification on the subject of the original application. The Commission concludes that, as modified by the Application, the Project continues to comply with the specific design review criteria set forth in Subtitle I §701.2 and the special exception standards set forth in Subtitle X, Chapter 9.
2. As set forth in Subtitle I § 701.3 and pursuant to the authority granted by Section 8 of the Zoning Act (D.C. Code § 6-641.07(g)(2), the Commission is authorized to hear and approve requests for special exception relief simultaneously with a Downtown design Review application, subject to satisfaction of all applicable special exception criteria, including the special exception standards set forth in Subtitle X, Chapter 9 and the specific conditions set forth in the Zoning Regulations. For the special exception relief requested

from Subtitle C § 802.1, the “specific conditions” are those of Subtitle C § 807. The Commission concludes that the Applicant’s request for special exception approval to eliminate short-term bicycle parking for the Project satisfies all applicable criteria.

3. The Commission concludes that the Applicant satisfied the requirement of Subtitle Z § 704.6 to serve the Application on all parties to the original proceeding, in this case ANC 6E.

“GREAT WEIGHT” TO THE RECOMMENDATIONS OF OP

4. The Commission must give “great weight” to the recommendations of OP stated in the OP Report 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 § 405.9). (*Metropole Condo. Ass’n v. District of Columbia Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087. (D.C. 2016))
5. The Commission finds persuasive OP’s recommendation that the Commission approve the Application and therefore concurs in that judgment.

“GREAT WEIGHT” TO THE WRITTEN REPORT OF THE ANC

6. The Commission must give great weight to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to §13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.)) and Subtitle Z § 406.2. To satisfy 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. (*Spring Valley-Wesley Heights Citizens Ass’n v. District of Columbia Zoning Comm’n*, 856 A.2d 1174, 1180 (D.C. 2004)) 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 Bd. of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (D.C. 1978) (citation omitted))
7. The Commission finds ANC 6E’s recommendations to approve the Application persuasive and concurs in those judgments.

SUMMARY ORDER

8. Since no persons or parties appeared in opposition to the Application and the affected ANC supported the Application, a decision by the Commission to grant this Application would not be adverse to any party. Therefore, pursuant to Subtitle Z § 604.7, the Commission authorized a summary order in this case and determined it may waive the requirement that findings of fact and conclusions of law accompany the Order because such waiver will not prejudice the rights of any party.

DECISION

In consideration of the case record and the summary herein, the Commission concludes that the Applicant has satisfied its burden of proof and therefore approves the Application’s request for a

modification to Z.C. Order No. 23-10 for Z.C. Case No. 23-10A. The conditions in the Order remain unchanged and in effect, except as follows (deletions shown in ~~bold and strikethrough text~~; additions in ***bold italics and underlined text***):

Project Development

1. The Project shall be built in accordance with the plans and elevations dated June 27, 2023 (Ex. 14A1-14A13) as updated by the plans dated July 17, 2023 (Ex. 18D1-18D7) ***in the record of Z.C. Case No. 23-10, and as further updated by the plans dated October 28, 2024, in the record of Z.C. Case No. 23-10A (Ex. 11) (collectively,*** the “Final Plans”), ~~and with zoning flexibility to accommodate the location of short-term bicycle parking spaces,~~ ***and with special exception relief from the minimum short-term bicycle parking requirements of Subtitle C § 802.1,*** subject to the following areas of design flexibility:
 - 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 as well as the marquee element at the corner of 2nd and F Street (provided that the final design of this element shall not project further than five feet from the property line);
 - d. To vary the location, attributes, configuration, and other design features of the streetscape along 2nd Street, subject to approval by public space officials;
 - e. 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 or otherwise in order to satisfy any permitting requirements of DC Water, DDOT, DOEE, DOB, HPO, or other applicable regulatory bodies;
 - f. To vary the amount, location and type of green roof, solar panels, bioretention areas, paved areas, and affected amenity spaces to meet stormwater requirements and sustainability goals or otherwise satisfy permitting requirements, so long as the Project achieves a minimum GAR of 0.2 and provides a minimum of 4,000 square feet of roof area containing solar panels and related equipment;
 - g. 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;
 - h. To vary the final design and layout of amenity spaces to reflect their final design and programming;
 - ~~i. To vary the final location of short-term bike parking, which may be located on the Property, on Lot 866 (i.e. the former F Street right of way), or on the public space adjacent to the Project, provided that (i) a minimum of 68 bike parking~~

~~spaces are provided and (ii) should the F Street right-of-way reopen as a public street in the future, allow for short-term bike parking spaces to be relocated into the public space design for the street;~~

- i.j To vary the font, message, logo, and color of the approved signage, provided that the maximum overall dimensions and signage materials are consistent with the signage guidelines shown on the Final Plans and comply with the requirements of the Construction Codes; and
 - j.k To adjust or eliminate the retail space's east entrance and otherwise vary the final design of the ground floor frontage's design features to accommodate the needs of its specific tenants and users.
2. The Applicant shall pursue a minimum of LEED Gold v4 certification. To demonstrate compliance with this condition, the Applicant shall (a) **prior to the issuance of a building permit**, submit evidence of registration with the U.S. Green Building Council as well as a copy of the current LEED scorecard; and (b) **prior to the issuance of a certificate of occupancy**, submit an updated scorecard to demonstrate the Project is on track to secure such certification.

Transportation Management Measures

3. **For the life of the Project**, the Applicant shall adhere to the following Transportation Demand Management plan measures:
- a. The Applicant shall identify Transportation Coordinator(s) for the planning, construction, and operations phases of development. The Transportation Coordinators will act as points of contact with DDOT, goDCgo, and Zoning Enforcement and will provide their contact information to goDCgo;
 - b. The Transportation Coordinator(s) will develop, distribute, and market various transportation alternatives and options to users of the building, including promoting transportation events (i.e., Bike to Work Day, National Walking Day, Car Free Day);
 - c. A minimum of 26 long-term bicycle parking spaces will be provided for the Project as shown on the Final Plans. At least two of the long-term spaces will be sized to accommodate cargo or tandem bicycles. At least three of the long-term spaces will be equipped with electrical outlets to charge electric bikes and scooters. At least 50% of the spaces will be located horizontally on the floor. There will be no fee for usage of the bicycle storage room;
 - ~~d. A minimum of 68 short-term bicycle parking spaces will be provided for the Project;~~
 - d.e A minimum of six showers and 14 lockers will be provided for users of the Project as shown on the Final Plans; and
 - e.f **Prior to the issuance of a certificate of occupancy**, the Applicant shall provide evidence that it has: (1) identified a location on the University's downtown campus, which includes the Law Center Campus and other adjacent and nearby properties, or in nearby public space for a new Capital Bikeshare station, with the final location to be coordinated with the District Department of Transportation and other relevant

agencies; and (2) if a concrete pad is needed to accommodate the station, installed the concrete pad.

4. **Prior to the issuance of a certificate of occupancy, the Applicant shall provide evidence that it has:**
 - a. **Replaced the seven existing serpentine style bicycle racks located on the Eleanor Holmes Norton Green with 32 inverted-U racks, for a total of 64 short-term bicycle spaces; and**
 - b. **Replaced the eight existing serpentine style bicycle racks on the Dean Green with 45 new inverted U-shaped bicycle racks for a total of 90 short-term bicycle spaces.**


General

5. This Application approval shall be valid for a period of two years from the effective date of ~~this Order~~ **Z.C. Order No. 23-10 (that is, April 5, 2024)**. 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)
6. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §§ 2-1401.01 et seq. (Act), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

VOTE (October 28, 2024): 5-0-0

(Gwen Wright, Tammy Stidham, Anthony J. Hood, Robert E. Miller, and Joseph S. Imamura to approve.)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 23-10A shall become final and effective upon publication in the *District of Columbia Register*; that is, January 31, 2025.



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.