

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Zoning Commission



ZONING COMMISSION OF THE DISTRICT OF COLUMBIA

Z.C. ORDER NO. 18-22

Z.C. Case No. 18-22

Southeast Federal Center Zone Design Review

Forest City SEFC, LLC on behalf of the United States General Services Administration

June __, 2019

Pursuant to notice, the Zoning Commission of the District of Columbia (the “Commission”) held a public hearing on May 23, 2019 to consider the application of Forest City SEFC, LLC (the “Applicant”) regarding property owned by the United States General Services Administration (“GSA”) for design review approval to construct a new mixed-use office building with ground-floor retail uses and two levels of below-grade parking (the “Project”) in the SEFC-1A zone on the property commonly known as “Parcel G” in The Yards (Square 743, Lot 94, or the “Property”). Design review for the Project is required pursuant to Subtitle K, Sections 237.4, 241, and 242 of the SEFC zone provisions of the District of Columbia Zoning Regulations (“Zoning Regulations”), Title 11 of the District of Columbia Municipal Regulations (“DCMR”).

The Commission considered the application for the Project pursuant to Subtitles X and Z of the Zoning Regulations. For the reasons below, the Commission hereby approves the application.

FINDINGS OF FACT

Application, Parties, and Hearing

1. The Property consists of approximately 39,384 square feet of land and is located in the SEFC-1A zone in an area commonly known as “Yards West” of “The Yards”.
2. The Property is located in the former Southeast Federal Center (“SEFC”) on land that is currently owned by the federal government but authorized for private development by an act of the U.S. Congress in 2000. *See* Southeast Federal Center Public-Private Development Act of 2000, Pub. Law. 106-407 (2000) (the “Act”). The Applicant prepared a master plan (the “Master Plan”) for The Yards, and, under the authority of the Act, GSA selected the Applicant as the master developer to implement the Master Plan. The Master Plan was presented by GSA and the Applicant to the Commission for review and approval, and the Commission approved special zoning (now known as the SEFC zones) in order to ensure that future development of The Yards would proceed according to the Master Plan. As part of the GSA’s disposition of the Property pursuant to the Act, GSA ensures that developments in The Yards are reviewed by a variety of federal and District agencies pursuant to a series of Memoranda of Agreement and/or Understanding between such agencies and the GSA. The Project underwent such multi-agency review process.

3. The instant application follows the coordinated development of The Yards pursuant to the Master Plan. On October 16, 2018, the Applicant mailed a Notice of Intent to file a design review application to all property owners within 200 feet of the Property and to Advisory Neighborhood Commission (“ANC”) 6D, the ANC within which the Property is located. (Exhibit 2D.) The Applicant also thereafter presented the Project to ANC 6D. *Id.*
4. On December 11, 2018, the Applicant filed an application on behalf of GSA as the owner of the Property, for design review and approval of the Project pursuant to Subtitle K, Sections 237.4, 241, and 242 of the Zoning Regulations. (Exhibit 1.) In addition, pursuant to Subtitle X, Section 603, the Applicant also initially requested variance relief from the GAR requirements of Subtitle K, Section 209.1. (Exhibit 2.) The request for relief was later withdrawn. (Exhibit 19.)
5. On February 12, 2019 the Applicant requested the public hearing, originally scheduled for April 11, 2019 be postponed until May 9, 2019 because of, among other reasons, delays in the federal review process for the Project resulting from the protracted federal government shutdown (Exhibit 9). On April 9, 2019, the Office of Zoning requested that the public hearing on the Project be again rescheduled until May 23, 2019. (Exhibit 17.) The Office of Zoning gave notice of the public hearing, as rescheduled, by mail and in the *D.C. Register*, and the Applicant properly and adequately posted notice of the public hearing on the Property. (Exhibits 4-6, 11-13, 15, and 24).
6. On March 27, 2019, the Applicant filed a Comprehensive Transportation Review (“CTR”) for the Project. (Exhibits 14 and 14A.)
7. On May 3, 2019, the Applicant filed a supplemental statement with revised plans reflecting feedback from and discussions with the ANC, federal agencies that reviewed the Project, the Office of Planning (“OP”), and the District Department of Transportation (“DDOT”). (Exhibit 19.) The Applicant also filed comments from the National Capital Planning Commission (“NCPC”) and the Commission of Fine Arts (“CFA”). (Exhibits 19A and 19B.) The Applicant also filed a revised package of plans including updated drawings and signage plans for the Project. (Exhibit 19D.)
8. On May 16, 2019, the Applicant sought leave from the Commission to file an additional supplemental submission with further revised plans after the twentieth day prior to the public hearing. (Exhibit 21.) The Commission granted the Applicant’s motion. (*Id.*) Thereafter, the Applicant submitted a full set of revised plans (the “Revised Plans”) reflecting responses to comments from GSA, CFA, OP, and DDOT. (Exhibit 22.)
9. ANC Report. At its regularly scheduled and duly noticed public meeting on April 8, 2019 with a quorum present, ANC 6D voted 6-0-0 to support the application for design review for the Project. In its May 16, 2019 report filed with the Commission, ANC 6D noted that the Project “will be a catalyst for the emergence of the office development of “Yards West”.” (Exhibit 23.) The unique design of the Project received “tremendous” support from ANC 6D residents, who reacted positively to the design. Transcript of Zoning Commission Public Hearing, Z.C. Case No. 18-22 (May 23, 2019) (“Tr. 1”) at [Cite].

10. OP Report. OP filed a report dated May 13, 2019 recommending approval of the Project and testified accordingly at the public hearing. (Exhibit 20.) OP's report supported the requested design and zoning flexibility. OP also found that the Project is not inconsistent with the designation for the Property on the Comprehensive Plan's Future Land Use Map and Generalized Policy Map. Similarly, OP concluded that the Project conforms to the Master Plan and furthers policies in the Comprehensive Plan's Land Use, Park, Recreation and Open Space, Historic Preservation, Urban Design, and Anacostia Waterfront/Near Southwest Area Elements. OP also examined the Project against the general design review criteria as well as the SEFC-1A zone design review criteria zone and found that the Project satisfied each relevant condition, concluding that the Project advances the goals and objectives of the SEFC zones as set forth in Subtitle K. (Exhibit 20.) The OP report included requests for additional information regarding the Project's (a) LEED certification, (b) need for flexibility for canopies and signs and regarding final plan refinement, (c) court flexibility, (d) public realm design, including the possibility for providing benches and café seating along New Jersey Avenue, SE in the vicinity of the Project, and (e) design at the ground level along 1½ Street. The Applicant responded with point-by-point explanations satisfactory to OP in its May 16 and May 23, 2019 filings. (Tr. 1 at [x] and Exhibits 22, 26B, and 26C.)
11. DOEE Comments. The OP report also included six comments from the District's Department of Energy and the Environment ("DOEE"). These comments included requests and recommendations regarding stormwater calculations, renewable energy, solar panel financing, energy efficiency, energy efficiency financing, and further reviews. (Exhibit 20 at 14-15.) The Applicant provided plans in response to DOEE's request and committed to the installation of solar panels. (Exhibit 22C at 55, 89.)
12. DDOT Report. DDOT filed a report dated May 1, 2019 stating that it had no objection to the approval of the Project subject to the conditions imposed herein and subject to ongoing DDOT review. (Exhibit 18.) DDOT made a number of findings in its report including that the trip generation assumptions proposed by the Applicant are reasonable and that the Applicant's analysis used sound methodology. The CTR identified two intersections that triggered the need for mitigation as a result of the Project, but DDOT noted that one of the intersections is being redesigned. Instead, DDOT recommended that the Applicant's Transportation Demand Management ("TDM") plan be enhanced. (*Id.*) The Applicant responded to each of DDOT's comments and recommendations in its May 16, 2019 filing, agreeing with DDOT's initial recommendation on the vast majority of points and offering minor revisions in other instances. (Exhibit 22B.) At the public hearing, DDOT acknowledged that it had reached agreement with the Applicant on all issues in its report. (Tr. 1 at [x].)
13. NCPC Report. On April 25, 2019, the NCPC issued a memorandum, which the Applicant subsequently filed with the Commission, finding the Project consistent with the Master Plan and other relevant standards. (Exhibit 19A.) NCPC noted that the Project "conforms to the Minimum Phase Performance Design Standards identified in the 2005 Memorandum of Understanding between NCPC and the GSA, which include standards for sustainable design, pedestrian access, architectural design, and urban design/planning." (*Id.*)

14. GSA-Related Reviews. The Applicant's May 3, 2019 filing also included a letter from CFA setting forth its advisory review of the Project. (Exhibit 19B). The letter from CFA commented on the design of the Project, made recommendations, declined to approve the design, and requested a submission of a new design of the Project to CFA pursuant to an agreement between CFA and GSA. GSA also received comments from NCPC and other stakeholders that were supportive of the proposed design. As noted above and in the GSA letter, the Applicant revised the design of the Project based on these stakeholder comments and in response to GSA's recommendations. Based on the Revised Plans, GSA concluded that the Project is consistent with the Master Plan and approved the Project's design. (Exhibit 26A.)
15. After proper notice, the Commission held a hearing on the application on May 23, 2019. Apart from the Applicant and the ANC there were no parties to this proceeding, and no persons or organizations spoke at the hearing or introduced written testimony in advance of the hearing. Expert witnesses appearing on behalf of the Applicant included Jeff Barber, of Gensler as an expert in architecture, Erwin Andres of Gorove/Slade Associates as an expert in transportation planning engineering, and Craig Atkins, of Wiles Mensch as an expert in landscape architecture. Toby Millman and David Shirey of Brookfield Properties appeared on behalf of the Applicant, and Brett Banks appeared on behalf of GSA. (Exhibits 19C and 27.)
16. On May 30, 2019, the Applicant filed a post-hearing submission with responses to the issues raised by the Commission at the May 23 hearing. In the submission, the Applicant provided additional studies regarding the Project's design in response to comments from the hearing. (Exhibit 28.)
17. The Commission took action at its regularly scheduled June __, 2019 public meeting to approve the application subject to the conditions submitted into the record. [Cite Public Meeting Transcript]

Description of The Yards and Yards West

18. Parcel G is located in the western portion of the 42-acre site in the southeast DC neighborhood known as The Yards. The Yards is a new mixed-use neighborhood created through the redevelopment of the former SEFC. The SEFC consists of two large parcels of land: the first parcel is located between 1st Street, SE and New Jersey Avenue, SE and is identified in the Master Plan as the "Redevelopment Zone", and the second parcel is located between 2nd Street, SE and the Washington Navy Yard and is identified in the Master Plan as the "Historic Zone." In addition to the plans for the SEFC, the Applicant's affiliates secured approval through a Planned Unit Development ("PUD") for the District-owned properties to the south of the SEFC Redevelopment Zone. For planning purposes, the SEFC Redevelopment Zone and the PUD site are together commonly known as "Yards West", which is bounded by M Street, SE and the Navy Yard Metrorail entrance to the north, the Anacostia River to the south, and Nationals Ballpark to the west and New Jersey Avenue, SE and the DC Water Main Pumping Station to the east. (Exhibit 2.)

19. The Applicant has prepared a concept plan for Yards West and the public realm in that neighborhood. The “Yards West Concept Master Plan” is organized around a central pedestrian-oriented spine leading from M Street, SE and a potential third entrance to the Navy Yard Metrorail station, south to Diamond Teague Park and the Anacostia River. Along this spine, 1½ Street is planned as a curbless street that will run from Quander Street on the north to Potomac Avenue on the south. Parking and loading entrances within Yards West will generally be located on the east-west cross streets. Office uses are the focus for the northern part of Yards West, and residential uses are a primary focus for the southern part. N Street, SE is the primary east-west connection through Yards West and terminates at Tingey Square. It is also intended to be a retail-lined, pedestrian-friendly corridor. (Exhibit 2.)
20. The first phase of the Yards West street network will consist of the two-block segment of Quander Street between 1st Street and New Jersey Avenue and the two-block segment of 1½ Street between Quander Street and N Place. Both 1½ Street and Quander Street will be private streets. As a part of this first phase, the Applicant’s affiliates will also reconstruct the two-block segment of N Place SE, a public right-of-way. This work will establish the street grid for Parcels F, G, H, and I. (Exhibit 2.)

Description of the Property

21. Parcel G is bounded by N Street, SE to the south, New Jersey Avenue, SE to the east, the future Quander Street to the north, and the future 1½ Street to the west. Parcel G consists of approximately 39,029 square feet of land area and will be located on a single lot of record with Parcels A and F and portions of the private street network. Parcel G is currently improved with a temporary trapeze school building. The Applicant anticipates relocating the trapeze school to Parcel E in The Yards, and such proposal has been approved by the Commission. See Z.C. Case No. 19-07.
22. The adjacent Parcel F is currently improved with a surface parking lot, and the Master Plan calls for its future development to contain a mix of office and retail uses. Parcel A is currently open space, and the Master Plan calls for future development on that parcel also to contain a mix of office and retail uses along with potentially a new entrance to the Navy Yard Metrorail station.
23. A mix of uses and future development sites surrounds the Property. An entrance to the Navy Yard Metrorail station is located approximately one block north of the Property, and Nationals Park is located one block to the west. The U.S. Department of Transportation headquarters office building and its large southern plaza are located to the east of the Property across New Jersey Avenue, SE. Also to the east of Parcel G is the site of the future Tingey Square, which is currently under construction and which will be a vital open space linking Yards West with the Historic Zone portion of The Yards further to the east. Parcel I is across N Street, SE to the south; the Commission recently approved a mixed-use residential and retail building on Parcel I in Z.C. Case No. 18-20.

Project Overview

24. The Project is an 11-story mixed-use building containing approximately 282,813 square feet of office use on floors 1 through 11 plus a habitable penthouse with an additional 5,623 square feet of office space, approximately 21,141 square feet of retail, eating/drinking establishment, service, and/or retail/office flex uses on the ground floor, and approximately 162 vehicle parking spaces in a below-grade garage. (Exhibits 2 and 22C.)
25. The primary use of the Project is as a new office headquarters for a single office tenant named Chemonics International, Inc., which currently occupies space in Virginia and elsewhere in the District. Chemonics plans to consolidate its operations and accommodate future growth in the Project, a move that represents a significant economic development victory for Yards West, southeast DC, and the District as a whole. The Project's addition of daytime office users is expected to have related positive economic impacts that will benefit nearby hotels, restaurants, shops, and other businesses in The Yards and surrounding neighborhoods. The Project's users will add pedestrian activity to nearby streets, and will contribute riders to the Metro, patrons to The Yards Park, and potential new residents in nearby housing. The Applicant expects the Project's tenant to accommodate approximate 1,200 employees upon opening with space to accommodate an additional 200 employees as the tenant grows. (Exhibit 2.)
26. The Project's ground floor layout and site plan reinforces the character of the surrounding streets, emphasizing a pedestrian-oriented and person-focused design character. The Project's site plan enhances the appeal of the mix of office, retail, and residential uses within Yards West. The primary office lobby is located on New Jersey Avenue, SE and provides a ceremonial opening onto Tingey Square. The lobby can also be accessed from 1½ Street, providing a direct link for office users to the pedestrian-focused spine, and additional at-grade pedestrian entrances along 1½ Street and N Street, SE, for the retail, restaurant and service uses proposed along those streets. (Exhibit 2.)
27. Along N Street, SE the Project provides ground-level preferred retail and other uses called for the SEFC-1A zone, and the Applicant has integrated slab breaks within the building to allow for the retail spaces to remain in line with the slope of the adjacent street and sidewalk. A mix of retail and office-oriented space define the Project's 1½ Street frontage, which is envisioned to include smaller-scale spaces that fit the pedestrian-focused character of 1½ Street. (Exhibit 19.)
28. Along New Jersey Avenue, SE, a combination of the primary office lobby, the retail spaces at the southeastern corner of that frontage, and the ground-level space north of the lobby will animate this street. The Applicant envisions that Chemonics will occupy the portion of the ground floor at the northeastern corner of the building New Jersey Avenue, SE and will populate that space with program elements to activate and energize the storefront presence. Potential program elements include a reception and coffee area for employees and guests and a stage with stepped seating for presentations and similar events, an open interconnecting stair to the second floor. Enclosed meeting and collaboration space within this area would be focused on the Quander Street frontage. Together with the main lobby

entrance itself, the tenant's ground-floor space will generate a consistent level of pedestrian activity and interest on this frontage.

29. An at-grade bicycle lobby for building users is accessed from 1½ Street which is intended to increase bicycle usage. Vehicular access, both for parking and loading, is limited to the private Quander Street on the north of the Project. The Project occupies an entire block and does not have any alley access for vehicular activities. Accordingly, Quander Street serves primarily as a service road separating vehicles from the pedestrian oriented 1½ Street. (Exhibit 2.)
30. The Project's massing consists of a double-story ground-level podium that is built to the lot line along all four street frontages. Above the podium is a nine-story, dual-axis tower that features sweeping, graceful bends, expansive terraces, and a modest step down in height at the southeastern corner. The massing differentiation between the podium and towers creates two separate experiences: when viewed from the public realm at a distance, the unique orientation and gentle curves of the upper stories creates visual interest and a compelling backdrop befitting of the Project's prominent location adjacent to Tingey Square at the entrance to Yards West; when viewed at the ground level along the streetscape adjacent to the building the Project's strong street presence helps to create a comfortable and interesting "enclosed" pedestrian realm. The Project carves back slightly from the southeastern-most corner of the Property to allow additional space and breathing room in the public realm across from Tingey Square. (Exhibit 2.)
31. The Project's curved form provides ample light and air for occupants of the upper stories and also creates a frame for the New Jersey Avenue vista. At the southeastern corner of the tower, the Project steps down to 110 feet from its full 130-foot height. This step down in height aligns with the maximum height of the proposed building to the south of the Project. The southeastern corner also features a distinctive 6-story window wall, which allows generous amount of light into the building and shows human activity and busy-ness at this corner of Tingey Square and Yards West, facing the Anacostia waterfront. By pivoting-apart the mass of the tower, the Project creates significant space for outdoor terraces. The lower of the two terraces will present a level of activity and energy proximate to Tingey Square. All of the terraces will include landscaping and green space, and all will also be an attractive amenity for the building's occupants. (Exhibit 2.)
32. Brick is the primary façade material of the upper stories, and punched windows create texture, articulation, and geometric rhythms. At the podium level, the materials include a rich palette of brick and concrete with metal accents. (Exhibit 2.)
33. The Applicant committed to achieving LEED v4 Gold certification under the Core and Shell standard. Specific features that are likely to be incorporated to achieve this high level of sustainable design include extensive green roof, low-e glass at the office levels, and a DOAS mechanical system. The Project has an approximate area of 19,470 square feet devoted to green roof and approximately 2,300 square feet devoted to solar panels and is designed to meet or exceed DOEE's applicable stormwater management standards for private development. The Project significantly exceeds the minimum GAR required (i.e.,

it provides a GAR of 0.3, whereas only 0.2 is required). The private Yards West streets are designed to an enhanced stormwater management standard that accommodates a 1.7" rain event. The Project is outside the 500-year floodplain with the exception of a portion of the southeast retail area. Major building penetrations, parking ramps, main building entrance, electrical vaults and other sensitive equipment outside of the 500-year floodplain. (Exhibit 19.)

34. As a part of the development of Parcel G, the Applicant will construct the segment of 1½ Street adjacent to the Property as well as the entire length of Quander Street north of the Property, between 1st Street and New Jersey Avenue. (Exhibit 19.)
35. Parcel G is located on a single lot of record with Parcels A and F and portions of the future 1½ Street and Quander Street. The future private streets divide the record lot into its constituent development parcels. (Exhibit 2.) Parcel F is currently contains approximately 193 parking spaces pursuant to Commission approval and will be reconfigured as part of the Project to include only approximately 99 spaces when complete. (Exhibit 22C at 90.)
36. The Project includes habitable penthouse space that will be used by the office tenants, and it thereby triggers the requirement for a contribution to the affordable housing trust fund. Because the Property is currently owned by the federal government, the current assessed value of the land is a placeholder number established by the Office of Tax and Revenue. With GSA-controlled land, the Office of Tax and Revenue waits to determine the appropriate assessed until after its transfer to a private entity, so that the assessment can reflect the final development potential and market value based on applicable zoning, covenants, easements, and other factors. Therefore, the actual assessed value of the land that will serve as the basis for the affordable housing calculation will not be determined until the land is transferred to the Applicant and formally assessed. The Applicant has requested that the contribution payment for the penthouse be established on the basis of Parcel G only (rather than the entire record lot) because Parcel G only (and not the entire record lot) will be transferred to the Applicant (and assessed) as part of the Parcel G developed.

Zoning Overview

37. The Property is located in the SEFC-1A Zone. In general, the SEFC zones are to “provide for the development of a vibrant, urban, mixed-use, waterfront neighborhood, offering a combination of uses that will attract residents, office workers, and visitors from across the District of Columbia and beyond.” (11-K DCMR § 200.1) The SEFC-1 zones generally provides for high-density mixed-use development with ground-floor retail, with bonus height and density (and related design review) for properties in the Redevelopment Zone. (11-K DCMR § 200.3.) The Project achieves the overall intent for the SEFC-1A zone and affirmatively addresses that zone’s preference for certain ground-floor preferred uses along N Street, SE.
38. The Project will be constructed to a maximum height of 130 feet, which is the maximum permitted height for Parcel G. (11-K DCMR § 203.1.) The Project proposes to utilize the

1.0 FAR bonus density for commercial office use permitted in the SEFC-1A Zone, for a maximum of 7.0 FAR based on the land area of Parcel G. (11-K DCMR § 202.1.) The utilization of the additional height and density triggers the requirement for design review, and the Project otherwise satisfies the applicable prerequisites for such review: the architecture is of a superior quality, as described herein, and the design of the Project ensures that 1½ Street and N Street, SE are open and uncovered multimodal circulation routes. (See 11-K DCMR § 237.4(a)(1), (3).) The Project occupies nearly 100 percent of the Property at the ground level, complies with all SEFC-1A setback and yard requirements, and complies with all applicable general zoning requirements. The Project requires zoning flexibility to provide an open court along New Jersey Avenue, SE that is smaller than otherwise required based on the height of such court.

39. The Project uses density from Parcels A and F, with which the Property shares a single record lot. That is, when calculating the FAR of the Project based on the gross floor area of the Project and the lot area of the Property alone, the Project's effective FAR exceeds 7.0. The 303,954 square feet of gross floor area proposed for the Project over the 39,029 square foot Property results in an effective FAR of 7.79, in excess of the 7.0 maximum allowed in the SEFC-1A zone with the bonus density available pursuant to a design review process. However, FAR is determined based on the aggregate gross floor area of the all buildings on a record lot, in this case all of Parcels A, F, and G, and the Property's situation relative to the overall record lot allows for shifting of density among the constituent parcels. The Project's use of density attributable to Parcels A and F will reduce the density available on the record lot at the time the balance of the record lot is developed. In addition, pursuant to Subtitle B of the Zoning Regulations, the overall density available to the record lot containing Parcels A, F, and G will exclude lot area attributable to the private streets proposed for such record lot.
40. The Project provides space for "Preferred Uses" along the entirety of its N Street, SE frontage, and all such Preferred Use space complies with the requirements (i.e., with respect to height and window/door coverage) of the SEFC zone for Preferred Uses.
41. The Project as designed complies with the other primary development standards in the SEFC-1A zone, including a penthouse floor area ratio (based on the lot area of Parcel G alone); a lot occupancy of 98.65 percent at the ground level (below the 100 percent lot occupancy maximum for commercial uses) for Parcel G alone; and a 40-foot rear yard measured from the centerline of New Jersey Avenue, SE, which is in excess of the required rear yard. The Project's penthouses and courts comply with dimensional requirements except for one area of flexibility required with respect to the open court along New Jersey Avenue, SE. The Project achieves a minimum GAR of 0.3, significantly in excess of the 0.2 required (based on the area of Parcel G alone), and the entire record lot of Parcels A, F, and G will also comply with GAR. Vehicular parking is not required in the SEFC-1A zone, and the Project satisfies the bicycle parking and loading as required pursuant to the standards established in Subtitle C of the Zoning Regulations.
42. Under Subtitle C, Section 711.9, a driveway that provides access to *required* parking spaces must have a maximum grade of not greater than twelve percent (12%). The Project's

driveway has a maximum grade of sixteen percent (16%). However, zoning relief is not necessary with respect to such provision because none of the Project's parking is "required," as there is not a minimum amount of parking required in the SEFC-1A zone.

Design Approval

43. The Applicant sought design approval of the Project pursuant to Subtitle K, Sections 237.4, 241, and 242 of the SEFC zone provisions of the Zoning Regulations. The Zoning Commission has jurisdiction to conduct the requested design review of the Project pursuant to Subtitle K, Section 237.4(a), which provides that design review is required for buildings that are located in the SEFC-1A zone and that utilize bonus height or density. As an application for design review pursuant to Subtitle K, Sections 237.4, the Commission must consider the Project against the general design review criteria of Subtitle X, Section 604 and the SEFC zone design review criteria in Subtitle K, Sections 241.1 and 241.2. In addition, the application must prove that the architectural design, site plan, landscaping, and sidewalk treatment of the proposed building are of "superior quality". (11-K DCMR § 237.4(a).)
44. General Design Review Criteria. The Project satisfies the general design review criteria of Subtitle X, Section 604. Section 604 requires that in order for the Commission to approve a design review application it must: (a) find that the proposed design review development is not inconsistent with the Comprehensive Plan (the "Comp. Plan") and with other adopted public policies and active programs related to the subject site (11-X DCMR § 604.5); (b) find that the proposed design review development will not tend to affect adversely the use of neighboring property and meets the general special exception criteria of Subtitle X, Chapter 9 (*id.* § 604.6); (c) review the urban design of the site and the building according to certain enumerated criteria set forth below (*id.* § 604.7); and (d) find that the criteria of Subtitle X, Section 604.7 are met in a way that is superior to any matter-of-right development possible on the site (*id.* § 604.8).
45. Section 604.5. The Project is consistent with the Master Plan, and is not inconsistent with relevant objectives of the Comp. Plan and the 2003 Anacostia Waterfront Framework Plan ("AWF Plan"). The Future Land Use Map of the Comp. Plan shows the Property as appropriate for "High Density Commercial" future uses. Such a designation supports mixed-use buildings of eight stories or more. The Generalized Policy Map of the Comp. Plan shows the Property as being located in a "Land Use Change Area (Federal)" where a change to a different land use is anticipated. The Project's proposed high density development, converting the Property to a mix of office and other commercial uses, is not inconsistent with the Comp. Plan. The Project advances numerous specific objectives of the Comp. Plan and is not inconsistent with the Comp. Plan as a whole. (Exhibit 2J.)
46. In addition, the Project is not inconsistent with relevant objectives of the 2013 Near Southeast Urban Design Framework Plan ("NSE Plan") including prioritizing access and linkage to existing parks and clustering retail uses to create a high density urban environment in Southeast DC and begins to connect The Yards Park and Tingey Square to the Ballpark, M Street, SE, the Navy Yard Metrorail station, and other amenities and

commercial uses. By providing additional ground floor retail along N Street, SE and drawing new employees to the neighborhood to support such retailers, the Project advances the retail cluster objective of the NSE Plan.

47. Section 604.6. The Project satisfies the general Special Exception criteria of Subtitle X, Chapter 9 because the Project will be harmonious with the general purpose and intent of the Zoning Regulations and Zoning Maps for the SEFC-1A district and comply with the Zoning Regulations in terms of development standards, including height, FAR, proposed uses, and parking, except for a minor request for flexibility from the open court width standard. In addition, the Project will not adversely affect the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps, and instead 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. The Project is harmonious with the purpose and intent of the Zoning Regulations and Zoning Maps for the SEFC-1A zone.
48. Section 604.7. The Project is consistent with each of the urban design criteria listed in Subtitle X, Section 604.7 and summarized in italics below.
 - a. *Street frontages are designed to be safe, comfortable, and encourage pedestrian activity, including: (i) Multiple pedestrian entrances for large developments; (ii) Direct driveway or garage access to the street is discouraged; (iii) Commercial ground floors contain active uses with clear, inviting windows; (iv) Blank facades are prevented or minimized; and (v) Wide sidewalks are provided:* The Project advances each of these five urban design principles. The Project's design prioritizes pedestrian access, activity, and safety. All of the Project's frontages feature safe and comfortable pedestrian-focused design that responds to the surrounding public realm with a particular focus on pedestrian activity on 1½ Street, retail activity on N Street, SE, and the primary office lobby opening onto the New Jersey Avenue, SE. Each of the Project's frontages has the potential for multiple pedestrian entrances. Garage and loading access is separated from these frontages and located only on the Project's north frontage, along Quander Street, which is a private street. East-west pedestrian activity is encouraged along N Street, SE and de-emphasized along Quander Street, which is why Quander Street is more appropriate for vehicular access. The Project makes ample use of ground-level transparency to reduce barriers between public and private space at the ground level, particularly through clear glazing for the retail spaces along N Street, SE and 1½ Street. The ground-floor design along the Project's three primary pedestrian-oriented streets minimizes blank facades, provides multiple entrances, incorporates interesting architecture and design articulation at the ground level at a scale and with materials appropriate for pedestrians, and provides wide sidewalks with significant amounts of landscaping and pedestrian amenities. The design accommodates restaurant/eating and drinking establishment uses on the ground floor with appropriate seasonal outdoor

seating that further interweaves the public and private realm at the ground level and creating a pedestrian-first experience. The Project satisfies the criteria of providing safe and comfortable pedestrian spaces. Consistent with the fifth of the above-referenced design review criteria, the Project has ample sidewalk width for pedestrians and pedestrian activity is provided along all four frontages.

- b. *Public gathering spaces and open spaces are encouraged, especially in the following situations: (i) Where neighborhood open space is lacking; (ii) Near transit stations or hubs; and (iii) When they can enhance existing parks and the waterfront:* The Project and the Yards West public realm plan both satisfy and advance the three above-referenced public gathering space criteria. The Yards West public realm design creates a network of formal and informal open spaces that connects the Navy Yard Metrorail transit hub with existing open spaces and that supplements existing park infrastructure. The proposed Yards West public spaces extend from the anticipated Metrorail-adjacent urban pedestrian plaza at the northern end to recreational open space connected to the Anacostia waterfront and a planned extension of Diamond Teague Park at the southern. The proposed design for 1½ Street facilitates this purpose along its entire length through wide sidewalks and a flexible, curbside design that allows for further expansion of the pedestrian zone to accommodate gatherings and activity. The Project reinforces the vision for 1½ Street through strong connections between its interior retail spaces and public outdoor spaces along 1½ Street. The Project features an at-grade bicycle lobby along 1½ Street, which will help reinforce it as a primary north-south corridor between M Street, SE and the waterfront. Similarly, the Project’s retail presence along N Street, SE helps create a meaningful pedestrian connection between 1st Street, SE and Tingey Square and the Project’s main lobby entrance along New Jersey Avenue, SE enhances Tingey Square. In response to comments from OP, the Applicant added street furniture to the New Jersey Avenue, SE sidewalk area.
- c. *New development respects the historic character of Washington’s neighborhoods, including: (i) Developments near the District’s major boulevards and public spaces should reinforce the existing urban form; (ii) Infill development should respect, though need not imitate, the continuity of neighborhood architectural character; and (iii) Development should respect and protect key landscape vistas and axial views of landmarks and important places:* The Project, taken as a whole, satisfies this criteria. For a more fulsome discussion, see Finding of Fact (“FF”) ¶¶ 57-60. In general, the Project reinforces the L’Enfant Plan and planned urban form for Yards West. The Project also appropriately respects The Yards’ Historic Zone, and respects and protects key vistas and views. The Project creates a strong two-level street wall along each frontage, and particularly along New Jersey Avenue, SE and N Street, SE, two original L’Enfant plan streets. The Project also helps establish the envisioned urban form for Yards West as a zone for 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. The Project’s height and density is compatible with future Yards West development, which is generally authorized to reach similar heights and densities of 130 feet and 7.0 FAR. The original SEFC Master Plan and the more recent Yards West Master Plan both emphasize the street network within the

L'Enfant Plan framework of New Jersey Avenue, SE, M Street, SE, N Street, SE, 1st Street, SE, and a reintroduced Potomac Avenue, SE. The Yards West public realm plan maintains all key vistas and views along these streets. The massing and orientation of the Project generally does likewise. At ground level, the Project's design reinforces the urban grid along all four street frontages yet also integrates and addresses the diagonal created by New Jersey Avenue, SE, a hallmark characteristic of the L'Enfant Plan. The Project's strong streetwalls reinforce and respect the planned urban form and architectural character for Yards West. The Project is also appropriately respectful of the nearby Historic Zone and the historic DC Water Main Pumping Station. The Project employs brick as a primary material in a nod to the predominant material vocabulary of The Yards' nearby Historic Zone. The southeastern corner of the Project steps down in height in a gesture sympathetic to the lower scale of the historic Pumping Station, which is located to the southeast of the Property. However, because the Project is in the Redevelopment Zone, it is somewhat freed from the historical design guidelines in The Yards' Historic Zone and has liberty to demonstrate contemporary architectural expression and form. Significantly, the Project's curved bars, massing, and terraces evoke modern urban design. The Project's unique form also emphasizes important views and vistas both from inside the building and from the public realm near the building and from the waterfront toward the Project. The Project creates an interesting backdrop to Tingey Square, frames axial view corridors along N Street, SE and New Jersey Avenue, SE and provides sweeping vistas to and from the Anacostia River from its many terraces and obliquely-aligned southeastern façade. As a secondary axial view corridor develops to the waterfront along 1½ Street, the Project's massing and orientation will also help provide a frame for that view.

- d. *Buildings strive for attractive and inspired façade design that: (i) Reinforces the pedestrian realm with elevated detailing and design of first and second stories; and (ii) Incorporates contextual and quality building materials and fenestration:* The Project presents an attractive and inspired façade design. The Project's massing and architectural design reinforces the pedestrian realm through a two-level podium that defines the streetwall along all four street frontages. The double-story podium includes quality materials, rich architectural detail, and appropriate uses that joins the building's internal functions to the public realm context on each façade. The Project's podium-level architecture includes the public-oriented lobby on New Jersey Avenue, SE; a continuous line of retail-oriented design (with opportunities for outdoor seating and activities as appropriate) along N Street, SE; and a mix of retail bays and secondary lobby entry with a convenient bicycle storage and shower facility along 1½ Street. The high-quality podium-level materials are varied to create visual interest at the pedestrian scale. The Project's contextual materials include a multi-hued brick (reduced in range at the request of the Commission), textured concrete, metal panels, and glazing. Above the ground floor, the Project's materials are similarly high quality and contextually appropriate given the Project's location within the Redevelopment Zone. The Project eschews the "glass box" design common to many office buildings and features a richer, more textured brick façade that conveys a sense of depth at the window frames.

- e. *Sites are designed with sustainable landscaping:* The Project employs sustainable landscaping that is designed to complement the building. The Yards West Master Plan incorporates sustainable design as a central planning element. The public streets (i.e., N Street, SE) utilize the existing Yards-standard low-impact design planting zones, while the private streets include additional bioretention zones and other features to detain and treat stormwater runoff. The Project's landscape design incorporates a variety of planted areas on multiple terraces and green roofs, each with soil depths capable of supporting landscaping as well as attractive groundcover and achieves a GAR of 0.3, exceeding the minimum requirement by 50 percent.
 - f. *Sites are developed to promote connectivity both internally and with surrounding neighborhoods, including: (i) Pedestrian pathways through developments increase mobility and link neighborhoods to transit; (ii) The development incorporates transit and bicycle facilities and amenities; (iii) Streets, easements, and open spaces are designed to be safe and pedestrian friendly; (iv) Large sites are integrated into the surrounding community through street and pedestrian connections; and (v) Waterfront development contains high quality trail and shoreline design as well as ensuring access and view corridors to the waterfront:* Consistent with these design criteria, the Project advances the Yards West Master Plan's objective of creating pedestrian-scale connectivity in an area where internal and external connections are currently limited. The Yards West public realm design creates a safe and pedestrian-friendly multimodal network that interconnects Yards West to the Metro, the Anacostia riverfront, and to the adjacent development to the east and west. The creation of the new grid in Yards West minimizes the need to create public pathways and other connections through the various parcels because each block is integrated into, and sets the stage for, the anticipated surrounding pedestrian fabric. To this end, each parcel is anticipated to be designed in a manner that facilitates such through connection for building occupants and users. The Project links to the bicycle infrastructure that has been integrated thoughtfully into the Yards West public realm, and 1½ Street is planned as a shared street with low speed limits that will accommodate bicycles safely with other forms of transportation. Accordingly, the Project includes an at-grade bicycle lobby accessible from 1½ Street. The Project also includes shower and locker facilities for employees who bike to work.
49. Section 604.8. The Project satisfies the urban design criteria of Subtitle X, Section 604.7 in a way that is superior to any matter-of-right development possible on the Property. The Project exemplifies the superior design, site planning, safe pedestrian access, and other features that are superior to typical matter-of-right development. Superior urban design attributes include the Project's unique massing and sculpted form, its resolution of an irregular urban condition that celebrates the termination of the monumental New Jersey Avenue, SE, the creation of a new public space at Tingey Square, and the views to and from the Anacostia Waterfront. Other superior attributes of the Project include rich detailing and materials selection that move away from the traditional office building typology of the K Street corridor, a richness of pedestrian experience at the ground level, and accommodations for pedestrians and cyclists.

50. SEFC Design Review Criteria. The Project satisfies the SEFC design review criteria as set forth in Subtitle K, Section 241.1, which requires that a design review application demonstrate that it: (a) helps achieve the goals and objectives of the SEFC zone; (b) is designed with a height, bulk, and siting that provide for openness of view and vistas to and from the waterfront and, where feasible, views of federal monumental buildings, particularly along the New Jersey Avenue corridor; and (c) limits at- or above-grade parking so that any such parking is screened by other building uses, landscaping, or other architectural treatment.
51. Section 241.1(a). The Project helps achieve each of the relevant goals and objectives of the SEFC zone. The proposed Project's commercial uses, height and density are within the high-density parameters identified in the Comp. Plan, AWF Plan, and NSE Plan. (11-K DCMR § 200.2(a).) Consistent with those plans and the goals of the SEFC zones, the Project indirectly supports the goal of providing for reduced height and bulk of buildings along the riverfront by accommodating the desired commercial density in Yards West away from the shores of riverfront so that the waterfront is reserved for appropriate water-dependent and recreational uses. The Project incorporates retail and service uses that will support not only the office users of the Project but also anticipated new nearby residents and visitors. (11-K DCMR §§ 200.2(c).) The Project emphasizes a pedestrian-oriented streetscape, particularly on 1½ Street, N Street, SE and New Jersey Avenue, SE, and provides ground-floor preferred retail and service uses along N Street, SE and 1½ Street, both of which are key pedestrian connections. (11-K DCMR §§ 200.2(b), 200.2(e).) Finally, although the Project is not located within the SEFC Historic Zone, the building's architectural design nevertheless reflects sensitivity to the nearby historic context through its step down in height and use of brick materials. (11-K DCMR § 200.2(g).)
52. Section 241.1(b). The Project's height, bulk, and orientation benefits the views and vistas to and from the waterfront, monumental federal buildings, and along key corridors. As described above, the overall Yards West Master Plan emphasizes these view corridors through Yards West to the waterfront, and the northeast edge of the Project emphasizes axial views toward Capitol Hill along the New Jersey Avenue, SE corridor. The Project's massing along each of its four elevations begins to define these formal view corridors in Yards West, which do not exist today. For its part, the Project's southern façade creates an expressive frame to the east-west N Street, SE corridor, which terminates just to the east at Tingey Square. The Project's curved upper-story eastern façade creates an interesting backdrop for Tingey Square and an important background for Tingey Street, SE approaching from the east. The Project's sculpted form and massing create interesting views from the waterfront into the urban fabric of Yards West, and the Project's terraces and setbacks advance the goals of providing for openness in the SEFC zone. From inside the building and from its terraces, the Project has impressive views to the Anacostia River.
53. Section 241.1(c). All of the Project's parking is located underground in support of the final prong of the SEFC design review criteria.
54. SEFC Additional Design Review Criteria. The Project also satisfies the relevant SEFC-1A additional design review criteria set forth in Subtitle K, Section 241.2. These criteria

include: (a) compatibility with buildings in the surrounding area through overall massing, siting, details, and landscaping; (b) use of high standards of environmental design that promote the achievement of sustainable development goals; (c) façade articulation that minimizes or eliminates the visibility of unarticulated blank walls from public spaces; (d) landscaping which complements the building; and (e) consideration of the balance and location of preferred uses. Each of these criteria are more fully addressed above in FF ¶¶ 33 and 48(a), (c), and (e).

55. Superior Quality. The Project also satisfies the requirement under Section 237.4(a) that any building requesting the additional height and/or density available in the SEFC-1A zone must also provide “architectural design, site plan, landscaping, and sidewalk treatment . . . of superior quality. The Project’s design, site plan, landscaping, and streetscaping are all superior. The Project has an innovative, contextually appropriate overall form, and features superior quality architectural details and materials. The Project’s site plan constitutes a superior design given the Property’s configuration and surrounding uses and street networking. Finally, the Project’s landscaping and streetscaping are sustainable, attractively designed, and supportive of the public space goals and objectives of Yards West and the SEFC zones.

The Commission’s Concerns and the Applicant’s Responses

56. At the hearing, the Commission had the opportunity to hear testimony from and ask questions of the Applicant, the GSA, the Applicant’s expert witness in architecture, and representatives of OP and DDOT. The majority of the discussion at the hearing focused on a central issue: namely, whether the proposed design met the standards for approval and in particular the requirement under Subtitle X, Section 604.7 that “Developments near the District’s major boulevards and public spaces should reinforce the existing urban form.” For the reasons discussed below, the Commission concludes that the Project meets the design review standards because here the Applicant’s proposed design is appropriate given the specific site and waterfront context.
57. At the hearing, members of the Commission considered CFA’s view that the form of the building design as an “object building” does not respect the L’Enfant Plan’s definition of public spaces through building form. Within that context, CFA questioned the propriety of the design and form of the sculpted tower element above the building’s podium. On balance, the Commission ultimately agrees with GSA and the Applicant that when taking into account the context of the L’Enfant Plan, the guidance in the SEFC Master Plan, the District’s Comprehensive Plan, the parameters of the Zoning Regulations, and other development objectives pertinent to this application, the Project’s design satisfies the overall design review criteria, including in particular respect for the District’s urban form.
58. The Applicant provided a very cogent planning and urban design analysis providing a defense and justification for the Project’s form rooted in adopted public policies and existing conditions surrounding the Project. A bedrock principle of the underlying planning for The Yards is to reintegrate the area into the fabric of the L’Enfant Plan. With respect to Parcel G, such integration is to be accomplished through the reintroduction of New

Jersey Avenue, SE and N Street, SE. However, Parcel G is also marked by two additional characteristics that are atypical of the L'Enfant Plan: the open space at Tingey Square that is created by the offset intersection of Tingey Street and N Street, and the direct waterfront view and vista over the Main Pumping Station and Yards Park.

59. In light of this unique context and adopted planning documents cited by the Applicant, the Commission finds that the reintroduction of the L'Enfant Plan does not require a rigid adherence to monolithic building forms within the individual L'Enfant blocks at this location. For example, the Urban Design Element of the Comp. Plan recognizes the particular challenge for waterfront sites, which should respond not only to the urban grid but also the waterfront itself and emphasize that connection to the river. The SEFC's planning guidelines reinforce this guidance and call for height, bulk, and siting to provide open views and vistas to and from the waterfront as well as maximize and enhance views of the Anacostia River. Indeed, even the SEFC zone's own design review criteria include a requirement that sites are "designed with a height, bulk, and siting that provide for openness of view and vistas to and from the waterfront" Subtitle K, Section 241.1(b) (emphasis added). Similarly, the SEFC zone allows a height comparable to downtown office buildings (130') but permits a lower density (7.0 FAR), which directly encourages significant and creative sculpting to create varied roofscapes and address important viewsheds.
60. The Commission also agrees that the revisions made by the Applicant and approved by GSA in response to design concerns improved the Project's overall design legibility and conformance with the relevant design review criteria. (Exhibit 22C.) By removing the arc wall along the N Street, SE façade that infilled and connected the two divergent masses, the two primary forms more clearly read as separate masses. Similarly, the change to the window pattern on the eastern/shorter wing to one-story masonry openings further differentiates the lower wing as a separate, secondary mass.
61. While most questions were answered in the course of the proceeding, the Applicant provided follow up responses to questions regarding the Project's material selection and main lobby and bicycle storage entrances in its posthearing submission.
 - a. Material Palette. In general, the Commission appreciates the selection of brick as a primary façade material. However, the Commission encouraged the Applicant to take a further look at reducing the range of brick colors proposed as part of the Project's façade. In its post-hearing submission, the Applicant submitted a revised materials selection that reduced the range of brick colors. The Applicant also responded to other comments from the Commission regarding the proposed metal accent panel at the building base as well as the potential incorporation of the metal mullion into the upper-story architecture.
 - b. Building Entrances. In its post-hearing submission, the Applicant provided additional information and revisions that addressed the Commission's comments regarding the appearance of the main office lobby and access to the bicycle storage room.

CONCLUSIONS OF LAW

1. The application was submitted, pursuant to Subtitle K, Sections 237.4(a), 241, and 242, for design review and approval by the Commission.
2. The Commission provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to ANC 6D, OP, and to owners of property within 200 feet of the Property. The Office of Zoning gave proper and adequate notice of the public hearing, as rescheduled, and the Applicant properly and adequately posted notice of the public hearing on the Property such that any interested individual or organization did or reasonably should have known about the time and place of the public hearing, as rescheduled. The Office of Zoning properly and timely referred the matter to NCPC.
3. Pursuant to Subtitle K, Sections 237.4, 241, and 242 and Subtitle X, Sections 603 and 604, the Applicant has satisfied the required burden of proof necessary for the Commission to approve the overall design of the Project. The Project's uses and preferred uses are in accordance with the standards specified in Subtitle K, Section 237.
4. The Commission reviewed the Project against the general design review criteria of Subtitle X, Section 604, and based on the findings set forth above concludes that the Project satisfies such criteria. The Project is not inconsistent with the Comp. Plan and other adopted public policies and active programs, will not tend to adversely affect the use of neighboring property, is harmonious with the general purpose and intent of the Zoning Regulations and Zoning Maps, and satisfies the special exception criteria and urban design objectives in a manner superior to any matter-of-right development possible on the Property.
5. The Commission also reviewed the Project against the SEFC design review criteria of Subtitle K, Section 241.1, and based on the findings set forth above concludes that the Project satisfies such criteria as well. Specifically, the Project will help achieve the goals and objectives of the SEFC zones.
6. Subtitle K, Section 241.2 sets forth additional SEFC design review criteria against which the Commission may also consider the Project. The Commission has reviewed the Project against those additional SEFC zone design review criteria and concludes the Project satisfies such additional criteria as well.
7. Pursuant to Subtitle X, Section 603.1, the Commission considered the Applicant's request for zoning flexibility with respect to the Project's open court along New Jersey Avenue, SE, which court does not comply with the dimensional requirements set forth in the Zoning Regulations. Subtitle X, Section 603.1 provides that the Commission may grant relief from certain development standards but not others. (11-X DCMR § 603.1.) Section 603.3 provides that the Commission may grant a variance that would otherwise require the approval of the Board of Zoning Adjustment simultaneously with a design review application. (*Id.* § 603.3.) Reading Sections 603.1 and 603.3 together, the former section should be understood to mean that the Commission may grant relief from certain development

standards in a design review applications in exchange for enhanced design and without applying the more exacting special exception and variance standards. The Project's design justifies the modest zoning dimensional flexibility requested in this instance.

8. The Commission concludes that the Applicant has satisfied all the necessary elements for design review as well as for the flexibility requested.
9. The Commission is required under D.C. Official Code § 1-309.10(d) to give "great weight" to the issues and concerns of the affected ANC expressed in its written report. As reflected in the Findings of Fact, at its duly noticed meeting held on April 8, 2019, ANC 6D, the ANC within which the Property is located, voted 6-0-0 to support the application for SEFC zone design review and related zoning relief. The Commission notes that the ANC raised no substantive concerns about the design of the Project and at the public hearing spoke forcefully in favor of the Project's unique design as an element that attracts activity to The Yards and that benefits the ANC.
10. No party spoke or submitted materials in opposition to the Project. Accordingly, a decision by the Commission to grant this application would not be adverse to any party.
11. The Commission is also required to give great weight to the recommendations of OP. (D.C. Official Code § 6-623.04.) As reflected in FF ¶ 10, OP presented a report and testimony at the public hearing in support of the application and the Applicant responded to questions and items raised in OP's report. 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.
12. Finally, the Commission has considered DOEE's comments, DDOT's report and recommendations and has reviewed and considered materials submitted by NCPC and CFA. The Commission concludes that the Applicant has appropriately addressed concerns raised by the District and federal agencies.
13. Accordingly, the Commission, having given great weight to the ANC's concerns and the OP report and having considered all relevant facts and materials in the record, concludes that the design of the Project satisfies the requirements of the Zoning Regulations applicable to the design review of the Project and the flexibility and relief requested.

DECISION

In consideration of the above Findings of Fact and Conclusions of Law, the Zoning Commission for the District of Columbia orders **APPROVAL** of the application for design review, including **APPROVAL** of variance relief and flexibility requested. This approval is subject to the following conditions, standards, and flexibility:

1. **Project Development.** The Project shall be built in accordance with the plans and elevations dated May 16, 2019 and marked as Exhibit 22C of the record, as modified by the plans dated May 23, 2019 and marked as Exhibit 26B of the record and the plans dated

May 30, 2019 and marked as Exhibit __ of the record (collectively, the “**Final Plans**”), and with zoning flexibility from the open court dimension requirements, subject to the following areas of 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;
- d. To make refinements to the approved parking configuration, including layout and number of parking spaces plus or minus ten percent (10%);
- e. To vary the location, attributes, and general design of the approved streetscape to comply with the requirements of, and the approval by, the DDOT Public Space Division;
- 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 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 0.3 based on the area of Parcel G and provides a minimum of 2,300 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 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; and
 - k. To vary the design of the surface parking lot remaining on Parcel F in accordance with the plan submitted as Exhibit 19D.
- 2. **Ground Floor Uses.** The Applicant shall have flexibility to change the use of the space identified as “Retail” or “Retail/Office Flex” 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, SE, and (ii) either “Preferred Uses” or office uses in the SEFC-1A zone with respect to the space(s) along New Jersey Avenue, SE, 1½ Street, and/or Quander Street, SE.
 - 3. **LEED.** The Project shall 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.
 - 4. **EV Charging Stations.** For the life of the Project, the Applicant shall provide no fewer than three (3) electric vehicle charging stations in the Project’s below-grade garage.
 - 5. **Penthouse Affordable Housing Contribution.** The Applicant shall contribute to the housing trust fund an amount equal to one-half the assessed value of the proposed penthouse habitable space associated with the Project, based on the assessed value of Parcel G only. Consistent with 11-C DCMR Section 1505.16, not less than one-half of the contribution shall be made prior to the issuance of a building permit, and the balance of the contribution shall be made prior to the issuance of a certificate of occupancy.
 - 6. **Loading Management Plan.** For the life of the Project, the Applicant shall adhere to the following loading management plan measures:
 - a. Designate a loading dock manager who will be responsible for coordinating with vendors and tenants to schedule deliveries and who will be on duty during delivery hours;
 - b. Require all retail and office tenants to schedule any deliveries that utilize the loading docks (defined here as any loading operation conducted using a truck 20 feet in length or larger);
 - c. Require the dock manager(s) to schedule deliveries for trucks using the loading berths such that the dock’s capacity is not exceeded, and in the event that an unscheduled delivery vehicle arrives while the dock is full, direct that driver to return at a later time when a berth will be available so as to not impede the drive aisle that passes in front of the loading dock;

- d. Require the dock manager(s) to monitor inbound truck maneuvers and ensure that trucks accessing the loading dock do not block vehicular traffic except during those times when a truck is actively entering the loading facilities;
 - e. Prohibit trucks using the loading dock from idling and direct compliance with all District guidelines for heavy vehicle operation including but not limited to DCMR 20 – Chapter 9, Section 900 (Engine Idling), the regulations set forth in DDOT’s Freight Management and Commercial Vehicle Operations document, and the primary access routes listed in the DDOT Truck and Bus Route System; and
 - f. Assign the dock manager(s) the responsibility for disseminating suggested truck routing maps to the Project’s tenants and to drivers from delivery services that frequently utilize the loading dock and for distributing flyer materials as DDOT’s Freight Management and Commercial Vehicle Operations document to drivers as needed to encourage compliance with idling laws. The dock manager(s) will also post these documents in a prominent location within the service area.
7. **Transportation Demand Management Measures.** For the life of the Project, the Applicant shall adhere to the following TDM plan measures:
- a. Identify and share with DDOT and goDCgo (info@godcgo.com) the full contact information for the Project’s TDM Leader (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;
 - b. Provide TDM materials to new tenants of the building in any “welcome” materials and post all TDM commitments online for tenant reference;
 - c. Provide the Project’s TDM Leaders’ contact information to DDOT and goDCgo (info@godcgo.com) and report TDM efforts and amenities to goDCgo staff once per year;
 - d. Provide website links to CommuterConnections.com and goDCgo.com on property websites;
 - e. Provide for the Project’s TDM Leaders to receive TDM training from goDCgo to learn about the TDM conditions for the Project and available options for implementing the TDM plan;
 - f. 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;
 - g. Post “getting here” information in a visible and prominent location on the website for the Project’s retail component, which information shall feature non-automotive travel modes and shall provide links to goDCgo.com, CommuterConnections.com,

transit agencies around the metropolitan area, and instructions for customers discouraging parking on-street in Residential Permit Parking zones;

- h. Require the TDM Leader 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;
- i. 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;
- j. Provide tenants with employees who wish to carpool detailed carpooling information and will be referred to other carpool matching services sponsored by the Metropolitan Washington Council of Governments (MWCOC) or other comparable service if MWCOC does not offer this in the future;
- k. 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);
- l. Install a Transportation Information Center Display (electronic screen) within the Project’s office lobby, which Display shall contain information related to local transportation alternatives;
- m. Work with the Capitol Riverfront BID’s marketing efforts targeting the SE and SW quadrants of the District, which marketing efforts shall include installing posters in bus shelter map cases, transit oriented promotional materials, and special transit maps in Navy Yard area;
- n. Provide, at no charge to and for use by any tenant of the building or employee thereof, no fewer than 86 long-term bicycle parking spaces in the Project with room to accommodate non-traditional sized bikes including cargo and tandem bikes;
- o. Provide no fewer than six (6) showers and fifty (50) lockers for tenant of the building or employee thereof;
- p. Provide no fewer than 12 short-term bicycle parking spaces along 1½ Street and/or N Street SE;
- q. Provide a bicycle repair station in the secure long-term bicycle storage room;
- r. Price all parking in the Project at market rates, at minimum, where “market rates” are the average cost for parking at a 0.25 mile radius from the site;
- s. Unbundle the cost of parking from the cost to lease an office unit;

- t. Refrain from leasing unused parking spaces to anyone aside from tenants of the building unless there is an agreement in place in which no parking is provided at the other property;
 - u. Designate a minimum of four (4) preferential carpooling spaces and four (4) preferential vanpooling spaces in a convenient location within the parking garage for employee use; and
 - v. Require any office tenant occupying seventy-five percent (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.
8. The application approved by this Commission 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 11-Z DCMR § 702.2. Construction must begin within three years after the effective date of this Order. (11-Z DCMR § 702.3.)
9. 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.

On _____, upon the motion of _____, as seconded by _____, the Zoning Commission took FINAL ACTION to **APPROVE** the application at its public meeting by a vote of x-x-x ([Anthony J. Hood, Robert E. Miller, Peter Shapiro, Peter G. May, and Michael G. Turnbull]).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *DC Register*; that is on _____.